



Federal Ministry  
of Labour and Social Affairs

# **SOCIAL SECURITY AT A GLANCE 2016**

**SOCIAL SECURITY  
AT A GLANCE  
2016**





Federal Ministry  
of Labour and Social Affairs

*“The Federal Republic of Germany is a democratic and social federal state.”*

*Article 20 (1) of the German Basic Law*

Germany is strong because it operates as a social state. The German social security system is one of the best in the world. It is a locational factor in business because it supports industry and creates opportunities, not just for employment and but for participation in society as a whole.

Many generations of women and men have fought hard to achieve what we now take for granted. To ensure this social safety net remains tightly meshed, I see it as our common duty to maintain it and adapt it to changing social conditions.

The social state and the social market economy characterise the Federal Republic of Germany, make its name ring true around the world and provide a better life for those who live here. I want us to work together to ensure it stays that way.



Andrea Nahles  
Federal Minister of Labour and Social Affairs



## Contents

<b>Child benefit</b>	<b>7</b>
Federal parental benefit	9
Parental leave	11
Maintenance advance	12
Supplementary child allowance	12
<b>Protection of working mothers</b>	<b>14</b>
<b>Promotion of employment</b>	<b>18</b>
<b>Basic security benefits for job-seekers</b>	<b>34</b>
<b>Labour law</b>	<b>39</b>
<b>Industrial democracy</b>	<b>43</b>
<b>Co-determination</b>	<b>48</b>
<b>Minimum wage</b>	<b>53</b>
<b>Health and safety at work</b>	<b>55</b>
Typical health and safety laws	56
<b>Occupational accident insurance</b>	<b>62</b>
<b>Rehabilitation and integration of people with disabilities</b>	<b>66</b>
<b>The Inclusion Initiative</b>	<b>72</b>
<b>Health insurance</b>	<b>74</b>
<b>Long-term care insurance</b>	<b>82</b>
<b>Pension insurance</b>	<b>93</b>
Old-age pensions	96
Reduced earning capacity pensions	100
Supplementary income	101
How pensions are calculated	104
The pension formula	106
<b>Promotion of additional provision for old age</b>	<b>109</b>
<b>Compensation</b>	<b>112</b>
Pensions and related benefits for war victims	112
Victims of violent crime	116
<b>Social assistance</b>	<b>117</b>
<b>Housing benefit</b>	<b>123</b>

<b>International social security</b>	<b>126</b>
Health and long-term care insurance	127
Occupational accident insurance	128
Pension insurance	128
Family benefits	129
Unemployment insurance	129
<b>The social courts</b>	<b>131</b>
<b>Social security data protection</b>	<b>133</b>
<b>Publisher's information</b>	<b>135</b>

## Child benefit

### Federal parental benefit, parental leave, maintenance advance, supplementary child allowance

Kindergeld, Bundeselterngeld, Elternzeit, Unterhaltsvorschuss, Kinderzuschlag

*Children are a wonderful gift, but they do cost money. Food, clothes, education and toys all have to be paid for. Child benefit (Kindergeld) helps parents afford them. It is granted as a tax refund, primarily to meet the constitutional rule that income is untaxable up to a child's subsistence level. Any child benefit awarded over and above this amount is paid to support the family.*

## Your rights

Anyone with children who lives in Germany can claim child benefit. Foreign citizens are also entitled, as long as they have a valid permanent settlement permit (Niederlassungserlaubnis) or temporary, purpose-specific residence permit (Aufenthaltserlaubnis). Under certain circumstances and according to strict criteria, mothers and fathers living abroad for a period because they have been posted to another country for job-related reasons, for example, can also receive child benefit, although (as ever, with some exceptions) the state only pays the benefit for children living on German soil, in an EU member state or in Switzerland.

*Important: Only one person can receive child benefit for each child. Parents can choose which of them claims child benefit for the children living in their household.*

*If the parents are separated or divorced, child benefit is paid to the parent the child lives with. In the case of children who do not live with their parents, child benefit is usually paid to the person in whose household the children live (for example, grandparents), or who primarily supports them.*

## Children you can claim for

You can also claim child benefit for:

- Your spouse's children if they live in your household
- Foster children if they live in your household, are long-term members of your family, and their parents no longer have custody over them
- Grandchildren, if you have taken them into your household. Do you meet any of these criteria? If so, you can claim child benefit for any children who have not yet completed age 18. In certain circumstances, you may also be able to claim child benefit for children over 18.

To claim child benefit, you must apply for it.

The age limit is 25 for the following:

- Young people in education or training. A child aged 18 or over in education or training can normally be claimed for until completion of a first vocational qualification or first degree. In addition, child benefit can be claimed, for example, for a child who is still in vocational training and does not regularly engage in paid work for more than 20 hours a week. A short break between two training stages still counts as training.
- Young people doing a year of voluntary community or environmental service under the Youth Voluntary Service Act (Jugendfreiwilligendienstgesetz), voluntary service within the meaning of the Regulation of the European Parliament and of the Council establishing "Erasmus+": the Union programme for education,
- training, youth and sport, other service abroad under Section 5 of the Federal Voluntary Service Act (Bundesfreiwilligengesetz), 'weltwärts' development service in accordance with the Federal Ministry of Economic Cooperation and Development directive of 1 August 2007, 'all generations' voluntary service under Book VII of the Social Code, Section 2 (1a), international youth voluntary service in accordance with the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth directive of 20 December 2010 (GMBI. 2010 p. 1778) or federal voluntary service in accordance with the Federal Voluntary Service Act (Bundesfreiwilligendienstgesetz).
- Young people unable to start or continue vocational training for want of a training place.



- Child benefit can be claimed for young people up to the age of 21 who are without employment and registered as job seekers with an Employment Agency.

## How much child benefit you receive

Child benefit is paid monthly as follows

- €190 for each of the first two children
- €196 for the third child
- €221 for the fourth and each additional child

Child benefit is paid regardless of the parents' income. Under a system of tax relief for families, child benefit takes the form of a tax refund, a tax-free allowance for children and a tax-free allowance for child-care, child-rearing or vocational training. Child benefit is paid throughout the year. When assessing income tax, the tax office checks that the amount of child benefit paid satisfies the constitutional rule on tax relief (in other words, that the parents have received enough child benefit to cover the tax refund due to them). If not, their tax bill is reduced by the tax-free allowance for children and the tax-free allowance for child-care, child-rearing and vocational training, less the child benefit they have already received. The child benefits are left as they stand if that is to the parents' advantage.

The family benefits department (*Familienkasse*) at your local Employment Agency (*Agentur für Arbeit*) will be pleased to help – or if you are in public service, your employer's family benefits department.

Child benefit is paid out by the family benefits department of local employment agencies and public sector employers.

## Special cases

In certain circumstances, parents can continue to claim child benefit when their children are over 25.

Child benefit is paid for sons over 25 who are still in education or training and have completed statutory basic military or civilian service. The age limit of 25 is then raised by the length of their statutory basic military or civilian service. For example, parents whose son has completed nine months of basic military service can claim child benefit until he is 25 years and 9 months old.

You can continue to claim child benefit for disabled children over 25 if they became disabled before this age and cannot support themselves.

Orphans receive €190 in child benefit a month if no one else can claim child benefit or equivalent payments for them. The same applies for children who do not know where their parents are.

## The law

The legal basis is laid down in the Income Tax Act (*Einkommensteuergesetz*) and the Federal Child Benefit Act (*Bundeskindergeldgesetz*).

The Federal Employment Agency website ([www.bundesagentur-fuer-arbeit.de](http://www.bundesagentur-fuer-arbeit.de)) contains a wide selection of forms for download and lists the addresses of local family benefits departments (*Familienkassen*).

## Information

If you have any questions about child benefit, please contact the Familienkasse (family benefits department) at your local Arbeitsagentur (Employment Agency).

## Tax-free allowance for children and tax-free allowance for child-care, child-raising and vocational training

If the child benefit payments do not reach the untaxable subsistence level for a child, a tax-free allowance for children (€4,608 a year) and a tax-free allowance for child-care, child-raising and vocational training (€2,640 a year) are deducted from the parents' taxable income. The tax relief from these allowances is decreased by the amount of child benefit already paid out. Whether the total tax relief comes up to the amount required by the constitution is determined in the course of income tax assessment.

## Supplementary child benefit

Claimants who have built or purchased their own home can claim supplementary child benefit (Kinderzulage) for up to eight years, in addition to the normal child benefit, as part of the grants paid to encourage home ownership. Owner-occupiers of homes for which the contract of sale was signed or which the claimants began building before 1 January 2004 receive €767 a year for each child. Claimants who purchased or began building since then but not later than 31 December 2005 receive €800. Because home ownership grants (Eigenheimzulage) were abolished on 1 January 2006, supplementary child benefit is no longer paid to claimants who build or purchase their own homes. Claimants who were already in receipt of home ownership grants will continue to receive supplementary child benefit for the remainder of the eight-year period.

## Federal parental benefit

Parental benefit is an important source of support for families in the first months of their child's life. The benefit cushions the loss of earnings after the birth of a child. Parental benefit consequently makes it easier for mothers and fathers to take a break from or cut down on paid work in order to take time for a child.

### Conditions for claiming

Mothers and fathers can claim parental benefit if they:

- Look after and raise their children from birth themselves
- Do not do more than 30 hours' paid work a week
- Live with their children in one household
- Have a place of residence or are ordinarily resident in Germany

Spouses and civil partners who look after a child from birth can receive parental benefit under the same conditions even if the child is not their own.

Parental benefit is also paid for adopted children and children taken in with a view to adoption when the child is taken into the household. Any remaining entitlement lapses with the child's eighth birthday. In the event of the parents' severe illness, severe disability or death, parental benefit can be claimed by first, second and third-degree relatives (brothers and sisters, uncles and aunts, grandparents and great-grandparents) and by their spouses or civil partners.

There is no entitlement to parental benefit for parents or otherwise entitled couples whose joint taxable income exceeded €500,000 in the calendar year before the birth of the child. For single parents, the entitlement ceases at upwards of €250,000.

Under EU law, nationals of other EU/EEA member states and Switzerland can generally claim parental benefit if they live or work in Germany.

Other foreign nationals can claim parental benefit if their stay is likely to be long-term based on the type of residence permit they hold and whether they are allowed to work. Holders of a permanent settlement permit (Niederlassungserlaubnis) satisfy the conditions for claiming automatically. Holders of a residence permit (Aufenthaltserlaubnis) only meet the conditions for claiming if they have a German work permit or have already legally worked in Germany. Holders of a residence permit issued in case of hardship, for the holder's temporary protection, under a stay of deportation or because of circumstances preventing the holder's departure can only claim parental benefit if they have been resident in Germany for at least three years and are in employment or receiving unemployment benefit.

### Benefit amount and duration

Parental benefit cushions the loss of the income that the parent looking after a child had in the year preceding the child's birth and no longer has following the birth.

A parent can claim at least two and a maximum of twelve monthly amounts. Parents are generally entitled to twelve monthly amounts that are paid out in relation to months of the child's life. An additional two

monthly amounts can be claimed if both parents make use of the parental benefit and their income from employment is decreased for two months of claiming ('partner months').

The benefit replaces 65% of a prior monthly income of €1,240 or higher, 66% of a prior monthly income of €1,220 and 67% of a prior monthly income of between €1,000 and €1,200. For low earners with a monthly income of less than €1,000 prior to the child's birth, the percentage rises up to 100% on a sliding scale: the lower the income, the higher the percentage. The minimum amount of parental benefit is €300 and the maximum amount is €1,800.

The minimum amount of €300 is paid to all entitled parents, even if they were not in employment prior to the child's birth. Families with two or more children can receive a bonus equal to 10% of their parental benefit entitlement, or €75, whichever is greater. For multiple births, parental benefit increases by €300 a month for the second and each additional multiple birth child.

1 January 2015 saw the introduction of Parental Benefit Plus together with a partnership bonus and more flexible parental leave under legislation supplementing the Federal Parental Benefit and Parental Leave Act. The new Parental Benefit Plus gives parents the best possible combination of parental benefit with part-time employment. Parents can claim Parental Benefit Plus if they work up to 30 hours a week in part-time employment while claiming parental benefit. Depending on their previous income, Parental Benefit Plus makes up between 65% and 100% of the loss of income from employment – like the existing parental benefit (basic parental benefit) – and amounts to a maximum of half of the parental benefit that the parents would have been entitled to after the birth without part-time income. Parental Benefit Plus is paid for double the length of time: one parental benefit month becomes two Parental Benefit Plus months. Parental Benefit Plus can also be claimed beyond the 14th month of the child's life. Parents who do not work while claiming parental benefit can also extend the length of time for which they claim parental benefit with Parental Benefit Plus. The new arrangement also applies for single parents, who with approximately half-day employment and the combination of income and Parental Benefit Plus are able to be at home for their child for a longer duration – beyond the 14th month of the child's life – while keeping a foot in the door with regard to their employment.

Parent can select between conventional parental benefit (basic parental benefit) and Parental Benefit Plus regardless of whether they work in part-time employment while claiming.

Parental Benefit Plus is supplemented with a partnership bonus: If both parents work in parallel for between 25 and 30 hours a week for four consecutive months, each parent receives four additional Parental Benefit Plus months. Single parents can likewise claim the partnership bonus if they work for between 25 and 30 hours a week for four consecutive months.

Parental Benefit Plus and the partnership bonus can be claimed by parents of children born on or after 1 July 2015.

Each individual parent can claim a minimum of two and a maximum of twelve months' benefit. A child's two parents can claim a total of twelve months' benefit between them. The benefit is paid for months of the child's life (as opposed to calendar months). The entitlement is supplemented by two additional months' benefit if both parents claim and their earned income is reduced for two of the months for which benefit is claimed ('partner months'). Parents of children born on or after 1 July 2015 additionally have the possibility of claiming Parental Benefit Plus and the partnership bonus as described above.

Parental benefit is deducted in full, as income, from unemployment benefit II, social assistance and supplementary child allowance. However, parents who receive these benefits but were in employment prior to the birth of their child are entitled to an exempt amount. The exempt amount corresponds to the prior income subject to a maximum limit of €300 per month. Up to this amount, parental benefit is not deducted from the benefits and so remains at the parents' disposal.

## **The law**

The legal framework for parental benefit and parental leave is laid down in the Federal Parental Benefit and Parental Leave Act (Bundeselterngeld- und Elternzeitgesetz), most recently amended by Article 1 of the Act of 18 December 2014 Introducing Parental Benefit Plus with the Partnership Bonus and More Flexible Parental Leave in the Federal Parental Benefit and Parental Leave Act (cited as BGBl. I p. 2325). Detailed information is contained in a German-language leaflet, 'ElterngeldPlus und Elternzeit' ('parental benefit and parental leave').

## Information

Responsibility for administering parental benefit under the act lies with agencies designated by the German states (Länder):

- Baden-Württemberg: Landeskreditbank Baden-Württemberg
- Bavaria: the local Zentrum Bayern Familie und Soziales
- Mecklenburg-West Pomerania and Hessen: the local Versorgungsamt (social compensation office)
- Berlin and Rhineland-Palatinate: the local Jugendamt (youth welfare office)
- Brandenburg: the Landkreise und kreisfreien Städte (district administrations and urban municipalities)
- Hamburg: the local Bezirksamt (district administration office)
- Bremen: the Amt für Soziale Dienste (social services office)
- Bremerhaven: the Amt für Familie und Jugend (family and youth welfare office)
- Lower Saxony: the Landkreise bzw. Gemeindeverwaltungen (district administrations and/or local councils)
- North Rhine-Westphalia, Saxony, Saxony-Anhalt and Thuringia: the Kreise/Landkreise and kreisfreie Städte (district administrations and urban municipalities)
- Saarland: the Elterngeldstelle (parental benefit office) at the Ministry of Labour, Families, Prevention, Social Affairs and Sport
- Schleswig-Holstein: the local offices of the Landesamt für Soziale Dienste (state social services)

## Parental leave

Employees can claim parental leave if they

- live in one household with their child,
- care for and raise the child themselves and
- are not or not fully employed (over 30 hours per week on a monthly average).

Parental leave may be taken from the child's birth up until it reaches age three. Since parental leave is considered separately for each parent, the child's mother or father may take their shares alone or both parents may take parental leave simultaneously. If both parents claim their entitlement at the same time, however, it must be remembered that this does not constitute an entitlement to social assistance, i.e. the parents must ensure that they can provide for themselves during the period of joint parental leave. The employer must be given seven weeks' notice before the beginning of parental leave within the first three years of the child's life.

Each parent who meets the conditions may work up to 30 hours per week on a monthly average while on parental leave. Parents are entitled to work part-time between 15 and 30 hours a week if they have been with their employer for more than six months, the employer regularly employs more than 15 people, the reduction in working time to the stated number of hours is to be for at least two months, and there are no compelling operational grounds opposing the arrangement. The entitlement to take a reduction in working hours must be claimed by giving notification no later than seven weeks before beginning part-time work if the part-time employment is to be taken during parental leave between the birth and the child's third birthday.

When parental leave ends, the employment relationship is automatically restored in the form in which it existed before the period of parental leave.

Parents enjoy employment protection while on parental leave; it begins on the date of notification of parental leave but not earlier than one week before the beginning of the notification period.

The following applies in relation to children born up to 30 June 2015:

With the employer's consent, up to a year of parental leave can be postponed to the period between the child's third and eighth birthday. This option is likewise open to both parents. Parents wishing to postpone a period of parental leave in this way must give seven weeks' advance notice; the same period of notice applies if they wish to work part-time during the period.

1 January 2015 saw the entry into force of legislation introducing Parental Benefit Plus together with the partnership bonus and more flexible parental leave in the Federal Parental Benefit and Parental Leave Act. The following changes result with regard to parental leave for parents of children born on or after 1 July 2015:

Parents are entitled to take 24 months of unused parental leave between the child's third and eighth birthday. The notification period for a parental leave period in this timeframe increases to 13 weeks. The longer notice period also applies if parents wish to work part-time during such a period. If the application by a parent entitled to parental leave to work part time is not turned down within a certain time, the employer's consent is assumed.

## The law

The legal framework for parental benefit and parental leave is in the Federal Parental Benefit and Parental Leave Act (Bundeselterngeld- und Elternzeitgesetz), as most recently amended by Article 1 of the Act of 18 December 2014 introducing Parental Benefit Plus with the Partnership Bonus and More Flexible Parental Leave in the Federal Parental Benefit and Parental Leave Act (cited as BGBl. I p. 2325). Detailed information is contained in a German-language leaflet, 'ElterngeldPlus und Elternzeit' ('parental benefit and parental leave').

## Maintenance advance

### Benefits and conditions

By way of special help for single parents, the Maintenance Advance Act (Unterhaltsvorschussgesetz) stipulates that a minimum level of child maintenance, less child benefit for the first child, will be paid from public funds where children receive no maintenance or no regular maintenance from the other parent.

Maintenance advance (Unterhaltsvorschuss) is available for children up to 12 years old, and is paid for a maximum of 72 months. The amount paid is the standard rate of maintenance (as stipulated in Section 1612a (1) of the German Civil Code (BGB)) less the child-benefit rate for a first child.

Accordingly, the monthly maintenance advance as of 1 January 2016 is as follows:

- For children aged under 6 years: €145
- For children aged 6 to 11 inclusive: €194

*Important: You are barred from claiming maintenance advance as a single parent if you fail to give information about the other parent, or fail to help identify the father or locate the other parent. This applies also if both parents live together or if the single parent marries.*

## Supplementary child allowance

Parents are entitled to supplementary child allowance (Kinderzuschlag) for each child that lives in their household, is under 25 and not married if:

- They claim child benefit for the child;
- They earn at least the minimum income threshold of €900 before deductions for a couple or €600 before deductions for a single parent;
- They do not exceed the maximum income limit;
- The supplementary child allowance prevents need of assistance as defined in Book II of the Social Code.

Supplementary child allowance is limited to €140 per child, rising to €160 per child from 1 July 2016. Supplementary child allowance and the €190 a month child benefit together meet the average needs of a child. At the applicable income levels, housing needs are covered by housing benefit.

If the parents' income or assets just meet their personal subsistence level, the supplementary child allowance is paid in full. Deduction of income from supplementary child allowance begins on reaching the assessment limit. For incomes between the minimum income limit and the assessment limit,

supplementary child allowance is normally paid in the full amount. Once the parents' income reaches the assessment limit, the supplementary child allowance is reduced by 50% of the amount by which their earned income – and by 100% of the amount by which any other income they may have – exceeds the assessment limit. The extent to which income and assets are taken into account is determined by the provisions governing unemployment benefit II.

Children's income is always deducted in full from the supplementary child allowance.

From 1 January 2011, in addition to the maximum of €140 per child in cash benefit, recipients of supplementary child allowance are also entitled to seven types of education and participation assistance:

- Single-day school/daycare centre outings (actual cost)
- Multiple-day school/daycare centre trips (actual cost)
- Personal school supplies (€100 per year in total)
- Pupils' transportation to/from school (actual cost)
- Learning support (actual cost)
- Participation in school/daycare centre communal meals (grant)
- Participation in the social and cultural life of the community, such as sports clubs and music lessons (€10 per month)

A German-language pamphlet on parental benefit and parental leave (ElterngeldPlus und Elternzeit) is available free of charge from:  
Publikationsversand der Bundesregierung,  
Postfach 481009,  
18132 Rostock, Germany.  
Further information is

These forms of assistance are applied for from local government agencies designated by the German states (Länder). The package includes cash and non-cash assistance. The non-cash parts of the package guarantee that the assistance reaches those it is meant for, as assistance for the individual child or adolescent. The assistance is handled by a single local government agency in each area, ensuring that it is locally administered in a targeted, accessible and unbureaucratic way. This ensures that it gets to the children who need it.

Supplementary child allowance is applied for in writing from the local family benefits department. The various forms of education and participation assistance are applied for from local government agencies designated by the Länder.

The legal provisions are contained in the Federal Child Benefit Act (Bundeskindergeldgesetz).

If you have further questions about the supplementary child allowance, please contact the family benefits department at your local employment agency.

## The law

The relevant law is contained in the Federal Child Benefit Act of 28 January 2009 (BGBl. I, p. 142, 3177) as last amended by Article 7 of the Act dated 16 December 2015 (BGBl. I p. 1202).

## Information

Information is provided by the Federal Employment Agency's family benefits departments (Familienkassen). This is also where applications are made. A German-language leaflet on supplementary child allowance, 'Kinderzuschlag', is available free of charge from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, 53107 Bonn, Germany.

## **Protection of working mothers**

### **Mutterschutz**

*During pregnancy, working women and their children need extra protection against dangers, overwork and workplace health hazards. This protection is provided by the Protection of Working Mothers Act and the Ordinance on the Protection of Mothers at Work, which form an essential part of the law on health and safety at work. Alongside federal parental benefit and parental leave, the protection of working mothers is also an important part of family and social policy.*

### **Overview**

As an expectant mother in dependent employment, you enjoy special protection from workplace hazards and a special protection from dismissal from the beginning of your pregnancy to four months after the birth. Statutory maternity leave of six weeks before and at least eight weeks after confinement means you can dedicate yourself to your family and recover without the added burden of employment. The statutory period of maternity leave is extended to 12 weeks after a multiple or premature birth. The statutory leave period is also extended by the portion of leave lost through an early delivery.

Under certain circumstances, you may receive maternity benefit from the statutory health insurance or from the maternity benefit section of the Federal Insurance Office (Mutterschaftsgeldstelle beim Bundesversicherungsamt, Friedrich-Ebert-Allee 38, 53113 Bonn) and the employer's maternity benefit top-up payment during this period. Eligibility for maternity benefit depends on the type and scope of your health insurance cover. From the birth of the child, parents can claim parental benefit and parental leave (at the same time if so desired). For more information on this topic, please see the Child Benefit, Federal Parental Benefit, Parental Leave, Maintenance Advance and Supplementary Child Allowance chapter.

With the exception of maternity benefit and the employer's maternity benefit top-up payment, statutory benefits for the child are provided as of the birth. If you find yourself in need while pregnant, visit your nearest pregnancy advice centre (Schwangerenberatungsstelle), where you can apply for help from the national mother and child foundation, Bundesstiftung Mutter und Kind - Schutz des ungeborenen Lebens (help is conditional on the application being made before the birth).

## **Your rights under the Protection of Working Mothers Act**

### **Financial benefits**

#### **Maternity benefit from the statutory health insurance fund**

During the protective periods before and after confinement and for the day of confinement, you receive maternity benefit from your statutory health insurance fund if you are a member (compulsorily insured or voluntarily insured including an entitlement to sickness benefits). Further prerequisites:

- You are in an employment relationship or a home worker or
- your employer has terminated your employment relationship during your pregnancy with due regard to the relevant legal provisions or
- if your employment relationship begins only after the protective period has already started, you become entitled to maternity benefit at the time when your employment relationship begins provided that you belong to a statutory health insurance fund at that point in time.

If you are a voluntary member of the statutory health insurance and your primary activity is self-employment, you are entitled to maternity benefit only if you have submitted a declaration to your health insurance fund to the effect that you wish to include sickness benefits into the range of benefits to be provided (optional declaration).

The maternity benefit level depends on the average earnings of the last three fully paid calendar months reduced by the statutorily prescribed deductions. In case of weekly payments, the last 13 weeks before the beginning of the protective period before confinement serve as basis for the calculation. Maternity benefit amounts to a maximum of 13 EUR per calendar day.

### **Maternity benefit from the Federal Insurance Office (Bundesversicherungsamt)**

If you are an employee but not a member of a statutory health insurance fund yourself (because you have private health insurance coverage, for example, or are co-insured as a family member in the statutory health insurance), you are entitled to a maximum amount of maternity benefits of 210 EUR in total. The competent agency is the Federal Insurance Office in Bonn (maternity benefits section - Mutterschaftsgeldstelle).

### **Employer's maternity benefit top-up payment**

If the average net wage per calendar day exceeds the amount of 13 EUR (monthly net wage of 390 EUR), the employer is obliged to make up for the difference in the form of a top-up payment. This applies also for people in marginal employment if their net wages exceed 390 EUR.

### **Employment protection**

Your employer cannot normally terminate your employment relationship while you are pregnant or within four months of your child's birth.

Termination of employment is only possible in exceptional cases, subject to prior approval of the relevant supervisory body (usually the labour or health and safety inspectorate).

Only the employer is prevented from giving notice. You yourself are free to terminate your employment at any time during pregnancy and the statutory period of maternity leave after the birth. You do not have to serve a notice period, and the termination of employment is effective from the end of the statutory leave period. If you want to terminate your employment at an earlier or later date, however, you must observe the statutory or agreed period of notice.

You have further special employment protection if you take parental leave at the end of the statutory leave period. This protection begins on the date when you notify your employer of your intention to take parental leave - but not earlier than eight weeks before parental leave starts - and ends with your parental leave. Exceptions may be allowed in special circumstances. You yourself can terminate your employment in either of two ways:

- Either with three months' notice to the end of your parental leave
- Or at any time during or after your parental leave, provided that you observe the statutory, collectively agreed or contractual period of notice

### **Workplace facilities**

As an expectant or nursing mother you are entitled to a workplace in which you and your child are adequately protected against health and safety hazards. Your employer must ensure this protection against health and safety risks by providing you with appropriate workplace facilities, including safe machinery, equipment and tools, and by taking any other precautionary measures that may be necessary.



Expectant and nursing mothers are not allowed to perform certain tasks at work.

Therefore, the Act lists a number of generally prohibited activities; expectant and nursing mothers may not, for example:

- Perform heavy physical work
- Perform tasks that expose them to health risks from noxious substances, radiation, dust, gases, vapours, heat, cold, dampness, vibration or noise
- Do piecework
- Work more than 8½ hours a day or 90 hours in any two consecutive weeks. Expectant and nursing mothers may not work at night (between 8 pm and 6 am), on Sundays or public holidays or hours in excess of the normal working hours.

However, there are limited exceptions to the general ban on night and Sunday working:

Employment on transport vehicles is not allowed after the third month of pregnancy. For example, even without exposure to vibration, employment as a tram driver is not allowed because it is not possible to shift position or take a break at any time.

After the fifth month of pregnancy you may not do work that requires you to stand continually if this work exceeds four hours a day.

You may also be personally banned from performing certain tasks. Besides the prohibited activities listed above, you cannot continue to perform your usual work unchanged if a medical examination shows that doing so would endanger your health or that of your child. In certain cases, it may be enough to reduce the number of working hours.

A ban on medical grounds is different from a sick note. You will not lose any pay, because you are entitled to maternity pay from your employer (not to be confused with maternity benefit and the employer's maternity benefit top-up payment during the statutory period of maternity leave), which in most cases is at the same rate as your average take-home pay. Your employer is refunded this expenditure (maternity pay and the employer's maternity benefit top-up payment) out of contributions paid by all employers.

## Who is entitled to protection?

The Protection of Working Mothers Act covers all (expectant) mothers who are in employment; that is:

- Full-time workers
- Part-time workers
- Home helps
- Home workers
- Public service employees
- People in marginal employment
- Trainees

Your nationality is irrelevant. If you work outside of Germany, the provisions of the Protection of Working Mothers Act apply to you if your employment is subject to German law.

Housewives and self-employed women are not entitled to protection under the Act (though they can claim maternity benefit at the same rate as sickness benefit if they are voluntarily insured with a statutory health insurance fund including an entitlement to sickness benefit). Housewives and self-employed women can, however, claim parental benefit (see the Child Benefit, Federal Parental Benefit, Maintenance Advance and Supplementary Child Allowance chapter). Special provisions apply for tenured civil servants and soldiers.

Special provisions for tenured civil servants and soldiers.
-------------------------------------------------------------

## The law

The law on the protection of working mothers is set out in the Protection of Working Mothers Act (Mutterschutzgesetz), the Ordinance on the Protection of Mothers at Work (Verordnung zum Schutz der Mütter am Arbeitsplatz) and in Book V of the Social Code (SGB V). The Farmers' Health Insurance Act

(Gesetz über Krankenversicherung für Landwirte) also has provisions on maternity benefit. Whether and how these laws are applied and implemented is monitored by the competent supervisory authorities in the German Länder (labour or health and safety inspectorate).

## Information

A German language pamphlet on the protection of working mothers (Leitfaden zum Mutterschutz) is available from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, and can be downloaded from the ministry's website at [www.bmfsfj.de](http://www.bmfsfj.de). Information on protection of working mothers is also available by calling the service line operated by the Federal Ministry for Family, Senior Citizens, Women and Youth, on 030 20179130 from Monday to Thursday (9 am to 6 pm).

A German-language pamphlet on the protection of working mothers (Leitfaden zum Mutterschutz) is available free of charge from: Publikationsversand der Bundesregierung, Postfach 48 10 09, 18132 Rostock, Germany. Further information is available at: [www.bmfsfj.de](http://www.bmfsfj.de)

Information on maternity benefits for employees who are not members of a statutory health insurance fund themselves is provided by the Bundesversicherungsamt (Mutterschaftsgeldstelle), Friedrich-Ebert-Allee 38, 53113 Bonn, [www.mutterschaftsgeldstelle.de](http://www.mutterschaftsgeldstelle.de).

If you are unemployed, your local employment agency (Agentur für Arbeit) is available to provide information and advice. Depending on your income, you may be able to claim help under the legal aid system from the local court (Amtsgericht).

## **Promotion of employment**

### **Arbeitsförderung**

### **Book III of the German Social Code**

*As many people as possible should have work. The employment promotion policies enacted in Book III of the Social Code aim to achieve this by improving the earnings prospects of people without work and by matching up supply and demand on the labour market. These policies are implemented by the Federal Employment Agency in Nuremberg (Bundesagentur für Arbeit) and its local employment agencies (Agenturen für Arbeit).*

### **Tasks and benefits**

The main tasks of the Federal Employment Agency are:

- Vocational guidance and orientation
- Advice on the jobs market in general
- Job and traineeship placement
- Improving people's chances on the jobs market
- Integrating people into employment in other ways
- Income replacement benefits
- Employer guidance

The Federal Employment Agency provides services both to employees and employers.

You are entitled to some of these services whether or not you have paid unemployment insurance contributions. These include careers guidance and orientation, and job and traineeship placement. To receive other help—such as unemployment benefit—you need to have been in work and paying statutory insurance contributions in the past.

### **Advice and placement**

#### **Vocational guidance**

Vocational guidance targets both young people and adults. It involves the provision of advice and information concerning career choice, occupations and the respective requirements, funding options for vocational education and training, important developments in the working world, the situation and expected trends in the jobs market, and finding a training place or permanent job.

For young people wanting to study at college or university, the careers advice officers at local employment agencies provide a specially designed advisory service for those leaving school with a certificate of higher education (Abitur). They advise on choosing a course of academic study, explain the acceptance requirements and what is expected of students on particular courses, outline the job opportunities and go through the various funding options. They work with young people to identify their personal goals, employment options and possible alternatives.

#### **Vocational orientation**

Systematic vocational orientation can help people in choosing an occupation and thus positively influence the career paths of young and old alike. It can also aid the vocational guidance process by providing in-depth information on issues concerning career choice, occupations, job requirements and opportunities, routes into a chosen career path, funding for vocational training and education, and work-related developments in business, local administrations and the jobs market in general. The service includes visits to schools to talk with students due to leave school in the current or next school year, career orientation events in careers information centres (Berufsinformationszentren, or BIZ) and online and print media published by the Federal Employment Agency (BA).

## **Labour market advisory service**

The labour market advisory service provided by the local employment agencies targets employers and is designed to support them in filling trainee places and vacant positions. Employers are informed about the current situation in the labour market, expected trends and available occupations. They are schooled in job structuring, employment conditions, working hours, on-the-job training and education, and integration of hard-to-place trainees and employees.

## **Vocational training and work placement**

Anyone seeking work can use the services of an employment agency, whether they are unemployed, are about to lose their job or are looking for a career change. Young people seeking vocational training are also entitled to assistance. Work placement is the employment agencies' main task. The remaining benefits and assistance services for employment promotion are only provided where long-term integration into the labour or vocational training market cannot succeed without them.

As soon as you know when your current employment will come to an end, you are automatically required to register in person at your local employment agency. Registration must take place at least three months before your employment is due to end. If the time between receiving your notice and your last day of work is shorter than three months, you must report to the employment agency no later than three days after receiving your notice. To comply with the deadline, you may register by telephone on the condition that you make an appointment to register personally afterwards.

## **Placement assistance**

### **Placement budget**

Placement guidance and assistance provided via the placement budget take a flexible, targeted and needs-oriented approach to removing potential obstacles while also taking account of the specific needs of people looking for work or vocational training. It is designed to help people looking for a training placement, those facing unemployment and those out of work to find and take up employment subject to social insurance contributions. The placement budget thus offers broad scope in promoting individual employment or training prospects to ensure the right type of assistance is provided in each case. Accordingly, rather than applications for assistance being governed by detailed legal requirements, placement and advisory staff look at each case individually to assess the specific type of support and assistance that can be applied for from the placement budget.

### **Conditions under which placement assistance may be approved:**

- You are facing unemployment, seeking work or are unemployed and wish to take up employment subject to social insurance contributions
- You are looking for a training placement that provides vocational training
- You are receiving basic security benefits for job-seekers and are wanting to improve your educational qualifications

### **Eligibility requirements:**

- You need help in overcoming obstacles in seeking and taking up employment subject to social insurance contributions or vocational training
- The amount claimed from the placement budget is commensurate with the services provided
- The employer does not provide similar assistance
- Other public agencies are not legally obliged to provide similar services
- You apply for placement assistance before costs are incurred
- You understand and acknowledge that placement assistance is a discretionary service to which you have no legal right

Guidance and placement assistance may also be provided to help in searching for or taking up a training placement or offer of work in another EU member state, in a Signatory State to the Agreement on the European Economic Area (EEA) or in Switzerland. This is based on the condition of a minimum of 15 hours of training or work per week.

## **Activation and vocational integration measures**

Training place seekers, job seekers at risk of unemployment and unemployed people can be provided with support in the form of activation and vocational integration measures designed to improve their occupational integration prospects. The measures can be used to assess a person's readiness and ability to work, to identify, alleviate and reduce obstacles to their entering the labour market, to place them in an employment relationship in which they pay compulsory contributions, assist them in becoming self-employed or stabilise their employment prospects.

Costs of taking part in the measures are paid for up to a reasonable amount. Unemployment benefit continues to be paid if the person is entitled to it.

The duration of the measures provided must be commensurate with their purpose and content. The measures may also be provided by employers, either in whole or in part, up to a maximum period of six weeks.

Participation is proposed or approved by the local employment agency. The employment agency can commission providers to carry out measures directly or issue the entitled person with an activation and placement voucher. The decision is made by the employment agency based on the aptitude and personal circumstances of the entitled individual and the measures available in the local area.

The activation and placement voucher states the objective of the measure and the course content required to achieve it. Voucher holders are free to choose among approved providers and approved measures. In some circumstances, unemployed persons are entitled to an activation and placement voucher allowing them to use a private job placement service at the employment agency's expense. Vouchers are surrendered to the provider, who settles the costs directly with the employment agency.

## **Help becoming self-employed**

### **Start-up grants**

#### **How to claim**

Workers who end their unemployment by taking up self-employment as a main occupation may receive a start-up grant (Gründungszuschuss) to cover living expenses and social insurance contributions for the first few months of self-employment.

The start-up grant can be made available to unemployed persons who still have at least 150 days' entitlement to unemployment benefit on entering self-employment. To qualify for the grant, applicants must demonstrate that they have the necessary knowledge and skills to carry out the occupation concerned. They must also present to the employment agency a statement from a knowledgeable authority that their self-employment is potentially sustainable. This statement can be provided by various bodies, including chambers of commerce, guilds, industry associations and banks.

A start-up grant is not made available if there are or would be grounds for the applicant's entitlement to unemployment benefit to be suspended under Sections 156-159 of Book III of the German Social Code (SGB III). Claimants who reach pensionable age for a standard old-age pension while still receiving the grant cease to receive it from the beginning of the next month. The grant is not available for 24 months after the end of a grant of assistance with entering into self-employment under SGB III.

#### **Amount and duration**

The start-up grant is paid out in two phases. For the first six months, self-employed start-ups can receive a grant matching their last unemployment benefit to cover living expenses plus €300 a month for social insurance. The €300 a month for social insurance can be paid for a further nine months if the claimant can demonstrate that they are actively trading and working for the business on a self-employed basis.

## **Initial financial support**

Individuals who are entitled to assistance and claim basic security benefits for job-seekers under Book II of the Social Code (SGB II) can receive initial financial support (Einstiegsgeld) to help them enter self-employment as a primary occupation or an employment relationship in which they pay compulsory contributions. The support is provided by the local job centre.

## **How to claim/amount**

The initial financial support can be granted as a supplement to basic security benefits for job-seekers on taking up self-employment as a primary occupation or an employment relationship in which compulsory contributions are paid. There must be reasonable grounds to expect that the employment or self-employment will remove the need for assistance.

The amount of initial financial support is based on factors such as the length of unemployment and the size of the claimant's household. The amount therefore varies from case to case. The grant is made for a maximum of 24 months. There is no legal entitlement to initial financial support.

## **Other assistance for self-employed individuals**

Individuals who are entitled to assistance and who take up or carry on self-employment as a primary occupation can also receive loans or grants for the purchase of material resources (grants are limited to a maximum of €5,000). The material resources must be necessary and reasonable for the form of self-employment in question. Individuals who are entitled to assistance and are already self-employed can also receive assistance for external advice and training in order, for example, to place the self-employed business on a more stable footing or to effect a change in focus. The assistance is, however, subject to the self-employment being economically viable. There is no legal entitlement to the assistance.

## **Choice of occupation and vocational training**

### **Promotion under Book III of the Social Code (SGB III)**

Choosing the right occupation is a difficult challenge for young people. Support in the choice of career is therefore decisive in ensuring a successful transition from school to vocational training and work. Initial vocational training in particular is becoming increasingly important in the jobs market due to the sharp drop in the number of jobs available for unskilled and semi-skilled workers. Employment promotion policies thus offer a variety of opportunities to assist young people in their search for vocational training:

### **Vocational orientation measures**

Events can be held to provide secondary schools students with career orientation and help with preparing to choose a career. At least 50% of the cost must be met from another source. For four weeks in the school holidays, students can gain a detailed insight into the various occupations, what they require and their prospects. The events are also designed to meet the needs of students with special educational needs and severe disabilities.

### **Mentoring**

Mentoring is directed at weaker-performing school students who are likely to have problems attaining a school leaving qualification and therefore risk not being able to gain a foothold in working life. With the aim of enabling a successful transition into vocational training, students in general education schools leading to a lower secondary or special school leaving qualification are provided with mentoring during the last two years before leaving school and up to six months into their vocational training. Students are selected for mentoring by the careers advice service at the recommendation of the teacher.

Mentors provide students with ongoing, individual support in attaining their school leaving qualification, in careers guidance and choice of occupation, in finding a training place, in the transition from school to vocational training and in settling them into vocational training. In particular, mentors are expected to ensure that the young people in their charge get the help they need (for example with additional tutoring

during school, careers advice, and measures provided during the transition from school to training). The support provided, which includes social education approaches, aims to enhance the skills and hence the chances of occupational integration for the students concerned. Mentors work closely with (but do not perform the work of) school teachers and employment agency advisors. They also work in regional networks such as employment agencies, job centres, chambers of industry and commerce, youth social services, etc. on behalf of the individual students in their charge.

After pilot trials leading to a positive evaluation, mentoring was permanently added to Book III of the Social Code (SGB III) in 2011. It has since been available at all general education schools. However, the new arrangements provide for co-finance by third parties. For the academic years 2014/15 to 2018/19, mentoring is co-financed with resources from the European Social Fund (ESF). In the five cohorts this period covers, mentoring will be provided for a total of 113,000 students at 2,977 schools, including 518 special schools.

## **Vocational preparation schemes (BvB)**

Young people who are unable to enter into vocational training for whatever reason can be provided with support by employment agencies to take part in vocational preparation schemes. These serve career orientation, career choice and targeted preparation for vocational training. The schemes usually run for 10 to 11 months.

Starting 1 January 2013, the Federal Employment Agency launched BvB-Pro, a new low-threshold form of vocational preparation scheme with a production-oriented approach. The production-oriented approach is the main feature distinguishing BvB-Pro from the regular BvB schemes. The schemes additionally require at least 50% third-party co-finance. Funding is normally provided for up to 12 months but may be extended to 18 months in specific cases where justified. This may be extended once again by three further months in exceptional cases where there are prospects of integration.

Vocational preparation schemes can also help prepare for a lower secondary school leaving certificate (Hauptschulabschluss) to be attained on a second chance basis.

Funding is normally provided for this purpose for 12 months. In justified cases, the individual funding duration can be extended (up to a maximum total funding period of 18 months).

Participants in vocational preparation schemes receive support in the form of vocational training allowance (BAB).

## **Introductory training**

Introductory training (Einstiegsqualifizierung) gives young people with limited placement opportunities new perspectives for entering into vocational training. They also build bridges for young people who do not yet have the skills required for entry into a vocational training or who have learning difficulties or are socially disadvantaged.

## **Type of scope of promotion**

Under the programme, employers who take on young workers in a vocational preparation position for between six and twelve months receive €216 per month plus a combined amount towards social insurance from the local employment agency. The support increases to €231 from 1 August 2016.

## **Vocational training allowance (BAB)**

### **Requirements**

Young people taking part in vocational preparation schemes and those in vocational training may receive a vocational training grant if the resources they need to cover their living expenses are not already provided elsewhere. This support is similar to Federal Education Assistance (BAföG) but is financed from social insurance contributions. In the case of in-company vocational training, trainees are only provided with support if they do not live at home with their parents.

The vocational training allowance (Berufsausbildungsbeihilfe/BAB) is normally only provided for initial vocational training. Under certain circumstances, however, support may also be provided for a subsequent course of vocational training. Despite having completed their vocational training and possessing the associated qualifications, some young people still lack employment opportunities in their chosen occupation. A second course of vocational training that would improve their employment prospects is not to be jeopardised because a young trainee or apprentice lacks the financial means to cover their living expenses.

Since 1 January 2016, foreigners who have a temporary suspension of deportation ('Duldung') and are resident in Germany may receive assistance while receiving on-the-job vocational training with an employer provided that they have been in the country either legally or subject to permission to remain ('Aufenthaltsgestattung') or to temporary suspension of deportation for at least fifteen months without interruption.

### **Type and scope of promotion**

The amount of the grant depends on the type of accommodation involved, the amount of pay the trainee receives and the annual income earned by the trainee's parents, spouse or civil partner. In some cases, living expenses, travel expenses, child care costs and outlay for educational materials and working clothes can be taken into consideration on a lump-sum basis.

Participants in vocational preparation schemes also receive vocational training allowance if they continue to live at home with their parents. The allowance is paid on a lump-sum basis and regardless of parental income.

### **Subsidies towards training pay for people with disabilities or severe disabilities**

Employers can be granted a subsidy towards training pay or towards equivalent remuneration for trainees with disabilities or severe disabilities if the success of the training cannot otherwise be secured. The monthly subsidy must not normally exceed 60% (80% in the case of people with severe disabilities) of the monthly training pay for the last year of training, or of equivalent remuneration, including the applicable lump-sum employer share of total social insurance contributions. In justified exceptional cases, subsidies can be granted up to the full amount of the training pay for the last year of training.

### **Educational support (abH)**

Disadvantaged young people can be provided with educational support in parallel with in-company vocational training if they need additional support without which the success of their training would be at risk. Support is made available for purposes going beyond normal workplace and training provision, for example to reduce language and education deficits, promote the learning of subject-specific theory and practice, and social education support. Educational support can be provided following discontinuation of a course of vocational training until entry into a new course of in-company or non-company training, or following successful completion until entry into or stabilisation of employment, or during introductory training.

Since 1 January 2016, foreigners who have a temporary suspension of deportation ('Duldung') and are resident in Germany may receive assistance while receiving on-the-job vocational training with an employer provided that they have been in the country either legally or subject to permission to remain ('Aufenthaltsgestattung') or to temporary suspension of deportation for at least fifteen months without interruption.

### **Non-company training (BaE)**

If despite educational support it is not possible to place disadvantaged young people in in-company training, support can be made available for non-company training. While a young person is in non-company training, all efforts must be made to enable their transition to in-company training.

Support for non-company training can also be provided for individuals who have dropped out of in-company or non-company training if there is no prospect of integration into in-company training. Young people who are not classified as disadvantaged can continue their training in non-company training. If



necessary for integration into employment, support can be provided for a second course of vocational training.

Under Federal Employment Agency instructions, non-company training (BaE) can be provided in cooperation or integration form. With the cooperation form, the practical part of the training is provided at the premises of cooperating employers. With the integration form, training is mostly provided at the premises of the vocational training provider, which is in charge of both theoretical and practical instruction.

## Assisted training

Assisted training is a new policy instrument – made available for a limited period – designed to help greater numbers of disadvantaged young people to successfully complete in-company vocational training in the dual training system. In assisted training, trainees and training enterprises are provided with support before and during in-company vocational training. The support provides additional prospects of in-company experience for young people who have so far only been able to be provided with non-company training. To allow for regional differences and so that it can be adapted to existing regional structures, assisted training has been designed to be very flexible. For example, assisted training can be optionally supplemented with a preparatory phase and the group of people eligible with support can be added to under Länder-level arrangements.

## Residential homes for young people

Loans and grants can be made available to providers of residential homes for young people for the building, extension, conversion and fitting out of homes where necessary to balance the training market and promote vocational training. The providers or third parties must meet a reasonable proportion of the cost. This restores the option removed in 2009 for the Federal Employment Agency to contribute to the cost of repairs and renovations to residential homes (investment funding).

## Promotion of further vocational training

### How to claim

If you take part in further training activities, you can claim a vocational training grant if

- You are unemployed and further vocational training will assist your integration into the labour market, is necessary to avoid possible unemployment or if it becomes apparent that training is needed to compensate for a lack of initial vocational training.
- You have taken part in an advisory session at the employment agency prior to training
- The training measures are approved and the training provider is accredited.

### Type and scope of promotion

Education vouchers (Bildungsgutschein) are issued to all entitled workers. The voucher is usually allocated for a specific educational goal and is limited to a particular geographic area. It allows anyone interested in further training to choose an accredited training provider offering the appropriate form of training. The employment agency provides information on available occupational training measures (for example via the KURSNET online database). Selection of the actual accredited training provider lies solely with the voucher holder. The education voucher must be handed over to the training provider who bills the employment agency directly.

If you enter into further training, the employment agency can assume the following costs:

- Course costs (course fees, including the costs of educational materials, working clothes, exam fees for state or generally recognised interim and final exams, test pieces) and any costs arising from having to take part in aptitude testing (say a health check) prior to starting the training course.
- Travel expenses

- Accommodation and meals away from home
- Child care costs (€130 per child).

Special vocational training schemes are also in place for people already in work.

## **1. Further on-the-job training for low-skilled and older workers (WeGebAU)**

- This is available for low-skilled workers with no school qualifications or with school qualifications but who were either trained on the job or perform unskilled work and have done so for at least four years and can no longer work in the job they originally trained for. Periods in unemployment, child-rearing or caring for a relative are taken into account.
- Workers aged 45 and over who are employed by an employer with a workforce of less than 250 provided that the employer continues to pay wages for the duration of the training.
- For a limited period (with measures commencing before 31 December 2019), all other workers who are employed by an employer with a workforce of less than 250 provided that the employer both continues to pay wages and also meets at least 50% of the cost of the training.

Further training measures can involve those which:

- Provide knowledge and skills which can generally be used in the employment market
- Lead to a recognised occupational qualification
- Conclude with a certified partial qualification or a cross-industry or cross-sectoral qualification

Employees wishing to take advantage of the scheme receive education vouchers which allow them to choose from recognised further education and training courses.

Assistance takes the form of the cost of training being met in full or part. In the case of low-skilled workers who are released from work with full pay, the employer receives a grant to help cover the employee's pay.

## **2. Initiative for the initial vocational training of young adults**

The joint initiative, 'AusBILDUNG wird was – Spätstarter gesucht' ('Education makes you someone – late starters wanted') launched by the Federal Ministry of Labour and Social Affairs (BMAS) and the Federal Employment Agency in February 2013 has been continued under the current government. The goal is to give a second chance to obtain a vocational qualification between 2013 and 2015 to 100,000 young adults in the 25-34 age group who lack such a qualification and come under the systems governed by Book II and Book III of the Social Code (SGB II and SGB III).

The focus of the initiative is on targeting funding of continuing training (full and part-time) leading to a vocational qualification in a recognised training occupation, external examinations and modular training units. The funding is provided on the basis of the existing legal framework (Book II and Book III of the Social Code) and the budget resources allocated for the purpose. The initiative is aimed at both unemployed and employed young adults who do not yet have a vocational qualification. Young adults with disabilities can also benefit. The initiative thus promotes effective integration into employment and helps meet demand for skilled labour.

## **Labour market support for people with migrant backgrounds**

All forms of integration assistance under Book II and Book III of the Social Code are generally available to people with migrant backgrounds provided the legal requirements are met for being allowed to take up employment. To provide people with migrant backgrounds with better access to labour market policy instruments, the Federal Ministry of Labour and Social Affairs, the Federal Ministry of Education and Research and the Federal Employment Agency began in mid-2011 to expand the 'Integration durch Qualifikation (IQ)' ('Integration through Training') funding programme into a national structure of 16 Länder networks. Among other things, training has been provided to enhance the intercultural and immigration-related skills of counselling staff at local services (such as employment agencies and job centres) and to link up the various forms of assistance available in each region into a process chain. The Länder networks also provide a supporting framework for implementation of legislation to improve the assessment and recognition of foreign occupational qualifications. This has involved the creation of nationwide initial and referral advice centres to provide initial information, to help people seeking recognition of their qualifications in identifying the relevant German reference occupation and the

recognition authority responsible for them. From 2015, the IQ funding programme has a new focus on skills adaptation for migrants in the context of the law on the recognition of qualifications. This action area, which is financed out of ESF resources, includes the expansion of advice and coaching services along with training modules to close gaps in job and language skills as needed to attain full equivalence and a licence to work in the profession concerned.

At the beginning of 2013, the federal government launched a special programme, MobiPro-EU, to promote professional mobility in young training place seekers from elsewhere in the European Union. The programme provides funding to support young people aged between 18 and 27 from other EU countries in taking in-company training in an occupation in which there is a skills shortage in Germany.

## **Advancing the labour market participation of people with disabilities**

Under Book III of the German Social Code, people with disabilities are individuals whose prospects of participating or continuing to participate in the labour market are substantially impaired, other than temporarily, on account of a disability as defined in Section 2 (1) of Book IX of the German Social Code and who consequently need help participating in the labour market, including people with learning disabilities. People at risk of disability with like consequences are deemed equivalent to people with disabilities. Under Section 2 (1) of Book IX of the German Social Code, a person has a disability if their physical ability, mental capacity or mental health is likely to fall short of that typical for their age for at least six months and their participation in society is consequently impaired. They are deemed at risk from disability if such impairment is anticipated.

The range of general support provided under SGB III with regard to labour market participation of people with disabilities comprises:

- Activation and occupational integration assistance
- Pre-training and vocational training support, including vocational training allowance
- Occupational further training support
- Help becoming self-employed

Provision is also made for special measures promoting the participating of disabled people in working life where needed due to the nature or severity of disability or to ensure that integration is successful. For example, initial and further vocational training can be provided in specially equipped rehabilitation centres. Under Book III of the German Social Code, promotion of initial and further vocational training may also take place in a workshop for the disabled.

Employers can receive support in helping disabled and severely disabled people to integrate:

- Integration subsidy (see the Integration Subsidy section) and subsidies to reimburse training pay (see the Choice of Occupation and Vocational Training section)
- Trial or pre-employment
- Work aids

With Germany's Supported Employment Act of 22 December 2008, a new instrument was introduced to promote the integration of disabled and severely disabled persons into the jobs market.

Individuals who because of their disability and despite making use of all available support to compensate for their disadvantages are unable to enter into vocational training, supported employment can result in them being placed in work. Under supported employment, disabled persons with special assistance needs are placed in new job opportunities that meet their abilities and leanings. In line with the principle of 'placement first, training second', they are trained and supported on the job with the ultimate aim of them becoming permanently employed with the respective employer. This provides new opportunities on the general employment market.

The benefits and services governed by Section 38a of Book IX of the Social Code (SGB IX) take in individual in-house training and support in employment. In-house training is possible for a period of two and no more than three years. The provision of non-occupation-specific learning materials, key skills and measures towards personal development are integral components of the training provided. Participants are covered under the social insurance scheme. Contributions are paid by the integration services, usually the employment agency. If continued support is necessary following integration into an

employment relationship in which the employee pays compulsory contributions, it is usually provided by the integration offices in the form of support in employment.

## **Wage replacement benefits**

### **Unemployment benefit**

To receive unemployment benefit (Arbeitslosengeld), you must:

- be unemployed
- have personally registered as unemployed
- have completed the qualifying period
- be actively seeking work and be available for work.

You are classed as unemployed if you have no work at all or if you work for less than 15 hours a week for an employer or on a self-employed basis.

To register as unemployed you must visit the employment agency in person and report that you have become unemployed; you cannot register by phone or by post.

To complete the qualifying period, you must accumulate at least twelve months (360 days) of Federal Employment Agency contributions, either by working or otherwise (for example, by claiming sickness benefit), within the timeframe of the last two years.

Anyone who provides home nursing care for a dependant, is self-employed for at least 15 hours per week or is employed outside Germany in a non-EU country or in a country not associated with the EU may make voluntary unemployment insurance contributions. This gives people who are not required to pay mandatory contributions the opportunity to pay a voluntary contribution to safeguard their entitlement to unemployment benefit. The applicant must, however, have paid mandatory contributions at an earlier date.

The amount of unemployment benefit you receive is based on your average weekly pay on which statutory insurance contributions were levied in the last year before becoming eligible to claim (the assessment period).

The resulting gross earnings figure (gross assessed earnings) is then subject to deductions at a fixed rate. These deductions take the form of social insurance contributions in an amount of 21% of your gross assessed earnings, income tax and solidarity surcharge.

Your unemployment benefit is 67% of your net assessed earnings (gross assessed earnings after deductions) if you have at least one child who you can claim tax relief for, and 60% if you do not.

How long you can claim unemployment benefit for depends on your age and how long you have been in contributory employment within the reference period (extended by three years) and your age at the time you became unemployed.

Entitlement periods:

Minimum time paying contributions	Age	Period of entitlement
12 months		6 months
16 months		8 months
20 months		10 months
24 months		12 months
30 months	50	15 months
36 months	55	18 months
48 months	58	24 months

Any entitlement to unemployment benefit expires if you complete another qualifying period. Any remaining entitlement is then added to the new entitlement, up to the maximum period for your age.

While you are drawing unemployment benefit, the employment agency pays your statutory health insurance, long-term care insurance and pension contributions. The benefit is transferred at the end of each month onto a bank account you specify.

### Short-time allowance

If an employer temporarily cuts working hours and puts the workforce on short time because business is slack or due to an unavoidable event, the local employment agency pays a short-time allowance (Kurzarbeitergeld) subject to the meeting of statutory requirements. The main purpose of short-time allowance is to keep workers in employment and avoid redundancies despite a lack of work.

You can claim the short-time allowance if:

- You are on reduced pay or receive no pay at all due to a cut in working hours
- The cut in working hours is temporary and substantial
- Personal requirements have been met (primarily that you are in untermiated employment subject to social insurance contributions)
- The employer or works council reported the cut in hours in writing without delay to the local employment agency

A cut in working hours is deemed substantial if:

- It is caused by economic reasons, such as an economic slowdown, or an unavoidable event (such as flooding)
- It is temporary
- It is unavoidable
- During the period of eligibility (the current calendar month), at least one-third of the employees in the company concerned received more than 10% less pay due to a cut in working hours. The loss of pay can also amount to 100% of the monthly gross wage.

A cut in working hours is temporary if there is a certain probability of a return to full-time working within the period for which the allowance is granted.

A cut in working hours is deemed avoidable if:

- It is normal for the sector or workplace or is seasonal, or is solely for organisational reasons
- It can be avoided by granting paid leave, provided that it does not conflict with higher-priority employee preferences regarding when to take leave
- It can be avoided by making use of flexible working hours arrangements permitted at the workplace in question

The allowance is usually paid out by the employer and refunded by the local employment agency on application by the employer or works council.

The size of the short-time allowance is based on the amount of pay lost, net of deductions. You normally receive 60% of the net pay lost. If at least one child lives in your household, the short-time allowance is 67% of the net pay lost. The difference in net pay is calculated on the basis of the gross pay that would have been received had there not been a cut in working hours and the actual gross pay received as a result of short-time work and in line with the provisions of applicable law (Verordnung über die pauschalierten Nettoentgelte für das Kurzarbeitergeld). The difference between both net amounts is paid out as short-time allowance in amount of 67 or 60%. The calculation does not take account of any changes in the agreed working hours made under collectively bargained guaranteed working hour agreements.

The allowance is granted for a statutory period of six months. This can be extended by order of the Federal Ministry of Labour and Social Affairs. For claims submitted on or before 31 December 2015, the maximum period of entitlement is 12 months.

### **How to claim**

Short-time allowance is paid on application from the employer or the works council. The application must be submitted to the responsible Employment Agency within a period of three months. The three-month period begins at the end of the calendar month (entitlement period) containing the days for which short-time allowance is claimed.

### **Insolvency allowance**

Insolvency allowance (Insolvenzgeld) is paid if your employer becomes insolvent and you have not received all outstanding pay. You can claim insolvency allowance if you are owed pay from the last three months you worked: before insolvency proceedings started, before a petition to start insolvency proceedings was dismissed on account of insufficient assets, or before your employer finally ceased trading if your employer has not filed for insolvency and insolvency proceedings do not come into question due to insufficient assets..

Insolvency allowance covers outstanding net pay if your gross earnings do not exceed your gross assessed earnings (2015: €6,050 a month in western Germany and €5,200 a month in eastern Germany). The employment agency also pays outstanding mandatory social insurance contributions (health, pension and long-term care insurance) and unemployment contributions for the last three months.

Insolvency allowance must be applied for at the relevant local employment agency within a limitation period of two months after before insolvency proceedings started, before a petition to start insolvency proceedings was dismissed on account of insufficient assets, or before your employer finally ceased trading.

### **Seasonal short-time allowance: Promoting all-year work in the building trade**

Seasonal short-time allowance can be claimed by employees during the bad-weather season (1 December to 31 March) if:

- They work for a company in the construction sector
- The reduction in working hours is significant
- Both company and individual requirements for eligibility are met
- The cut in working hours has been reported to the responsible Employment Agency

A company in the construction sector is a company that primarily provides commercial construction services in the construction market. Construction services are all services involved in the construction, maintenance, repair, modification and demolition of buildings and other structures. Eligible companies and companies excluded from funding are listed in regulations on winter employment in the construction sector (Baubetriebe-Verordnung). Eligible companies include the primary construction trade, the roofing trade, the scaffolding trade and the landscape gardening trade.

To be eligible, a company must have at least one employee.

A cut in working hours is deemed significant when it is of temporary nature and cannot be avoided due to bad weather, economic reasons or an unexpected event beyond the company's control.

Avoidable cuts in working hours include:

- Those arising solely for organisational reasons
- Those which could be avoided by granting paid holiday where the employee's primary holiday plans remain unaffected
- Those which could be avoided if the company made use of authorised fluctuations in working hours

If, since the last bad weather season, credits on flexible working hour accounts which are less than a year old have been used for other purposes than to compensate for loss of pay due to a cut in working hours caused by bad weather or because an employee was released from work for training reasons, cuts in working hours equal to the amount accrued on the flexible working hour account are deemed unavoidable. Cuts in working hours which are customary in the industry or the company or are weather-related are deemed unavoidable.

Weather-related cuts in working hours occur when the cut is exclusively caused by serious weather events and at least one hour of regular working time is lost in a given working day.

Employees wanting to claim seasonal short-time allowance must fulfil the individual requirements for general short-time allowance.

Seasonal short-time allowance is paid for the duration of the cut in working hours during the bad weather season (1 December to 31 March), meaning for a maximum period of four (4) months.

Periods in which an employee receives seasonal short-time allowance are not counted towards the period of eligibility for short-time allowance. Nor are they counted as a break which would lead to the start of a new eligibility period.

The amount of seasonal short-time allowance is subject to the provisions set about above for short-time allowance.

Seasonal short-time allowance is paid out on application from the employer or works council. Applications must be submitted within three months to the responsible Employment Agency. The three-month period begins as soon as the month containing the days for which seasonal short-time allowance is claimed has expired. Seasonal short-time allowance should ideally be claimed no later than the 15th of the following month. Applications must be submitted to the Employment Agency in the district in which the employer's payroll office is located.

Apart from an entitlement to seasonal short-time allowance, employees may also claim supplementary benefit in the form of an additional winter allowance (Zuschuss-Wintergeld) and a winter expenses allowance (Mehraufwands-Wintergeld). Construction industry employers may claim a refund of the employers' social insurance contributions where such payments are made from a transfer fund. The supplementary benefits are consequently not paid from contributions to the unemployment insurance fund, and are only paid in relation to employment relations that cannot be terminated on grounds of bad weather during the bad weather season. This means that supplementary benefits may be paid to trade employees, but not to white-collar workers or foremen.

Additional winter allowance (Zuschuss-Wintergeld) is paid in amount up to €2.50 per lost hour of work if the employee's flexible working time account is used to compensate for the lost hours and a claim for seasonal short-time allowance is avoided.

Winter expenses allowance (Mehraufwands-Wintergeld) is paid in an amount of €1.00 for each eligible working hour worked by trade employees working at a weather-dependent location between 15 December and the last day of February. Up to 90 working hours can be claimed in December, and up to 180 hours in January and February.

The supplementary benefits are paid on application by the employer or the works council. The period of eligibility begins immediately the calendar month containing the days for which supplementary benefits

are claim has expired. Supplementary benefits should ideally be claimed on or before the 15<sup>th</sup> of the following month. Applications should be submitted to the Employment Agency in the district in which the employer's payroll office is located.

## **Transfer benefits**

Transfer benefits provide support during workforce adjustments following changes in a business. The purpose of transfer benefits is to improve the prospects of finding new employment for employees affected by layoffs. The aim is preferably a transfer directly from job to job without an intervening period claiming unemployment benefit.

The decision to deploy transfer payments is the responsibility of the employer and the works council, and is taken in negotiations on a reconciliation of interests or social plan. Generally, the purpose of a social plan is to agree on financial compensation for the losses to employees resulting from changes in a business (severance pay etc.).

Transfer benefits aim to incentivise employers, alongside severance payments, to take an active part in the process of reintegrating employees at risk of unemployment. Employment promotion policies make provision for two types of support for this purpose: Transfer programmes and transfer short-time allowance.

Entities administering transfer programmes and transfer companies in which transfer-short-time allowance is paid must obtain authorisation as providers of benefits under Book II of the Social Code. Employers who establish an internal transfer company under their own administration do not need this authorisation.

## **Transfer programmes**

Use is made of the notice period to prepare employees affected by a change in their employer's business for transfer to subsequent employment. Transfer programmes include aptitude assessment, outplacement advice, application training, short training courses, and advice and support for becoming self-employed.

Workers at risk of unemployment due to a change in their employer's business or on completion of vocational training are entitled to funding to take part in a transfer programme if:

- The employer and the works council have obtained advice from the employment agency before deciding to establish a transfer programme
- The programme is carried out by a third party and the employer makes a suitable financial contribution
- The purpose of the programme is to help integrate workers into the labour market
- It is ensured that the programme will be put into effect

The employer's commitment to provide funding can be made under a social plan or by other collective or individual agreement. Support is generally provided for all employees, with no minimum size restriction on the establishment in which they are employed.

A grant is made in the amount of 50% of necessary and appropriate programme costs up to a maximum of €2,500 per case. Other forms of active employment promotion assistance with similar objectives cannot be granted during participation in a transfer programme.

## **Transfer short-time allowance**

The objective of transfer short-time allowance (Transferkurzarbeitergeld) is to enable workers to be transferred from their existing employment to other employment without an intervening period of unemployment.

Transfer short-time allowance can generally be granted with employees remaining under the same employer or under an organisationally independent unit. For reasons concerning labour law, the external solution is usually preferred. Employees affected by layoffs are brought under a transfer company under a three-party contract.



While claiming transfer short-time allowance, the transfer company or employer must offer the employees other work opportunities and must take action to improve their integration opportunities (for example by providing training).

The amount of transfer short-time allowance is the same as that of short-time allowance. The maximum period of entitlement is 12 months. Transfer short-time allowance is paid out by the transfer company or employer and refunded by the responsible employment agency on application from the employer or works council.

#### General requirements

Workers are entitled to transfer short-time allowance:

- For the duration of any sustained unavoidable loss of working time and pay caused by a major change in their employer's business
- If certain organisational and individual requirements are met
- If the employer and the works council have obtained advice from the employment agency before deciding to claim transfer short-term allowance
- If sustained loss of working time is reported to the employment agency by the employer or works council

There is no entitlement if employees are merely temporarily brought under an organisationally independent unit before occupying a position in the same or another workplace belonging to the same enterprise or, if the enterprise is part of a group, in a workplace belonging to another group company. Public-sector employees are also excluded with the exception of employees of enterprises incorporated as independent entities and run on a for-profit basis.

#### Individual requirements

Workers are only entitled to transfer short-time allowance if:

- They are under threat of unemployment
- After commencement of the loss of working time and pay, they continue an employment relationship in which they pay mandatory contributions or take up such employment at the end of their vocational training
- Are not excluded from claiming short-time allowance
- Before being transferred to an organisationally independent unit, have registered with the employment agency as looking for work and have taken part in a measure to assess their integration prospects (profiling measure)

#### Organisational requirements

The organisational requirements are met if:

- The change in the business results in adjustments to the workforce
- The affected workers are brought under an organisationally separate unit (usually a transfer company) and taken out of the production process
- The organisationally independent unit is organised and provided with resources such that it is probable the integration objective will be achieved
- A quality assurance system is applied. If the organisationally separate unit is operated by a third party, that party must be licensed.

## **Worker integration**

### **Integration subsidy**

#### How to claim

Employers can receive wage subsidies to help integrate workers who are difficult to place on grounds of their personal circumstances. The subsidy is based on the extent to which a worker's productivity is impaired and the needs of the workplace.

Integration subsidy is paid against the regular payments employers make in accordance with collective agreements or locally accepted wage rates and a fixed amount for social insurance contributions. One-off wage payments are not covered by the subsidy.

#### Amount and duration of subsidy payments

The amount of the integration subsidy may not normally exceed 50% of the subsidisable wage and may be paid for no longer than twelve months. The subsidy may be paid for up to 36 months in the case of employees over the age of 50.

Special provisions apply with regard to the amount and duration of payments for disabled and severely disabled people. In departure from the rule above, the amount can be up to 70% of the subsidisable wage and the duration up to 24 months. For severely disabled people with special needs, the amount can be up to 70% of the subsidisable wage and the duration up to 60 months. The duration can be up to 96 months for severely disabled people with special needs who are aged 55 or older.

The decision as to both the amount and the duration also includes consideration of whether the disabled person was employed other than by statutory obligation or in a manner that exceeds the employment obligations set out in Part 2 of Book IX of the German Social Code.

### **Funding**

Most Federal Employment Agency funding comes from contributions, though additional funds come from pay-as-you-go levies on employers and their liability funds. The contributions are paid by employers as well as employees (white and blue-collar workers, people employed on vocational training schemes, and people who work from home). Their respective share of the contributions depends on the current contribution rate (3% of gross pay since 2012). The maximum contribution is set by a contribution assessment limit. The monthly limits in 2016 are €6,200 in western Germany and €5,400 in eastern Germany.

### **The law**

The law on employment promotion is set out in Book III of the Social Code.

The law is implemented by the Federal Employment Agency in Nuremberg ([www.arbeitsagentur.de](http://www.arbeitsagentur.de)) together with its regional directorates, employment agencies and other agency offices. The Federal Employment Agency is a self-governing public agency.

### **Information**

For further information please contact your local employment agency. You can also find a wide range of information at <http://www.arbeitsagentur.de>.

## **Basic security benefits for job-seekers (Unemployment Benefit II/Social Benefit) Grundsicherung für Arbeitsuchende**

*Basic security benefits for job-seekers (Grundsicherung für Arbeitsuchende) under Book II of the Social Code (SGB II) is a tax-funded system designed to provide people who are capable of earning with full and rapid help and support to help themselves.*

Anyone who is unable to find work despite making a full effort to seek a job or who does not earn enough from their employment to live from, and is in need of assistance, has a legal entitlement to unemployment benefit II, which is also grantable as an income supplement or top-up.

Basic security benefits for job-seekers are assessed on a household basis. This means that social benefit (Sozialgeld) is payable to any individuals in need of assistance who are not capable of earning but live in a joint household with someone who is capable of earning and is entitled to assistance.

### **Assistance to empower and encourage**

The objective of basic security benefits for job-seekers is to empower those who are in need and entitled to assistance, together with others in their joint household, and to help them live by their own means and working capacity. The benefits aim to support individuals in need and entitled to assistance in taking up employment and covering their living expenses to the extent they are unable to do so themselves by other means. The aim of the support in taking up employment is to ensure that those in need are placed in suitable work as quickly as possible. Under basic security benefits for job-seekers, individuals in need and entitled to assistance are given single-stop access to necessary advice, placement and integration services. Recipients of Unemployment Benefit II may make use of the full range of services provided under SGB III alongside the specific integration assistance under SGB II. There is also the option of taking part in a publicly funded employment scheme. Support from personal advisers ensures that individual services to empower those in need are used to full effect. An integration agreement is entered into with job-seekers containing a binding commitment to working together towards their integration into employment while giving due regard to the individual circumstances of those in need and entitled to assistance together with their dependants.

Unemployment benefit II is paid out of tax revenue, that is from public funds. It is therefore in the public interest for job-seekers not merely to be provided with the best-possible integration assistance, but also that they be expected to take the initiative and actively work at finding employment. Support and empowerment thus go hand in hand.

Recipients of unemployment benefit II are expected to do all in their power to end their reliance on state aid and the associated financial burden on society as soon as possible.

### **Providers of basic benefits for job-seekers**

The basic benefits for job-seekers are provided by local job centres. These are the point of contact for those entitled to assistance; they pay out the benefits and provide the assistance needed.

In a job centre, a local employment agency and the local municipality generally work together as the agencies ultimately responsible for the benefits. Local employment agencies are responsible for payment of the standard rate of assistance towards living expenses and integration assistance. Municipalities are responsible for providing appropriate levels of assistance for housing and heating and for one-off grants, for example to set up home. They also have responsibility for providing additional education and participation assistance (the educational package) and supplementary forms of integration assistance (debt and addiction counselling; childcare). Job centres pay assistance towards living expenses in the form of unemployment benefit II (standard rate plus suitable housing assistance), normally in a single monthly amount. A total of 105 administrative and urban districts cover all of the responsibilities involved as approved municipal providers.

Further information on the subject is provided in a free German-language brochure, 'Das Bildungspaket' ('The Education Package') (A 857b).

The basic benefits for job-seekers are provided by local job centres. These are the point of contact for those entitled to assistance; they pay out the benefits and provide the assistance needed.

In a job centre, a local employment agency and the local municipality generally work together as the agencies ultimately responsible for the benefits. Local employment agencies are responsible for payment of the standard rate of assistance towards living expenses and integration assistance. Municipalities are responsible for providing appropriate levels of assistance for housing and heating and for one-off grants, for example to set up home. They also have responsibility for providing additional education and participation assistance (the educational package) and supplementary forms of integration assistance (debt and addiction counselling; childcare). Job centres pay assistance towards living expenses in the form of unemployment benefit II (standard rate plus suitable housing assistance), normally in a single monthly amount. A total of 105 administrative and urban districts cover all of the responsibilities involved as approved municipal providers.

The basic benefits for job-seekers are provided by local job centres. These are the point of contact for those entitled to assistance; they pay out the benefits and provide the assistance needed.

In a job centre, a local employment agency and the local municipality generally work together as the agencies ultimately responsible for the benefits. Local employment agencies are responsible for payment of the standard rate of assistance towards living expenses and integration assistance. Municipalities are responsible for providing appropriate levels of assistance for housing and heating and for one-off grants, for example to set up home. They also have responsibility for providing additional education and participation assistance (the educational package) and supplementary forms of integration assistance (debt and addiction counselling; childcare). Job centres pay assistance towards living expenses in the form of unemployment benefit II (standard rate plus suitable housing assistance), normally in a single monthly amount. A total of 105 administrative and urban districts cover all of the responsibilities involved as approved municipal providers.

## **Entitlement to unemployment benefit II**

Individuals entitled to assistance who are between ages 15 and the age ceiling for drawing an old-age pension, which will gradually be raised in line with changes to the official retirement age, and under 65 receive unemployment benefit II (Arbeitslosengeld II). Capability of earning is defined as the ability to work at least three hours a day under normal conditions prevailing on the general labour market. Need of assistance is defined as the inability to meet their own necessary living expenses or those of members of their shared household, either out of their own resources (income and assets) or with their earning capacity (by working), or with help from others.

Individuals entitled to assistance who are not capable of earning but live in a joint household with someone entitled to unemployment benefit II receive social benefit (Sozialgeld).

The two benefits (unemployment benefit II and social benefit) are equivalent in their basic components, are paid monthly in advance and are generally granted for six months at a time.

## **Young people's entitlement to basic security benefits for job-seekers**

Young people aged under 25 receive special support to give them the best chances of entering the labour market. Anyone under 25 who applies for unemployment benefit II has a right to be placed without delay in an apprenticeship, a job, a training course, or vocational training.

Provided that they are in need of assistance, young people over 15 who are capable of earning receive unemployment benefit II by way of assistance towards living expenses. In determining whether a young person is capable of earning (see above), what matters is that they are theoretically able to take up gainful employment – it does not matter if there are circumstances preventing them from doing so, such as having to attend school.

## **Integration assistance**

A range of services are available to provide (re)integration assistance in the search for employment or training:

- Placement guidance and assistance provided via the placement budget
- Measures to activate and secure integration into the jobs market
- Support in taking up further education and training, including repeating the lower secondary leaving school leaving certificate (Hauptschulabschluss)
- Assistance to promote participation in the jobs market
- Assistance for employers
- Support to help employed persons take up further education and training
- Careers and training guidance
- Community integration support (such as childcare services, addiction and debt advisory services)
- Integration benefit
- Assistance in taking up self-employment
- Opportunities to work
- Wage subsidies

## **Reasonable employment**

In principle, any employment is considered reasonable. This is stipulated in Section 10 of SGB II. Exceptions are allowed, for example on physical, mental or psychological grounds or where pay rates are so low as to be deemed immoral. Care of children under the age of three or care of dependants may also be given as grounds for rejecting an offer of employment. Other compelling reasons can also be taken into account – in particular, attendance of a school of general education.

Anyone who rejects a reasonable offer of employment, apprenticeship, opportunity to work or place on an integration scheme can expect to have their unemployment benefit II reduced and then, if offers are repeatedly rejected, stopped altogether.

In such cases, the amount of benefit can be reduced to begin with by 30% of the standard rate – about €100 a month – for three months. Claimants who fail to comply three times in a year lose all entitlement to unemployment benefit II. Stronger sanctions apply for claimants under 25, whose benefit is stopped if they fail to comply twice. If an individual capable of earning and entitled to assistance subsequently agrees to fulfil his or her obligations, the sanctions can be reduced. For young people, this means the benefits for housing and heating may be reinstated or the period without benefit may be shortened to six weeks, taking the circumstances of the specific case into account.

If benefits are reduced by more than 30%, the job centre may provide supplementary non-cash benefits or vouchers. The provision of such benefits is mandatory if the entitled individual shares a joint household with minors.

## **Amount, duration and payment of unemployment benefit II**

Unemployment benefit II is assessed entirely as a needs-based welfare benefit. This means benefits from other providers must be claimed first and any entitlement to unemployment benefit II is reduced by income and assets that must be taken into account (excluding exempt income and exempt assets).

Ultimately, the amount of unemployment benefit II depends on the specific needs of the individual capable of earning and entitled to assistance and the needs of any others (spouse/partner and any children under 25) living with them in a joint household.

Individuals capable of earning and entitled to assistance receive unemployment benefit II in the form of the standard rate plus possible assistance towards living expenses, including a reasonable amount for accommodation and heating.

The standard rate for individuals capable of earning and entitled to assistance covers food, bodycare, household effects and everyday personal necessities, plus expenditure on maintaining contacts with the outside world and on taking part in cultural life. It is intended to cover both recurring and non-recurring items of expenditure. Costs of electricity, bus and car travel must also be met out of the standard rate of benefit.

The German Federal Ministry of Labour and Social Affairs runs a citizens' information line on labour market policy and promotion. Tel. 030 2219 11003, Mondays to Thursdays, 8 am to 8 pm.

Under legislation on the determination of standard rates of benefit and amending Book II and Book XII of the Social Code (cited as BGBl. 2011 Teil I Nr. 12 and dated 29 March 2011), the levels of assistance towards living expenses (standard rates) are transparently and verifiably derived from a 2008 income and consumption survey.

From 1 January 2016, the standard rate for singles, single parents and job-seekers whose partner is under 18 is €404 per month. If both partners are of age, the standard rate is €364 per month each.

For children and young adults, the standard rate is determined by age group. It is €237 for children up to six years old, €270 for ages 6 to 13, €306 for ages 14 to 17 and €324 for ages 18 to 24.

From 1 January 2011, in addition to the standard rates for children and young adults, various types of education and participation assistance are also provided (the educational package).

The educational package consists of the following types of assistance:

- Actual expenses incurred for single-day and multiple-day school/daycare centre outings
- Assistance for personal school supplies (€70 on 1 August and €30 on 1 February each year)
- Costs of pupils' transportation to/from school, where necessary (subject to a reasonable own contribution of €5) and if not already met from other sources
- Assistance for learning support in specific circumstances
- Additional cost of communal meals (own contribution €1 per child) at school or in daycare
- Monthly budget of up to €10 for participation in social life

These forms of assistance are also made available for children for whom supplementary child allowance or housing benefit is granted.

In this way, those entitled to the benefit receive a lump-sum amount to cover all needs.

Additional expenditure not covered by the standard rate may be covered in certain situations and circumstances:

1. For expectant mothers from the thirteenth week of pregnancy
2. For single parents according to the ages and number of children
3. For people with disabilities to assist their integration into the jobs market
4. For food (subject to documentary proof that an expensive diet is medically necessary)
5. For ongoing special needs that are unavoidable in the individual case (hardship clause)
6. For individual water heating (gas or electric boiler) where necessary

Total additional expenditure for living expenses under headings 2 to 4 must not exceed the standard rate.

The monthly benefit provides a budget which recipients can manage independently. If the amount received fails to cover immediate needs, supplementary loans may be considered in certain circumstances.

In addition to the standard rates, non-recurring assistance may be provided:

1. For setting up a household, including the purchase of appliances
2. For initial outfitting with clothes, and initial outfitting with maternity and nursing needs
3. For the purchase and repair of orthopaedic footwear and for repair or rental of therapeutic equipment

Even if they are not entitled to assistance towards living expenses because they are not considered to be in need, claimants may still be entitled to non-recurring assistance if their income is not sufficient to pay for special needs in full.

Housing costs: It is no longer necessary to apply for housing benefit when applying for unemployment benefit II. The municipal providers meet reasonable accommodation and heating costs for a claimant's entire joint household as part of unemployment benefit II/social benefit. These include hot and cold water supply and sewage charges. A loan may also be provided for rent arrears if homelessness otherwise threatens. The municipal providers are responsible for deciding what is reasonable and appropriate.

Rent for unreasonably large or expensive accommodation is paid for a maximum of six months unless it is possible and reasonable to expect that the claimant either move before then or reduce the rent, for example by taking in a lodger. A decision whether to reduce payments to the amount deemed reasonable is made on a case by case basis at the end of the six months.

In individual instances, the municipal provider can insist that a claimant move, but will then meet the costs of obtaining new accommodation and of the removal, and will pay any deposit. These costs are also met if a move becomes necessary for other reasons and alternative accommodation cannot otherwise be found within a reasonable period of time.

### Standard rates of benefit

Single persons and single parents	Other members of a joint household				
	Children to age 6	Children from age 7 to 14	Children from age 15 to 18	Children age 19 to age 25	Partners age 18 or over
€404	€237	€270	€306	€324	€364

### Social security contributions

Individuals capable of earning and entitled to assistance are compulsorily insured in the statutory health insurance and social long-term care insurance schemes. An exemption is made for recipients of unemployment benefit II who come under private health insurance. This includes people who most recently had private health insurance before claiming unemployment benefit II, or who before claiming unemployment benefit II had neither statutory nor private health insurance and were primarily self-employed or not subject to compulsory insurance (for example as civil servants). Individuals in this group are required to take out private health insurance and in most cases qualify for the basic coverage rate (Basistarif). Privately insured individuals entitled to assistance receive a subsidy towards insurance contributions. Recipients of social benefit are generally covered by family health and long-term care insurance.

### Prevention of need with supplementary child allowance

Parents capable of covering their own living expenses but not their children's upkeep can receive supplementary child allowance (Kinderzuschlag). This is to prevent parents from having to apply for unemployment benefit II/social benefit solely for the children's upkeep.

The maximum allowance is €140 per child per month. It is applied for at the family benefits department (Familienkasse), which also pays out child benefit. Up to what level of income families can receive the allowance depends on the amount of rent they pay and any entitlement for additional expenditure.

If the parents' income exceeds their own needs, 50% of the excess is not deductible from the supplementary child allowance. The remainder of the excess is deducted. The allowance is generally approved for six months at a time. Approval may be renewed if the criteria continue to be met. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) website has an allowance calculator (<http://www.bmfsfj.de/Kinderzuschlagrechner>).

Further information is provided in a German-language leaflet, Grundsicherung für Arbeitsuchende – Fragen und Antworten – SGB II (Basic Security Benefits for Job-Seekers: Questions and Answers), published by the Federal Ministry of Labour and Social Affairs.

## **Labour law**

### **Arbeitsrecht**

*Employees depend on their employers, not only economically but also in a personal sense, as is borne out by their contracts of employment. So they need protecting, and this is the task fulfilled by labour law. This branch of the law applies both to blue-collar and white-collar employees (who are distinguished from one another in Germany as Arbeiter and Angestellte). People working from home, whose livings are especially dependent on the organisations providing them with work, are also covered by labour law, partly under laws and regulations applying specifically to their situation, and partly under those applying equally to people who travel to their place of work. Labour law is divided into two categories. Individual labour law governs relations between single employers and their single employees. Collective labour law applies to legal relations between unions and employer associations at company and inter-company level.*

### **What individual labour law covers**

Individual labour law centres on the relationship between a person in work and his or her employer, as governed by the employment contract between them.

There are two main questions dealt with by every employment contract: the first is “What work am I expected to do?” and the second is “What pay am I entitled to in return?”

Your employment contract may also lay down other rights and duties that go to make up your overall working conditions. Both you, as an employee, and your employer may be affected by these rights and duties. A number of different laws ensure that you are entitled to certain minimum employees' rights. These include the Federal Holidays Act (Bundesurlaubsgesetz) and the Continuation of Pay Act (Entgeltfortzahlungsgesetz), which entitles you to sick pay from your employer for up to six weeks if you are absent due to illness, the Act on Part-Time Work and Fixed-Term Employment Contracts (Teilzeit- und Befristungsgesetz, or TzBfG), the Home and Institutional Care Act (Pflegezeitgesetz, or PflegeZG) and the Family Care Leave Act (Familienpflegezeitgesetz, or FPfZG). Under certain circumstances, the TzBfG allows employees to reduce their working hours; its provisions are designed to prevent part-time workers from being treated differently to full-time employees unless there are justified grounds for doing so. The PflegeZG and the FPfZG make it easier to reconcile demands of work and family care by allowing employees in certain circumstances to look after close relatives in need of nursing care at home for up to six months while being fully or partly released from employment. The General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz, or AGG) also provides minimum protection against discrimination at work by prohibiting discrimination on account of race or ethnic origin, gender, religion or world view, disability, age or sexual identity.

Labour law allows employers and employees to agree more favourable working conditions – over and above the statutory minimum – by individual contract of employment or by a collective agreement (see ‘Collective Bargaining Law’ in the next section).

Periods of notice are also stipulated by law. Employees and employers alike always have to observe the basic period of notice of four weeks, either to the 15th or to the end of a calendar month. The longer you have worked for the same establishment, the more notice your employer will have to give you to terminate your contract. Once you have worked there for two years when over 25 years of age, the minimum period of notice is one month to the end of a calendar month. The statutory period increases by one month each time you complete your 5th, 8th, 10th, 12th and 15th year working for the same employer. The final increase, from six to seven months' notice to the end of a calendar month, comes when you have completed 20 years of service.

The collective agreement affecting your employment conditions may specify a different period of notice (longer or shorter). If it does not simply state that it follows the collective agreement, your contract of employment can generally only stipulate longer periods of notice. Exception: Shorter periods of notice can be agreed for the first three months in individual employment contracts for temporary workers. In small establishments with no more than 20 employees, the four-week notice period can be agreed in individual



employment contracts without stipulating a date to which notice must be served (thus allowing notice other than to the fifteenth or last day of a month). Employees cannot be required to give a longer period of notice than the employer has to give them.

According to the Unfair Dismissal Protection Act (Kündigungsschutzgesetz), an ordinary dismissal (with correct period of notice) is socially justified and legal if it is issued for reasons to do with the individual or his or her behaviour or is necessary for operational reasons that do not allow the individual's continued employment. Whether the Unfair Dismissal Protection Act applies to an employment relationship depends on the size of the company (or the administration) and the commencement date of the employment contract.

- From 1 January 2004, the Unfair Dismissal Protection Act generally applies to workplaces with a workforce of ten or more.
- Employees with contracts commencing on or before 31 December 2003 at workplaces with a workforce of five or more continue to enjoy protection from dismissal. Based on the Act's prior application thresholds, the latter retain their protection from dismissal as long as the establishment has more than five employees who were already on the workforce on 31 December 2003. Employees hired after 31 December 2003 are not counted.

When determining the number of employees, part-time employees are counted in proportion to their working hours, and trainees are ignored. Temporary employees are counted if their employment reflects staffing requirements that apply 'as a rule'.

Application of the Unfair Dismissal Protection Act requires that the employee had been employed for more than six months continuously prior to receiving notice (waiting period).

An employment contract can be summarily terminated (that is, terminated without notice) in circumstances such that it would be unreasonable for either side to continue the contractual relationship.

If employees wish to contest the validity of the social or other grounds given for termination with notice or the reasons for summary dismissal, they must bring a legal action with the labour court (Arbeitsgericht) of competent jurisdiction within three weeks of the notice being served.

The preconditions for limiting the term of an employment contract and the legal consequences of an invalid term limitation are governed by the Act on Part-Time Work and Fixed-Term Employment Contracts (Teilzeit- und Befristungsgesetz). Limited-term employment contracts terminate without notice when the contract period expires or on achievement of a specified purpose. A limited-term employment contract may be terminated with the agreed period of notice but before the contract period expires if the possibility of termination is agreed in the employment contract or the applicable collective bargaining agreement. There is a three week limitation of action if an employee wishes to contest the validity of a term limitation in his or her employment contract.

Any notice of termination or employment termination agreement and any agreement limiting the duration of a contract of employment must be in written form in order to have legal effect.

## What collective labour law covers

Collective labour law can be subdivided into two levels:

- Collective bargaining law—the level dealing with relations between trade unions, employers' federations and individual employers.
- The law on labour relations at the workplace—the level dealing with relations between employer and workforce in individual establishments.

### **Your obligations**

Certainly, labour law is chiefly intended to protect your rights as an employee but—as with most rights—you do also have a number of obligations.

Your most important obligation in this area is to do a certain job of work. In return, your employer has the duty to pay you a certain wage or salary.

## Collective bargaining law

The right of trade unions and employers' federations to negotiate pay and conditions without state interference (their 'collective bargaining autonomy') is protected by the German constitution. The two sides of industry thus take their own responsibility for the pay and other agreements they reach.

The pay and conditions for most jobs in Germany are covered by such collective agreements. This in itself shows how important collective bargaining autonomy is in this country.

Collective agreements are drawn up either between trade unions and employers' federations, or between trade unions and individual employers. They are the most important instrument available to the two sides for promoting their members' interests and bringing their influence to bear on working and other economic conditions. Collective agreements fulfil three main functions:

### 1) Protective

A collective agreement gives employees protection against employers 'taking the law into their own hands' in order to impose working conditions. This is important, as your contract of employment is not permitted to breach the minimum working conditions set by the collective agreement for your industry and region.

### 2) Organisational

A collective agreement fleshes out the content of all employment relationships it covers while in force.

### 3) Preserving industrial peace

While a collective agreement remains in force, employees are prohibited from going on strike to enforce new demands relating to the pay and conditions the agreement covers.

Typical conditions laid down in collective agreements include:

- Wage or salary levels
- Working hours
- Holiday entitlement
- Periods of notice

You are not automatically entitled to such collectively agreed conditions, wage levels, and so on. The collective agreement only applies to you:

- Either if your employer belongs to the employers' federation, and you are in the trade union, that concluded the agreement (alternatively, your employer may be a direct party to the agreement)
- Or if the collective agreement has been declared generally applicable. Naturally, your own employment relationship will also have to be of the type covered by the agreement.

Beyond this, it is quite possible for your employer to agree with you under the terms of your employment contract that collectively agreed conditions should also apply to your working relationship. Your contract will then have equal status if it is normal company practice to apply collective agreements.

<b>Agreed working week</b>							
<b>Working hours</b>	<b>Percentage of workers</b>						
	<b>2008</b>	<b>2007</b>	<b>2005</b>	<b>1998</b>	<b>1985</b>	<b>1980</b>	<b>1975</b>
35	19.7	20.1	20.5	19.8	18.8	–	–
36	2.7	2.7	2.8	2.3	0.9	–	–
36.5	0.5	0.4	0.4	0.6	0.3	–	–
37	6.0	6.8	6.8	6.8	9.0	–	–
37.5	13.0	12.3	12.5	12.7	12.6	–	–
38	10.9	10.6	11.0	10.0	6.9	–	–
38.5	21.9	22.4	22.7	21.1	20.6	–	–
39	14.3	13.2	13.4	17.0	18.3	–	–
39.5	0.2	0.2	0.7	0.2	0.2	–	–
40	8.6	8.9	9.0	9.2	12.3	94.0	90.6
41	0.2	0.2	0.2	0.2	0.1	1.4	1.6
41.5	–	–	–	–	–	–	0.7
42	–	–	–	–	–	3.5	1.5
42.5	–	–	–	–	–	0.4	0.4
43	–	–	–	–	–	0.7	1.6
44	–	–	–	–	–	2.7	–
45	–	–	–	–	–	–	0.9
<b>Average working hours</b>	<b>37.59</b>	<b>37.57</b>	<b>37.64</b>	<b>37.65</b>	<b>37.80</b>	<b>40.12</b>	<b>40.27</b>

## The law on labour relations at the workplace

The law on labour relations at the workplace regulates the relations between workforce and employer. The basic philosophy is to ensure there is trusting co-operation among the trade unions and employers' federations represented at each workplace, to the benefit of employees and the employer alike.

The works council (Betriebsrat) is elected by the workforce. Its immediate purpose is to perform a number of general tasks. For example, it monitors operations to make sure that all legal requirements, safety regulations, collective agreements and in-house agreements designed to benefit employees are adhered to and implemented as necessary.

In addition, the works council has to be involved in social welfare, personnel and economic issues.

These participation rights are classed according to their scope:

- Rights of co-determination
- Rights of information and consultation.

The German Federal Ministry of Labour and Social Affairs runs a citizens' information line on labour law. Tel. 030 221911004, Mondays to Thursdays, 8 am to 8 pm.

Co-determination is the stronger form of participation. In cases in which the works council has such rights, the employer needs to obtain its approval before being allowed to take certain actions. What happens if the works council refuses its consent? Any such cases are referred to a board of arbitration, made up of employer and works council representatives on an equal basis, with a neutral chairperson.

In the second category of participation rights, the employer is required to inform the works council, to hear its views or to consult with it.

You will find more details on the law governing workplace labour relations in the chapter on Industrial Democracy.

## The law

- The laws and acts of parliament governing labour law include the following:
- The Civil Code
- Protection against Unfair Dismissal Act
- Federal Holidays Act
- Protection of Working Mothers Act
- Continuation of Pay Act
- Documentation of Employment Conditions Act
- Working Hours Act
- Family Care Leave Act
- Protection of Minors at Work Act
- Trade Regulation Act
- Collective Bargaining Act
- Part-time and Limited-term Employment Contracts Act
- Works Constitution Act
- Senior Management Representative Committees Act
- Coal, Iron and Steel Industry Co-determination Act
- One-Third Participation Act
- Co-determination Act
- Home and Institutional Care Act
- Posting of Workers Act
- Minimum Wage Act
- General Equal Treatment Act

*Important: In all public services, the Federal and Länder Personnel Representation Acts operate in place of the Works Constitution Act, which governs industrial relations in the private sector.*

## **Industrial democracy**

### **Betriebsverfassung**

*How far do the rights of consultation of individual employees and their workplace representatives go, and how much of a share can they have in decision making? What are the trade unions' rights in the workplace? These questions are answered by the Works Constitution Act, which lays down how the workplace labour relations system in Germany should operate.*

*The Act allows employees to participate in decisions made at their place of work. These participation rights cover practically all areas of activity at work, including social welfare, personnel and economic matters. So the Act establishes democratic conditions at the workplace, opening up greater opportunities to make working life more humane.*

*A 2001 law reforming the Works Constitution Act and bringing workplace industrial relations into line with today's working and business environment ensured the continuing effectiveness of the workplace industrial relations model to the benefit of employers and employees alike. The reforms create adaptable, modern employee representative structures, make it easier to constitute works councils, extend representation to special forms of employment such as temporary work, improve the working conditions for the works council itself and for youth and trainee representatives, strengthen works council co-determination rights in job security and training issues, simplify the election procedure in establishments with up to 50 employees who are entitled to vote (or up to 100 in agreement with the employer), promote equal opportunities for women in the workplace, and abolish the outdated distinction between blue-collar and white-collar workers.*

#### **Composition of the works council**

The size of the works council depends on the size of the workforce:

- If 5-20 employees are eligible to vote, the function is carried out by one person
- If 21-50 are eligible to vote, the works council will have three members
- If 51-150 are eligible to vote, the works council will have five members

Larger workplaces have correspondingly larger works councils.

If there are a number of works councils within the same company, a central works council must also be established. A group works council can be constituted if there are two or more central works councils in a group of companies. The same applies to youth and trainees' delegations.

If a company has more than 100 employees, a finance committee (Wirtschaftsausschuss) must also be formed. This committee has extensive rights of information and consultation on financial matters. The membership is nominated by the works council.

If a works council has three or more members, whichever gender is in the minority among the workforce must make up at least the same percentage of the works council as it does in the establishment as a whole.

If the works council has nine or more members, it must also appoint an operational committee (Betriebsausschuss) to manage its everyday business.

In certain circumstances, delegates of the trade unions operating at the workplace may also take part in works council meetings.

## Your rights

As an employee, you have many rights which are enshrined in law. For example, you are entitled to information and to be heard by your employer in matters relating directly to your own job. You can:

- Demand to be informed of what impact technical innovations will have on your job
- View your employee file
- Have the assessment of your performance explained
- Have the way your pay is calculated explained

If you believe you have been treated unjustly or discriminated against, you can make a complaint. If you wish, you can call on the support of the works council, which will then represent your interests in dealings with your employer.

The works council and your employer should co-operate on a basis of trust, in the interests of the employees at your workplace. In so doing, they should also cooperate with the trade unions and relevant employers' federations.

## What establishments have a works council?

If a private sector establishment has at least five employees over the age of 18, they are entitled to elect their own works council (Betriebsrat). However, at least three employees need to have been there for at least six months (this is the requirement to be eligible for office).

Employees under 18 years of age and trainees under 25 years of age can, if they wish, elect their own youth and trainees' delegation.

A central works council must be established if a company has several operating locations that each have their own works council; a group works council if the company is part of a larger group.

Government offices (at the federal, Länder and municipal levels), and other public sector agencies and institutions do not have works councils. They are covered instead either by the Federal Personnel Representation Act or by similar acts in force in each of the Länder.

Senior managerial staff are not represented by the works council. If an establishment has at least ten senior managers, they are entitled by the Executive Committees Act to form an executive committee. A corporate executive committee can be formed for the company as a whole, and a group executive committee if it belongs to a group of companies.

*Note: Senior management can only elect a representative committee if a majority emerges in favour of its formation the first time a ballot is held.*

## The right to vote for the works council

Since the Act Reforming the Works Constitution Act (Gesetz zur Reform des Betriebsverfassungsgesetzes) came into force, temporary employees have the right to vote in works council elections in the hiring company provided they have worked there for more than three months. All employees aged 18 and over have the right to vote for the works council. However, employees are not eligible to stand for works council membership until they have spent at least six months working for the same establishment, or elsewhere in the same company or group.

Under an amendment to Section 5 of the Works Constitution Act, civil servants, public-sector employees and members of the armed forces are now normally considered employees as defined in the Act when employed in an establishment belonging to a private-sector enterprise. The rule governing classification as a senior managerial employee under Section 5 (3) of the Act likewise applies to civil servants and members of the armed forces employed in a private-sector enterprise. This introduces general provision for civil servants and public-sector employees to vote for and to be elected onto works councils, supervisory boards and executive committees in private-sector enterprises.

## Tasks of the works council

The main tasks of the works council include monitoring the employer's adherence to all legal requirements, safety regulations, collective agreements and in-house agreements on the employees' behalf.

There are various social welfare matters in which the works council influences decision making (known as its 'right of co-determination'). This applies to situations:

- When questions arise relating to internal rules specific to the establishment, or to the conduct of employees
- When issues of working hours at the establishment have to be dealt with, or when there are plans to introduce short-time or overtime working
- When the principles for allotting holiday time are announced, the holiday schedule is posted or (in cases where employee and employer cannot agree) individual employees have their holiday allotted
- When determining the form to be taken by social welfare facilities operating solely at the one establishment, or within the one company or group, and how those facilities should be run
- When there is any proposal to introduce mechanisms to monitor the conduct and performance of employees
- As provided by legislation, when measures are taken to combat occupational hazards (accident or illness), or when issues of health protection are involved
- When company residential accommodation is to be allocated or vacated
- When issues come up regarding the composition of pay at the workplace, when payment systems are devised, or piecework and bonus rates or similar performance-related payments are set
- When determining principles for the practice of group working

The works council also cooperates and has a substantial amount of say on:

- Developing job descriptions, work processes and working environments
- Personnel planning
- Vocational training

In view of the current importance of job security and training, works councils have been given greater participatory rights. For example, a works council can make proposals to the employer regarding flexible working hours, on arrangements for part-time work and partial retirement, on in-house employee training, and on new forms of work organisation and changes to processes and work flows.

If the employer plans structural changes in the workplace (such as cutbacks, closing down or relocating operations), the works council representative can implement a social plan to compensate for or alleviate the financial disadvantages employees would face as a result of the change.

The employer must give the works council timely notification of fundamental business concerns and discuss them with it. Such concerns include a planned takeover that would result in a change of control. The works council must be involved in the event of a takeover if there is no finance committee.

If a company has more than 20 employees entitled to vote, the employer must obtain the works council's approval for all specific personnel changes, namely:

- New appointments
- Gradings
- Regradings
- Transfers

In certain circumstances defined by law, the works council is entitled to refuse its consent. If the employer still wishes to implement a measure the works council has legally rejected, the matter has to be referred to a labour court.

*Important: An employer must also hear the works council's opinion before dismissing an employee. If the employer fails to do this, the dismissal will be invalid.*

Furthermore, the works council has the right to contest routine dismissals. If, for example, your employer has given you due notice of dismissal, the works council has contested this on one of a number of legally admissible grounds, and you have filed an action for unfair dismissal, your employer will initially be forced by the law to keep you on in your job if you so demand. Only the labour court can relieve your employer of this duty to keep you on.

If the works council has given good grounds for contesting an employee's dismissal, this will substantially strengthen his or her position in unfair dismissal proceedings before the court.

Everyone employed at any establishment has to be treated justly and equitably. The employer and the works council share the responsibility for ensuring that this principle is observed. They particularly need to ensure that nobody is treated differently from his or her colleagues because of his or her race or ethnic origin, heritage or other background, nationality, religion or beliefs, disability, age, gender, sexual identity, political views or activities, or trade union activities. The works council and the youth and trainee representatives thus have the right to apply for measures to combat xenophobic tendencies in the workplace. Similarly, no employee may be placed at a disadvantage because he or she has passed a certain age limit. Finally, the employer and the works council are responsible for ensuring that employees have scope for personal development.

The works council must hold a workplace general meeting once every calendar quarter. The meeting allows the works council and employees to exchange their views and concerns. The works council is also required to report on its activities to the general meeting. Employees have the opportunity to comment on the works council's decisions, and to propose motions for resolutions.

## **Industrial democracy in Europe**

The 1996 Act on European Works Councils transposed the EU Directive on European Works Councils into German law. It provides for cross-border information and consultation of employees in community-scale enterprises and groups of companies that have operations in two or more EU member states or the European Economic Area. The Act's scope of application takes in such enterprises and groups that operate in Germany, have at least 1,000 employees in the member states and of those at least 150 employees each in two different member states.

The European Works Council (EWC) is a transnational employee representation body which is responsible for informing and consulting employees in transnational enterprises and groups of companies. It supplements national-level employee representations (works council, central works council, and group works council) without affecting their area of jurisdiction.

The establishment of the EWC and the structuring of cross-border information and consultation of employees is primarily the responsibility of central management and the special negotiating body, comprising employee representatives from the respective EU member states, in accordance with a voluntary agreement. The EU Directive gives both employer and employee representatives the broadest possible scope as regards company-specific structure and organisation of the EWC. The EU Directive and Germany's Act on European Works Councils do however provide a set of rules for guidance. This requires that the agreements set out the responsibilities and work performed by the EWC, the procedure to be used in informing and consulting employees, the place, frequency and duration of meetings, and the financial and material resources allocated to it.

Only when it is clear that no agreement can be reached on the establishment of an EWC does the EU Directive and the German Act on European Works Councils prescribe that an EWC be established by law and sets out the specific responsibilities and the procedure to be used in informing and consulting employees.

The minimum requirement for mandatory establishment of an EWC calls for the EWC to be informed and consulted once per calendar year about the business developments and prospects of the enterprise or group. This includes details of the economic and financial situation, the expected trends in business, production and sales, workforce levels, investments, relocation of production sites, mergers, downsizing

or closure of companies, operations or significant portions of operations, and mass redundancies. This is largely in line with the provisions laid down in Section 106 (3) of Germany's Works Constitution Act.

Apart from these regular meetings, the EWC must be informed and, upon request, consulted on extraordinary cross-border activities where these have an impact on the workforce and significantly affect employee interests (e.g. relocation of production sites, works closures, mass redundancies). This means that if extra-ordinary circumstances arise, central management must inform the EWC, provide it with the necessary documentation without delay and consult it if requested to do so by the EWC itself. The EWC must normally be consulted in a timely manner to ensure its proposals and concerns are taken into account before a business decision is reached.

The Directive on European Works Councils was recast in 2009 in close consultation with unions and employers' associations. Changes include definitions of the terms 'information' and 'consultation' ensuring that an EWC is given timely notification prior to any corporate decisions involving any transnational restructuring. In the main body of the Directive, EWCs are assigned competence for transnational issues. Additionally, among other things, it is clarified that EWCs must be provided with the means to represent the workforce collectively under the Directive, that the agreement establishing an EWC must be renegotiated on any major restructuring of the company or group of companies concerned, and that members of the EWC must be provided with necessary training. The new provisions were transposed into national law with the revised Act on European Works Councils and came into effect on 18 June 2011.

## **The law**

The legislative basis for the fields discussed in this chapter is provided by:

- The Works Constitution Act
- The Federal Personnel Representation Act plus Personnel Representation Acts in force in each of the Länder
- The Executive Committees Act
- The Act on European Works Councils

Numerous legal provisions are also in place to facilitate the support of works councils by the trade unions.



## **Co-determination Mitbestimmung**

*Whether they deal with marketing plans, new products, capital investment or rationalisation measures, virtually all operational and entrepreneurial decisions taken by an organisation also affect its employees. This is why employees have been granted the right to share in such decision making (known as 'co-determination'). The co-determination system means that employees, via their elected representatives, participate in policy making at their place of work and within their company.*

*Employee co-determination is one of the fundamental elements in the way German society operates. The idea stems from a basic conviction that democratic principles should not be confined to the state as such, but need to be rooted in all areas of society.*

*The other side of the coin in co-determination is that employees and their trade unions are also prepared to take a share in corporate responsibility. That has meant that they have helped shape and stabilise society in the Federal Republic of Germany over the past few decades, and continue to do so today.*

*The Act on Equal Participation of Women and Men in Leadership Positions in the Private and Public Sectors has had a major impact on the composition of supervisory boards and consequently on employee co-determination. Its aim is to bring about a significant increase in the percentage of women in leadership positions and a cultural change in the business world. The act stipulates a gender quota of 30% from 1 January 2016 for newly elected supervisory board positions in listed companies with parity co-determination. All listed companies and companies subject to co-determination are required under the act to set targets, together with time limits for their attainment, for the percentage of women in the supervisory board, the management board and the two levels of management beneath the management board.*

### **Your rights**

Do you work for a medium-sized or large company, incorporated in the form of a public limited company (Aktiengesellschaft-AG), private limited company (GmbH), partnership limited by shares (KGaA), cooperative, or mutual insurance company? If you do, the company is required by law to operate a two-tier board system, and you can exert your own influence on company policy via your representatives on the supervisory board.

This form of co-determination is not confined to employee welfare issues—it covers the complete range of business activity.

The supervisory board (the higher-tier, non-executive board) has the power to do any of these things:

- Appoint or dispense with the services of top executive managers (who sit on the lower-tier, executive board). This does not apply in a partnership limited by shares (KGaA).
- Gather comprehensive information on all of the company's business affairs
- Impose a requirement that important corporate decisions, on matters such as large capital projects or rationalisation measures, must have the supervisory board's approval.

### **Co-determination in large companies under the Co-determination Act**

Incorporated firms not in the coal, iron and steel industries (which have their own co-determination rules) and employing more than 2,000 people, either directly or in subsidiary companies under their control, are subject to the Co-determination Act of 1976. The Act provides that a company's supervisory board must

be made up of employee and shareholder representatives in equal measure. On the employee side, according to the size of the supervisory board, two or three seats are reserved for union representatives and one seat for managerial employees. Despite this, the company's owners do have slightly more say, since the chairperson—who in practice is invariably a shareholder representative—has an additional casting vote to ensure that a majority is obtained whenever the board has come to a tied voting decision at the second attempt. In companies outside the coal, iron and steel industries, the employee representatives on the supervisory board do not have a right of veto when the labour relations director (who sits on the executive board) is appointed.

## **How employee board representatives are chosen**

Depending on the size of the workforce, employee representatives on the supervisory board are elected either in a direct ballot or via delegates to an electoral college, regardless of whether they come from inside the company or are external, trade union representatives.

## **Election of shareholder representatives**

The shareholder or 'capital' representatives on the supervisory board are elected at the shareholders' general meeting.

## **Election of the chairperson**

At the first meeting of a newly elected supervisory board (its 'constitutive meeting'), the board's chairperson and vice chairperson are elected by its members. A candidate must receive a two-thirds majority to be elected.

*Important: If a candidate does not attain the necessary majority, a second ballot is held. This time round, the shareholder representatives elect the chairperson, and the employee representatives the vice-chairperson – in each case by simple majority.*

## **The executive board**

The supervisory board is responsible for appointing the members of the executive board—and is also empowered to dismiss them.

*Important: Candidates for election to the executive board must also attain a two-thirds majority to be successfully elected. If a candidate fails to attain this, a mediation committee is set up.*

The executive board also includes a labour relations director who has equal status with the other board members. The labour relations director's area of responsibility primarily covers personnel and employee welfare matters.

## **Co-determination in smaller companies under the One-Third Participation Act**

Employee representatives have to make up one third of the membership of the supervisory board in incorporated firms with 501 to 2,000 employees.

However, there is no lower limit on the number of employees in a company if it is a public limited company (AG) or partnership limited by shares (KGaA) established before 10 August 1994, and is not a family firm. That is, companies fitting this description are also obliged to have one third of their supervisory board made up of employee representatives, even if they have less than 500 employees. On the one hand, this one-third participation does not give the employees much of a share in decision making power, but it does allow them to be party to important company information.

## **Co-determination in the coal, iron and steel industries**

Co-determination in the coal, iron and steel industries not only has the longest tradition but is also more extensive than anywhere else. In these industries, the rules apply to any incorporated firm with more than 1,000 employees.

In these industries, too, the supervisory board is composed of equal numbers of members representing shareholders and employees. However, it also includes one additional, 'neutral' member. Supervisory boards in the coal, iron and steel industries normally have 11 members, but the number may increase to 15 or 21 in larger companies.

The members of the executive board are appointed and dismissed by the supervisory board. The executive board must also include a labour relations director. A person cannot be appointed to or dismissed from this post if a majority of the employee representatives is opposed to it. This ensures that labour relations directors always have the confidence of the employee representatives on the supervisory board.

*Note: Any incorporated firm that does not in itself belong to the coal, iron and steel industries but is the parent company of others that do is subject to a diluted form of these co-determination rules.*

## **The law**

In the coal, iron and steel industries, the key pieces of legislation are the Coal, Iron and Steel Industry Co-determination Act of 1951 and the Supplementary Co-determination Act of 1956.

## **Co-determination in a European company under the Act on Employee Participation in European Companies (SEBG)**

With the German Act on the Introduction of European Companies (SEEG), the EU Regulation on the Statute for a European Company (SE) and the supplementing Directive on involvement of employees were transposed into German national law. The SE is a legal form under EU law and lines up alongside the legal forms of Aktiengesellschaft and GmbH allowed under German law. The introduction of the SE aims to simplify the establishment of cross-border business combinations within the European Community. The establishment of an SE can take four main forms: transformation, merger and establishment of either a holding company or a subsidiary.

## **Organisational structures**

The SE may be organised under either a two-tier system with a management board, a supervisory board and a general meeting or – following the example of many neighbouring EU Member States – a single-tier system. In contrast to the two-tier system in which the supervisory board monitors the management board, the single-tier system combines the two functions into a single board. The single-tier system is new to German company law.

## **Employee participation in an SE**

Employees' rights to participate in a European company are set out in the German Act on Employee Participation in European Companies (SEBG). They are primarily agreed by free negotiation between management and a special negotiating body representing employees. In the absence of an agreement, a set of standard statutory rules apply that include information, consultation, and also co-determination rights for employees.

The following applies with regard to employee co-determination in the supervisory or administrative board on an SE:

Employee rights in force in the founder companies are largely safeguarded under a 'before and after' rule. If certain thresholds are exceeded, the proportion of employees in the SE who have co-determination rights is automatically based on the highest proportion who previously had such rights; if the thresholds are not reached, the highest proportion applies by special resolution passed by an absolute majority of the special negotiating body. The employee representatives in the supervisory or administrative board are appointed proportionately from the member states in which the SE has employees, thus reflecting the company's international spread.

Cross-border information and consultation is secured by a special employee representative body, the SE works council.

## **Co-determination in a European cooperative society (SCE) under the Act on Employee Participation in European Cooperative Societies (SCEBG)**

The SCE Implementation Act (SCEAG) and the SCE Employee Participation Act (SCEBG) transpose EU provisions on European cooperative societies into German law. The SCEBG governs employee participation in an SCE.

The SCE is modelled on the SE. The two acts are near-identical in the arrangement and substance of their provisions. Employee participation rights are secured by the same principles in an SCE as in an SE (the 'before and after' rule, negotiation and standard rules). As the implementing acts largely contain the same provisions (in particular regarding the election committee, composition of special negotiating bodies and negotiation procedures), the rules on co-determination in a European company apply as described above.

The main differences between an SE and an SCE are contained in the provisions for its initial establishment. Unlike an SE, an SCE's founding membership can be made up wholly or partly of individuals.

## **Employee participation in the event of cross-border mergers of limited companies under the Act on Employee Participation in the Event of Cross-Border Mergers (MgVG)**

The MgVG transposes the labour law provisions of the Directive on Cross-Border Mergers of Limited Liability Companies (the Tenth Company Law Directive) into German law. After the European Company (SE) and the European Cooperative Society (SCE), this represents a further key step in the modernisation of European co-determination law. The company law provisions have been transposed into German law by revisions to the law on business transfers.

The MgVG resembles the SEBG and the SCEBG not only in the arrangement of its sections; in many instances, its provisions are identical in wording or at least in substance. This is particularly the case as concerns the formation and composition of special negotiating bodies and the negotiation procedures. The rules for SEs and SCEs apply with regard to these points as described above.

Despite the many common features, there are a number of important differences relative to the provisions on SEs and SCEs:

### **Focus on participation in corporate decision making**

Unlike with SEs and SCEs, the Tenth Directive and the MgVG only cover employee participation in corporate decision making. They do not cover cross-border employee information and consultation, which are provided for with regard to SEs and SCEs.

### **National law or negotiated solution**

As the outcome of a cross-border merger under the Tenth Directive is not a new form of European legal entity but a company incorporated under the national law of a member state, employee participation is by default governed by national law. There is a departure from this general rule, however, if one of the companies involved in the merger has at least 500 employees and operates employee participation, or national law in the country where the merged company will have its registered office stipulates a lower level of employee participation than is operated in the merging companies or stipulates a lower level of participation for employees from other member states than for employees in the country where the merged company will have its registered office. In such cases, which reflect practical experience, employee participation is not determined by national law but by the mechanisms (negotiated solution/standard rules) applicable to SEs and SCEs.

Unlike with an SE or SCE, however, the managements of the companies involved in a cross-border merger can choose without prior negotiation to be subject to the standard rules for employee participation from the merger registration date.

## **The law**

The following laws form the legal basis for co-determination:

Co-determination Act of 1976 (MitbestG)  
One-Third Participation Act (DrittelbG)  
Coal, Iron and Steel Industry Co-determination Act (MontanMitbestG)  
Supplementary Co-determination Act (MitbestErgG)  
Act on Employee Participation in European Companies (SEBG)  
SCE Employee Participation Act (SCEBG)  
Act on Employee Participation in the Event of Cross-Border Mergers (MgVG)

## **Minimum wage**

### **Mindestlohn**

*The right to a minimum wage, how that right is enforced and how enforcement is monitored is laid down in the Minimum Wage Act (Mindestlohngesetz, or MiLoG), the Posting of Workers Act (Arbeitnehmer-Entsendegesetz, or AEntG) and the Temporary Employment Act (Arbeitnehmerüberlassungsgesetz, or AÜG). From 1 January 2015, there is a generally applicable minimum wage of €8.50 an hour.*

### **Your rights**

As an employee in Germany, you have a right to the statutory minimum wage of €8.50 an hour. This has applied since 1 January 2015. The general statutory minimum wage protects employees in Germany from unreasonably low wages. The statutory minimum wage also helps ensure fair and functioning competition.

### **Who has a right to the general minimum wage**

The statutory minimum wage applies to you as an employee if you are over 18 or have completed occupational training.

To help them back into the labour market, long-term unemployed do not have to be paid the minimum wage for the first six months of employment. Individual sectors can agree wages below €8.50 up to 31 December 2016. This requires a sectoral minimum wage made binding by ministerial order under the Posting of Workers Act or the Temporary Employment Act (see below).

You likewise have a right to the statutory minimum wage when you are on a work placement or internship, except for mandatory placements required as part of a course of study or similar. Voluntary internships lasting up to three months are also exempt from the minimum wage if their purpose is to help in the choice of career or course of study or they accompany a course of study.

The general minimum wage does not apply for trainees under the Vocational Training Act (Berufsbildungsgesetz/BBiG).

### **Claiming the minimum wage**

You have an enforceable claim against your employer to be paid the minimum wage. In case of dispute, you can file action with a labour court to claim the minimum wage.

### **Time limits for claims**

The right to the minimum wage is comprehensively protected in law. Claims are normally subject to a three-year statute of limitations. This cannot be shortened as exclusion periods are not allowed. The right to payment of the minimum wage cannot be forfeited or waived and any agreement restricting or excluding enforcement of the minimum wage is ineffective to that extent.

### **Compliance monitoring**

The customs and excise authorities verify that employers pay the minimum wage. Failure to comply with the obligation to pay a minimum wage is an administrative offence and subject to fines of up to €500,000.

## **Posting of Workers Act**

The Posting of Workers Act (Arbeitnehmer-Entsendegesetz) provides a legal framework for setting binding sector-specific minimum wages for all employees in a sector, regardless of whether the employer or temporary employment agency is based in Germany or in another country. Such sector-specific minimum wages take precedence over the general minimum wage.

The option of setting sector-specific minimum wages under the Posting of Workers Act remains in place alongside the general minimum wage. This option already existed for sectors expressly listed in the Posting of Workers Act and now applies for all other sectors as well. Application of the Posting of Workers Act has been extended to cover all sectors.

A requirement for the setting of a sectoral minimum wage under the Posting of Workers Act is that a collective minimum wage agreement must be in place which is made binding for all employers in Germany or abroad that come under the scope of the collective agreement and for their employees. This is brought about by a ministerial order from the Federal Ministry of Labour and Social Affairs.

Minimum wages can be set for the care sector by ministerial order on recommendation of a commission of eight sectoral representatives.

The minimum wage stipulations under the Posting of Workers Act only apply for enterprises and self-contained parts of enterprises whose main business consists of providing the sector-specific services in question. Whether the main business of an enterprise or a self-contained part of an enterprise consists of providing certain services is determined according to whether provision of those services accounts for the majority of the workforce's total annual working hours. The extended collective agreement may impose further restrictions.

Sectoral minimum wages under the Posting of Workers Act take precedence over the general statutory minimum wage provided that they are not lower. Up to 31 December 2017, sectoral minimum wages also take precedence if they are lower than the general statutory minimum wage; from 1 January 2017, they must be at least €8.50 before deductions.

## **Temporary Employment Act**

If proposed by the collective bargaining parties for temporary employment, under the Temporary Employment Act (Arbeitnehmerüberlassungsgesetz), the Federal Ministry for Labour and Social Affairs (BMAS) can determine a binding minimum wage independent of whether, in its capacity as the employer, the temporary employment agency is domiciled in Germany or in another country. Temporary employees are entitled to payment of amounts which at minimum equal the minimum determined wage. From 1 April 2014 to 31 December 2016, the temporary employment sector is subject to secondary legislation dated 21 March 2013 setting a minimum wage for temporary employment. This stipulates a standard minimum wage of €7.86 for the states of Berlin, Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia (eastern Germany) and €8.50 in the remaining Länder. The minimum wage for temporary employment increases to €8.80 (€8.20 in eastern Germany) from 1 April 2015 and €9.00 (€8.50 in eastern Germany) from 1 June 2016.

## **Sectors with minimum wage levels**

Sectoral minimum wage levels are not set in the acts themselves, but in ministerial orders issued under them. The minimum wage levels are regularly updated on the website of the Federal Ministry of Labour and Social Affairs ([www.bmas.de](http://www.bmas.de)) and that of the German customs service ([www.zoll.de](http://www.zoll.de)).

## **Compliance monitoring for sectoral minimum wage levels**

As with the general statutory minimum wage, the customs and excise authorities verify that employers comply with minimum wage levels under the Posting of Workers Act and the Temporary Employment Act. Failure to comply with the obligation to pay a minimum wage is an administrative offence and subject to fines of up to €500,000.

## **Health and safety at work**

### **Arbeitsschutz, Unfallverhütung**

*Workers need safety. Their health and lives have to be protected from dangers that arise at work. Systems for health and safety at work provide this protection.*

*Your employer is responsible for health and safety at your workplace. Employers must set up and maintain the workplace, tools, machines, plant and equipment, etc., so that you, the employee, are protected from safety and health hazards. They must take action to prevent accidents at work and occupational health hazards, and to provide an appropriate working environment. They must do this by law, under national health and safety regulations—specifically the Health and Safety at Work Act and secondary legislation based on it—and accident prevention codes published by the accident insurance funds.*

*Health and safety at work affects the following interrelated areas:*

- *The workplace, including workplace hygiene*
- *Tools, machinery, plant and equipment*
- *Hazardous substances*
- *Prescribed working hours*
- *Protection of specific groups*
- *Organisation of workplace health and safety*
- *Preventive occupational health care*
- *Load handling*
- *Biological agents*
- *Noise and vibration*
- *Artificial optical radiation*

## **Your rights**

The rules and regulations on health and safety at work apply to all employees—including agricultural workers and public employees.

Children and young people enjoy special protection under the Protection of Minors at Work Act. By law, only minors aged between 15 and 17 are usually allowed to go to work.

As an employee, you are insured against occupational accidents and diseases with a statutory occupational accident insurance fund (see also the Accident Insurance chapter). For most employees this will be an industrial employers' liability fund, whose members are the employer companies themselves.

The liability funds have set up technical inspectorates. Together with the health and safety inspectorates in the various Länder (federal states), these make sure that all health and safety requirements are strictly observed and that all installed protective equipment is used.

## **Legal foundations**

Rules on health and safety at work are to be found in various acts and regulations, and in the accident prevention codes published by the employers' liability funds.

There are health and safety rules for specific sectors of trade and industry, for specific manufacturing plant, for workplace organisation and design, and so forth. Here are some other examples:

- Rules on the design and use of machinery and equipment
- Rules on the use of specific substances that are needed in production processes
- Rules that apply to specific groups of people



## Some typical health and safety laws

### Health and Safety at Work Act

The Health and Safety at Work Act (Arbeitsschutzgesetz) places your employer under a duty to assess the hazards at the workplace, take appropriate preventive measures, and instruct you about the measures used. Your employer must take precautions for especially hazardous areas and situations and provide preventive occupational health care. If you are in immediate danger you have the right to leave your workplace without fearing for your job. The Act gives you the right to submit suggestions to the company health and safety officer. You can also complain to the inspectorates about inadequate health and safety provision at your workplace without fear of retribution, provided that you have already taken your complaint to your employer and nothing has been done about it.

#### Your obligations

Not all hazards and sources of danger can be eliminated or avoided by technical or organisational means. There will always be hazards in any workplace. This places you as an employee under an obligation to be safety-conscious and support your employer with regard to safety precautions.

Accident prevention regulations too include rules on conduct for all employees who use tools, plant and equipment. As an employee, you are also required to observe rules of conduct specifically devised by your employer for your workplace. In case of health problems in the workplace you have the right to preventive occupational healthcare.

### Company Doctors, Safety Engineers and Other Occupational Safety Officers Act (Safety at Work Act)

The Safety at Work Act (Arbeitssicherheitsgesetz) places employers under a duty to appoint appropriately qualified officers to support them in occupational health and safety matters, including ergonomic workplace design. The duties of the occupational health and safety experts include advising employers in the entire range of health and safety factors in the working environment. This begins with the planning of operating facilities, the purchasing of equipment and workplace design, and extends to advising employers in the assessment of working conditions. Among other things, company doctors are responsible for advising on the integration and reintegration of people with disabilities. The Act is supplemented by accident prevention regulations for company doctors and occupational health and safety officers (Betriebsärzte und Fachkräfte für Arbeitssicherheit, DGUV Regulation 2).

### Working Hours Act

The Working Hours Act (Arbeitszeitgesetz) lays down the maximum length of the working day, minimum breaks during working hours, and minimum periods of rest after work for the protection of workers' health and safety. Specific protection is provided for night workers regardless of gender. There is a general ban on Sunday and holiday working, with exceptions in special circumstances.

### Protection of Minors at Work Act

The Jugendarbeitsschutzgesetz protects children and young people from overwork. For example, it specifies a minimum working age, how long minors may work, and how much annual holiday they must be granted. The Ordinance on the Protection Against Child Labour sets out in more detail the types of 'light employment' allowed by way of exception and deemed suitable under the Protection of Minors at Work Act for children from age 13 and for older children required to attend school full time are given in the Protection of Children at Work Regulations.

### Protection of Working Mothers Act

The Mutterschutzgesetz has provisions to protect working mothers and their children from hazards, overwork, and damage to their health at work.

### Product Safety Act

Only products that meet various safety and other requirements may be marketed and sold in Germany. This is governed by the Product Safety Act (Produktsicherheitsgesetz) and its subordinate ordinances, and applies both to consumer goods and to products used by employees in the workplace. The Act also

provides the basis for national implementation of European regulations that allow only safe products to be sold within the European Community.

Consumer goods and technical equipment must not create risk of accidents or a threat to human health. Responsibility for ensuring this lies with all who place products on the market – producers, importers and distributors alike. These must ensure the products they make and sell do not pose a danger to user health and safety.

## **Occupational health regulations**

Occupational health provision serves to inform and advise employees about interactions between their work and their health and is an important back-up to technical and organisational work health and safety measures. It helps prevent work-related illness and maintains individuals' ability to work. The regulations govern employer and physician obligations, guarantee employee rights, provide transparency regarding the need for mandatory and optional preventive check-ups, and encourage employees to request voluntary check-ups. They prescribe the separation of work-related check-ups and aptitude physicals, which are governed by employment and data protection law. The regulations (Verordnung zur arbeitsmedizinischen Vorsorge) are supplemented by occupational health rules. Drawing up rules in line with current occupational health knowledge and of recommendations on workplace health prevention is among the responsibilities of the Occupational Health Committee.

## **Personal protective equipment regulations**

The personal protective equipment regulations (PSA-Verordnung) mainly relate to the selection, provision and use of personal protective equipment in all sectors. Employers must also ensure that employees are instructed in the proper use of such equipment.

## **Load handling regulations**

The load handling regulations (Lastenhandhabungsverordnung) govern health and safety in manual load handling where there is a health risk to employees, and particularly where there is danger of lumbar injury. Employers must avoid manual load handling where possible. Where manual load handling cannot be avoided, employers must ensure the highest possible level of safety and least possible health risk to employees. For this purpose, working conditions are assessed to decide appropriate health and safety measures.

## **Construction site health and safety regulations**

The provisions of the construction site health and safety regulations (Baustellenverordnung) aim to reduce the enhanced accident and health risks inherent in construction work relative to other industries and to improve the safety and health of construction workers. The main elements of the regulations include communication of prior notice in a specified manner, the drawing up of a safety and health plan, and the appointment of a coordinator. These elements are calculated to improve the planning and coordination of construction projects so that dangers to workers can be identified and eliminated at an early stage.

## **Video display workstation regulations**

The video display workstation regulations (Bildschirmarbeitsverordnung) consolidate the rules on employee health and safety in the use of video display workstations. All employers must comply. The regulations include minimum requirements for the display equipment itself, the workplace and workplace environment, together with software and workflow organisation. They also require the provision of professional eye examinations and special eyeglasses for screen work.

## **Work equipment regulations**

The Workplace Safety Regulations (Betriebssicherheitsverordnung) set out objectives and provisions to ensure that the use of tools and machinery does not endanger employees' health and safety. The regulations also govern the broad measures in place to protect employees and third parties in the use of

equipment that requires supervision. Such equipment includes steam boilers, pressurised containers and elevators.

## **Workplaces regulations**

The workplaces regulations (Arbeitsstättenverordnung) specify how factories, workshops, offices and administrations, warehouses and shops must be equipped and operated to prevent risk to employees' health and safety. The regulations cover things like dimensions, ventilation, lighting and temperatures.

## **Hazardous substances regulations**

In force since 2010 following a major revision, the hazardous substance regulations (Gefahrstoffverordnung) provide a modern, flexible instrument with which to protect employees in the use of hazardous substances and especially hazardous chemicals.

The regulations provide employers with additional scope in the selection of works-specific protective measures because only they know the full extent of the working conditions at their facilities. Rules on assessing the degree of harmfulness and on implementing safety measures graded to hazard levels help employers in deciding what needs to be done. Placing greater responsibility with employers is coupled with clearly worded requirements on the procedures that need to be in place. In cases where more detailed stipulations are required than the regulations provide, the Hazardous Substances Committee (AGS) drafts Technical Rules on Hazardous Substances (TRGS). Compliance with the regulations is presumed if these rules are followed. Nevertheless, employers still have the freedom to implement measures other than those contained in the technical regulations as long as they are appropriate, adequate and justifiable.

The regulations contain a number of annexes which set out detailed rules for special areas requiring particular attention with regard to work safety.

## **Biological agents regulations**

The biological agents regulations (Biostoffverordnung), which underwent major revision in 2013, provide an up-to-date cross-sectoral legal framework to protect employees who come into contact with biological agents (microorganisms). By categorising agents into four risk groups, protective measures can be defined to protect employees against infection and any sensitising or toxicological effects.

The regulations protect some five million workers who come into contact with agents in their work in biotechnical product research and in the food, agriculture, waste disposal, waste water and health care sectors. To cover this wide area, the regulations take the form of uniform and flexible basic rules so that employers can define and implement protective measures to deal with the specific hazards that apply in each case. The regulations are further defined in the associated technical regulations (TRBA) drawn up by the Biological Agents Committee (ABAS)

Issues such as bird flu and H1N1 (swine flu) make the protection of employees who come into contact with such pathogens a focal point of everyday activity. The biological agents regulations and the associated technical regulations also provide for safety measures, notably for healthcare employees, in the event of hazards from highly pathogenic viruses such as the Ebola virus that caused a global scare in 2015.

## **Noise and vibration in the workplace**

The Ordinance on the Control of Noise and Vibration in the Workplace (Verordnung zu Vibrationen und Lärm an Arbeitsplätzen) transposes the EU Physical Agents (Vibration) Directive (2002/44/EC) and the ILO Working Environment (Air Pollution, Noise and Vibration) Convention, 1997 (No. 149) into national law. The Ordinance serves to improve health and safety conditions for employees in the workplace.

The legislation is designed to prevent noise-induced hearing loss (one of the most frequent work-related disorders), muscular and skeletal disorders and neurological defects that can arise from long periods of exposure to strong vibration.

## **Occupational safety regulations on artificial optical radiation**

The new Occupational Safety Regulations on Artificial Optical Radiation (Arbeitsschutzverordnung zu künstlicher optischer Strahlung) transpose European health and safety directive 2006/25/EC into German law. The focus is on protecting employees from risks of artificial optical radiation at work.

Harmful effects, notably to the eyes and skin, of exposure to artificial optical radiation are to be avoided by observing stipulated exposure limits. Artificial optical radiation can cause harm including thermal skin burns, erythema from exposure to ultraviolet light, phototoxic reactions, epithelial and conjunctival damage to the eye, and thermal damage to the retina. Long-term ultraviolet and infrared exposure increases the risk of cataract. Long-term ultraviolet exposure can also result in genetic damage. In consequence, even very minor exposures can have delayed effects in the form of skin cancer.

Harmful artificial optical radiation notably arises in welding, glass and quartz processing, metal manufacture and processing, and in laser applications that are coming into increasingly frequent use. Exposure to optical radiation from artificial sources (such as laser or ultraviolet/infrared radiation) can lead to serious eye and skin damage and is therefore a health and safety hazard to many employees at work. Short-run harm may take the form of skin burns and epithelial, conjunctival and retinal damage to the eye. Long-term exposure to intense ultraviolet radiation can have delayed effects in the form of skin cancer.

Preventive measures under the Regulations aim both to improve employee health and safety and to reduce costs of social security systems.

## **Book VII of the Social Code**

This places the employers' liability funds under a duty to use all appropriate means to prevent occupational accidents, occupational diseases and occupational health hazards, and to ensure that there are adequate first aid facilities at the workplace. Based on the law, and after a mandatory needs appraisal, the liability funds issue accident prevention codes that are legally binding on their members (companies) and on insured workers. Technical inspectors make sure that the accident prevention codes are observed and advise the companies and insured workers.

## **Federal Ministry of Labour and Social Affairs Programme of Model Projects to Combat Occupational Diseases**

The Federal Ministry of Labour and Social Affairs has specifically funded model projects relating to occupational health and safety since 1993. The model projects assist employers in practical implementation of work safety measures and in structuring working conditions at their facilities. By publishing and distributing available knowledge, the projects contribute to reducing work-related health risks and disease in Germany's production, crafts and trades and services sectors. They thus boost the competitive standing of German business. This involves the development, testing and long-term implementation of best-practice examples for maintaining people's working capacity and employability.

## **New Quality of Work Initiative**

The New Quality of Work Initiative is a joint initiative in which stakeholders from government, business, research and civil society have joined forces to address questions of how working conditions can be made both more attractive, motivating and healthy for employees and more viable for employers. The New Quality of Work Initiative cuts across what are normally conflicting interests by providing an independent, non-party-political platform with broad employer and union support for constructive, practice-focused exchange.

The New Quality of Work Initiative brings together all those seeking to shape employment in Germany, providing a wide range of opportunities for exchange, low-threshold and practice-focused advice and information services, practical tools, funding programmes, and a website featuring a best-practice database with inspiring real-life examples. The Federal Ministry of Labour and Social Affairs, employer associations and unions, chambers, the Federal Employment Agency, the Conferences of Ministers for Labour and Social Affairs and the social insurance funds work closely together to this end.

Demographic change and structural upheavals in the labour market make it increasingly urgent for employers and public agencies to position themselves as attractive employers as they compete for skilled labour and to be innovative in recruitment. Developments in the labour force place special importance on investing in employee loyalty and establishing an employee-centric organisational culture. Shaping good, healthy and motivating working conditions for employees is a key element here.

This is where the New Quality of Work Initiative comes in. Its central aim is to raise awareness in the business world for these interdependencies and for low-threshold, practice-focused solutions.

With a view to the challenges facing businesses, public authorities and employees, the New Quality of Work Initiative has identified four key human resources policy action areas in which it develops and offers low-threshold support and advice:

- **Personnel management:** Personnel or human resources management faces a more exacting requirements profile necessitating a good leadership culture and coordination of human resources planning and strategy with organisational needs and individual abilities and aptitudes.
- **Equal opportunities and diversity:** Good human resources policy today makes the most of diversity. Teams that are diverse in age, gender, social and cultural background, abilities, experience and qualifications are able to work more innovatively and successfully.
- **Health:** Health and work-life balance are important factors in motivation, performance and innovation. Future-focused organisations apply ongoing structural prevention while fostering individual coping strategies. The physical and mental health of the workforce and organisational resilience are key success factors.
- **Knowledge and competencies:** Knowledge is a key to lasting corporate success and the basis for innovation in German industry. Ongoing training and lifelong learning ensure that expertise is retained and put to the best possible use.

These action areas likewise define the structure for the issues covered and the information and advice provided under the New Quality of Work Initiative. Fair and reliable working conditions represent the basis for all four action areas and hence for the 'enterprise of the future' – for employers and employees alike.

The work of the New Quality of Work Initiative is supplemented by an ESF programme, 'unternehmensWert: Mensch'. This supports small and medium-sized enterprises (SMEs) with professional consulting to help identify their human resources needs and develop tailored human resources policies, covering issues such as health promotion, flexible working hours, work-life balance and employee initial and further training. The consulting is provided by experienced experts and is adapted to the needs of each business. Employers are required to involve employees in the change process.

Another focus of the initiative is on promoting regional activities through its network structures to highlight the importance and aims of the issues covered and raise public awareness to them. This is based on the conviction that SMEs primarily operate through regional networks and are therefore best addressed at regional level. The Federal Ministry of Labour and Social Affairs will also continue to fund projects, although with greater focus on transfer and model projects designed to develop business-related approaches and instruments to safeguard working capacity and enhance employability.

In summary, after 10 years of intensive effort, the New Quality of Work Initiative has now undergone a successful overhaul without interrupting its everyday activities. In conjunction with the institutions supporting it and its partner networks, the initiative plays a major part in the achievement of a 'new quality of work' focusing both on employees' working capacity and employability and on companies' competitiveness in the face of demographic change.

## Information

If you have questions about health and safety or accident prevention you can contact several places for advice:

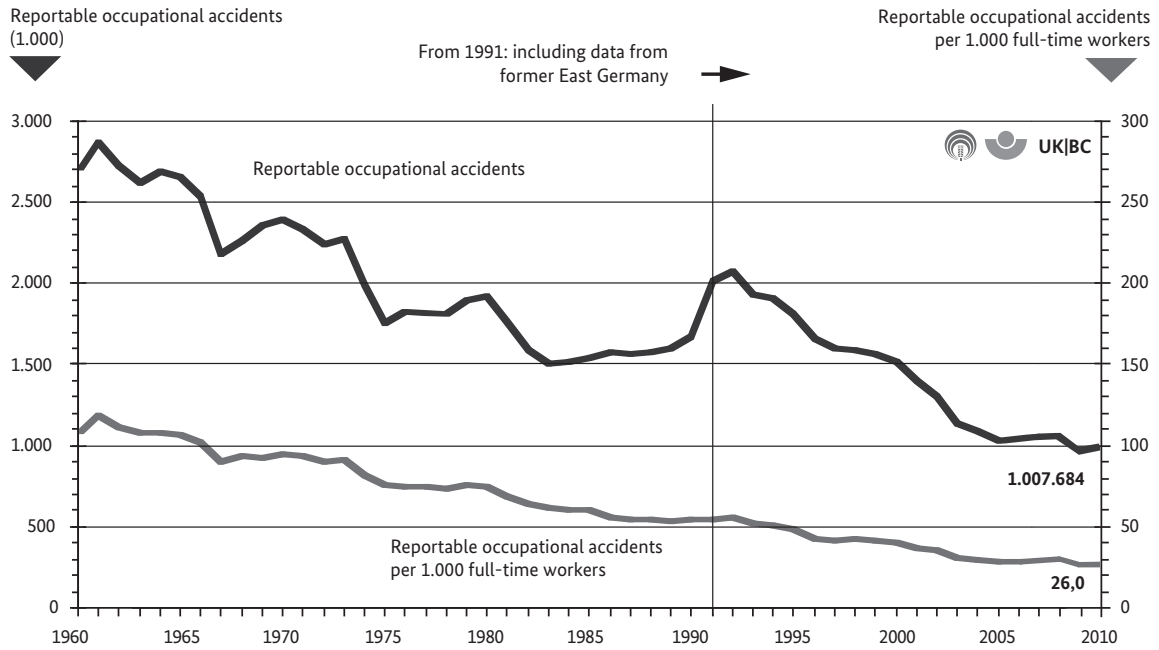
In each of Germany's Länder there is a special health and safety authority: the Amt für Arbeitsschutz (health and safety office) or the Gewerbeaufsichtsamt (labour inspectorate).

The Federal Institute of Occupational Health and Safety offers an information line on health and safety at work, available Mondays to Fridays 8 am to 4.30 pm on 0180 3214321 (€0.09 per minute within Germany).

The occupational accident insurance funds each have their own technical inspectorates.

The Bundesanstalt für Arbeitsschutz und Arbeitsmedizin (Federal Institute of Occupational Health and Safety) conducts research and provides advice and training on all aspects of health and safety at work.

### Reportable occupational accidents: Absolute numbers and per 1,000 full-time workers 1960-2010



## **Occupational accident insurance** **Unfallversicherung**

*Germany's statutory occupational accident insurance (Unfallversicherung) was established in 1884. Today, it is provided by industrial, agricultural and public-sector employers' liability insurance funds.*

### **Who is insured?**

Regardless of how much you earn, you are automatically covered if you are employed or in training.

Statutory occupational accident insurance also covers:

- Farmers
- Children attending nursery school or in the care of suitable day-care providers
- Children in school
- Students
- People helping at the scene of an accident
- Civil defence and emergency rescue workers
- Blood and organ donors
- Home carers
- In some voluntary activities, volunteers

If you have a business or are self-employed and are not already required to carry insurance by law or under the rules of the employers' liability insurance funds, you can obtain insurance coverage on a voluntary basis for yourself as well as your spouse if he or she works with you. Special occupational accident insurance provisions apply to tenured civil servants (Beamte).

### **Benefits and conditions**

Statutory occupational accident insurance protects you and your family against the consequences of accidents at work and occupational illnesses that can arise in the course of practising your occupation.

In addition, it contributes towards the prevention of occupational accidents, occupational illnesses and job-related health hazards.

In the event of an occupational accident or occupational illness, statutory occupational accident insurance provides:

- Payment for full medical treatment.
- Occupational integration assistance (including retraining if necessary).
- Social integration assistance and supplementary assistance
- Cash benefits to the insured and their surviving dependants.

*Important: Statutory occupational accident insurance provides benefits regardless of fault. Employers' and employees' statutory liability toward one another is transferred to their occupational accident insurance.*

Your insurance covers you as long as you are carrying out an insured activity or are travelling to or from work. If you are in a car pool, you are also covered on the way to and from work, even if your pooling route is not the most direct one to your place of work.

## **If you are insured, you can claim:**

### **Medical treatment**

If you have an accident or suffer an occupational illness, your occupational accident insurance will cover the costs of medical treatment, any necessary medication, dressing materials, therapies or aids, hospital treatment or treatment in a rehabilitation centre, for an unlimited period.

You will not be required to pay patients' contributions for drugs, remedies and aids.

### **Injury benefit**

You receive injury benefit as long as you are unable to work and your employer is not paying you. Injury benefit is 80% of the pay before deductions you lose as a result of your accident, up to a maximum of your take-home pay. Injury benefit is granted for a maximum of 78 weeks.

### **Occupational integration assistance**

If you are unable to return to your present employment because of an accident at work or occupational illness, you can claim occupational assistance. This primarily comprises help allowing you to retain your present employment or to obtain new employment. If this does not succeed, you can undergo retraining. You will then receive a transitional allowance. This is reduced by the amount of any income from employment you earn at the time.

### **Social integration assistance and supplementary assistance**

These benefits include financial assistance to modify your car or home to meet your needs, domestic help, psychosocial counselling and rehabilitative sport. They are granted in addition to medical treatment and occupational integration assistance if the nature and severity of your injury or illness makes them necessary.

### **Pension for insured persons**

You will receive a pension if an accident at work or an occupational illness reduces your earning capacity by at least 20% for 26 weeks (at least 30% in the case of farmers, their spouse or civil partner and family members who work on the farm). The amount of this pension depends on the extent to which your earning capacity has been reduced and on the amount you earned during the 12 full calendar months prior to your occupational accident or illness.

*Important: Like statutory old-age pensions, pensions payable under occupational accident insurance are adjusted annually.*

### **Nursing care allowance**

If you require nursing care as a result of a work accident or an occupational illness, you are entitled to nursing care benefits, a nursing care allowance or, if necessary, residential care in addition to your injury pension.

### **Funeral allowance**

If you die from an accident at work or an occupational illness, your surviving dependants will receive a funeral allowance which is equal to one seventh of the reference income level at the time of your death (the reference income level is the average level of income from employment assessable for statutory pension insurance).



## Surviving dependant's pension

If your spouse dies as a result of an accident at work or an occupational illness, your occupational accident insurance will pay you a surviving dependant's pension (unless and until you remarry). The amount of this pension is determined by your age, your earning capacity or ability to work in your occupation, and the number of children you have. For example, you receive an annual surviving dependant's pension equivalent to 40% of your deceased spouse's annual income before deductions if you meet any one of these conditions:

- You are 45 or older and your spouse died before 1 January 2012
- You have reduced earning capacity, are occupationally disabled or are an invalid
- You have at least one child who is entitled to an orphan's pension

For deaths that occur after 31 December 2011, the age limit of 45 will be raised to 47 as part of a phased process; this is in line with the raising of the age limit for surviving dependant's pension under the state pension scheme.

If you are not yet 45 (47) and have no children, your annual pension entitlement is 30% of your deceased spouse's annual income before deductions, payable for two years. The entitlement extends beyond two years for an unlimited period (unless and until you remarry) in the case of deaths before 1 January 2002 and in the case of couples married before 1 January 2002 where at least one partner was at least 40 years old at the time.

*Important: If you are a surviving dependant, 40% of any income you may have (from employment or another pension, for example) will be offset against your surviving dependant's pension, after deduction of an index-linked allowance (which increases for each child you have who is entitled to an orphan's pension).*

## Orphan's pension

If you die as the result of an accident at work or an occupational illness, any children you have who are under 18 years of age will receive an orphan's pension. Occupational accident insurance will pay a pension equal to 20% of your annual income before deductions to your children when they still have one parent, and 30% when they have lost both parents.

Orphans' pensions are paid even beyond the age of 18 (the usual cut-off age). Such pensions are paid up to age 27 for orphans who are:

- Attending school or in vocational training
- Doing a year of voluntary social or voluntary environmental work under legislation governing voluntary work by young people or service under the Federal Voluntary Service Act
- Unable to provide for themselves because of a physical, mental or psychological disability

Orphans' pensions are not subject to deduction of income.

*Important: If the widow's or widower's pensions and orphans' pensions granted to one family exceed 80% of the deceased's annual income before deductions, they will be reduced accordingly.*

## Lump-sum settlement

If it is not to be expected that your earning capacity will significantly recover, you can apply to have your pension paid out as a lump-sum. The procedure differs according to whether your earning capacity is reduced by less than or more than 40%. Up to 40%, the settlement is principally for life; that is, your entire pension claim is settled with a single lump-sum payment. No further pension is paid, unless your health deteriorates so much as a result of your accident or occupational illness that you would be entitled to a larger pension. The size of the settlement is determined in accordance with a federal government order, taking into account your age and the time since the accident.

If you are 18 or older and your earning capacity has been reduced by 40% or more following an accident at work or an occupational illness, you can apply to have your pension split: You can receive half of the pension due to you over a ten-year period as a lump-sum settlement (not to exceed nine times your half-yearly pension entitlement) and then receive only half of your pension during the first ten years of your entitlement. Your occupational accident insurance will pay your full pension starting the 11th year.

## Funding

Various employers' liability insurance funds provide statutory occupational accident insurance for the commercial and agricultural sectors. It is funded through the contributions paid by employers. Funds in the agricultural employers' liability fund receive a federal subsidy. The amount of the employer's contributions depends on the sum total of employee annual pay and the employer's respective hazard level.

Employees, children in school, students, etc. do not pay contributions themselves.

## The law

The legal framework for statutory occupational accident insurance is contained in Book VII of the Social Code (SGB VII).

Other applicable laws and regulations, include:

- Social Code, Book IX
- Regulations on occupational illnesses

## Information

Further information is available from the employers' liability insurance funds (Berufsgenossenschaften) and public-sector occupational accident insurance funds (such as municipal accident insurance associations). Occupational accident insurance providers offer a nationwide information line on industrial accidents, work-related accidents while travelling and occupational illnesses, available Mondays to Fridays 8 am to 6 pm on 0800 6050404 (free within Germany).

You may also call the Federal Ministry of Labour and Social Affairs helpline from Mondays to Thursdays between 8 am and 8 pm on 030 221 911 002.

Additional information is available from various sources on the Internet, including: [www.dguv.de](http://www.dguv.de) and [www.bmas.de/EN/Our-Topics/Social-Security/statutory-occupational-accident-insurance.html](http://www.bmas.de/EN/Our-Topics/Social-Security/statutory-occupational-accident-insurance.html)

Information on occupational accident insurance is provided in the following German-language brochures available from the Federal Ministry of Labour and Social Affairs, Referat Information, Publikation, Redaktion, Postfach 500, 53107 Bonn, Germany:

- Zu Ihrer Sicherheit – Unfallversichert im Ehrenamt (on occupational accident insurance for volunteers; order no. A 329)
- Zu Ihrer Sicherheit – Unfallversichert bei häuslicher Pflege von Angehörigen (on occupational accident insurance for people providing nursing care for relatives in the home: order no. A 401)
- Zu Ihrer Sicherheit – Unfallversichert in der Schule (on occupational accident insurance in schools: order no. A 402)

### What you have to do

You should notify your employer immediately if you ever have an accident at work or on the way to work. The appropriate institution – nursery school, school, university, etc. – must also be notified in the event of an accident involving a child or student. Employers are required to report accidents to the relevant occupational accident insurance fund if any employees are killed, or if any are injured such that they cannot work for more than three days.

## **Rehabilitation and integration of people with disabilities** **Rehabilitation und Teilhabe von Menschen mit Behinderung**

*Rehabilitation can be defined as all measures undertaken to integrate disabled people into society. No one in the Federal Republic of Germany should ever feel marginalised. Which is why anyone who is disabled or at risk of becoming disabled and therefore needs special help is entitled to rehabilitation benefits. The cause of the (potential) disability does not play any part in determining entitlement. A person might need assistance as a result of a war injury, or an accident on the road or at work. People who are no longer able to work due to illness or physical deterioration – as well as people who were born with a disability – may also be in need of some form of assistance.*

The German Federal Ministry of Labour and Social Affairs runs a citizens' information line on disabilities. Tel. 030 221911006, Mondays to Thursdays from 8 am to 8 pm (service for the deaf or hard of hearing), or e-mail at [info.gehoerlos@bmas-bund.de](mailto:info.gehoerlos@bmas-bund.de). A sign-language telephone service is also available Mondays to Thursdays from 8 am to 8 pm. To use it, you need either a SIP/IP video phone or a PC with Softclient and a webcam.  
[gebaerdentelefon@sip.bmas.buergerservice-bund.de](mailto:gebaerdentelefon@sip.bmas.buergerservice-bund.de)

*Book IX of the Social Code – Rehabilitation and Integration of Disabled People – came into force on 1 July 2001. It codifies and consolidates the law applying to various benefit sectors. Book IX thus now covers a number of different areas in a similar way to Books I, IV and X. The focus is no longer exclusively on caring and providing for people who are disabled or at risk of becoming disabled, but on their self-determined participation in society and on the elimination of barriers to equal opportunities.*

*The aim is better laws and a better life for the many people who have disabilities or are at risk of becoming disabled. Book IX of the Social Code provides for medical, occupational and welfare benefits to achieve this aim quickly, effectively, economically and permanently. Accordingly, the benefits have been brought together under the heading of 'integration assistance'. People who have a disability or are at risk of becoming disabled are empowered to conduct their own affairs as far as possible independently and on their own responsibility.*

### **Benefits and conditions**

If you have or are at risk of a physical, mental or psychological disability, you are entitled to assistance, regardless of the cause of your disability. You may need such assistance to:

- Avert, eliminate or reduce your disability
- Prevent your condition from deteriorating or alleviate its effects, regardless of the cause of your disability

This assistance is provided to help you secure your place in the community – and this includes helping you find a suitable place of work that suits your interests and abilities.

### **Integration assistance**

The following benefits can be provided:

#### **Medical rehabilitation assistance**

Medical rehabilitation assistance includes:

- Medical and dental treatment
- Pharmaceuticals and dressing materials
- Therapies, including physiotherapy, speech therapy and occupational therapy

- Artificial limbs, orthopaedic and other aids including any alterations, repairs and replacements required and training in the use of the aids provided
- Work tolerance testing and work therapy

Where necessary, medical rehabilitation assistance is provided on an out-patient basis or in rehabilitation clinics on an in-patient basis. Where necessary, the benefits cover any food and accommodation.

## **Occupational integration assistance**

Occupational integration assistance includes:

- Assistance to help you keep your job or obtain a job, including placement support, training and mobility assistance.
- Pre-training measures including any basic training made necessary by your disability (for example in the case of blindness)
- Trial employment, vocational training, further training, or any school-level qualifications required for admission to such courses
- Other forms of employment and vocational promotion assistance aimed at making it possible for you to find and retain adequate and suitable employment or self-employment

Since 2004, employers have had an obligation to offer workplace integration management for employees who have been ill for a substantial length of time. The aim of this system is to restore and sustain the employability of employees who have fallen ill, and avoid job loss.

When selecting forms of occupational rehabilitation assistance, your aptitude, inclinations and previous occupation are taken into account together with the current situation and outlook on the job market. Occupational integration assistance covers the cost of food and accommodation when, for example, the nature and severity of your disability is such that you cannot live at home while attending a course, or when the success of the rehabilitation measures you are undergoing depends on your being accommodated outside your home.

## **Social integration assistance**

This includes:

- Special education for pre-school children
- Measures to assist the individual's ability to communicate
- Measures to promote independent living in sheltered accommodation
- Assistance with taking part in social and cultural life

## **Maintenance and other supplementary benefits**

Depending upon which fund is responsible, you will generally receive either sickness benefit, sickness benefit for war victims, injury benefit or a transitional allowance to ensure that you have enough income to cover your living expenses while receiving medical rehabilitation assistance. Sickness benefit is equal to 70% of your income from employment or self-employment on which contributions are assessed. Sickness benefit may not exceed 90% of the income net of deductions you forego during your treatment. If the pension insurance fund is responsible, in place of sickness benefit you will be paid a transitional allowance equivalent, according to your family circumstances, to between 68% and 75% of your last take-home pay.

During gradual reintegration, employees receive sickness benefit or transitional allowance. The classification as unable to work continues to apply during this time.

If you are provided with occupational integration assistance, you will generally receive a transitional allowance. Transitional allowance is paid by the Federal Employment Agency if it is responsible for meeting the cost of your rehabilitation and you have been covered by unemployment insurance for a designated period of time. The Federal Employment Agency will also pay a training allowance for young disabled persons who are undergoing their first vocational training, provided that certain requirements are met. People with disabilities who are capable of earning and in need of assistance receive assistance towards living expenses under Book II of the Social Code.

## **Personal budget**

To secure them the greatest possible degree of independence and control over their own lives, people with disabilities and in need of care can apply in place of the various non-cash benefits to receive regular or once-only payments or vouchers so that they can organise and pay the services they need themselves. The personal budget can also be paid out as an overall budget for all services provided by all agencies. For a trial phase, the agencies could decide whether to grant personal budgets at their discretion; since 1 January 2008, claimants have had a legal right to personal budgets.

## **Facilities**

### **Vocational youth training centres**

These work in conjunction with firms and regions throughout the country to provide initial vocational training for young disabled persons. Young people who require special assistance are trained in vocational youth training centres by qualified staff and are supported by a range of different services (for example, medical, psychological and educational services) with the aim of fostering their personal and vocational development.

### **Vocational retraining centres**

These also work together with firms and regions throughout the country to provide retraining and further training for disabled adults who can no longer perform either the work they are qualified to do or the job they have held so far. As social service providers, they provide qualified staff and support services (for example, medical, psychological and educational services) to enhance individuals' vocational and personal skills and abilities.

### **Vocational training centres**

Vocational training centres are special occupational integration centres for people with psychological disabilities. They aim to help people realistically assess their job perspectives so that they can rejoin the mainstream jobs market, go on to a course of training or retraining, or return to employment. Vocational training centres have training places which correspond to workplace conditions and requirements.

### **Vocational rehabilitation clinics**

These are special rehabilitation centres which cater for specific types of condition or disability and which take a fully integrated approach to providing medical rehabilitation and occupational integration assistance ('phase II'). There are currently 23 such clinics, which are members of a federal association of phase II vocational rehabilitation centres.

### **Sheltered workshops**

These special workshops offer suitable vocational training and jobs for persons who are permanently or temporarily unable to find employment on the open job market due to the nature or severity of their disability. These workshops provide disabled persons with an opportunity to develop, increase or regain their ability to work productively and to earn money while doing so.

*Important: Disabled persons who work in one of these workshops are covered under Germany's health, accident, long-term care and pension insurance schemes.*

## **Special provisions for people with severe disabilities**

If your level of disability is at least 50% (your disability level is generally determined by the Versorgungsamt – the war pensions office), special employment protection provisions apply with regard to your employment.

The special provisions mostly relate to protection from dismissal. As a severely disabled person you are also entitled to additional paid leave (usually five working days).

Any public or private-sector employer with more than 20 jobs to fill is required to reserve 5% of them for severely disabled persons. Some federal agency employers are required to reserve up to 6% of jobs. Jobs occupied by trainees are not included when calculating the number of reserved places. Two reserved places are counted for each severely disabled trainee. In addition, local employment agencies can treat a severely disabled person as occupying three reserved places if his or her integration into working life presents severe difficulties.

A compensatory levy must be paid for each reserved place not assigned to a severely disabled person. The levy is scaled as follows:

- €125 a month for compliance rates of 3% or greater but less than 5%
- €220 a month for compliance rates of 2% or greater but less than 3%
- €320 a month for compliance rates of less than 2%.

A spokesperson must be elected to represent disabled employees in any company or organisation that employs five or more severely disabled people on an ongoing basis. The spokesperson is responsible for representing the interests of severely disabled employees and promoting their integration in the company or organisation.

In some cases, occupational integration assistance must be supplemented by special assistance measures to ensure that a severely disabled person is able to find adequate, long-term employment. In such cases, the Federal Employment Agency and the integration offices provide special cash benefits which may be used, for example, to customise a workplace by refitting a machine to meet the needs of a disabled employee.

As a severely disabled person you can also claim disability benefits to help compensate disadvantages arising from your disability. These benefits are normally conditional on the existence of specific health conditions and include:

- Tax concessions (in particular, the standard allowance for disabled persons)
- Free public transport
- Reduced vehicle taxes
- Special parking facilities
- Reduced radio and television licence fees

## **Severely disabled person's pass**

As a severely disabled person, you can apply for a severely disabled person's pass (Behindertenausweis) at the competent war pensions office. This pass serves as proof of your disability and enables you to claim disability benefits.

When you apply for a pass, the war pensions office will also ascertain whether you are entitled to special disability benefits. If you are, a corresponding entry will be made in your pass. For example, a 'G' indicates that you have 'significantly restricted mobility in road traffic' and entitles you free public transport or a reduction in your vehicle tax.

## **Free public transport**

If your disability significantly reduces your mobility in road traffic or if you are incapacitated or deaf, you are entitled to free public transport on production of a pass that is marked accordingly. This applies to trams, buses, suburban trains and (second class) railway travel nationwide.

So that you can use this service, your pass must contain a special stamp (Wertmarke). These stamps are issued by the war pensions office and cost €70 for one year or €36 for six months. The 12-month stamps are issued on application free of charge to persons who are blind or otherwise incapacitated and whose income does not exceed certain limits. This exemption also applies to certain categories of war victims. If you are authorised to be accompanied by an escort (with a 'B' in your pass), they will also be allowed to travel free of charge. This also applies to long-distance travel.

## Equal treatment of disabled and severely disabled people

*Important: If your level of disability is between 30 and 50%, under certain circumstances you could be classed as severely disabled. The employment agency decides whether your disability is equivalent to a severe disability. The requirement is that you would not be able to find a job or keep your present job if you were not granted the same treatment as a severely disabled person. If you are classed as a severely disabled person, you can claim the same assistance to foster your integration into employment that is granted to severely disabled persons (though this excludes additional annual leave and free transport).*

### Who provides assistance

In addition to their other duties, each fund in Germany's social system is also responsible for a particular aspect of rehabilitation and integration:

- Health insurance provides medical rehabilitation assistance for persons who are insured. The cost of medical rehabilitation is covered by the following:
  - Local health insurance funds
  - Company health insurance funds
  - Guild health insurance funds
  - The maritime insurance fund (now merged with the Knappschaft insurance fund)
  - Alternative statutory funds
  - The federal insurance fund for miners
  - Agricultural workers' health insurance funds
- Germany's pension insurance schemes are responsible for providing medical rehabilitation and occupational integration assistance for their members. These costs are covered by the following:
  - Deutsche Rentenversicherung Bund (national level)
  - Regional Deutsche Rentenversicherung funds (regional level)
  - Deutsche Rentenversicherung Knappschaft-Bahn-See (miners, railway and maritime)
- The occupational accident insurance funds are responsible for providing medical rehabilitation, occupational integration and social integration assistance following an accident on the job or an occupational disease. These costs are covered by the following:
  - Industrial employers' liability insurance funds
  - Agricultural employers' liability insurance funds
  - Public-sector occupational accident insurance funds (occupational accident funds and municipal occupational accident insurance associations)
- The funds responsible for compensation benefits for disabilities suffered for example by war victims, persons during the course of military service or victims of violent crime provide entitled persons with medical rehabilitation, occupational integration and social integration assistance. These costs are covered by the following:
  - War pensions offices
  - Local integration offices
  - The Federal Office of Bundeswehr Personnel Management

Integration offices offer additional assistance when persons who are either disabled or severely disabled face employment-related difficulties. If no other fund is responsible, these offices have the authority to grant financial incentives to employers to provide employment for severely disabled persons.

The Federal Employment Agency, its regional directorates and local employment agencies provide occupational integration assistance if no other fund is responsible. Occupational integration assistance for job seekers who are able to work and in need of assistance is provided by the benefit agencies serving job seekers under Book II of the Social Code.

Social assistance and youth welfare agencies come into play in all areas of rehabilitation and integration, though only when no other body is responsible. In such cases, the local social services office and youth welfare office are the main points of contact.

It is not always easy to know who is responsible for what. So that this does not place disabled people at a disadvantage, the various agencies responsible for rehabilitation are required to work closely with each other. The agencies have also set up joint service centres in almost all urban and other districts. The joint service centres cover all agencies and provide information on responsibilities and on criteria for receiving benefits and services and administrative procedures, and help with completing applications. The establishment of joint service centres supports coordinated provision close to home and one-stop support

for people with disabilities or at risk of disability. The agencies are also required to clarify responsibilities within 14 days and to ensure that decisions are made quickly and unbureaucratically.

## War pensions offices and integration offices

Germany's war pensions offices (organised under Länder law as part of general administrative agencies or local government), employment services and integration offices are among the agencies that carry out the tasks arising from Book IX of the Social Code. War pensions offices are responsible for determining a person's disability, the degree of disability and any further health conditions that are a requirement for claiming disability benefits. These offices also issue the severely disabled person's pass. The Federal Employment Agency provides incentives for hiring severely disabled persons and monitor compliance with the statutory obligation to employ severely disabled people. Special protection against dismissal, supportive assistance in employment and collection of compensation contributions all come under the purview of integration offices.

## The law

The main legislation on this topic can be found in the following:

- The Social Code
- Federal War Victims Relief Act (Bundesversorgungsgesetz)

## Information

A key feature of Book IX of the Social Code is the obligation on rehabilitation funding bodies to establish joint service centres. The local joint service centres offer comprehensive help and advice independent of any specific fund or provider. Their services include:

- Providing information about the assistance available and the conditions that must be satisfied to receive it
- Supporting those affected in the identification of rehabilitation needs
- Identifying which rehabilitation fund is responsible
- Help with making applications
- Accepting applications and forwarding them to the appropriate fund
- Support in claiming assistance
- Preparing each application to the point that a decision can be made
- Ongoing support until a decision is made, and coordinating and mediating between the various funds and parties involved
- Advice and support for potential claimants, notably on options for claiming a cross-agency personal budget
- Comprehensive advice for employers on the legal framework and option for workplace integration management
- Support for employers in finding workplace-based solutions to resolve incapacity or retain employment.

*Important: Any authority involved with funding rehabilitation must accept your rehabilitation application – a specific form is not required – and if necessary forward it to the responsible authority. The latter must then give you a decision. Only in very exceptional cases can an application be forwarded a second time, and then only if it is assured that the authority to which it is forwarded will give a decision.*



## **The Inclusion Initiative**

### **Initiative Inklusion**

*The Inclusion Initiative was launched in 2011 under the National Action Plan of the Federal Government to Implement the UN Convention on the Rights of Persons with Disabilities. The initiative was jointly developed by the federal government, the Länder, the Federal Employment Agency, chambers and integration offices with the aim of improving the inclusion of people with severe disabilities in the general labour market. As with the Job4000 federal labour market programme, the Inclusion Initiative is a special federal government initiative. It supplements the standard range of provision for promoting the participation of people with severe disabilities in employment in order to enhance opportunities on the general labour market specifically for severely disabled people with special difficulties.*

### **Objectives**

- Fully inform and counsel severely disabled school students about their career opportunities and support them in the transition from education to employment (vocational orientation)
- Support the successful entry of severely disabled young people into workplace vocational training by creating new training places (training places with public and private-sector employers)
- Integrate larger numbers of severely disabled people over 50 in the general labour market (jobs with public and private-sector employers)
- Implement inclusion competencies in chambers (chambers of crafts, chambers of industry and commerce and chambers of agriculture) to improve participation of people with severe disabilities in employment in the general labour market (implementation of inclusion competencies in chambers)

### **Channels**

#### **Vocational orientation**

Intensified vocational orientation is provided for up to 40,000 severely disabled school students. The vocational orientation is organised in cooperation between the individual Länder and the Federal Employment Agency.

#### **Training places with public and private-sector employers**

Funding is provided under the initiative for 1,300 new workplace training places for severely disabled people in the general labour market. The special funding is provided on a case by case basis in a lump-sum amount of up to a maximum of €10,000. As an incentive subsequently to take on trainees in employment subject to social insurance contributions, parts of the maximum funding amount are staggered and not paid out to the employer providing the training until completion of the training and transition into employment subject to social insurance contributions. Implementation takes place at Länder level.

The Länder are additionally required to develop and implement measures and strategies to address existing barriers between severely disabled young people and employers willing to provide training. These measures and strategies are not intended to replace existing instruments (vocational preparation schemes, supported employment, etc.). Instead, they are intended to further intensify efforts towards the goal of bringing training closer to workplace practice and workplace conditions for the targeted severely disabled young people and others assessed as having equivalent needs (guiding young people towards workplace training). The Länder are required to involve employment placement service providers, chambers, employers and unions; the Federal Institute for Vocational Education and Training may be involved in implementing the process of guiding young people towards workplace training.

## **Jobs with public and private-sector employers**

Funding is provided for 4,000 new jobs on the general labour market for unemployed severely disabled people aged over 50. The special funding is provided on a case by case basis with a lump-sum payment of up to a maximum of €10,000. Implementation takes place at Länder level, using existing networks and cooperation arrangements. The Länder may focus the funding on creating jobs in their regions. The Länder must structure implementation in such a way that funded individuals remain in employment subject to social insurance contributions after funding ceases. Implementation must take place in close cooperation with the Federal Employment Agency and providers of basic security benefits for job-seekers.

## **Implementation of inclusion competencies in chambers**

Up to 50 chambers and where applicable associations of chambers of crafts, chambers of industry and commerce and chambers of agriculture can apply for special funding to implement inclusion competencies. The special funding is provided in a lump-sum amount of up to €100,000 per chamber. Chambers may use the funding under their own responsibility for measures designed to improve their inclusion competencies, with the aim of enabling them to help member businesses increase training and employment of people with severe disabilities. The funding is provided on condition that permanent structures are created or secured for the training and employment of severely disabled people and that ongoing finance is assured once the funding from the equalisation fund or equalisation levy ceases.

## **Funding amount**

Total funding of €140 million is made available out of the equalisation fund by the Federal Ministry of Labour and Social Affairs.

## **Health insurance Krankenversicherung**

*Statutory health insurance (Krankenversicherung) safeguards you and your family in case of illness. It pays for necessary medical treatment. The only exceptions are benefits you claim after an occupational accident or because of an occupational illness. In these cases you are covered by statutory accident insurance*

*Until the end of 1995, which health insurance scheme you were in depended on your profession or who you worked for. As of 1 January 1996, anyone in a local, company, guild or other statutory health insurance fund is free to choose which fund they wish to be insured with (company and guild funds can only be chosen if they have changed their statutes to accept outsiders). The Miners Social Security Fund (Deutsche Rentenversicherung Knappschaft-Bahn-See) can be chosen from 1 April 2007. Special conditions apply for agricultural health insurance.*

### **What statutory health insurance covers**

Benefits and services you can currently claim as an insured person include in particular:

- Measures for the prevention and early detection of certain diseases for children and adolescents from birth to age 18
- Health checks for adults every two years from the age of 35 and regular screening for adults for certain cancers
- Preventive dentistry and in particular individual and group prophylactic measures for children and adolescents to prevent dental disease
- Preventive inoculations recommended by the German Standing Vaccination Committee (STIKO) at the Robert Koch Institute and prescribed by the Federal Joint Committee on the basis of that recommendation
- Orthodontic treatment, as a rule up to age 18
- Medical and dental treatment, with free choice among panel doctors and dentists, medical care centres (MVZ), non-panel doctors or dentists authorised to treat members of statutory health insurance schemes (ermächtigter Arzt/Zahnarzt), and dental clinics and other health care facilities (Eigeneinrichtung) operated by statutory health insurance schemes
- Medicines, dressings, therapies, and aids such as hearing aids and wheelchairs
- Medically necessary provision of dentures and crowns
- Hospital treatment
- Some or all the cost of necessary preventive and rehabilitation treatment
- Sickness benefit (Krankengeld): Normally, your employer will continue to pay your wage or salary for six weeks when you are unable to work. After that your health insurance will pay 70% of your regular wage or salary before deductions up to the contribution assessment limit, though not more than 90% of your most recent take-home pay. You can claim sickness benefit for a maximum of 78 weeks in a given three-year period. If you are a farmer, you will receive an upkeep allowance instead of sickness benefit.
- Sickness benefit for up to ten days a year for each insured child under 12 who you have to care for, subject to presentation of a doctor's note and provided that no other person living in your household is able to supervise, care for or look after the child. If you are a single parent, your entitlement doubles to a maximum of 20 days. If you have several children, your entitlement is limited to a total of 25 working days, or as a single parent 50 working days per calendar year. The entitlement extends beyond the age of 12 for sick children who are disabled and in need of help.
- Sickness benefit can additionally be claimed indefinitely if your child has an incurable illness and has a life expectancy of only weeks or a few months
- Home help if you have to go into hospital or undergo in-patient or rehabilitation treatment or treatment in the home, you are unable to look after your home as a result, and have a child living in your household which has not reached the age of 12 when home help begins or which is disabled and in need of help. Health insurance funds generally also have arrangements for the event that insured persons are no longer able to look after their home for reasons of illness

- Home help for up to six weeks if you are unable to look after your home due to severe illness or acute exacerbation of an illness, in particular after a stay in hospital, an outpatient operation or hospital outpatient treatment. The entitlement extends to a maximum of 26 weeks if you have a child living in your household which has not reached the age of 12 when home help begins or which is disabled and in need of help.
- Home nursing care if this helps avoid or shorten a stay in hospital or aids your medical treatment
- Home nursing care or home help for women when needed because of pregnancy or childbirth
- Social therapy for insured persons who have a severe mental affliction that prevents them from taking medical treatment
- Maternity benefit (Mutterschaftsgeld) and maternity allowance (Mutterschaftshilfe) during pregnancy and after childbirth. As a member of a health insurance fund you usually receive child benefit for six weeks before and six weeks after the birth (the statutory period of maternity leave), extended to twelve weeks after the birth in the case of multiple or premature births, and for the day of confinement. The amount depends on your average wage over the last three months, or the last 13 weeks before the benefit period. Your health insurance pays a maximum of €13 a day. Your employer pays the difference between this and your average take-home pay for the duration of the benefit period.

## Who is insured

As an employee you are compulsorily insured if your regular income before deductions exceeds €450 per month and remains below a set annual limit (Jahresarbeitsentgeltgrenze). The annual income limit up to which employed people are automatically and compulsorily insured officially ceased to be linked to pension insurance on 1 January 2003 and now consists of a general annual income limit or a special reduced annual income limit. The general annual income limit for 2016 is €56,250. For reasons of fairness, a reduced annual income limit of €58,850 in 2016 applies for workers who were exempt from compulsory health insurance because they exceeded the contribution assessment limit on 31 December 2002 and had comprehensive health cover with a private health insurance fund. This amount is identical to the annual income limit applied in the state health insurance scheme.

The rule on when you cease to be subject to compulsory insurance on account of exceeding the annual income limit has changed under new legislation on the financing of the statutory health insurance system. With effect from 31 December 2010, the rule has reverted to the annual income limit only having to be exceeded for a single year in order for compulsory membership of the statutory health insurance scheme to cease for employees previously subject to compulsory insurance.

Aside from employees and people in paid employment for the purpose of occupational training, the following are also compulsory members of the state health insurance schemes:

- Students at state and state-approved universities
- People on work experience or in second-chance education
- Old-age pensioners who have been in a statutory health insurance scheme or insured as a family member for most of the latter half of their working life
- Disabled people employed at a sheltered workshop or on measures to promote participation in employment
- Unemployed people receiving unemployment benefit (Arbeitslosengeld and in some circumstances Arbeitslosengeld II)
- Farmers
- Members of farming families who are primarily employed on the farm and are at least 15 years old or are in training
- Retired farmers who have claimed Altenteil (the right to continue living on the farm after making it over to their children)
- Artists and members of the publishing professions as provided in the Artists Social Insurance Act (Künstlersozialversicherungsgesetz)

Voluntary membership of the state health insurance scheme is normally possible on first entering employment in Germany and following previous compulsory insurance or insurance through a family member, and, subject to certain requirements, for people with severe disabilities

Individuals who are voluntarily insured in the statutory health insurance system, for example employees whose pay exceeds the annual ceiling (Jahresarbeitsentgeltgrenze), civil servants and self-employed

persons, may opt for private health cover with a private health insurer. In doing so, they should give careful consideration to which of the two systems is the best given their personal circumstances, and take into account that once they have switched to a private health insurer, a return to the statutory health insurance system is only possible in very exceptional circumstances.

According to German health insurance law, anyone living in Germany receives health insurance cover in either the statutory or private health insurance system but has no entitlement to other types of insurance cover.

From 1 April 2007, anyone lacking other provision for the event of illness and who has previously been in the statutory health insurance system is subject to compulsory insurance on a subordinate basis (Section 5 (1) 13 of Book V of the Social Code/SGB V). You become a compulsory member of your previous statutory health insurance fund or its legal successor, beginning on the day you cease to have other provision for the event of illness within Germany or on 1 April 2007, whichever is the later. The same applies for anyone who has never had either statutory or private health cover and comes under the statutory health insurance system. Please seek advice on this from a statutory health insurance fund.

In accordance with Section 193 (3) sentence 1 of the German Insurance Contract Act (Versicherungsvertragsgesetz, or VVG), as of 1 January 2009 anyone living in Germany who is neither insured or required to be insured under the statutory system nor covered by other means must have private health insurance that at minimum covers out-patient and in-patient medical treatment. The annual deductible is limited to a maximum €5,000.

Full-time self-employed persons are not subject to compulsory statutory health insurance and must thus have private health insurance cover unless they were insured under the statutory system before entering self-employment.

Since 1 January 2009, anyone exempt from the requirement to have insurance cover, especially civil servants, pensioners and others who may claim state contributions towards the cost of health care (Beihilfe) and who have no supplementary insurance to cover healthcare costs, are not subject to compulsory insurance on a subordinate basis in the statutory health insurance system (section 5 (1) 13 of SGB V) even if they were covered by that system previously. Since 1 January 2009, these individuals are required to have private health insurance to cover healthcare costs not covered by the amount covered by Beihilfe received. This requirement for private insurance also applies for employees who are exempt from the requirement to have insurance cover, i.e. blue-collar and white-collar workers whose regular annual pay exceeds the compulsory insurance ceiling and who are not voluntary members of the statutory health insurance system.

The requirement for insurance cover can be met with basic coverage ('Basistarif'). Private health insurance carriers have been required to offer this type of coverage alongside existing policy options since 1 January 2009.

The following applies with regard to provision for recipients of social assistance in case of illness:

For anyone in receipt of regular assistance provided under Chapter 3, 4, 6 or 7 of Book XII of the Social Code (SGB XII) since 1 April 2007 or before, the social assistance agency that provides that assistance will also provide assistance in the event of illness. Under Section 264 of SGB V, the medical treatment is generally paid for by a statutory health insurance fund and then refunded by the social assistance agency. The continued responsibility of social assistance agencies for such recipients of social assistance in the event of illness after 1 April 2007 is expressly laid down in Section 5 (8a) of SGB V. It is unaffected by an interruption in entitlement to the regular social assistance of less than one month, irrespective of whether the social assistance agency deregisters a person from the procedure under Section 264 of SGB V – the sole requirement is that the person was in receipt of regular assistance provided under Chapter 3, 4, 6 or 7 of SGB XII and remained in receipt of that assistance without an interruption in excess of one month.

Anyone in receipt of regular assistance provided under Chapter 3, 4, 6 or 7 of Book XII of the Social Code since 1 April 2007 and subject to insurance on a subordinate basis on that date (Section 5 (1) 13 of SGB V) remains a member of the statutory health insurance scheme. Because social assistance includes assistance in the event of illness, anyone who is transferred within a month from Unemployment Benefit II to regular social assistance under Chapter 3 or 4 of Book XII of the Social Code is not subject to mandatory membership on a subordinate basis under Section 5 (1) 13 of Book V of the Social Code or to

automatic follow-on membership under Section 188 (4) of Book V of the Social Code. Subject to the fulfilment of qualifying insurance periods, however, membership can be continued by way of voluntary membership of the statutory insurance scheme if within three months of their membership terminating the individual concerned notifies their health insurance fund that they wish to join (Section 9 of Book V of the Social Code).

Anyone solely in receipt of assistance in the event of illness provided under Chapter 5 of SGB XII will become subject to compulsory statutory health insurance if they come within the scope of statutory health insurance and, with effect from 1 April 2007 or later, satisfy the requirements for being subject to compulsory insurance on a subordinate basis in the absence of any other entitlement to provision in the event of illness (Section 5 (1) 13 of SGB V). Being subject to compulsory insurance on a subordinate basis, such individuals also remain members of the statutory health insurance scheme if they later receive regular assistance towards living expenses (assistance under Chapter 3, 4, 6 or 7 of SGB VII).

Recipients of regular assistance under Chapter 3, 4, 6 or 7 of SGB VII who independently of that assistance come under the private health insurance system are required to have private health insurance if they began receiving assistance on or after 1 January 2009 and are not insured or required to be insured under the statutory health insurance scheme (Section 193 (3) sentence 2 no. 4 of the Insurance Contract Act (Versicherungsvertragsgesetz/VVG). In such instances, social assistance providers pay the insurance premiums provided that they are reasonable in amount (Section 32 (5) of SGB XII). Premiums are assumed to be reasonable up to amount of the basic coverage (Basistarif) premium as reduced by half for recipients of social assistance.

## Family insurance

State health insurance also covers your family at no extra charge. A spouse or civil partner and, up to a certain age, children of members are covered by the insurance, provided among other things that their collective regular income does not exceed €415 a month and they do not have their own insurance (figures for 2016). If you are in marginal employment, the allowable collective income is €450.

All members of state health insurance schemes should promptly report changes in their working, financial and personal circumstances to their health insurance fund. Those receiving unemployment benefit (Arbeitslosengeld and Arbeitslosengeld II) must also promptly report the changes to the local employment agency or job centre to prevent any inadvertent loss of insurance cover.

## Patients' contributions

Health insurance has to be paid for in one way or another. Accordingly, members of the statutory health insurance system must generally pay patients' contributions for various statutory health insurance benefits and services from the age of 18.

<b>Patients' contributions in statutory health insurance</b>	
<b>Benefits</b>	<b>Patients' contributions from 1 January 2004</b>
Drugs	10% of the pharmacy counter price minimum €5 and maximum €10*
Dressings	As above*
Travel expenses	10% of the travel expenses minimum €5 and maximum €10 per journey*
Therapies	10% of the counter price plus €10 per prescription*
Aids	10% of cost minimum €5 and maximum €10*
Consumable aids	10% of cost maximum €10 per month
Hospital treatment	€10 per day for a maximum of 28 days within a calendar year
Outpatient rehabilitation treatment	€10 per day
Inpatient preventive treatment and rehabilitation treatment	€10 per day
Post-hospital rehabilitation treatment	€10 per day for a maximum of 28 days within a calendar year, minus contributions paid towards hospital treatment
Preventive and rehabilitation treatment for mothers and fathers	€10 per day
* Not exceeding the actual cost	

The insured share the responsibility for their own health. The patients' contributions, which are laid down in the health insurance law, encourage people to be cost-conscious and responsible in its use.

These contributions are necessary – but they must not be allowed to overstretch your budget. The law takes account of this, so that in certain circumstances you pay less or nothing at all.

## **Exemption from patients' contributions**

Children and young people under the age of 18 are exempt from patients' contributions except in the case of dentures and travel expenses.

## **Contribution limit**

The limit for patients' contributions is 2% of assessed gross disposable income (1% for people with chronic illnesses). The assessed income figure is arrived at by deducting an exempt amount for each family member from family gross income and so depends on how many people are in the same household and live off the income total; larger amounts are deducted for children than for adults. The deduction of exempt amounts from family gross income means that the contribution limit varies according to the size of the household. The exempt amount for the first dependant living in the same household is 15% of an annual reference figure and comes to €5,229 in 2016. The exempt amount for each additional dependant is 10% of the same reference figure, or €3,846 in 2016. The amount for each child is €7,248. An older 10% rule for each additional dependant now applies in health insurance for farmers only.

Family gross income means family disposable income before deductions: the sum of all income that accrues to the insured and any live-in dependants and is available for meeting living expenses. This includes rental income and capital gains – types of income on which compulsory members of a health insurance scheme do not pay any contributions.

Health insurance law is founded on the gross income principle. That is, a person's ability to pay into the system is generally measured by looking at their income before deductions. A person's health insurance contributions likewise depend on their income before deductions. Accordingly, the same measure, rather than net income, is used to set the limit for patients' contributions.

The insured and the insured's spouse or civil partner and any children for whom the insured can claim must keep a record of all patients' contributions paid over each year. If the contribution limit is reached in a given year, the health insurance fund must issue the insured, on application, with an exemption note for the remainder of the year.

The contribution limit applies for all patients' contributions, including those paid for hospital treatment, in-patient preventive care and rehabilitation.

## **Concessions for chronically ill patients**

Special rules apply for chronically ill patients in acknowledgement of their special situation.

Patients in ongoing treatment for the same illness have a lower contribution limit of 1% of annual income before deductions. The Federal Joint Committee of medical practitioners and health insurance funds is required by law to issue directives defining what constitutes a chronic illness. According to prevailing regulations on chronic illness, an illness is deemed a serious chronic illness if it is medically treated at least once a quarter for at least a year and at least one of three criteria is met:

- The patient requires Level II or III care.
- The patient has at least a 60% disability under severe disability law/pensions law or at least a 60% incapacity to work under accident insurance law.
- Continuous medical care is required (medical or psychotherapeutic treatment, drug treatment, technical nursing, and provision with therapies and aids) without which, on a professional medical appraisal, a life-threatening worsening of the illness, a reduction in life expectancy or a lasting impairment of quality of life is to be expected as a result of the illness.

The task of deciding if a patient has a serious chronic illness as defined in the directive falls to the health insurance fund. The exemption from patient contributions applies for all family members living in the same household.

## Concessions for social assistance recipients and other groups

Recipients of welfare benefits under Book II or XII of the Social Code (Basic Security Benefits for Job-Seekers or Social Assistance) or war victims welfare benefits are more favourably placed than other insured persons. For these individuals, their household assessable gross disposable income for the purpose of establishing their contribution limit is equated with only the standard benefit rate for the head of a household as specified in the Regelsatzverordnung (Book V of the Social Code (SGB V), Section 62 (2)).

### The law

State health insurance is the oldest part of the social insurance system. The relevant law is set out in various acts. For example:

- Book V of the Social Code
- The Second Farmers Health Insurance Act

Such benefit recipients must pay the patients' contributions themselves out of the standard rate. The standard rate is not topped up. The standard rate is €4,848 a year in 2016. The corresponding patients' contributions to be paid for the household by social assistance and unemployment benefit II recipients each year are as follows:

- 1% contribution limit (chronic illness): €48.48
- 2% contribution limit (without chronic illness): €96.96

This concession also applies for people whose costs of accommodation in a home or similar establishment are met by a social assistance agency or war victims support fund, and for the groups named in SGB V, Section 264 (social assistance recipients for whom healthcare is provided by the statutory health insurance scheme and recipients of regular benefit payments under Section 2 of the Asylum Seekers Benefits Act (Asylbewerberleistungsgesetz)). That is, gross disposable income for the entire household is equated with only the standard benefit rate for the head of a household as specified in the Regelsatzverordnung.

For insured persons who receive assistance towards living expenses under Book II of the Social Code, gross disposable income for the entire household is equated with only the standard benefit rate under Section 20 (2) of Book II of the Social Code.

For all other insured persons, prevention of hardship is secured by means limits of 2% or 1%, as applicable, of annual gross disposable income.

For social assistance recipients living in homes, a standard statutory procedure to help in cases of (temporary) hardship has been put in place (in an amendment to the law integrating social assistance law into the Social Code). Under the new provisions, the social assistance agency grants affected individuals a loan in the amount of the applicable contribution limit and pays it out directly to the responsible health insurance fund. The latter issues the affected pocket-money recipients a note exempting them from patients' contributions.

The pocket-money recipients repay the loan to the social assistance agency in fixed amounts over the entire calendar year.

## Special hardship clause for dentures

For dentures, there is a sliding scale in case of hardship based on patients' monthly gross income before deductions. Please contact your health insurance fund to ask whether you are entitled to partial or complete exemption from the requirement to contribute to the cost of your dentures.

## Information

For further information, please contact your health insurance fund. They will also give you a receipt book for payments you make towards the cost of treatment.

The German Federal Ministry of Health and Social Security runs a citizens' information line on health insurance. Tel. 030 340 60 66-01, Mondays to Thursdays, 8 am to 3 pm.



## Funding

A uniform contribution rate of 14.6% has applied in the statutory health insurance scheme since 1 January 2015. The employer's and employee's shares are equal, at 7.3%.

The reduced contribution rate, which normally applies for members without entitlement to sickness benefit, is 14.0%.

Health insurance funds may also charge members an additional contribution.

The additional contributions can vary from fund to fund. People thus continue to have a price signal to guide them in the choice of health insurance fund. This measure also aims to give health insurance funds greater autonomy in setting contributions, which benefits competition between funds for high-quality and efficient provision.

Co-insured children and partners (family members) do not pay any additional contributions.

In the case of salaried employees, additional contributions are paid directly to the health insurance fund by the employer. In the case of recipients of social assistance and basic security benefits, the additional contributions are paid by the responsible agencies.

### Average additional contribution rate

Certain groups of people are subject to the average additional contribution rate. Examples include low earners, trainees earning up to €325 and trainees in youth services facilities, and recipients of unemployment benefit II.

The projected figures for the average additional contribution rate are 0.9% for 2015 and 1.1% for 2016. Contributory income is calculated and flows together with tax revenue into the new statutory healthcare fund.

To cover their expenditure, the statutory health insurance funds receive lump-sum allocations from the statutory healthcare fund. These allocations are paid per patient together with additional age, risk and gender-adjusted supplements. This approach takes account of differing patient profiles and incidences of illness in the insured population.

If a health insurance fund is unable to meet its expenses from the allocations it receives, it must tap into efficiency reserves; if these are not sufficient, the fund charges members an additional contribution, or increases the additional contribution if one is already charged. If a fund's financial situation allows, it can offer additional benefits for members under its charter or it can reduce any additional contribution.

Statutory health insurance members also have the option, within the framework of the statutory rules on termination, of switching to another health fund to avoid additional contributions. If they do not do this, they must pay the additional contributions themselves. The special right of termination is strongly biased in members' favour. No later than the end of the month before introducing an additional contribution and before each increase, health insurance funds must notify members by letter of the special right of termination, the average figure for additional contributions and, in a table provided by the National Association of Statutory Health Insurance Funds (GKV-Spitzenverband), the individual additional contributions charged by each health insurance fund. Health insurance funds whose additional contributions exceed the average (2016: 1.1%) must expressly tell members that they have the option of switching to a fund with lower contributions.

In the case of compulsorily insured employees, the employer also pays half of the portion of the contribution that is equally divided between employer and employee.

Employees who are voluntary members of a statutory health insurance fund pay their health insurance contributions themselves. In certain circumstances, however, they may receive a subsidy from their employer. For example, voluntarily insured employees who are only exempt from being statutorily insured because their annual income exceeds the income limit receive a subsidy equal to the amount that the employer would have to pay for a compulsorily insured employee.

Old-age pensioners who are voluntarily insured in the statutory health insurance scheme receive a contribution supplement to assist with health insurance costs from their respective pension insurance fund.

When calculating contributions, the contribution assessment limit (Beitragsbemessungsgrenze) must be taken into account (€4,237.50 in 2016). This is the maximum amount used to determine an insured person's contribution, even if their actual income is higher.

Special rules apply under social security law for employees who fall within the 'sliding scale' income band ('Gleitzone', from €450.01 to €850). Under the law, part of their income is exempt from social insurance contributions. Employers are still required to pay their normal contributions on the amount earned.

### **Electronic health card**

Since 1 January 2015, the electronic health card became the sole proof of entitlement under the statutory health insurance system. The electronic health card includes a photograph of the bearer. There are exceptions solely for holders under 15 and for people unable to cooperate in providing a photograph. The back of the electronic health card can be used as the European Health Insurance Card, thus allowing unbureaucratic provision of medical treatment within the European Union.

Information currently required to be stored on the card consists of administrative data on the holder, such as name and health insurance number. In the next phase, it is planned that the administrative data will be able to be verified and updated online. Further information to be added from 2018 consists of emergency data and a medication plan. A medication plan is important most of all for older people and people with chronic illnesses, and anyone who uses three or more medications is entitled to have one stored on their card. Patient autonomy is strengthened with the newly legislated introduction of electronic patient records and the ability of patients to require from 2019 that the data stored on their health card is copied to a patient's data locker in which patients can save information of their own and which they can also view outside of a doctor's practice. Data privacy and security are the foremost priorities and are provided for both by law and by technical means. Holders can decide for themselves whether, and to what extent, they want to make use of the new options on the electronic health card.

## **Long-term care insurance** **Pflegeversicherung**

### **Providing help where it is needed most**

*We cannot lay out the course our own lives will take. Many things happen that we simply can't influence. Things generally go smoothly, and most people who need long-term care today didn't have many problems until the day when they started needing it.*

*Many people who require care today, and their families, were at one point suddenly faced – often from one day to the next – with the enormous burdens involved in providing long-term care. Carers' lives often revolve around care-giving, sometimes pushing them to their limits. Long-term care can also exhaust your financial resources. Very few people were insured for such an eventuality before the introduction of long-term care insurance (Pflegeversicherung).*

*A few numbers to illustrate the magnitude of the problems related to long-term care: Today, some 2.7 million people in Germany require long-term care. This figure is larger than the population of Hamburg. About 0.8 million of these people live in nursing homes. The remaining 1.9 million are cared for at home by a host of relatives, neighbours, volunteers or professional carers who are often self-sacrificing and deserve great praise for their efforts to care for people who cannot take care of themselves.*

### **What you have to do**

The general rule is that you must have long-term care insurance to match your health insurance. If you have statutory health insurance for whatever reason – on a compulsory or voluntary basis, as a dependant of an insured person, or as a pensioner – then you automatically have statutory long-term care insurance as well.

If you take out statutory health insurance on a voluntary basis, you can apply to be exempted from statutory long-term care insurance. You must then prove that you have equivalent cover from a private insurance company and you must submit your application to the appropriate long-term care insurance fund within three months after your private insurance cover begins.

Since 1 January 1995, anyone who has private health insurance has been required to have private long-term care insurance as well. If you are currently privately insured but become liable for statutory long-term care insurance at some later date, you will be allowed to terminate your private insurance with effect from the date your liability begins.

Benefits provided under private long-term care insurance must be equivalent to those provided by statutory long-term care insurance. Private insurance companies are also required to offer reasonable terms and rates for families and older members.

Unless they are already covered by statutory health insurance, tenured civil servants (Beamte) must also carry private long-term care insurance. However, they need only take out top-up cover to supplement the public service's health-care cost reimbursement system.

In addition, other groups of individuals who receive health insurance in accordance with certain laws or special systems must have long-term care insurance with either a statutory health insurance fund or with a private health insurance carrier as appropriate in the individual's particular circumstances.

Dependent children, spouses and non-married partners are insured free of charge as family members under the family insurance provisions of the statutory health insurance system providing their regular monthly income does not exceed €415, or €450 for anyone in marginal employment.

## **Benefits and conditions**

If you are insured and pay your contributions, you are legally entitled to assistance should you ever need long-term care. Your financial situation has no effect upon your entitlement.

### **Who is eligible for long-term care?**

According to the law, you are eligible for long-term care if, because of a physical, mental or psychological illness or disability, you require frequent or substantial help with normal day-to-day activities on a long-term basis (that is, for an estimated six months or longer).

#### **The normal, routine day-to-day activities that are covered:**

1. Personal hygiene: washing, showering, bathing, dental hygiene, combing your hair, shaving, going to the bathroom
2. Eating: eating, and preparing food so that it is bite-sized and ready to eat
3. Mobility: getting out of and going to bed, dressing and undressing, walking, standing, climbing stairs, leaving and getting back to your home
4. Housekeeping: shopping, cooking, cleaning, dishwashing, changing and washing linen and clothing, heating your home

Assistance may consist of someone helping you to carry out routine activities of daily life, helping you to perform these tasks at least partly on your own, or supervising and guiding you when doing them. Assistance is aimed at helping you regain your ability to do these tasks by yourself.

#### **The different care levels**

Depending on the type of care needed, three levels of care apply (I, II or III). A Care Level 0 also exists. The care level determines the amount of care provided. If you require extreme care and are classed under Care Level III, you may qualify as a hardship case.

#### **Care Level 0**

No matter how old you are, if you have a dementia-related incapacity, a mental disability or a physical disability, your everyday activities may be severely restricted even if your basic care and home-help needs do not qualify for Care Level I.

#### **Care Level I: Considerable need of care**

Considerable need of care arises when you need help at least once a day with a minimum of two activities from one or more types of activity (personal hygiene, eating or getting around). You also need help several times a week with household chores. You require an average of at least 90 minutes of help every day of the week for basic care and household chores. Your carer must spend more than 45 minutes of this time providing basic care.

#### **Care Level II: Severe need of care**

Severe need of care arises when you need help at least three times a day with basic care (personal hygiene, eating or getting around). In addition, you need help several times a week with household chores. You require an average of at least three hours of help every day of the week for basic care and with household chores. Your carer must spend at least two hours of this time providing basic care.

#### **Care Level III: Extreme need of care**

Extreme need of care arises when you need round-the-clock help every day. You also need help several times a week with household chores. You require an average of at least five hours of help every day of the week for basic care (personal hygiene, eating and getting around) and household chores. Your carer must spend at least four hours of this time providing basic care.

## Hardship cases

If you meet the requirements for Care Level III and require an extraordinary level of care, you may qualify as a hardship case and thus for additional care. A hardship case exists when:

- You need at least six hours of help every day, a minimum of three of which must be during the night. If you reside in a full-time care home, the time spent providing medical care will be taken into account.
- You receive basic care during the night from several carers at once. At least one activity during the day and one during the night requires both a professional healthcare and an additional carer who must not necessarily be employed by a care agency (a family member, for example). This provision is designed to prevent several carers from a care agency attending you at the same time.

Each of the two required activities meets the standards for qualitative and quantitative care that exceeds the usual level of care provided at Care Level III. An additional requirement is that you need constant help to complete household chores.

## How to claim

Claims for assistance under long-term care provisions must be submitted to your long-term care insurance fund, which is an arm of your health insurance fund. Claims may also be made on your behalf by family members, neighbours or close friends if you authorise them to do so. Once the claim is received by the long-term care insurance fund, the fund then asks the medical service of the German health insurance funds (Medizinische Dienst der Krankenversicherung, or MDK) to assess your care needs.

People with private insurance apply to their private insurer and assessment is performed by medical services provider MEDICPROOF.

## The approval process

The legally prescribed processing period for long-term care claims is 25 working days. If you are in hospital or in a rehabilitation clinic, in a hospice or receiving out-patient palliative care, the MDK assessment must take place within one week if the assessment will be used to determine the level of care you need from then on or if the claim involves a notification to an employer regarding a period of home nursing care. If you are at home and not receiving palliative care and a period of home nursing care has been notified to an employer, the processing time for claims is two weeks.

Note: If the long-term care insurance fund fails to respond to a claim in writing within 25 working days of receipt or if the shorter assessment periods are not observed, the insurance fund is required to pay the applicant an amount of €70 for each week of delay begun after the deadline. This does not apply if the long-term care insurance fund is not responsible for the delay or if the applicant is in institutional care and at minimum is already officially classified as in need of considerable care (Care Level I). Additionally, if no assessment is done within 20 working days of the application, the long-term care insurance fund is required to name three assessors for selection by the applicant.

The insured person may appeal against the insurance fund's decision.

## Determining care needs

The long-term care insurance fund asks the MDK (or the social medical service (SMD) for those insured with sectoral insurance funds) to produce an assessment report for use in evaluating the level of care needed and the effort involved. This usually happens with the assessor (a carer or a doctor) visiting your home, having given advance notice. The assessor identifies your needs in terms of basic care (personal hygiene, eating and getting around) and of help needed with household chores. If you are privately insured, you submit your claim to your private insurance fund and the assessment is conducted there by MEDICPROOF medical service assessors.

For children, the assessment of care needs should ideally be performed by specially trained medical service assessors who are qualified healthcareers or children's healthcareers or pediatricians. When

determining the level of care needed, the child in need of care is compared with a healthy child of the same age. However, for babies and small children, the assessment is not based on the amount of care needed relative to the child's natural age but on the amount of additional care needed.

## **Home care and institutional care**

Long-term care benefits are granted on the basis of your care level and whether you need care at home or institutional care. Regardless of the level of care you receive, prevention and rehabilitation (measures to overcome, reduce or prevent an increase in your need for long-term care) are given priority over care. Home care is also given priority over institutional care.

## **Home care**

The main 'provider' of long-term care has always been the family. People who live at home and need help with day-to-day activities are usually taken care of by their relatives. This is a good arrangement because most people who need long-term care want to live with their families and in familiar surroundings as long as they can. Hence, home care must be given priority over institutional care. The law thus focuses on providing benefits that improve conditions for home care and relieve the burdens on carers.

Home care benefits are scaled according to the care level. People in need of long-term care can choose between non-cash benefits (care provided by an agency under contract to your long-term care insurance scheme, such as a social services agency or home care service) and cash benefits (which you would use to ensure that you receive appropriate care, for example with the help of relatives).

Home care under the non-cash benefits option can also be provided by an individual carer. Long-term care insurance funds are required to enter into contract with individual carers unless there is specific reason not to. Employing an individual carer can help a person in need of care as far as possible to lead an independent and self-determined life, or may, for example, provide a better means of meeting a person's special wishes regarding how care is structured.

As of 1 January 2013, it is also possible for people with considerable restrictions on their everyday activities to be classified as Care Level 0 and receive either non-cash or cash benefits. They may also receive a combination of non-cash and cash benefits. As a result, your care can be tailored to your individual needs. Entitled individuals, for example those living in new forms of housing, may pool their home care entitlements and share the benefits to be had from efficient management of available resources – particularly as regards nursing care services.

### **Additional benefits provided under long-term care insurance:**

- Nursing aids that facilitate long-term care, such as a special bed.
- Allowances to pay the cost of modifying your home to accommodate your nursing care needs. A maximum of €4,000 can be granted for each project if there are no other means of financing it. People classified as Care Level 0 who face considerable restrictions in their everyday activities may also receive this allowance. The allowance can be paid in an amount up to four times €4,000 – meaning a maximum of €16,000 – if a group of individuals in need of care or who face permanent restrictions on their everyday activities live together.
- Free nursing care courses for relatives and volunteer carers.

Statutory long-term care insurance benefits are halved for holders of statutory long-term care insurance entitled to part-payment (Beihilfe) or full payment (Heilfürsorge) of healthcare, childbirth, long-term care and funeral costs under the laws or principles applicable to tenured civil servants (Beamte). The insurance contributions are halved in this instance. In the case of tenured civil servants with private long-term care insurance, the private insurance company provides a share of the above benefits proportionate to the Heilfürsorge entitlement.

### **Allowance for groups cared for in the home**

People in need of care who receive cash benefits and/or non-cash benefits on a non-institutional basis and/or additional care or support can receive a monthly supplementary group allowance (Wohngruppenzuschlag) of €205 on application in addition to the other benefits. From 1 January 2015,

the supplementary group allowance is also paid for insured persons in Care Level 0 who are subject to considerable restrictions on their everyday activities.

Eligibility requirements:

- The person lives with at least two and no more than eleven other people in a shared home for the purposes of pooling their care services and at least two of the other people are in need of care or are subject to considerable restrictions on their everyday activities (Care Level 0);
- One person (a care assistant) is jointly appointed by the members of the communal living arrangement to carry out, independently of individual care, general organisational, administrative or assisting activities or activities promoting communal living or to provide support in looking after the home;
- It is not a form of care in which the organiser of the communal living arrangement or a third party provides care for those in need of care that largely matches the agreed scope for institutional care.

## Arrangements for holiday stand-ins

If the person who provides your care at home goes on holiday or is otherwise unable to care for you, you are entitled to a stand-in for a maximum of six weeks a year, with costs being covered up to a maximum of €1,550 per year. If the stand-in is a close relative who is not employed for the purpose, there is a presumption that the stand-in provides the care on an unpaid basis, and the verified costs incurred by the statutory long-term care insurance may not exceed 1½ times the care benefit for the respective long-term care category. This can be increased up to €1,612 to cover any documented necessary costs (e.g. travel costs or loss of earnings) incurred by your stand-in. If you are classified as Care Level 0, meaning you face considerable restrictions on your everyday activities, you may claim preventive care assistance, where for a period of up to six weeks per calendar year, you receive an amount equal to half of the care benefit you already receive.

From 1 January 2015, in addition to this contribution to the costs of a stand-in, up to 50% of the short-term care amount (meaning €806 per calendar year) can be used for stand-in care. The additional amount used for stand-in care is taken into account against the amount for short-term care. This means a total of €2,418 per calendar year is available for stand-in care.

## Part-time institutional day and night care

Part-time institutional care refers to care in a facility that provides day or night care. The long-term care insurance fund pays the costs of care, social support and medical treatment. Meals have to be paid for privately. Part-time institutional care is only provided where necessary in the individual case – such as when it is not possible for an adequate level of care to be provided at home.

The monthly amount provided is up to €468 for Care Level I, up to €1,144 for Care Level II and up to €1,612 for Care Level III. Part-time institutional care also includes the cost of necessary transportation for the person in need of care between their home and the day or night care facility.

From 1 January 2015, insured persons who are subject to considerable restrictions on their everyday activities and come under Care Level 0 can make use of part-time institutional care in an amount of up to €231 per month. The amounts paid have also been increased for persons in need of care who are subject to considerable restrictions on their everyday activities and who come under Care Levels I and II. The monthly amounts paid in such cases are up to €689 for Care Level I and up to €1,298 for Care Level II.

Alongside day and night care, entitlements to non-cash benefits provided on a non-institutional benefits and/or cash benefits can also be claimed in full.

## Short-term care

Many people in need of care only need full-time institutional care for part of the time, notably to cope with crises in care at home or following a stay in hospital. Short-term care is provided in suitable institutional facilities in such cases. The amount paid is up to €1,612 for up to eight weeks in any one calendar year. From 1 January 2015, insured persons who come under Care Level 0 and who are subject to considerable restrictions on their everyday activities can also use short-term care.

From 1 January 2015, the amount paid can be increased by up to €1,612 from unused funding for stand-in care for a total of up to €3,224 per calendar year. The additional amount used for short-term care is taken into account against the amount paid for stand-in care.

Half of the care benefit received so far continues to be paid during short-term care for up to eight weeks in each calendar year.

In individual cases and subject to reasonable justification, short-term care can also be provided in suitable facilities that do not have a care agreement for short-term care with the long-term care insurance funds, such as facilities for people with disabilities or similarly suitable care facilities. **Supplementary care and support allowance**

If they are cared for at home, people with significantly reduced abilities (mental illness, mental disability or dementia) are entitled to a supplementary care and support allowance of up to €100 per month (basic benefit) or up to €200 per month (increased benefit), or up to €1,200 or €2,400 per year.

People classified in Care Level 0 may also receive this supplementary care and support allowance.

This group may also make use of six-monthly advisory visits. These visits may also be conducted by recognised providers; recognition does not require proof of nursing care expertise.

Since 1 January 2015, people in need of care who come under Care Levels I to III and who are not subject to considerable restrictions in their daily activities, being solely or predominantly subject to physical restrictions, such as after a stroke, receive an additional care and support allowance of €104 a month.

The purpose of this amount is to reimburse expenses incurred by the entitled individual in connection with the use of additional care and support services. These include day and night care, short-term care, recognised care providers (provided that the expenses relate to special services of general supervision and care and to housekeeping rather than to basic care) or low-level care and support services recognised under Länder law. Low-level care services include care groups for dementia patients, help groups who stand in on an hourly basis to relieve relatives providing care in the home, day care in small groups, individual care provided by recognised helpers, agencies for the arrangement of support for people in need of care, and family support services. Low-level support services include housekeeping services, support carers and care assistants.

From 1 January 2015, up to 40% of the amount paid for non-cash benefits provided on a non-institutional basis can be used for low-level care and support services provided that it has not already been used for such non-cash benefits. This primarily benefits dementia patients and their families, enabling them to make more flexible and greater use of low-level care and support services.

## **Institutional care**

Additional care and enabling services are available for people with significantly reduced abilities who are looked after in nursing homes. Additional carers can be deployed for such full-time and temporary residents of care homes who are in need of care. From 1 January 2017, the previous entitlement for nursing homes to agreement of rate supplements for additional care and enabling services is replaced by an individual entitlement for those in need of care. At the same time, the existing contractual arrangement remains in place, where the additional carers in care homes are paid for by the statutory and private long term-care insurance funds with rate supplements on top of the long term care rates. Those in need of care and agencies providing social assistance are not required to meet any of the costs.

## **Social insurance for carers**

Home care places heavy burdens on carers, most of whom are women. Carers often have to give up their normal job or cut back on the number of hours they work in order to meet these demands. In response to this situation, new legislation has improved the treatment of carers in social insurance matters. Carers also come under statutory accident insurance for the time during which they are providing care



(information on a brochure on statutory accident insurance for carers is provided in the occupational accident insurance chapter).

If you provide non-paid nursing care for another person for a minimum of 14 hours a week in that person's home and are not employed or work no more than 30 hours a week, you are covered by statutory pension insurance if the person in need of care is entitled to assistance from the statutory or private long-term care insurance funds. Time spent caring for two or more people in need of care can be calculated together. Your contributions are paid by the long-term care insurance fund. Your contribution rate depends upon the level of care you provide and the amount of time you must consequently spend providing care. If you take a holiday to give you a break from providing nursing care, your pension contributions will be paid by the long-term care insurance fund for the duration of your absence.

Contributions to unemployment insurance are only paid by the long-term care insurance fund for the period in which you provide nursing care. With effect from 1 February 2006, and having fulfilled certain criteria, you may opt to be voluntary insured and thus retain your entitlement to unemployment insurance. Contact your local Employment Agency for further information on this.

## **Reconciling family care and work**

### **Care leave and family care leave**

Care in the home is also promoted by the Home and Institutional Care Act (Pflegezeitgesetz) and the Family Care Leave Act (Familienpflegezeitgesetz), which have been updated to safeguard the interests of the relatives of a person in need of home nursing care and to take special account of the differing care-related situations and types of care needed. Working relatives of people in need of care can take leave of absence from employment in case of need as follows:

- When an exceptional care situation arises unexpectedly, employees have the right to take up to ten days off work (temporary absence) to organise and secure adequate care for a close relative in need of care. They are thus given the opportunity to respond to an emergency situation, inform themselves of the care services available and make arrangements for their provision. The right to temporary absence from work also helps ensure that a person in need of care who cannot immediately be accommodated in a suitable nursing home after a stay in hospital can be looked after by close relatives at home in the interim. The right to temporary absence from work applies to all employees regardless of the size of the enterprise. The employer is only under obligation to continue paying the employee's wage or salary if such an obligation exists by law or by agreement. Employees who do not receive continued pay from their employer can apply for care support benefit for up to a maximum of ten days. The care support benefit provided from 1 January 2015 is an income replacement benefit, with the benefit amount being calculated as for what is referred to as child sickness benefit. The gross amount of care support benefit is 90% (on claiming a one-off payment subject to contributions in the last 12 months prior to leave of absence 100%) of the pay foregone net of deductions.
- Employees who providing nursing care for a dependent relative at home have the option of being released from work for a maximum of six months (care leave). This can take the form of full-time or part-time care leave. The entitlement to care leave may normally be exercised if the employer has a workforce of more than 15 employees.
- When employees need to reduce their working hours for a longer period to care for a close relative at home, they are able to take family care leave for up to 24 months. During family care leave, the employee must continue to work at least 15 hours a week; if their working hours vary, they must average a minimum of 15 hours a week over a period of up to one year. The entitlement can be exercised if the employer has a workforce of more than 25.
- Many children and adolescents in need of care are looked after in facilities such as clinics rather than at home. Even if they are not looked after at home, children and adolescents have the need to be cared for by close relatives. So that employees can look after children and adolescents in need of care at home or elsewhere, they are entitled to full-time or part-time leave as provided for in the Home and Institutional Care Act and the Family Care Leave Act. As with normal care leave, this means they can take full leave of absence for up to six months. Part-time care leave where the employee continues to work for a minimum of 15 hours a week can be taken for up to 24 months. The total duration of all periods of leave of absence – including in combination with normal care leave and family care leave – is not allowed to exceed 24 months. The entitlement to

leave for up to six months can be exercised if the employer has a workforce of more than 15 employees. The entitlement to a longer period of leave while continuing to work for a minimum of 15 hours a week can be exercised if the employer has a workforce of more than 25 employees.

- Many people in employment would like to bid farewell to their loved ones in a dignified manner and be at their side to the end. Under the Home and Institutional Care Act, employees are entitled to take full-time or part-time leave for this purpose for up to three months. It is not required that care be provided at home. This enables people to be with a close relative in care in a hospice, for example. The entitlement can be exercised if the employer has a workforce of more than 15 employees.

Care leave under the Home and Institutional Care Act can be followed by leave under the Family Care Leave Act and vice versa. The different types of leave must be taken without any gap between them. The applicable notification periods must be observed. Leave to accompany a close relative in the final phase of life is the only type of leave that can be taken subsequent to one of the other forms but with a gap between. The total duration of all leave under the Home and Institutional Care Act and the Family Care Leave Act is not allowed to exceed 24 months.

Employees who take leave under the Home and Institutional Care Act and the Family Care Leave Act can apply for an interest-free state loan from the Federal Office of Family Affairs and Civil Society Functions (BAFzA) to help tide over the loss of earnings due to taking leave. Further information is provided on the German-language website [wege-zur-pflege.de](http://wege-zur-pflege.de).

In small enterprises, employees can negotiate leave with their employer by mutual agreement. They are then likewise entitled to an interest-free state loan.

An employer is not allowed to dismiss an employee from the date when they give notice that they intend to take leave (up to a maximum of 12 weeks before the date on which the leave is intended to commence) to the end of the temporary absence or to the end of the leave under the Home and Institutional Leave Act or the Family Care Leave Act.

In exceptional cases, dismissal may be deemed lawful by the higher-level Länder authority for occupational safety and health or an agency designated by that authority.

Necessary social insurance cover is maintained during full-time care leave. Care leave is deemed as a qualifying period and the long-term care insurance fund pays contributions to the unemployment insurance fund. Under the health insurance and long-term care insurance schemes, long-term care insurance provides for a supplement to help with contributions to pay for voluntary insurance in cases where there is no other insurance provision, for example in the absence of family insurance. This supplement is generally equal to the actual amount payable. As was the case before the introduction of care leave, the pension insurance scheme covers compulsory contribution periods for stints of non-employed care at home if the care is provided for a minimum 14 hours per week and the person in need of care receives services and benefits from the long-term care insurance fund. Employees may not work more than 30 hours per week during care leave taken in the form of part-time leave. The contributions to the state pension insurance fund are assumed by the long-term care insurance fund regardless of the care category involved and the scope of the care provided.

## **Institutional care**

If you require institutional care, your long-term care insurance will pay expenses for basic care, social support and treatment according to the level of care you require: €1,064 for Level I, €1,330 for Level II, or €1,612 for Level III care. To avert hardship, up to €1,995 in expenses may be covered in exceptional cases if you require Level III care. As with home nursing care, you are responsible for paying your costs for food and board.

Long-term care insurance cannot meet more than 75% of the actual amount paid to the nursing home. This means that patients must pay at least 25% of their nursing home costs themselves.

## **Care advice and support facilities**

People in need of long-term care and insured persons who have applied to their statutory long-term care insurance fund for assistance are entitled to individual advice on care free of charge from a care advisor.

The insurance fund is required to designate a care advisor without delay before the first advice session. Additionally, when an application for assistance is made (except repeat applications for cost refunds), the insurance fund must, on its own accord and within two weeks of receiving the application, offer an appointment for individual care advice or issue a voucher for care advice by an independent advisory service. Care advice can be provided at home on request. Relatives providing care or other people can also receive care advice if the person in need of care agrees. The same rules apply under private long-term care insurance.

Care advisors provide the following services:

- Help with making applications for assistance and in all dealings with the long-term care insurance fund
- Advice on all forms of assistance and entitlements
- Support in the choice of services, including services to relieve the burden on relatives providing care
- At the request of the parties involved, help with drawing up, implementing and adapting a personal care plan
- Information on the right to receive a copy of the assessment and the separate rehabilitation plan completed by either the MDK or another expert commissioned by the insurance fund.

Care advice can also be provided in a care support facility under Section 7c of Book XI of the Social Code. The long-term care insurance fund will give the location of the nearest care support facility. Interested parties can also go there to seek out care advisers employed by the long-term care insurance funds.

Most such funds offer care advice through care advisors in their employment.

Care advice in accordance with Section 7a of Book XI of the Social Code may only be provided by care advisors with special additional training. This training can generally be obtained by professional nursing care workers, social insurance case workers and social workers, although it is also open to individual with other suitable professional training or academic qualifications.

The National Association of Statutory Health Insurance Funds (GKV-Spitzenverband) has issued recommendations for this purpose. The additional training for care advisors is offered by health insurance fund training centres and other providers.

Individuals with other suitable professional training or academic qualifications can take further training and a home care and a (part-time or full-time) institutional care internship if they do not have any nursing care experience.

The further training consists of at least 400 lesson units in nursing care, case management and law.

The same requirements apply for employees of independent and neutral advisory services.

Anyone who is privately insured should contact their insurance carrier or the German Association of Private Health Insurers (Verband der privaten Krankenversicherung e.V.), Gustav-Heinemann-Ufer 74c, 50968 Köln. Private long-term care insurers provide long-term care advice via a centralised hotline run by the agency COMPASS Private Pflegeberatung. The hotline is available Mondays to Fridays from 8 am to 5 pm, and from 10 am to 4 pm on Saturdays (0800 1018800). Care advice may also be provided by a care advisor who visits the person in need of care at home, in a residential care home, in hospital or in a rehabilitation clinic.

## **Long-term care for residents of care homes for the disabled**

Young disabled persons who require nursing care are entitled to all the benefits described above. Long-term care insurance will also provide a flat-rate allowance to help cover the cost of treatment at facilities that primarily focus on helping disabled people integrate into society, as opposed to providing nursing care. Residents of long-term care homes for the disabled are also entitled to the full amount of long-term care benefit for the days they are cared for in their own home.

## Funding

Statutory long-term care insurance is financed through contributions that are scaled according to income. The contribution assessment limit that applies to health insurance also applies to long-term health insurance: €4,237.50 a month in both western and eastern Germany in 2016.

Since 1 January 2015, the contribution rate has been 2.35% of assessable income. The rate for contribution payers without children is 2.6%.

Contributions are paid following the same method used for statutory health insurance payments: Your employer deducts your contributions directly from your wages and transfers them to your health insurance fund. To compensate employers for the additional costs arising from long-term care insurance, the Buss- und Bettag holiday (the Wednesday eleven days before Advent) was eliminated except in the state of Saxony. German employers bear half the contributions to long-term care insurance in return for this additional working day. In other words, employees pay a rate of 2.35% and employers 1.175%. In Saxony, which kept Buss- und Bettag, employees pay 1.675% and employers 0.675%.

As of 1 January 2005, childless contribution payers—irrespective of the reason for their childlessness— are required to pay a supplement of 0.25 percentage points, raising the contribution share paid by, for example, a childless employee from 1.175% to 1.425%. This complies with a decision of the Federal Constitutional Court requiring a difference in contribution rates between contributors with and without children. Childless contribution payers born before 1 January 1940 are exempt from the supplement, as are children and young people up to age 23, recipients of Unemployment Benefit II, and young men on military or civilian service.

Pensioners' contributions paid from their pensions and contributions towards annuities and income from self-employment are paid by the pensioners themselves.

For employees who pay voluntary contributions to the statutory health insurance fund, the employer pays an amount equal to half of the employee's income-related contribution to long-term care insurance. Employees with private long-term care insurance also receive an employer contribution which is limited to half of the amount the employee pays for their private long-term care insurance.

For recipients of unemployment benefit or cost-of-living allowance, contributions are paid by the Federal Employment Agency, for recipients of unemployment benefit II the Federal Employment Agency or the authorised municipal provider, for rehabilitation recipients the rehabilitation provider, for residents of care homes for the disabled the home, and for recipients of other welfare assistance towards the cost of living, the responsible welfare services agency.

## Private long-term care insurance

Rather than being calculated on the basis of your income, premiums for private long-term care insurance are graded as with private health insurance according to your age when you sign the policy. By law, premiums cannot exceed the maximum contribution for statutory long-term care insurance. If you took out private health insurance after 1 January 1995, this limit will apply after a five-year period during which you have been covered by private health or long-term care insurance. Tenured civil servants whose medical costs are reimbursed in part by the government if they need long-term care do not have to pay more than half the maximum amount.

The premiums are the same for men and women. The private long-term care insurance rate for married couples where only one spouse works, or where both work but one of their incomes is low enough to qualify as marginal employment, may not be more than 150% of the maximum rate for statutory long-term care insurance. The married couple rate does not apply for those who took out private health insurance after the introduction of compulsory private long-term care insurance on 1 January 1995. Children receive free cover, as they do under statutory long-term care insurance.

### **Further information**

The German Federal Ministry of Health runs a citizens' information hotline on long-term care insurance. Tel. 030 340606602, Mondays to Thursdays, 8 am to 6 pm, and Fridays from 8 am to 3 pm.

The Ministry of Health also provides free advisory brochures entitled Ratgeber zur Pflege (Advice on Long-Term Care), Pflegen zu Hause (Long-Term Care at Home) and Wenn das Gedächtnis nachlässt (Dealing with Dementia).

Information on health insurance and long-term care insurance abroad is provided on a case-by-case basis by Deutsche Verbindungsstelle Krankenversicherung/Pflegeversicherung – Ausland (DVKA), Pennfeldsweg 12c, 53177 Bonn. Telephone: 0228 95300. The DVKA became a member of the National Association of Statutory Health Insurances (Spitzenverband Bund der Krankenkassen) on 1 July 2008.

Information on questions involving disability (including issues regarding health and long-term insurance) may also be addressed to the local rehabilitation services agency (Gemeinsame Servicestelle der Rehabilitationsträger).

Advice and support can also be sought from the local authorities responsible for old-age benefit.

## Pension insurance Rentenversicherung

*Welfare and pension insurance go hand in hand. For decades now, pension insurance has played an important role in providing people with the financial security they need in old age.*

### Who is insured?

With few exceptions, all employees pay compulsory contributions to the statutory pension fund - as do trainees, people with disabilities who are employed at sheltered workshops, people on voluntary military service or federal volunteer service, and people doing a year of voluntary community or environmental work.

The contribution assessment limit for 2016 is €6,200 a month in western Germany and €5,400 in eastern Germany. This is not the limit for compulsory coverage in the statutory pension insurance; that is, even if you earn more, you must still pay contributions. The contribution assessment limit is the maximum amount from which your contributions to the statutory pension insurance are calculated, even if you earn more.

Workers who have taken up employment on or after 1 January 2013 and whose earnings do not exceed €450 per month are covered by compulsory insurance as marginally employed workers. Their employer pays a flat rate pension insurance contribution of 15% (in the case of industrial employment) or 5% (in the case of minijobs in private households). Based on the contribution rate of 18.7% for 2016, the remaining worker's share is 3.7% (for industrial minijobs) or 13.7% respectively (for minijobs in private households).

Contribution payments from employees with earnings between €450.01 and €850 are subject to the so-called 'progression zone' mechanism, which relieves employees from contributions proportional to earnings. Within the progression zone, the employee share of total social insurance contributions (health, pension, long-term care and unemployment insurance, currently averaging 20% in total) increases linearly with earnings, starting at about 11% at the bottom end of the progression zone (€450.01) and reaching the full employee share at €850. The employer continues to pay the full employer's share of the total social insurance contributions for the employee's pay. These provisions do not apply to trainees.

*Important: As the calculation of the pension takes into account only the (lower) amount of pay matching the contributions that have actually been paid, employees can sign a declaration and submit it to their employer in which they opt to pay the contributions matching their full pay. They then pay full employee contributions even in the progression zone and their full pay is taken into account when determining their pension.*

Not all self-employed people have to pay compulsory contributions. Those who must include self-employed teachers, lecturers, child carers, nursing carers and midwives. Self-employed tradespeople also pay compulsory contributions, although they may opt out after 18 years. Self-employed artists and members of the publishing professions are subject to compulsory insurance under the Artists Social Welfare Act – though they pay only half the contributions themselves. Contributions are subject to a minimum annual income of €3,900 generated through self-employment, although new entrants to the profession are not required to attain this minimum. The Artists' Social Welfare Fund (Künstlersozialkasse) in Wilhelmshaven decides who must pay contributions and also sets the rate.

Since 1 January 1999, you are also subject to compulsory insurance if you are self-employed and in your self-employed capacity do not normally have any employees who must pay contributions themselves, and you primarily work on a long-term basis for a single client or employer. You are considered to work primarily for a single client or employer not only if you work primarily under contract to one client or employer, but also if you are largely economically dependent upon such a client or employer.

People starting a new business with only one customer can be exempted from paying contributions for up to three years. An exemption can also be claimed by people who are already near retirement age.

Farmers are not required to be insured under the statutory pension insurance, but with a separate farmers' pension fund. This special system provides farmers with partial coverage, which they supplement in other ways – often by selling the farm on retirement or claiming Altenteil, the right of German farmers to live on the farm after making it over to their children.

Self-employed people who are not required to pay compulsory pension contributions can apply for compulsory pension insurance coverage within five years of becoming self-employed. They then have the same rights and obligations as other compulsory contributors.

Child raising periods: Mothers and fathers are automatically insured during the initial child raising period. Compulsory insurance coverage exists during the first three years for children born since 1 January 1992, and two years for children born earlier.

Carers: Periods in which you provide unpaid home care to a relative who qualifies as being in considerable need of care are counted as compulsory contribution periods in the statutory pension insurance. Your contributions are paid by the long-term care insurance fund. Carers are thus another group of compulsorily insured persons who do not have to pay contributions (detailed information is provided in the Long-Term Care Insurance chapter, under 'Social insurance for carers').

Claimants of income-replacement benefits continue to be compulsorily insured whilst receiving benefit (with the exception of recipients of unemployment benefit II) if they were so insured in the year before they began drawing benefit. If not, they have to apply for compulsory insurance coverage. Income-replacement benefits include sickness benefit, injury benefit, transitional allowances, unemployment benefit, cost of living allowance, pre-retirement benefit, and early retirement pay. The contributions are paid by the agency awarding the benefit. Recipients of unemployment benefit II ceased to be subject to compulsory statutory pension insurance in 2011. Thereafter, the period during which they receive the benefit can be recognised as a credited period.

## **Who is exempt from insurance?**

Persons who do not come under the scope of compulsory insurance are exempt from insurance. This includes persons who are not covered by statutory insurance because of their employment status or because they have other social security coverage (such as civil servants and judges) as well as to persons already receiving old-age pension benefits.

Persons in short-term employment are also exempt from insurance. From 1 January 2015, employment is considered short-term if it is limited by prior agreement to a maximum of three months or a total of 70 working days in a calendar year and – provided the monthly pay does not exceed €450 – if it is not a regular occupation. These thresholds for short-term employment apply until the end of 2018, after which they are reduced again to a maximum duration of two months or 70 working days. The amount of earnings is not relevant. In general, short-term employment is not subject to pension insurance contributions and employers are not required to pay flat-rate contributions.

## **Who can request exemption from insurance?**

Various categories of people have the right in certain circumstances to have themselves exempted from pension insurance, such as members of a pension scheme for liberal professions or marginally paid workers in employment. Marginally paid employment is defined as employment in which the pay does not regularly exceed €450. The employer pays a 15% flat-rate pension insurance contribution. A lower flat rate of 5% applies for marginal work in a private household, which is classed as a special form of marginal employment.

If you are in marginal employment you are required to make up the shortfall between the employer's share and the full pension contribution (the contribution rate for statutory pension insurance in 2016 is 18.7%, so the contribution for people in marginally paid employment in private households is 13.7% and that for people in other forms of marginally paid employment is 3.7% of their pay). This gains you entitlement to all statutory pension benefits, including rehabilitation treatment, reduced earning capacity pensions, early-retirement pension, and 'Riester' pension subsidies. Employees earning less than €175 a month pay a minimum contribution based on €175. If you are in marginal employment and claim an exemption from insurance, only your employer is required to pay the flat rate contributions and you no longer have to top them up. An application for such an exemption has to be submitted to the employer.

The employer reports it to the Minijob Centre (Minijob-Zentrale), which belongs to the Deutschen Rentenversicherung Knappschaft-Bahn-See insurance fund.

In contrast to the situation without an exemption, where entitlements accrue in the form of one month of qualifying period for every month of employment, if you apply for an exemption you may only accrue a marginal number of qualifying period months. Also, if you are in marginal employment and claim exemption from contributions, you are not entitled to a reduced earning capacity pension and pension entitlements are less than they would be if you were subject to compulsory insurance.

Exceptions: Special provisions apply for certain groups such as trainees and people with disabilities, who continue to be subject to compulsory insurance without any exemption entitlement even if they meet the criteria for marginal employment.

## **Multiple employment relationships**

If you have several marginally paid or several short-term employment relationships, all employment relationships are added together. If you exceed the above exemption limits as a result, you are subject to compulsory coverage in all branches of social insurance and have no legal right to exemption from the statutory pension insurance system.

The following applies if you have one or more marginal employment relationships as well as a main employment relationship subject to compulsory contributions:

If you have one marginally paid employment relationship besides your main employment on which you pay compulsory contributions, the two are not counted together to make the marginal employment subject to contributions as well. If you have any further marginally paid employment relationships, they do count together with your main employment on which you pay compulsory contributions and are subject to full social insurance contributions themselves. Short-term employment and marginally paid permanent employment relationships are not counted together in this way, and a short-term employment relationship does not count together with your main employment on which you pay compulsory contributions.

## **Binding assessment**

Legal assessments regarding social insurance coverage in individual cases are performed by the local health insurance fund, or, in the case of people engaged in marginal employment by the Deutsche Rentenversicherung Knappschaft-Bahn-See pension fund as the central collection agency ([www.minijobzentrale.de](http://www.minijobzentrale.de)). These and all other social insurance agencies also provide information and advice.

## **Who can pay voluntary contributions?**

If you are not subject to compulsory insurance, as a rule you can pay voluntary contributions to the statutory pension insurance. This option is mainly intended for groups such as self-employed people who are not subject to compulsory insurance and housewives.

## **Rehabilitation**

German pension law expressly puts rehabilitation before a pension wherever possible. The pension insurance funds examine all applications for reduced earning capacity pensions to see if rehabilitation is a viable alternative and would remove the need for a pension.

It is expected that there will be greater need for rehabilitation services in the years ahead, primarily for demographic reasons with the baby boom generation reaching the rehabilitation-intensive age of over 45. To allow for the demographically induced temporary increase in annual expenditure needs for integration assistance, a demographic factor is now taken into account alongside wage and salary growth in the annual updating of the rehabilitation budget for the pension insurance system.



## Who can claim a pension?

To claim a pension, you must have fulfilled a minimum insurance period (qualifying period) and satisfy certain legal and personal conditions. Statutory pension insurance provides:

- Old-age pensions
- Reduced earning capacity pensions
- Surviving dependants' pensions (pensions on account of the insured person's death)

## Qualifying periods as a basic condition for entitlement

You can only claim a pension if you have been insured for a minimum period. This is known as the qualifying period (Wartezeit). The general 5-year qualifying period can be made up with contribution periods and substitute qualifying periods and is a basic condition for claiming a standard old-age pension, a reduced earning capacity pension or a surviving dependants' pension. The 15-year qualifying period for drawing an old-age pension on account of unemployment or after partial retirement or an old-age pension for women can likewise be made up of contribution periods and substitute qualifying periods. The 35-year qualifying period for a long service pension or severe disability pension can additionally be made up with exempt periods and considered periods for child raising. The exceptionally long service pension has a 45-year qualifying period. Compulsory contributions for employment subject to insurance, periods in self-employment, long-term care periods and considered periods for child raising are taken into account. To avoid hardship due to temporary interruptions in a person's employment biography, periods of unemployment can be taken into account (and for equal treatment reasons periods claiming other income replacement benefits under employment promotion policy, such as benefits provided during further training, short-time allowance and insolvency allowance). Periods of permanent or long-term unemployment (when in receipt of unemployment benefit II or unemployment assistance) are not credited, however. Periods of voluntary contribution payment can also be taken into account if compulsory contributions have been paid for at least 18 years.

The German Federal Ministry of Labour and Social Affairs runs a citizens' information line on pensions. Tel. 030 221911001, Mondays to Thursdays, 8 am to 8 pm..

## Early qualification

As a rule, the five-year qualifying period must be completed to claim a reduced earning capacity pension or a surviving dependant's pension, but earlier qualification is possible on reduction in earning capacity or death following an occupational accident or an injury suffered during military or civilian service. If the insured person suffers a complete reduction in earning capacity or dies within six years of completing education or training, the insured person or surviving dependants are entitled to a pension provided that compulsory contributions were paid for at least one of the two years before the reduction in earning capacity or death. This two-year period is extended by a maximum of seven years taking account of periods of school education after the age of 17.

## Old-age pensions

Only the insured person can claim an old-age pension. You must have reached a set age (statutory retirement age). Depending on the type of pension, certain other conditions may also have to be fulfilled.

## Pensions from age 67

Under a law aiming to adjust the statutory retirement age in line with demographic change and to place the statutory pension insurance systems on a sounder financial footing (the Rentenversicherungs-Altersgrenzenanpassungsgesetz), the minimum age for a standard pension in Germany is to be gradually increased from 65 to 67 between 2012 and 2029; the minimum ages for other pensions are to increase accordingly. Planning security is given in that the rise in the minimum pensionable age decided in 2007 only began in 2012 and involves very gradual phases. By stretching its implementation over a period of several years, employees and employers are given ample time to plan accordingly.

The adjustment affords additional planning security for people born in or before 1954 if they signed a binding partial retirement agreement prior to 1 January 2007. Also, amendments to the employee protection provisions in Book VI of the Social Code ensure that employees with employment contracts whose term ends on a date from which they are entitled to claim an old-age pension prior to reaching the

statutory retirement age can continue working until they reach the statutory retirement age applicable to them in accordance with the scheduled retirement age increases to 67.

The rise in the retirement age is presented in a table on page 99. Different age limits may apply to you than those set out in the following due to transitional and 'grandfathering' provisions. Please ask your pension insurance fund.

## **1. Standard old-age pension**

You can claim the standard old-age pension (Regelaltersrente) when you reach retirement age and have completed the 5-year general qualifying period. There is no limit on the amount that can be earned on top of a standard old-age pension.

The retirement age at which standard old-age pension can be claimed will be gradually raised to 67 for anyone born in or after 1947. The gradual phases involve an increase of one month per birth year (standard retirement age from 65 to 66) and then two months per birth year for people born in 1959 or after (standard retirement age from 66 to 67). For those born before 1947, the standard retirement age remains at 65. The standard retirement age of 67 applies for anyone born from 1964 onwards.

People born in 1951 reach the standard pensionable age in 2016, aged 65 and five months.

## **2. Exceptionally long service pension**

With the start of the gradual rise in the standard retirement age on 1 January 2012, a new old-age pension was introduced for persons with a particularly long insurance record. Insured persons were to be able to claim the new long service pension in full upon reaching age 65 if they had paid compulsory contributions for a minimum of 45 years, either through employment subject to social insurance contributions, self-employment, long-term care or periods of childrearing credited until a child is ten years old. Under the Act to Improve Benefits in the Statutory Pension Insurance (Pension Benefits Improvement Act) of 23 June 2014, this special form of old-age pension was temporarily extended. The retirement age for this pension is temporarily set at 63 for claimants born before 1953. For persons born after 31 December 1952 the age limit gradually increases again to the current retirement age of 65. The age limit increases by two months for each birth cohort and will again be 65 for persons born in 1964. The pension cannot be claimed early, i.e. at a reduced amount before retirement age is reached.

To claim the exceptionally long service pension, both conditions – the applicable retirement age and the 45-year qualifying period – must be fulfilled. Since the changes introduced with the Pension Benefits Improvement Act, periods claiming unemployment benefit and other income replacement benefits under employment promotion policy are credited towards the qualifying period, but not periods claiming unemployment benefit II or unemployment assistance. Voluntary contributions can also be credited if there are 18 years of verified compulsory contributions.

## **3. Long service pension**

Insured persons can claim a long service pension before reaching statutory retirement age – i.e. at a reduced amount – if they:

- Have reached the age of 63
- Have completed the 35-year qualifying period

The retirement age for an unreduced old-age pension will rise gradually for people born in 1949 or after, from 65 to 67. The earliest age at which this pension can be claimed at a reduced amount remains at 63. Insured persons born before 31 December 1947, who are granted planning security, may claim this pension at a reduced amount before reaching the age of 63. The reduction amounts to 0.3% of the pension for each month early retirement pension is claimed.

#### **4. Old-age pension for people with severe disabilities**

Insured persons can claim an unreduced severe disability pension (Altersrente für schwerbehinderte Menschen) if they:

- Have reached the required age (see below)
- Are recognised as having a severe disability
- Have completed the 35-year qualifying period

For people with a severe disability, the retirement age at which an unreduced pension may be claimed, will be gradually raised from 63 to 65 for anyone born in 1952 or after. The age at which an early (reduced) pension may be claimed will be gradually raised from 60 to 62. The reduction amounts to 0.3% of the pension for each month early retirement is claimed. This represents a maximum reduction of 10.8%.

Additional planning security is provided for:

- People born in 1954 or earlier if they signed a binding early retirement agreement before 1 January 2007
- People recognised as having a severe disability in accordance with Section 2 (2) of Book IX of the Social Code.

For this group, the retirement age of 63, or 60 if they claim early retirement, will not be raised.

For reasons of planning security, an unreduced severe disability pension can be claimed from age 60 by insured persons who were 50 before 16 November 2000 and were recognised at that time as having a severe disability under Section 2 of Book IX of the Social Code (SGB IX) or as having an occupational disability or being incapacitated for work under prevailing law.

People are recognised as having a severe disability if their degree of disability is at least 50 and their place of residence is in Germany or a member state of the European Union. The degree of disability is assessed by the compensation office (Versorgungsamt). People who do not have a severe disability may be entitled to a severe disability pension if they were born before 1 January 1951 and have an occupational disability or are incapacitated for work under prevailing law as applicable since 31 December 2000.

Rise in retirement age

Birth Cohort	Statutory retirement age		Old-age pension for persons with exceptionally long contribution history		Old-age pension for long-term insured					Old-age pension for people with severe disabilities				
	without reduction		without reduction		without reduction		early pension receipt from			without reduction		early pension receipt from		
	Age		Age		Age		Age		Reduction	Age		Age		Reduction
	Years	Months	Years	Months	Years	Months	Years	Months	%	Years	Months	Years	Months	%
1945	65	–	–	–	65	–	63	–	7.2	63	–	60	–	10.8
1946	65	–	–	–	65	–	63	–	7.2	63	–	60	–	10.8
1947	65	1	65	–	65	–	63	–	7.2	63	–	60	–	10.8
1948	65	2	65	–	65	–	63	–	7.2	63	–	60	–	10.8
1/1949	65	3	65	–	65	1	63	–	7.5	63	–	60	–	10.8
2/1949	65	3	65	–	65	2	63	–	7.8	63	–	60	–	10.8
3-12/1949	65	3	65	–	65	3	63	–	8.1	63	–	60	–	10.8
1950	65	4	65	–	65	4	63	–	8.4	63	–	60	–	10.8
1951	65	5	63*	–	65	5	63	–	8.7	63	–	60	–	10.8
01/1952	65	6	63	–	65	6	63	–	9.0	63	1	60	1	10.8
02/1952	65	6	63	–	65	6	63	–	9.0	63	2	60	2	10.8
03/1952	65	6	63	–	65	6	63	–	9.0	63	3	60	3	10.8
04/1952	65	6	63	–	65	6	63	–	9.0	63	4	60	4	10.8
05/1952	65	6	63	–	65	6	63	–	9.0	63	5	60	5	10.8
06-12/1952	65	6	63	–	65	6	63	–	9.0	63	6	60	6	10.8
1953	65	7	63	2	65	7	63	–	9.3	63	7	60	7	10.8
1954	65	8	63	4	65	8	63	–	9.6	63	8	60	8	10.8
1955	65	9	63	6	65	9	63	–	9.9	63	9	60	9	10.8
1956	65	10	63	8	65	10	63	–	10.2	63	10	60	10	10.8
1957	65	11	63	10	65	11	63	–	10.5	63	11	61	11	10.8
1958	66	–	64	–	66	–	63	–	10.8	64	–	61	–	10.8
1959	66	2	64	2	66	2	63	–	11.4	64	2	61	2	10.8
1960	66	4	64	4	66	4	63	–	12.0	64	4	61	4	10.8
1961	66	6	64	6	66	6	63	–	12.6	64	6	61	6	10.8
1962	66	8	64	8	66	8	63	–	13.2	64	8	61	8	10.8
1963	66	10	64	10	66	10	63	–	13.8	64	10	61	10	10.8
1964	67	–	65	–	67	–	63	–	14.4	65	–	62	–	10.8

\* The retirement age of 63 also applies for insured persons born before 1951 if no pension has been so far approved with binding effect and no pension is already received.

## 5. Old-age pension on account of unemployment or after partial retirement

Insured persons born before 1952 can claim a reduced old-age pension on account of unemployment or after partial retirement (Altersrente wegen Arbeitslosigkeit oder nach Altersteilzeitarbeit) if they:

- Have reached age 63
- Have completed the 15-year qualifying period
- Have paid compulsory contributions in employment or an activity subject to pension insurance for at least eight of the ten years before payments are due to begin
- Are unemployed when payments are due to begin and have been unemployed for at least 52 weeks since reaching the age of 58 years and six months or have been in partial retirement for at least 24 months when payments are due to begin

The minimum age for claiming the unreduced pension is 65.

A certificate from the employment agency is generally required as proof of unemployment.

An insured person is considered to be in partial retirement if, in accordance with the Partial Retirement Act, they have reduced their working hours to half of their previous weekly working hours. Whether or not the partial retirement is funded by the Employment Agency is irrelevant to the entitlement to the old-age pension.

## 6. Old-age pension for women

The old-age pension for women (Altersrente für Frauen) can be claimed – with reductions – by women born before 1952 who have:

- Reached the age of 60
- Completed the 15-year qualifying period
- Paid compulsory contributions in employment or an activity subject to pension insurance for more than ten years since age 40.

The statutory retirement age for an unreduced pension is 65. The age limit of 60 for an early receipt and 65 for the regular receipt of the old-age pension for women and will not be aligned to the rise in the statutory retirement age.

The requirement for compulsory contributions in employment subject to pension insurance is met, for example, if:

- There are child raising periods
- Compulsory contributions have been paid for income replacement benefits (such as sickness benefit or unemployment benefit)
- Compulsory contributions have been paid for carers

The rise in the retirement age is presented in detailed form in the table overleaf.

The minimum age for claiming the unreduced pension is 65.

## Reduced earning capacity pensions

A reduced earning capacity pension (Rente wegen verminderter Erwerbsfähigkeit) makes up for lost earnings if your earning capacity is reduced or you can no longer work at all. To claim, it is required that in the five years preceding the loss of earning capacity you have paid compulsory contributions for at least three years and have completed the general five-year qualifying period (also taking into account any credited periods and considered periods for child raising), – unless your reduced earning capacity results from circumstances that exempt you from the qualifying period.

You also qualify if you completed the five-year qualifying period before 1984 and satisfied the pension credit requirements for each month from then until the time you began to suffer loss of earnings.

A reduced earning capacity pension is paid until you reach pensionable age. You can then claim the standard old-age pension in at least the same amount.

The individual pension benefits are as follows:

1. Partial reduced earning capacity pension (Rente wegen teilweiser Erwerbsminderung): Insured persons who are prevented by a reduction in earning capacity due to health reasons from doing at least six hours of paid work a day under the conditions usual on the general labour market are considered to have partial reduced earning capacity. The partial reduced earning capacity pension is paid at half the rate of a full reduced earning capacity pension.
2. Full reduced earning capacity pension (Rente wegen voller Erwerbsminderung): Insured persons who are prevented by a reduction in earning capacity due to health reasons from doing at least three hours of paid work a day under the conditions usual on the general labour market are considered to have full reduced earning capacity. Insured persons who can work at least three but not more than six hours a day but because of unemployment are unable to turn the remaining earning capacity into earnings likewise receive a full reduced earning capacity pension. The amount of a full reduced earning capacity pension is the same as a severe disability pension claimed early.
3. Partial reduced earning capacity pension in the case of occupational disability (Rente wegen teilweiser Erwerbsminderung bei Berufsunfähigkeit): This is paid out to insured persons born before 2 January 1961 who are prevented by a reduction in earning capacity due to health reasons from doing at least six hours of paid work a day in their existing occupation or in another occupation they can reasonably be expected to accept.
4. Full reduced earning capacity pension for people with disabilities (Renten wegen voller Erwerbsminderung für Behinderte): Insured persons who were classed as having full reduced earning capacity before completing the general five-year qualifying period and have remained so since can claim a full reduced earning capacity pension after a qualifying period of 20 years. Alternatively, this pension entitlement can be acquired with voluntary contributions.

## Fixed-term pensions

Pensions on account of reduced earning capacity are generally paid on a fixed-term basis. They are paid on an indefinite basis, however, if:

- The pension entitlement exists irrespective of the situation on the labour market
- The reduction in earning capacity is unlikely to be reversed; this is assumed to be the case after a total of 9 years of fixed-term pension payments

## Supplementary income

Statutory pensions make up for lost earnings. Up to the minimum age for a standard pension, any additional earnings on top of a pension that is claimed early are subject to specific supplementary income limits. Supplementary income includes income from employment, self-employment and comparable sources. Income from employment does not include income received by a carer from a person in need of nursing care provided that it does not exceed the applicable nursing-care allowance, nor does it include income received by people with disabilities in a sheltered workshop. In the case of pensions received on account of reduced earning capacity, earnings replacement benefits are counted as supplementary income.

### 1. Old-age pensions

The supplementary income limits for old-age pensions depend on whether you have reached the statutory retirement age and whether a full or partial pension is claimed.

### 2. Standard old-age pension

There is no limit on supplementary income with the standard old-age pension. If you are receiving an old-age pension before reaching the statutory retirement age, the existing limits on supplementary income will cease to apply when you do reach that age.

### **3. Old-age pensions prior to reaching the minimum age**

Supplementary income limits apply to old-age pensions claimed before reaching the statutory retirement age. If you receive a full pension, you may earn up to €450 a month in supplementary income before deductions. You are allowed to exceed this monthly limit and earn up to double the limit amount twice in each calendar year (for example because of holiday and Christmas bonuses). Exceeding the limit does not automatically mean losing your pension. The pension can be turned into a partial pension with a higher supplementary income limit.

Depending on how much you earn, partial pensions are paid in an amount equal to two-thirds, half or a third of the full pension amount. The amount of supplementary income you are allowed to earn is based on your income in the last three calendar years prior to claiming old-age pension. If you had no income or only a marginal income in the previous year, a general minimum supplementary income limit applies which amounts to 50% of the national average income.

If you are not yet drawing a pension, you can ask your pension insurance fund about the supplementary income limit ('Hinzuverdienstgrenze') that applies to you.

If you are already drawing a pension, the supplementary income limit that applies is shown in the notice stating the size of your pension ('Rentenbescheid'). You are required to notify your pension fund if you exceed the supplementary income limit.

### **4. Reduced earning capacity pensions**

Recipients of reduced earning capacity pensions can likewise earn supplementary income up to a certain limit. If you receive a full reduced earning capacity pension in the maximum amount, you may earn up to €450 a month in supplementary income before deductions. Partial pensions are subject – like old-age pensions – to a personal limit that depends on the last year's income you paid contributions on, and a general supplementary income limit, which is a minimum limit for all. You are allowed to exceed the monthly limit and earn up to double the limit amount twice in each calendar year (for example because of holiday and Christmas bonuses).

If you receive a reduced earning capacity pension, you are under a duty to notify your pension insurance fund of any employment you take on. If you work because your health condition has fundamentally improved, the insurance fund must review your situation to see if the criteria for payment of the pension are still met. A reduced earning capacity pension may be withdrawn if the health impairment which led to the pension award no longer exists. The decision lies with the pension insurance fund.

## **Surviving dependants' pensions**

### **1. Widow's or widower's pension**

Widows and widowers are entitled to a statutory widow's or widowers pension (Witwen-/Witwerrente) if the deceased spouse completed the general qualifying period and they have not remarried since the spouse passed away. The general qualifying period is five years. The maximum widow's or widower's pension (grosse Witwen-/Witwerrente) is paid at 55% of the deceased spouse's full statutory pension if the widow or widower has reached the age of 47 (in line with the rise in the statutory retirement age, this age limit has been increased from 45 to 47 since 2012), or has reduced earning capacity, or is rearing a child under 18, or cares for a dependent child who, for reasons of physical, mental or psychological disability, is unable to fend for him or herself.

A widow's or widower's pension supplement of 3.6360 additional earning points is paid for the first child raised and of 1.818 earnings points for each additional child. If none of the above criteria is met, the minimum widow's or widower's pension (kleine Witwenrente) is paid at 25% of the deceased spouse's full statutory pension for a maximum period of 24 months (there was no time restriction under previous law). The surviving spouse's other income in excess of an exempt amount is deducted from the widow's or widower's pension.

For reasons of planning security, the previous rules (maximum widow's or widower's pension of 60% of the deceased statutory pension insurance pension excluding child supplement) remain valid for couples who married before 1 January 2002 and where one of the spouses was born before 2 January 1962. The minimum widow's or widower's pension is paid for this group under the old rules without time limitation.

Equivalent entitlements apply for civil partnerships.

## 2. Orphan's pension

The orphan's pension (Waisenrente) is paid up to the age of 18 to the dependent children of a deceased insured person. It is paid up to the age of 27 to orphans who are still at school or in vocational training or who are in an interim period not exceeding four calendar months between two phases (for example, between vocational training and volunteer service) or who are performing voluntary service as defined in the Income Tax Act (Einkommensteuergesetz, section 32 (4), first sentence, indent 2 a) – such as the 'weltwärts' international voluntary service or Federal Voluntary service – or are unable to support themselves due to physical, mental or psychological disability. Orphans who have lost both parents receive one fifth and orphans who have lost one parent receive one tenth of the full pension plus a supplement.

## 3. Child raising pension

A further surviving dependants' pension is the child raising pension (Erziehungsrente). It is an independent source of income for people who are divorced and are raising children.

You can claim a child raising pension if:

- Your divorced husband or wife has died
- If you are raising a child of your own or a child of your former husband or wife
- You have not remarried
- You yourself completed the general qualifying period before the death of your divorced partner
- You were legally divorced (western Germany: divorces after 30 June 1977 only; eastern Germany: divorces after 31 December 1991).

The child raising pension is calculated in the same way as an old-age pension taking into account the surviving claimant's own pension credit periods and the transferred entitlements after the divorce settlement. Other income above an exempt amount (as for the widow's or widower's pension) is deducted from the child raising pension.

## 4. Income deduction

40% of any other income (from employment, earnings replacement benefit or capital gains) above an exempt amount is deducted from a surviving dependants' pension. The same applies with regard to civil partnerships. The exempt amounts for widow's or widower's pensions and child raising pensions are currently as follows:

Western Germany: €771.14

Eastern Germany: €714.12

The exempt amount increases for each child entitled to an orphan's pension by:

Western Germany: €163.58

Eastern Germany: €151.48

These amounts are linked to current pension amounts and are thus dynamic.

In the case of orphans over the age of 18, the deduction of the orphan's own income has been abolished. As a result, all orphan's pensions are always paid in the full amount regardless of the orphan's income situation.

For reasons of planning security, the general income deduction rules under previous law (deduction of income from employment or earnings replacement benefits) remain valid for couples who married before 1 January 2002 and where at least one of the spouses was born before 2 January 1962.



## 5. Splitting pensions between spouses

To improve women's ability to provide for their old age, young married couples have the option to split the pension entitlements accrued during marriage. In place of the traditional provision for spouses and widows/widowers (each receiving his or her own statutory pension while alive and when one of the spouses dies, the survivor receives a supplementary widow's or widower's pension in addition to his or her own pension), married couples may jointly declare that the total pension entitlements accrued during their marriage be split between them (pension splitting). The fifty-fifty pension split usually comes into effect while both spouses are still alive (when the second spouse claims full old-age pension upon reaching pensionable age). Pension splitting gives women higher pension entitlements in their own right, which are exempt from income deduction and are not forfeited in the event of remarriage.

The right to opt for pension splitting may only be exercised by married couples if both spouses have 25 years of pension credits each.

Equivalent entitlements apply for civil partnerships.

## How pensions are calculated

### Contribution periods

The amount of your pension mainly depends on the earnings from employment or self-employment on which your insurance contributions are paid. Periods you spend raising children or providing unpaid home nursing care also count as contribution periods.

How much each contribution period counts towards your pension depends on how your gross annual earnings before deductions compares with the average earnings of all insured persons. Special rules apply for certain periods, however.

- **Vocational training**  
Periods of actual vocational training are accounted for at a minimum on the basis of actual earnings. In addition, for a maximum period of three years they are upgraded to the value corresponding to the average for all periods credited over the individual's insurance career up to a maximum value corresponding to 75% of the average earnings of all insured persons.
- **Reduced compulsory contributions for people with disabilities**  
The minimum contribution assessment basis for contributions paid by people with disabilities working in state-approved sheltered workshops and similar institutions is 80% of the fixed reference figure. The reference figure is revised on an annual basis. For 2016, it is €2,905 in western Germany and €2,520 in eastern Germany.
- **Compulsory contributions paid with income replacement benefits**  
During periods claiming income replacement benefits such as sickness benefit, injury benefit or unemployment benefit, the benefit provider pays pension insurance contributions regardless who is responsible for the contributions. The contributions are paid on the basis of 80% of the gross pay from employment on which the income replacement benefits are based.
- **Compulsory contributions during military service**  
During military and civilian service, compulsory contributions are paid by the federal government based on hypothetical earnings equal to 60% of the reference figure.

### Substitute periods

Substitute periods are part of the social compensation arrangements built into the statutory pensions system. They aim to prevent people from being penalised for having missed paying contributions due to events of the war. They also include periods of political incarceration in the former GDR.

## **Periods providing home nursing care**

Since 1 April 1995, periods spent providing unpaid home nursing care (for at least 14 hours a week) have been automatically credited as full contributions to the statutory pension fund in accordance with the Long-term Care Insurance Act (Pflegerversicherungsgesetz). Such contributions both increase the amount of pension paid out and establish pension entitlements in their own right. The contributions are calculated based on the degree of care needed by the person receiving the care and on the extent of home nursing care provided. For people who provide unpaid home nursing care for a dependant the contributions to the statutory pension fund are assumed by the long-term care insurance. This also applies to people who provide unpaid home nursing care and whose official employment does not exceed 30 hours a week. Certain groups who are exempt from pension insurance, e.g. people who already receive a full old-age pension are excluded from this possibility to have periods of unpaid home care credited as periods of pension insurance contributions.

## **Child raising periods**

From 1 July 1994, the child raising period for children born before 1992 has been increased from one year to two years per child ('mothers' pension'). For children born since 1992, the child raising period is three years.

Child raising periods establish pension entitlements and increase pension amounts. This means that, among other things, they are credited to qualifying periods for reduced earning capacity pension and old age pension. Thus, for children born before 1992, women who have raised five children or raised two children and paid one year's contributions also receive a standard old-age pension. For children born from 1992 onwards, raising two children is sufficient to fulfil the qualifying period.

In pension terms, such periods are credited as if full contributions had been paid from earned income, and from 1 July 2000 as if the child raising parent had earned 100 per cent of the average income of all insured persons. In 2014, this amounts to a monthly pension payment of currently around €29.21 in western Germany and around €27.05 in eastern Germany for each child raising year. In addition, so-called "considered periods for child raising" are taken into account.

## **Considered periods for child raising**

Considered periods are credited for child raising from the day a child is born through to the day it reaches the age of ten. They do not directly affect the amount of pension received and so do not have the same effect as other pension entitlement periods. Considered periods are important as they affect fulfilment of the 45-year qualifying period for an exceptionally long service pension and the 35-year qualifying period for an old-age pension, enhance entitlement to a reduced earning capacity pension and have an impact on the overall assessment of exempt periods.

Pension entitlements are upgraded for parents who work during the first 10 years of their child's life but are forced to work part-time due to child-care commitments and thus earn regularly below average income. For periods from 1992, the person's individual earnings that are taken into account are increased by 50% up to a maximum 100% of the average income of all insured persons provided that a total of 25 years' pension contributions have been paid (including considered periods for child raising).

Parents who raise at least two children under ten at the same time receive pension credits in the form of 0.33 earnings points for each year for which child raising periods are not otherwise credited. This applies for periods from 1992 onwards provided that a total of 25 years of pension contribution periods have been completed (including child raising periods and considered periods for child raising).

For parents who provide home nursing care for their child, pension contributions are upgraded from the time the child is four until it reaches the age of 18. Contributions paid out of statutory long-term care insurance are upgraded by 50% to a maximum 100% of the contributions levied on the average income of all insured persons. Again, this applies for periods from 1992 onwards where a total of 25 years of pension contribution periods have been completed (including child raising periods and considered periods for child raising).

## Credited periods

Credited periods are primarily taken into account where insured persons are prevented from paying contributions for reasons beyond their control. They mostly include periods of incapacity for work or, unemployment or periods in which the insured person was in search of a training place or in full-time education. The period of full-time education that is taken into account is a maximum of eight years from the 17<sup>th</sup> birthday onwards.

## Added periods

Added periods are relevant in the case of reduced earning capacity and surviving dependants' pensions. The younger the insured person at the time of reduced earning capacity or death, the smaller the accumulated pension entitlement. Added periods secure adequate provision for the insured person or the surviving dependants. Pensions are then calculated as if the insured person had continued to work and pay contributions after the reduction in earning capacity or after the insured person's death.

The Pension Benefits Improvement Act introduced two changes to improve provision for insured persons whose reduced earning capacity pension began on or after 1 July 2014: Firstly, the added periods were extended from age 60 to age 62. Secondly, the last four years before the reduction in earning capacity do not count towards the added periods if counting them would be detrimental to the insured person (for example if their income fell because they went part-time or had time off sick before the pension began to be paid).

## The pension formula

The guiding principle behind income-based, i.e. contribution-based, pensions is that the amount of your pension mainly depends on the amount of earned income you insure through contributions over your working life. The income from employment and self-employment that you insure through contributions each year is converted into earnings points. You are also credited with earnings points during non-contributory periods although no contributions were paid, at a rate that depends on the income you paid contributions on in the remaining time.

A pension type factor depending on the income replacement function of a pension determines the amount of the respective pension in comparison with the standard old-age pension.

If you claim an old-age pension early or do not start claiming it upon reaching retirement age, any loss or gain resulting from the longer or shorter payout period is compensated by an age factor. Reductions in the pension amount compensate for the advantage of earlier retirement and the resulting longer period claiming a pension. Additions to the pension amount compensate for the disadvantage of later retirement and the resulting shorter period claiming a pension.

The current pension value is the monthly pension that an average earner would receive after paying contributions for one year. It is also part of the pension formula.

Three factors determine the amount of a pension:

**P** Personal earnings points

Insured income (up to the contribution assessment limit) for each calendar year, divided by the average income of all insured persons, then totalled over the individual's insurance career, and multiplied by the age factor.

**T** Pension type factor

A factor depending on what the pension is intended to provide for.

**V** Current pension value

The monthly pension that an average earner would receive after paying contributions for one calendar year (currently €29.21 in western Germany and €27.05 in eastern Germany).

Monthly pension = P x T x V

## **Total entitlement**

Certain non-contributory periods and periods of reduced contributions are also credited towards a pension. Non-contributory periods include credited, added and substitute periods. A period of reduced contributions exists when a compulsory period (e.g. during employment) and a non-contributory period (e.g. a credited period during maternity leave) fall in the same calendar month. For non-contributory and reduced contribution periods, your entitlement is calculated as the average of all (compulsory and voluntary) contribution periods. Although gaps in your contribution history reduce your total entitlement, this is not the case if the gap in the contribution history includes a non-contributory period or a period of reduced contributions. Considered periods for child raising increase the value of non-contributory periods and periods of reduced contributions.

## **Pension adjustment**

Pensions are regularly adjusted on 1 July each year in line with changes in the current pension value for western or eastern Germany, as applicable. The adjusted gross monthly pension amount is determined by multiplying the current pension value with the other factors in the pension formula.

Pension adjustments are based on the development of earnings (change in gross wages and salaries per worker according to the national accounts compiled by the Federal Statistical Office), taking into account the development of pay components that are subject to statutory pension insurance contributions. To allocate the burdens due to demographic change fairly between young and old, the development of two further important variables is additionally incorporated into the calculation of pension adjustments alongside earnings: Firstly, pension adjustments take into account changes in workers' expenditure on building pension provision (pension expenditure factor). Secondly, they take into account the development of the ratio of the number of pensioners to the number of contribution payers in a sustainability factor.

However, a safety clause ensures that the factors curbing pensions growth (pension expenditure factor and the sustainability factor) and negative wage trends never result in the total monthly pension amount being adjusted downwards (referred to as the pension guarantee).

## **Pension information**

Insured persons receive an annual pension statement from age 27. Pension statements enhance transparency regarding individual pension entitlements and provide people with a solid base for planning additional private pension provision. They are generated on the basis of the pension insurance periods recorded in the individual's insurance account, and include projected pension entitlements upon reaching the statutory retirement age, with and without pension adjustments. From age 55, insured persons receive pension statements once every three years rather than annually. These statements contain more detailed information on the individual's insurance history.

## **Pension credits obtained abroad**

Under the law on pension credits obtained abroad, individuals in certain clearly defined categories (in particular including recognised displaced persons and ethnic German immigrants) are treated as if they had spent their working lives in Germany.

## **Organisation**

Pension insurance was reorganised from 1 October 2005. The past distinction between blue-collar and white-collar workers was abolished. Pension insurance institutions are divided into federal institutions and regional institutions. These institutions have names beginning with Deutsche Rentenversicherung (literally, 'German pension insurance fund'). The remainder of the name reflects the institution's area of responsibility. The federal institutions are Deutsche Rentenversicherung Bund (primarily for salary earners) and Deutsche Rentenversicherung Knappschaft-Bahn-See (miners, railway and maritime). An example of a regional pension institution is Deutsche Rentenversicherung Westfalen, covering the Westphalia region. New entrants to the pension insurance system will be told which institution is

responsible for them when they are assigned an insurance number. The same applies in the event of changes in responsibility.

Pension insurance institutions are supervised by the state.

## Funding

Pension payments are mainly funded out of contributions. Employers and employees each pay half of the current contribution rate (18.7% of the employee's monthly pay before deductions as of 1 January 2016). In the case of employees, the amount of contribution depends on individual earnings up to a contribution assessment limit of currently €6,200 a month in western Germany or €5,400 in eastern Germany. Pension payments are also partially subsidised by the state.

## Information

Information is available from the insurance offices at town, district and municipal administrations and from insurance funds' information and advice services. You may also approach the insurance funds' honorary advisors (Versichertenälteste) or the insurance consultants for the relevant institution).

Information on pension legislation is provided by the Federal Ministry of Labour and Social Affairs, Referat Information, Publikation, Redaktion, Postfach 500, 53107 Bonn, Germany. The German Federal Ministry of Labour and Social Affairs additionally runs a citizens' information line on pension law. Tel. 030 221 911 001, Mondays to Thursdays, 8 am to 8 pm.

## Promotion of additional provision for old age Förderung der zusätzlichen Altersvorsorge

*The average age of the population continues to rise. The state pension system is confronted with fewer contributors and growing numbers of pensioners. To avoid overburdening younger generations, pensions can no longer be allowed to rise at past levels. Additional provision is therefore needed to ensure that people can maintain their accustomed living standards into old age. Provision will have to be more evenly spread across three pillars: statutory old age pensions, company pension plans and personal forms of provision for old age. The state provides tax relief and allowances to aid in the establishment of additional fully funded pensions.*

The German Federal Ministry of Labour and Social Affairs runs a citizens' information line on pensions. Tel. 030 221911011, Mondays to Thursdays from 8 am to 8 pm.

### I. Company pension plans

Company pension plans have traditionally been something that employers provide on a voluntary basis. Since 2002, however, employees have a right to have part of their earnings paid into to a company pension plan. Employers must comply with this wish. How they organise company pensions for employees is a matter for agreement, often at company level or on a collective bargaining basis. If there is no agreement, each employee is entitled at a minimum to have part of their earnings paid into a life assurance policy (an arrangement known in Germany as direct insurance).

Company pensions – the 'second pillar' of old-age provision – have a number of advantages over personal provision:

- They are often more cost-effective, as transaction and administration costs are spread across a larger group ('bulk discount' effect).
- It is easier to manage from the employee standpoint because they do not need to choose a provider – that is up to the employer – and avoid a lot of paperwork.
- Employers often contribute financially to pension provision for employees (this is often laid down in collective agreements).

### State incentives

The state promotes the use of company pension plans by making earnings paid onto them exempt from tax and social security contributions. In 2016, €4,773 can be paid into a plan tax-free. The portion of earnings paid into the plan, up to a maximum €2,976, is also exempt from social security contributions.

As with private pension arrangements, company pension plans can also be made subject to 'Riester' incentives in the form of financial subsidies and extra tax relief.

### II. Personal forms of provision for old age

Since 2002, the state has provided incentives for the establishment of fully funded private pensions. The 'Riester' incentives, named after the former Federal Minister of Labour and Social Affairs, take two forms: financial subsidies (supplements) and extra tax relief on personal pension savings (as an additional tax-deductible amount). The options are as follows:

- Bank savings plans
- Private pension insurance
- Investment fund savings plans
- Home-ownership pension (Eigenheimrente: see below)

If you choose a bank savings plan, private pension insurance or a fund savings plan, be sure the product bears the number of the certifying agency and the words: "Der Altersvorsorgevertrag ist zertifiziert worden und damit im Rahmen des §10a des Einkommensteuergesetzes steuerlich förderfähig" ("Certified pension plan subject to preferential tax treatment under Section 10a of the Income Tax Act"). This means that the product complies with statutory requirements. Note that certification does not indicate how much the pension plan will pay out and does not constitute a guarantee of high returns.

Bank savings plans are particularly well suited to older investors with a shorter saving period and for people with a need for greater security. Private pension insurance is particularly well suited to security-conscious younger investors. Funds with a high proportion of shares in their investment portfolio are more suited to younger people who are willing to accept the risks involved because they have sufficient time to make up temporary market losses. A common feature of all products is an undertaking by the provider that at least the amounts paid in (amounts saved plus supplements paid by the state) will be available at the beginning of the disbursement phase. There is therefore no risk of loss of the nominal amount.

Apart from your age and attitude towards risk, it is important to consider the following when choosing a pension product:

- The cost factor:  
Products with entry costs are more cost-effective the longer the investment period.
- The risk factor:  
Think about whether you want to insure yourself against the risk of reduced earning capacity or whether you want to make provision for your spouse and your children in the event of your death.
- The disbursement phase:  
The supplementary pension must guarantee life-long benefits. Depending on the provider and product, 30% of the capital may be paid out in a lump sum at the beginning of the disbursement phase.
- Bequeathing your savings:  
With bank savings plans and fund savings plans, the amount saved can be bequeathed up to the residual annuity phase (from age 85). This is not the case with private pension insurance. You may however agree a guaranteed period in which the pension must be paid out. State incentives usually have to be paid back if a pension is inherited, although there are exceptions for the surviving spouse: The state incentives do not need to be paid back if the inherited retirement savings are transferred to the surviving spouse's own Riester plan.

State incentives for private pensions are also available to anyone compulsorily insured in the statutory pension system or in the farmers' pension fund, tenured civil servants (Beamte), certain holders of public office and recipients of reduced earning capacity pensions. Married couples are also eligible: if either spouse fulfils the requirements, the other automatically receives the incentives. For this purpose, the other spouse enters into his or her own retirement savings plan and pays a contribution of at least €60 a year.

## The state incentives

The main incentive for private pensions is the pension supplement, which is made up of a basic supplement for each entitled individual and, where applicable, a child supplement. If a personal pension agreement is signed, spouses are each entitled to the supplement as well if they pay a minimum of €60 per year.

Entitlement to the pension supplement is conditional upon a certain minimum own contribution (see table). If this is not paid in full, the supplement is reduced. Additionally, the amount saved towards a 'Riester' pension plan can be claimed up to a maximum amount as special expenditures for which tax relief can be granted (see table).

With the switch over to taxation upon receipt in 2005, the tax concessions for payments made into pension plans were substantially improved. This allowed self-employed people in particular the opportunity to make provision for their old age (in the form of 'Basis' or 'Rürup' pension plans).

Taxation upon receipt Taxation upon receipt means that income from pension is taxed only when it is paid out to the tax payer – in old age. The contributions paid into pension plans during working life thus remain exempt from tax up to a maximum amount per year.
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

The Privately Owned Home Pension Act (Eigenheimrentengesetz) of 2008 improved the conditions for incorporating owner-occupied residential property into state-subsidised private supplementary pension schemes. The Act introduced the following incentives for the purchase of owner-occupied housing:

- Subsidies and tax relief on payments of principal on certified mortgages
- During the accumulation phase, the ability to withdraw eligible retirement savings accumulated so far provided they are used directly either (a) for the purchase or construction of owner-occupied residential property or (b) to pay off a mortgage on owner-occupied residential property.

The eligible (withdrawn) funds are taxed in a notional disbursement phase (deferred taxation). Taxpayers have a choice as to how and when the tax is paid:

1. Taxation on an annual basis for between 17 and 25 years (depending when the disbursement phase starts; this must be between the taxpayer's 60th and 68th birthday).
2. Lump-sum taxation on 70% of the eligible amount invested in the property.

Information  
For further information, please visit the following websites:  
www.deutsche-rentenversicherung.de  
www.bundesfinanzministerium.de  
www.warentest.de  
www.vzbv.de

Further information in German is available online:

[http://www.bundesfinanzministerium.de/DE/Buergerinnen\\_\\_und\\_\\_Buerger/Alter\\_\\_und\\_\\_Vorsorge/Altersvorsorge](http://www.bundesfinanzministerium.de/DE/Buergerinnen__und__Buerger/Alter__und__Vorsorge/Altersvorsorge)

## Information

You should always keep sight of both company pensions and private pensions and weigh up which option is most advantageous in your personal situation. It is possible to use both options, having part of your earnings paid into a company pension plan exempt from tax and contributions while accumulating pension savings with Riemer incentives in the form of supplements and additional tax-deductible amounts. Whether the Riemer incentives are worthwhile in your particular case depends on various factors including your personal situation. Generally speaking, however, families with children and employees in lower income brackets do particularly well out of them.

Further information is available from your pension insurance institution. Information about company pensions is provided by employers, works councils and unions.

Germany's FINANZtest consumer magazine regularly compares a wide range of products and recommends those that fare best. It is also wise to obtain independent advice from a consumer advice centre (Verbraucherzentrale).

<b>Riemer incentives</b>	
Tax-deductible amount (in addition to pension provision)	up to €2,100
Basic supplement	€154
	€200 <sup>1</sup>
Child supplement, per child	€185
	€300 <sup>2</sup>
Minimum own contribution net of supplements	4% minus supplements <sup>3</sup>
Maximum	€2,100 minus supplements
<sup>1</sup> Lump-sum bonus for people under 25 entering the jobs market for the first time <sup>2</sup> For children born since 1 January 2008 <sup>3</sup> Based on previous year's income subject to statutory pension insurance contributions, but not less than €60 (minimum contribution)	



## **Compensation**

### **Soziale Entschädigung**

*In the German social welfare system, if you suffer damage to your health in circumstances for which the state takes responsibility, you are entitled to victim's compensation. This provides at least financial redress for special sacrifices, for example. Victims' surviving dependants may also claim compensation subject to certain requirements being met.*

### **Compensation benefits are provided for:**

- War victims (who currently make up the largest group of people to receive benefits under the Federal War Victims Relief Act)
- Victims of violent crime
- People injured in the course of military or civilian service
- People whose health has been damaged through inoculation-related complications
- People who were imprisoned on political grounds after 8 May 1945 in the Soviet occupational zone, the Soviet sector of Berlin or in any area specified in Section 1 (2) 3 of the Federal Displaced Persons Act and whose health was impaired as a result
- People who were imprisoned on the basis of an unlawful sentence under the SED regime (the regime of the Socialist Unity Party of the former German Democratic Republic) and who suffer lasting health impairment as a result of their imprisonment
- People who suffer lasting health impairment as a result of an administrative decision by a German public authority in the former German Democratic Republic

### **The law**

The most important legislation regarding compensation benefits can be found in the following:

- Federal War Victims Relief Act (BVG)
- Crime Victims Compensation Act (OEG)
- Soldiers Pensions Act (SVG)
- Civilian Service Act (ZDG)
- Protection against Infection Act (IfSG)
- Released Prisoners Assistance Act (HHG)
- Rehabilitation (Criminal Law) Act (StrRehaG)
- Rehabilitation (Administrative Law) Act (VWRehaG)

The two sections that follow deal with pensions and related benefits for war victims and victims of violent crime.

## **Pensions and related benefits for war victims**

### **Benefits and conditions**

Upon application you will receive benefits to compensate for damage to your health and financial losses arising from an injury suffered as a result of:

- Military or equivalent service
- An accident that occurred in the performance of such service
- Conditions typical of such service
- Periods of imprisonment as a prisoner of war
- Direct effects of war (such as when civilians are injured during an air raid) or violent acts by members of occupying forces (such as physical injury or rape).

As an injured person covered by compensation law, you are entitled to medical treatment for recognised conditions arising from your injury:

- Out-patient medical and dental treatment
- Hospital treatment
- Provision of drugs, dressing materials and therapies
- Provision of aids
- Provision of dentures
- Benefits to supplement the provision of aids (such as subsidies for buying and/or modifying a car)
- Balneological treatment at a health resort
- Domestic help and benefits
- Special gymnastic exercises for people with disabilities

## Important for people with severe disabilities

If you have a recognised 50% level of disability, you will also receive medical treatment for any further illnesses, provided that it is not already covered by another fund. You are not however entitled to treatment of subsequent illnesses when your earnings exceed the income limit for statutory health insurance. The annual income limit is €54,900 in 2015, which corresponds to €4,575 per month.

You are also entitled to sickness benefits if you are unfit for work as a result of injury, and medical treatment.

You are entitled to these benefits

- As a severely disabled person, for your spouse, children and other dependants
- As a recipient of nursing care allowance, for people who care for you without pay
- As a surviving dependant

You also have an entitlement to occupational integration benefits helping you to enter, re-enter or continue working in a suitable occupation. You will receive a transitional allowance or maintenance allowance for the duration of your occupational integration assistance (war victims' welfare benefits – see overleaf).

**Pensions** are paid to injured persons, widows and widowers, civil partners, orphans and parents. The amount of the injury pension (Beschädigtenrente) you receive is scaled according to the degree by your recognised level of disability (LOD). Your LOD must be at least 25% for you to qualify for an injury pension. Benefits include:

- A basic pension scaled according to your loss in earning capacity (LOD). The basic pension paid to severely injured persons increases at age 65
- A supplementary allowance for the severest injuries, scaled in six grades
- A nursing care allowance for helpless persons, likewise scaled in six grades
- An allowance to replace clothing and underwear subject to additional wear and tear
- A blind person's allowance to help cover the cost of a guide
- Compensation for loss of income arising from a partial or total inability to pursue your former or intended occupation as a result of your injury
- Compensatory pension and a married dependant's supplement for severely injured persons to ensure that they can cover their living expenses. The injured person's income – minus certain deductions – is taken into account when setting the amount of the pension and supplement.
- Widows/widowers and orphans of a person who has died as a result of injury receive a basic pension. A compensatory pension is also paid to ensure that the surviving dependants can cover their living expenses. Any existing income – less certain deductions – is taken into account when setting the amount of the compensatory pension.
- A widow/widower will receive compensation for lost income if his or her income, including basic and compensatory pensions and any compensatory nursing care allowances, is less than half the income his or her late spouse would have earned had he not been injured.
- In the event that the injured person's death was not caused by his or her injury, the dependants may claim widow's, widower's or orphans' assistance provided they fulfil certain requirements.
- The parents of an injured person who died as a result of his or her injury will receive a parents' pension, provided that they are in need and over 60 years of age, or are invalids. This also applies to adoptive, step and foster parents and, under certain circumstances, grandparents. Any

income the parents may have – less certain deductions – is taken into account when setting the amount of the parents' pension.

### **War victims' welfare benefits**

Supplementary benefits provided under the war victims' welfare scheme include the following:

- Nursing care assistance
- Domestic help
- Help for the elderly
- Convalescence assistance
- Assistance granted under special circumstances, such as integration assistance for people with disabilities
- Occupational integration assistance for injured persons
- Supplementary assistance towards living expenses

Certain benefits are provided under war victims' welfare schemes and are secondary to benefits falling under the Federal War Victims Relief Act. They constitute special assistance and are provided on an individual basis to supplement primary benefits. The amount is calculated taking existing income and assets into account, except in cases where the applicant's need is due exclusively to his or her injury.

### **The law**

The law on compensation and welfare for war victims is set out in the Federal War Victims Relief Act.

### **Information**

Compensation for war victims is the responsibility of war pensions offices. Claims can be submitted to these, to local authorities, social insurance providers and diplomatic missions of the Federal Republic of Germany abroad. You may also appeal against a decision at no cost in the social court (Sozialgericht).

War victims' welfare is the responsibility of local and regional welfare providers. Decisions relating to war victims' welfare may be appealed against at administrative court level.

Compensation and welfare for persons injured during military service and for their surviving dependants are the responsibility of the German Bundeswehr administration. Benefits can be applied for with the Federal Office of Bundeswehr Personnel Management (Bundesamt für das Personalmanagement der Bundeswehr).

Financial benefits for war victims (from 1 July 2014)

Recipients/benefits	LOD* (%)	Monthly amount €
Travel supplement (for blind persons)		157
Basic pension for injured persons**	30	132
	40	181
	50	243
	60	307
	70	426
	80	515
	90	619
	100	693
Age supplement on basic pension	50, 60	27
	70, 80	34
	90, 100	41
Severe disability supplement	Level I	80
	Level II	165
	Level III	246
	Level IV	329
	Level V	410
	Level VI	494
Compensatory pension for injured persons	50, 60	426
	70, 80	515
	90	619
	100	693
Married dependants' supplement		77
Care allowance	Level I	293
	Level II	500
	Level III	711
	Level IV	912
	Level V	1,185
	Level VI	1,457
Basic pension for widows		417
Compensatory pension for widows		459
Basic pension for orphans		
- having lost one parent		117
- having lost both parents		220
Compensatory pension for		
- having lost one parent		206
- having lost both parents		287
Parental pension for		
- 2 parents		564
- 1 parent		393
Supplement under BVG 51(2) for		
- 2 parents		103
- 1 parent		77
Supplement under BVG 51(3) for		
- 2 parents		320
- 1 parent		232
Funeral allowance: full		1,674
Funeral allowance: half		838
Clothing grant		20 – 129**

\* Level of disability

\*\* The precise euro amount depends on the level of impairment.

## Victims of violent crime

### Benefits and conditions

If your health has been damaged as a result of a violent crime that was committed in the Federal Republic of Germany or aboard a German ship or aircraft, you are entitled to the same benefits as a victim of war.

The Second Act Amending the Crime Victims Compensation Act (1993) extended these benefits to provide adequate coverage of other foreigners who have been legally resident in the Federal Republic for a longer period. Compensation is determined in part by how long the applicant has lived here – in other words, by the level of his or her integration into German society. Compensation is also granted to foreigners whose presence in the Federal Republic is deemed lawful on humanitarian or significant public interest grounds. There is a hardship clause for tourists and visitors.

Since 1 July 2009, Germans and legal aliens living in Germany have also been able to receive compensation if they fall victim to a violent crime after 1 July 2009 while abroad for a period of less than six months. As the emphasis here is on looking after the victim rather than any specific responsibility of the German state, victims in such circumstances are only paid compensation if none is paid by the offender and no other welfare system applies in the country where the offence is committed. Victims receive medical treatment for any injury or health impairment suffered as a result of the crime, and victims or their surviving dependants additionally receive lump-sum compensation. The Federal Ministry of Labour and Social Affairs provides support in applications for compensation for crimes committed in countries which are member states of the European Union.

### The law

The Crime Victims Compensation Act came into force on 16 May 1976. In most cases, it applies only to injuries arising from acts of violent crime committed after that date. For anyone who suffered an injury through violent crime between 23 May 1949 and 15 May 1976, compensation is granted in the form of a hardship allowance only under certain conditions.

Foreigners, who have been protected under the Act since the Second Act Amending the Crime Victims Compensation Act came into force, receive compensation for crimes committed after 30 June 1990. Compensation can also be paid on compassionate grounds for injuries suffered by foreigners as a result of crimes committed before this date.

### Information

Responsibility lies with the war pensions authorities. You may apply for the above benefits there or alternatively from any social security agency or, if you live abroad, a diplomatic mission of the Federal Republic of Germany in another country.

Important: Decisions taken by administrative authorities may be appealed against free of charge in a social court (responsible for social security and related matters). In the event that the benefits correspond to those granted under the war victims welfare scheme, appeals must be made to an administrative court.

If you are the victim of a violent crime in another EU member state, you can apply to the Federal Ministry of Labour and Social Affairs. This is the 'assisting authority' within the meaning of EU Directive 2004/80/EC and will pass your application on to the competent authority in the country concerned.

Note: Compensation for thalidomide victims is not governed by compensation benefit law. Such cases fall under the Act on the Establishment of an 'Assistance for the Disabled' Foundation. Further information is available from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, Rochusstr. 8-10, 53123 Bonn, Germany.

Further information is available on [www.bmas.de](http://www.bmas.de) (the website of the Federal Ministry of Labour and Social Affairs), including the German-language publication "Hilfe für Opfer von Gewalttaten" (on assistance for victims of violent crime).

## **Social assistance**

### **Sozialhilfe**

*Social assistance (Sozialhilfe) provides a safety net to protect people from poverty, social exclusion and hardship; it helps individuals and households who are unable and lack the resources to meet their own needs and have insufficient entitlement under other insurance and welfare systems that come before it.*

*The legislation on social assistance was comprehensively reformed in 2003 and now makes up Book XII of the Social Code (SGB XII). This came into force (with limited exceptions) on 1 January 2005. The main points and new features are described in the following.*

### **Aims of the new legislation and principles underlying social assistance**

Social assistance is provided so that everyone entitled to it can live in human dignity. This objective is enshrined in the opening words of SGB XII. Where income and savings fall short, social assistance covers the human minimum needed to maintain a socially acceptable living standard. It also aims to compensate as necessary for other impediments such as disabilities, need of nursing care or other exceptional social difficulties so that people can take part in community life as fully as possible. Reflecting its two main forms, social assistance used to be divided into assistance towards living expenses and assistance in special circumstances. This two-way division has now been replaced by a division into seven chapters covering assistance in specific sets of circumstances.

A free German-language brochure, 'Sozialhilfe und Grundsicherung' ('Social Assistance and Basic Security Benefits') provides an overview of social assistance law (A 207)

A further key thrust of social assistance is helping people to help themselves. According to the second sentence of SGB XII, the assistance aims to empower people to be non-dependent on it as far as possible, and claimants must contribute towards achieving this to the extent of their abilities. Claimants and social assistance agencies are also expected to cooperate in attaining this goal.

The general principles governing the provision of assistance are as follows:

- Assistance is tailored to individual needs, taking into account claimants' circumstances, wishes and abilities (SGB XII, Section 9).
- As a subordinate benefit, social assistance is not usually granted until all other resources have been exhausted – such as use of the income and assets of claimants and where applicable anyone required to support them, claimants' own earning capacity, and entitlements under other insurance and welfare systems that take precedence (SGB XII, Section 2).
- Social assistance does not have to be applied for. It is granted automatically as soon as it becomes known to a social assistance agency that the criteria for assistance have been met. The only exception is needs-based pension supplement in old age and in the event of reduced earning capacity under Chapter 4 (SGB XII, Section 18 and Section 41).
- Assistance is provided in the form of services, benefit payments and benefits in kind (other than services), with benefit payments generally taking priority over benefits in kind (SGB XII, Section 10). Provision of assistance is not restricted to benefits, however, and always includes advice, help in being an active member of the community, and other forms of support towards achieving non-dependence on social assistance (SGB XII, Section 11).
- Various provisions give increased priority to non-institutional over institutional assistance. For example, institutional forms of assistance are granted subject to an assessment of needs, available alternatives (including non-institutional support) and cost. Similarly, pregnant women and people with disabilities or in need of nursing care are excepted from a rebuttable presumption under Section 39 of SGB XII that a claimant's needs are met by others in a shared household.
- The provision of additional services in the form of comprehensive advice, education and support (establishing contacts, accompanying claimants on visits to social services, generating

opportunities for more in-depth consultation) helps people to help themselves and take an active part in the community.

## The social assistance reform: New challenges and legislative reorganisation

When the Federal Social Assistance Act came into force in 1962, its aim was to provide temporary emergency support for specific groups such as senior citizens on low pensions. Poverty among senior citizens did decline over subsequent years, but other problems took on increased urgency:

- Mass unemployment: Long-term unemployed, low-skilled foreign workers and unemployed young people without benefit entitlements increasingly needed assistance towards living expenses
- The decreasing stability of family units: For many single parents, assistance towards living expenses makes up for insufficient maintenance payments
- Immigrants making up new groups of claimants: Asylum-seekers, civil war refugees, 'resettlers' from Eastern European countries and unemployed foreign workers
- Demographic change: Increased numbers of people in need of dependent on assistance towards nursing care
- Increasing numbers of people with disabilities

Separate laws have been passed over the years for specific groups (asylum-seekers in 1993 and recipients of old-age and reduced earning capacity pensions in 2003) and specific circumstances (need of nursing care in 1995), taking them outside the scope of social assistance. Claimants (within the meaning of Section 8, SGB II) capable of earning and aged 15 to 64, together with their dependants, now cease to come under social assistance and instead can claim benefits under SGB II (basic security benefits for job-seekers). Needs-based pension supplement in old age and in the event of reduced earning capacity now forms Chapter 4 of SGB XII.

This shifting pattern of circumstances necessitating social assistance prompted a several-fold legislative response, comprising amendments to bring the Federal Social Assistance Act into line with the changed social situation and various new pieces of legislation taking specific groups and circumstances outside the scope of social assistance. An act governing benefits for asylum-seekers thus came into force in 1993, and another introducing long-term care insurance in 1995. In 2001, Book IX of the Social Code expressly reclassified social assistance agencies as rehabilitation agencies, but did not aim to establish separate assistance legislation or to reduce the burden on social assistance. Needs-based pension supplement from age 65 and in the event of reduced earning capacity between ages 18 and 64 was introduced as a separate primary benefit from January 2003 and now forms Chapter 4 of SGB XII governing social assistance.

In parallel with the incorporation of social assistance as SGB XII, a separate Book II of the Social Code (SGB II) was created for job-seekers able to work and aged between 15 and 64. Members of this

group now receive the new basic security benefits for job-seekers and (under SGB XII, Section 21) cannot claim assistance towards living expenses under Chapter 3 of SGB XII.

Like social assistance, the basic security benefits for job-seekers encompass services, cash benefits and non-cash benefits other than services. Their provision likewise takes claimants' individual circumstances into account. Precedence is given to overcoming the situation by integration into the labour market (using employment promotion policy instruments) or job-creation schemes with reimbursement of additional expenses. If they are not otherwise covered, individuals capable of earning who are between ages 15 and 64 and in need of assistance receive Unemployment Benefit II to meet their costs of living (SGB II, Section 19); any individuals in the household who are not capable of earning are entitled to social benefit (Sozialgeld) (SGB II, Section 28). Both types of benefit correspond in amount and structure to assistance towards living expenses under SGB XII but have to be applied for (SGB II, Section 37). The standard rates were brought into conformity with constitutional requirements by legislation dated 29 March 2011 on the determination of standard rates of benefit and amending Book II and Book XII of the Social Code.

In response to a Federal Constitutional Court decision, the standard rates for children and adolescents – which determine the standardised subsistence-level benefit rates – are set directly at different levels according to age group. The rates are no longer defined as a percentage of the former reference rate (now standard rate 1).

## Types of social assistance

In its new form, social assistance covers:

- Assistance towards living expenses (SGB II, Sections 27-40)
- Needs-based pension supplement in old age and in the event of reduced earning capacity (Sections 41-46)
- Assistance towards healthcare (Sections 47-52)
- Integration assistance for disabled persons (Sections 53-60)
- Assistance towards nursing care (Sections 61-66),
- Assistance in overcoming special social difficulties (Sections 67-69)
- Assistance in other circumstances (Sections 70-74)

Each of these is provided together with advice and support as necessary.

## Outline of the sectoral chapters in SGB XII

### Chapter 3: Assistance towards living expenses (SGB XII, Sections 27-40)

Assistance towards living expenses (Hilfe zum Lebensunterhalt) is mostly paid out to individuals living at home; a cohabiting spouse or civil partner and any under-age children living in the same household are deemed part of the recipient's joint household. Under Section 27a of SGB XII, necessary living expenses include food, accommodation, clothing, bodycare, household effects, heating, and everyday personal necessities. The latter include reasonable expenditure on maintaining contacts with the outside world and on taking part in cultural life. This definition shows that over and above securing a physical subsistence level, social assistance also provides for a minimum human standard of living to enable participation in the community.

The former two-way division of social assistance into assistance towards living expenses and assistance in special circumstances has been replaced by a division into seven chapters, each covering assistance in specific sets of circumstances.

Assistance towards living expenses is paid where possible as a cash benefit. The potential recipient's needs are assessed first, and then their income and assets are brought into account (as stipulated in Chapter 11 of SGB XII). The needs assessment for assistance towards living expenses is made up as follows:

- New standard rates apply from 1 January 2011. The euro amounts as of 1 January 2016 are as follows:
  - Standard rate 1: €404:  
For an adult entitled to assistance running his or her own household as a single person or a single parent, including if the household is shared with one or more additional adults who come under standard rate 3.
  - Standard rate 2: €364:  
For each of two adults entitled to assistance running a shared household as a married couple, as civil partners or in an equivalent relationship.
  - Standard rate 3: €324:  
For an adult entitled to assistance who neither runs his or her own household nor runs a shared household as a spouse, civil partner or in an equivalent relationship.
  - Standard rate 4: €306:  
For an adolescent entitled to assistance from 15 to 18 years of age.
  - Standard rate 5: €270:  
For a child entitled to assistance from 7 to 14 years of age.
  - Standard rate 6: €237:  
For a child entitled to assistance up to six years of age.
- New education and participation rates for children and adolescents secure them a human minimum standard of living and participation in the community for school pupils. These rates are recognised independently of the standard rate so that targeted assistance can be provided for better integration of children and adolescents in need into the community.
- Accommodation in the amount of reasonable rent; if this is found to be 'unreasonably high' it is paid while a move to less expensive accommodation remains impossible or unreasonable (usually up to a maximum of six months) (SGB XII, Section 35).
- Heating costs in the amount of actual expenses incurred, provided they are reasonable. Costs of centrally supplied hot water are paid in the actual amount incurred; a lump sum for hot water is no



longer deducted from the standard rate. If water is heated in the living unit (e.g. by a boiler), the additional cost is recognised (SGB XII, Section 30 (7)).

- Rent arrears are paid to prevent eviction (SGB XII, Section 36).
- Social assistance agencies are allowed to pay a flat rate for accommodation and heating costs in certain circumstances.
- Supplementary assistance is recognised for additional costs not covered by the standard rate in certain situations and special circumstances provided that the individual requirements are met.
- Non-recurring assistance is provided for setting up a household and initial outfitting with clothes (including maternity needs) and for the purchase and repair of orthopaedic shoes and the repair and rental of therapy equipment (SGB XII, Section 31). Assistance is granted as a loan in the case of undeniably necessary special items normally covered by the standard rate (SGB XII, Section 37).
- Health and long-term care insurance can be paid, as can pension contributions (SGB XII, Sections 32 and 33).

The standard rates and non-recurring assistance are paid on a flat-rate basis. Other assistance towards living expenses is generally paid in the amount of the actual cost incurred. Non-recurring assistance is not available for other undeniably necessary special items normally covered by the standard rate; such items are now paid for with a loan, repayment of which begins while still in receipt of assistance towards living expenses.

Assistance towards living expenses is also paid in institutional accommodation. Besides furnishings, it then generally includes clothing and pocket money for personal use; for adults, this is 27% of standard rate 1 (SGB XII, Section 27b).

German citizens living abroad cannot receive assistance towards living expenses unless they are in an 'exceptional emergency' and there are specific reasons preventing their return (SGB XII, Section 24).

## **The new education package**

The new education package (assistance for education and participation) for pupils attending general education or vocational schools includes:

- Costs of one-day school/daycare centre outings
- Assistance for multiple-day school trips
- Assistance for personal school supplies (€70 for the first and €30 for the second half of the school year)
- Costs of pupils' transportation to/from school, where necessary and if not already met from other sources
- Assistance for learning support in specific circumstances
- Additional costs of communal school meals
- Monthly budget of €10 for participation in social and cultural life

The assistance for participation in the social and cultural life of the community naturally also applies on a supplementary basis for people with disabilities, as part of integration assistance.

## **Chapter 4: Needs-based pension supplement in old age and in the event of reduced earning capacity (SGB XII, Sections 41-46a)**

Under Chapter 4 of SGB XII, all individuals from age 65 and individuals from age 18 who have suffered complete loss of earning capacity solely through medical causes are entitled to pension supplement if they are in need and their normal place of residence is in Germany. The pension supplement is equal in amount to non-institutional assistance towards living expenses (Chapter 3); unlike assistance towards living expenses, it has to be applied for. The supplement is generally granted for a year at a time. Income such as a pension and assets belonging to the claimant, to the claimant's spouse or civil partner (provided they do not live separately) or to the claimant's partner in a marriage-like relationship are taken into account as for social assistance, but no recourse is made to children or parents who would otherwise be legally required to support the claimant if their annual income is under €100,000.

There is no presumption that entitled individuals who live in a shared household with relatives or in-laws receive help with living expenses from them. As with assistance towards living expenses, any actual help

received is taken into account against the assistance rates. In all other respects, the rules are essentially the same as for assistance towards living expenses.

## **Information**

Information about needs-based pension supplement in old age and in the event of reduced earning capacity is provided by the social assistance agencies and statutory pension agencies – both for people with pension insurance and on request for all potentially entitled uninsured individuals.

### **Chapter 5: Assistance towards healthcare (SGB XII, Sections 47-52)**

Assistance towards healthcare covers the same entitlements as those for statutory health insurance. This means that social assistance recipients without health insurance receive the same health care provision as those who pay into the statutory health insurance fund. The statutory health insurance funds assume the costs of medical treatment for non-insured recipients of social assistance and are then reimbursed.

Social assistance recipients lacking health insurance choose one of the health insurance funds authorised by the assistance provider. The health insurance fund provides social assistance recipients with health insurance cards to allow them to claim medical treatment as needed. Although they are not strictly members of the health insurance fund, doctors and other health care providers recognise and treat them as insured patients.

The competent social assistance office reimburses the health insurance fund for the costs of the health care services provided under the assistance towards healthcare rules. Equal treatment of non-insured social assistance recipients and insured patients means that social assistance recipients must also pay patients' contributions towards treatment within their assessed means.

### **Chapter 6: Integration assistance for disabled persons (SGB XII, Sections 53-60)**

Integration assistance is provided in part on a separate basis. Further details are laid down in SGB XII, Section 92. On application by the entitled individual, integration assistance is provided in the form of a 'personal budget'.

Integration assistance for people with disabilities is provided for the purposes of prevention, rehabilitation and integration. It aims to avert disabilities or to eliminate or relieve their consequences, and to integrate people with disabilities into the community (SGB XII, Section 53 (3)). Anyone who has or is at risk of a lasting physical, mental or psychological disability is entitled to assistance.

Essentially the same forms of integration assistance are provided under SGB XII as were previously available under the Federal Social Assistance Act and SGB IX. Section 92 of SGB XII limits the extent to which the income and assets of people with disabilities can be taken into account. In addition to the forms of assistance previously available, integration assistance can now also be provided as part of a cross-agency personal budget.

### **Chapter 7: Assistance towards nursing care (SGB XII, Sections 61-66)**

Social assistance also supports people in need of nursing care by paying part or all of the costs of care.

The introduction of long-term care insurance (SGB XI) significantly reduced the burden of social assistance for nursing care. The new primary, insurance-based system has provided home care, part-time institutional care and short-term care benefits since April 1995 and institutional care benefits since July 1996.

Since the introduction of long-term care insurance, social assistance has mainly been responsible for people who do not meet the criterion of having 'considerable' need of care (Level I care under Section 15 of SGB XI), for cases of cost-intensive (extreme) care where long-term care insurance benefits are insufficient due to their upper limit, for meeting accommodation, food and investment costs for people in institutional care, and for people not covered by long-term care insurance.

## **Chapter 8: Assistance in overcoming special social difficulties (SGB XII, Sections 67-69)**

Assistance in overcoming special social difficulties is intended for people in exceptionally adverse circumstances with attendant social difficulties. This primarily includes people affected by homelessness and associated problems.

## **Chapter 9: Assistance in other circumstances (SGB XII, Sections 70-74)**

Chapter 9 covers various forms of assistance: assistance with household upkeep (SGB XII, Section 70), assistance for the elderly (Section 71), assistance for the blind (Section 72), funeral expenses (Section 74) and, as a catch-all provision, assistance in circumstances not otherwise provided for (Section 73).

## **Other provisions**

The remaining parts of SGB XII contain:

- Chapter 10: Facilities and services (SGB XII, Sections 75-81)
- Chapter 11: Accounting for income and assets; assignment of maintenance claims (SGB XII, Sections 82-96)
- Chapter 12: Responsibilities (SGB XII, Sections 97-101)
- Chapter 13: Repayment of costs of assistance; transfer charging between agencies (SGB XII, Sections 102-115)
- Chapter 14: Rules of procedure (SGB XII, Sections 116-120)
- Chapter 15: Statistics (SGB XII, Sections 121-129)
- Chapter 16: Transitional and final provisions

## **Information on the income deduction rules**

Entitled individuals can retain 30% of their earnings from employment, where any employment is assumed under SGB XII to be for less than three hours a day since individuals capable of working more than this would come under SGB II, basic security benefits for job-seekers (although people with disabilities working in sheltered workshops are, as before, allowed to keep earnings equalling 12.5% of standard rate 1 plus 25% of their pay in excess of this amount).

Employment promotion benefit under SGB IX, Section 43, sentence 4 is now exempt from deduction from any form of social assistance and not solely from institutional integration assistance.

With regard to assistance under Chapters 5-9, SGB XII stipulates an income limit equal to 200% of standard rate 1 plus 70% of standard rate 1 for additional family members and accommodation costs.

If adults with disabilities or in need of nursing care have a claim to maintenance, the claim is automatically assigned (with limited exceptions) to the social assistance agency at a flat rate of up to €32.08 a month for integration assistance for people with disabilities and assistance towards nursing care, and up to €24.68 a month for assistance towards living expenses. As a rule, no recourse is made to relatives who would otherwise be legally required to provide maintenance in respect of needs-based pension supplement in old age and in the event of reduced earning capacity.

## **Housing benefit**

### **Wohngeld**

*Good housing is expensive – too expensive for some people. This is why there is housing benefit (Wohngeld).*

*Housing benefit is a state subsidy towards housing costs for people with low incomes. The objective is to enable people to live in adequate, family-friendly conditions. Housing benefit is granted to occupants on application in the form of rent support (Mietzuschuss) for tenants and home upkeep support (Lastenzuschuss) for homeowners. It does not matter whether the property is old or new, or whether it was built with the help of government subsidies or tax concessions or was entirely privately financed.*

*Housing benefit is called rent support (Mietzuschuss) when it is granted to tenants, and mortgage and home upkeep support (Lastenzuschuss) when granted to homeowners.*

### **Benefits and conditions**

Rent support is available to people who:

- Rent a flat or a room
- Sub-rent a flat or a room
- Own a flat in a co-operative or a housing trust
- Have been granted a right of use or a permanent dwelling right equivalent to a tenancy
- Own a multi-unit dwelling (with three or more flats), provided they also live in it
- Live in a home

Mortgage and home upkeep support is available to people who own:

- A one or two-family house
- An owner-occupied house or flat
- A heritable right to build,
- A permanent dwelling right equivalent to ownership
- A claim to be transferred title in a building or dwelling, or a claim to be transferred or granted a heritable right to build provided they live in the accommodation in question

### **Non-entitlement to housing benefit**

Housing benefit is not granted to persons entitled to:

- Unemployment Benefit II and social benefit (Sozialgeld) under Book II of the Social Code (SGB II)
- Assistance provided under Section 27 (3) of SGB II
- Transitional allowance equal in amount to unemployment benefit II under the first sentence of Section 21 (4) of SGB VI
- Injury benefit equal in amount to unemployment benefit II under Section 47 (2) of SGB VII
- Needs-based pension supplement in old age and in the event of reduced earning capacity under SGB XII
- Assistance towards living expenses under SGB XII
- Supplementary assistance towards living expenses and other assistance in a facility under the Federal War Victims Relief Act (Bundesversorgungsgesetz) or other legislation under which that act applies
- Assistance in special cases and basic assistance under the Asylum Seekers Assistance Act (Asylbewerberleistungsgesetz)
- Assistance under SGB VIII in households consisting solely of recipients of such assistance and their dependants taken into consideration in its assessment where the costs of accommodation are included.

Applications for housing benefit may not be refused in cases where its provision would prevent or remove the need for assistance and one of the above-mentioned benefits has either not been or will not be provided but ranks below the provision of housing benefit.

## Legal entitlement

Housing benefit is not a form of government charity. Anyone who is able to claim housing benefit is also legally entitled.

## Eligibility criteria

Several factors determine whether you receive housing benefit and the amount you receive. They include:

- The number of members in your household (these mainly include the person entitled to housing benefit, spouse, civil partner, partner in another relationship of shared responsibility, parents, children – including foster children – brothers and sisters, uncles, aunts, brother-in-law and sister-in-law)
- The amount of rent or mortgage payment that qualifies for support. However, a ceiling applies to the amount of rent or mortgage payments that can be taken into account depending on the number of members of your household eligible for consideration and the official table of maximum rents.
- Total monthly income of all household members who are required to be taken into account

It is important to note that household members who are required to be taken into account must give the housing benefit office information about their circumstances relevant to housing benefit.

## Calculation of total income

The determination of income for housing benefit purposes is based on income tax law. The relevant income figure is therefore positive taxable income within the meaning of Section 2 (1) and (2) of the German Income Tax Act (Einkommensteuergesetz). A catalogue of tax-exempted incomes is also used in the calculation.

The total income figure is the sum total annual income of all household members, minus certain deductions for tax and social insurance contributions and exempt amounts for certain groups (such as household members who are severely disabled). Applicants must provide proof of the income figures they state.

The annual income stated in an application is the amount that applicants expect to earn while receiving benefit.

## Housing benefit and income ceilings

The table below shows by way of guidance, based on the number of household members who are required to be taken into account, the total income ceilings (rounded down to the nearest euro) above which there is no longer any entitlement to housing benefit.

Number of members of the household	Monthly total income limits in euros in accordance with the housing benefit formula in communities covered by the official table of maximum rents*					
	I	II	III	IV	V	VI
1	850	892	923	955	986	1,010
2	1,166	1,216	1,262	1,307	1,350	1,384
3	1,427	1,483	1,534	1,585	1,635	1,672
4	1,909	1,970	2,023	2,075	2,127	2,166
5	2,177	2,244	2,304	2,362	2,419	2,461

## **What you have to do**

To receive housing benefit, you have to submit an application to the competent local authority housing benefit office and produce proof of eligibility. You can obtain the forms from the housing benefit office and in some cases from your local authority's website.

## **The entitlement period**

Housing benefit is usually granted for 12 months at a time. It may however run for a shorter or longer period. When you decide to apply, please remember that, at the earliest, housing benefit is paid beginning with the month your application is received.

If you continue to need housing benefit after your entitlement period has ended, you will have to reapply. If possible, you should submit your application two months in advance to avoid a possible interruption in payments.

## **The law**

The underlying legislation can be found in the Housing Benefits Act as supplemented by the Housing Benefits Ordinance.

## **Information**

Staff at the local housing benefit office have a legal duty to advise you on your rights and obligations under the Housing Benefit Act.

More detailed information about housing benefit law is available on the website of the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety.

## **International social security** **Internationale Sozialversicherung**

*German social security law primarily applies for circumstances within Germany.*

*But our lives are becoming increasingly international. Today, millions of people work in other countries or visit them as tourists. And this trend makes it important for social security benefits to be paid across borders or provided in other countries.*

*As social insurance systems vary considerably from country to country, European Union (EU) regulations and bilateral agreements between the Federal Republic of Germany and countries outside of the EU coordinate member states' and contracting states' national social security rules across borders.*

*Within the European Union, common rules stipulate in particular that workers and self-employed persons are not placed at a disadvantage when working in other member states.*

*The agreement on the European Economic Area (EEA) extends this legal framework to include Norway, Iceland and Liechtenstein. It also applies in Switzerland.*

Similar agreements have been concluded with a number of countries with which Germany has signed social security agreements. These include:

- Australia
- Bosnia-Herzegovina
- Brazil
- Canada
- Chile
- China (secondment)
- India (secondment)
- Israel
- Japan
- Macedonia
- Montenegro
- Morocco
- Serbia
- South Korea
- Tunisia
- Turkey
- Uruguay
- USA

The social insurance agreements with China and India exclusively relate to the avoidance of double contribution payments when an employee from one country works in the other.

None of these agreements is concerned with harmonising security systems. The purpose is coordination. The shape taken by social systems (what benefits are paid in what circumstances) remains the sole responsibility of the individual countries.

### **General**

The European Union provisions and some of the social security agreements are very comprehensive. The most important provisions involve benefits provided in the event of illness, invalidity and old age, those

A free German-language brochure, 'Die Länder Europas' ('The Countries of Europe') compares the political and social security systems (A 871).

granted to surviving dependants and to people who have suffered an industrial accident, and family benefits.

The international agreements are based on two assumptions:

1. That all persons covered by them enjoy the same status regarding their rights and duties in social welfare matters.
2. That people who move among the member states and contracting states, together with their families, are not placed at any disadvantage as a result.

A free German-language brochure, 'Soziales Europa von A-Z' ('Social Europe A-Z') is a glossary of social policy terms (A798)

Bilateral agreements (those with non-EU states) apply primarily to:

- German nationals
- Nationals of the other contracting state
- Refugees
- Stateless persons

'Europäische Sozialpolitik' ('European Social Policy') is a German-language guide to websites of the various EU countries and EU institutions (A799).

## The law

Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 provide the basis for social security coverage within the European Union, the European Economic Area (EEA) and Switzerland. The above-listed social security agreements apply elsewhere.

## Health and long-term care insurance

### Benefits and conditions

You and your family are normally subject to the rules and regulations in the member state where you live. If you have moved to another EU country to work, you will have health insurance coverage there and receive any necessary benefits from the health insurance funds there, with which you have to register. If you are temporarily posted by your German employer, however, you retain your health insurance in Germany. If you live in another member state than the one that is responsible for you, you receive non-cash benefits and services in accordance with the rules and regulations of the state in which you live.

In the states referred to, you are entitled to medically necessary medical care that cannot be postponed until your planned return. If you go to a member state to obtain medical treatment, your German health insurance is required to refund your expenses up to the amount you would have incurred for the same treatment in Germany. The prior consent of your health insurance is required.

### What you have to do

In processing your claims, health insurance providers notably need to exchange data with providers in other member states, primarily because treatment is carried out by a local provider on behalf of the provider responsible for you, with the two providers clarifying matters afterwards. Internationally standardised documents have been created for the exchange of the information needed for this purpose. The forms you will need differ according to your personal situation (employee, pensioner, tourist, etc.). The most widely known document is the European Health Insurance Card (EHIC), which is usually printed on the back of your national health insurance card and which you need for vacation travel.

You should obtain information and advice in advance about the documents you need and any special requirements that apply in your case before travelling to the member state of your destination.

Long-term care insurance benefits and services are provided subject to the same rules as health insurance. Nursing care allowance is therefore also paid during a stay in another member state.

## Information

Advice and information is provided by your health insurance fund. You may also contact the GVK-Spitzenverband, Deutsche Verbindungsstelle, Krankenversicherung-Ausland (DVKA) (the German liaison office for health insurance abroad), Pennenfeldsweg 12c, 53177 Bonn, Germany.



## Occupational accident insurance

### Benefits and conditions

In the event of an occupational accident or occupational illness, you are entitled to non-cash benefits and services in accordance with the law of the member state where you live. Monetary benefits are provided by the state in which you were insured when the occupational accident occurred or when you contracted the occupational illness, regardless of where you live.

Take the following example: You are a German national and have been working in France for a French company and are now returning to Germany after having suffered an accident at work. Your French insurance fund will pay a disability pension to you in Germany. You will also be entitled to receive the medical treatment you need in either country.

### What you have to do

If you want to apply for benefits, you should contact your insurance fund in Germany or, if you are abroad, the foreign insurance fund in the country you are in. There are various formalities that it is essential to observe.

### Information

Information and advice is provided by the various accident insurance funds and employers' liability insurance funds (Berufsgenossenschaften) and by Deutsche Gesetzliche Unfallversicherung (DGUV) (German Statutory Accident Insurance), Glinkastrasse 40, 10117 Berlin, Germany.

## Pension insurance

### Benefits and conditions

If you have worked in various EU member states during the course of your working life, insurance contributions that have already been paid are neither transferred to another member state nor paid out to you if you end your period of insurance in one member state. In every member state you have been insured in, your contributions are retained until you reach the stipulated pensionable age. Each member state then pays a separate pension. If your insurance periods are not sufficient to give you entitlement to a pension in any one member state, the respective periods during which you were covered by pension insurance in another member state will be added together and applied toward your qualifying period. As a rule, each insurance fund will pay a part of the pension proportionate to the periods during which you were insured with it. Survivors' pensions are paid on the same basis. Your pension will then be paid out in the state where you reside or stay.

The German-language publication 'Sozialkompass Europa' ('Social Compass Europe') (A 801) can be ordered from [www.bmas.de](http://www.bmas.de).

Current data for the whole of Europe is also available at [www.sozialkompass.eu](http://www.sozialkompass.eu)

### What you have to do

If you have worked in more than one member state, you do not need to apply to all pension funds involved. A single application also covers the pension funds in other member states.

### Information

Information and advice regarding EU and EEA member states and other contracting states are provided by the following:

- Deutsche Rentenversicherung Bund ([www.deutsche-rentenversicherung-bund.de](http://www.deutsche-rentenversicherung-bund.de))
- Deutsche Rentenversicherung Knappschaft-Bahn-See, ([www.deutsche-rentenversicherung-knappschaft-bahn-see.de](http://www.deutsche-rentenversicherung-knappschaft-bahn-see.de))

And by Deutsche Rentenversicherung's regional agencies:

- For Greece, Cyprus, Liechtenstein and Switzerland; Baden-Württemberg ([www.deutsche-rentenversicherung-bw.de](http://www.deutsche-rentenversicherung-bw.de))
- For Poland; Berlin Brandenburg ([www.deutsche-rentenversicherung-berlin-brandenburg.de](http://www.deutsche-rentenversicherung-berlin-brandenburg.de))
- For Japan and South Korea; Braunschweig-Hannover ([www.deutsche-rentenversicherung-braunschweig-hannover.de](http://www.deutsche-rentenversicherung-braunschweig-hannover.de))
- For Hungary and Bulgaria; Mitteldeutschland ([www.deutsche-rentenversicherung-mitteldeutschland.de](http://www.deutsche-rentenversicherung-mitteldeutschland.de))
- For Austria, Slovakia, Slovenia, the Czech Republic, Bosnia-Herzegovina, Croatia, Macedonia, Serbia, Montenegro, Kosovo; Bayern-Süd ([www.deutsche-rentenversicherung-bayernsued.de](http://www.deutsche-rentenversicherung-bayernsued.de))
- For Denmark, Estonia, Finland, Great Britain, Ireland, Latvia, Lithuania, Norway, Sweden, China, Canada and the USA; Nord ([www.deutsche-rentenversicherung-nord.de](http://www.deutsche-rentenversicherung-nord.de))
- For Brazil, Portugal, Romania and Turkey; Nordbayern ([www.deutsche-rentenversicherung-nordbayern.de](http://www.deutsche-rentenversicherung-nordbayern.de))
- For Australia; Oldenburg-Bremen ([www.deutsche-rentenversicherung-oldenburg-bremen.de](http://www.deutsche-rentenversicherung-oldenburg-bremen.de))
- For Belgium, Spain, Chile and Israel; Rheinland ([www.deutsche-rentenversicherung-rheinland.de](http://www.deutsche-rentenversicherung-rheinland.de))
- For France and Luxembourg; Rheinland-Pfalz ([www.deutsche-rentenversicherung-rheinland-pfalz.de](http://www.deutsche-rentenversicherung-rheinland-pfalz.de))
- For Italy, Malta, Morocco and Tunisia; Schwaben ([www.deutsche-rentenversicherung-schwaben.de](http://www.deutsche-rentenversicherung-schwaben.de))
- For the Netherlands and Iceland; Westfalen ([www.deutsche-rentenversicherung-westfalen.de](http://www.deutsche-rentenversicherung-westfalen.de))

## Family benefits

### Benefits and conditions

Family benefits are paid in all member states. However, the form and amount of benefits vary considerably from state to state. You should therefore find out which member state is responsible for granting benefits and what are the criteria or entitlement.

If you are unconditionally required to pay tax or are gainfully employed in Germany, you can receive child benefit (Kindergeld) for your children, even if they live in other member states.

If you work in one another member state (but weren't sent there by your German employer), you will normally receive child benefit for your children who live in Germany according to the provisions that apply in the country where you work.

### What you have to do

Family benefits have to be applied for. Submit an application to your local family benefits department (Familienkasse) or to your employer if it is a public body. If you have a foreign claim, you should contact the competent foreign agency. Further information is available in special leaflets.

## Information

Information and advice are provided by the local family benefits department (Familienkasse).

## Unemployment insurance

### Benefits and conditions

If you are unemployed and move to another member state or to Norway, Iceland, Liechtenstein or Switzerland in order to seek employment there, you may continue to receive German unemployment benefits under certain circumstances for a maximum period of three or at the outside six months. Your payments continue in Germany if you return there within this period. If you are unemployed, were

previously employed in Germany and are now in Bosnia-Herzegovina, Serbia, Montenegro or Macedonia, in certain circumstances you can receive benefits from that country's insurance fund.

## What you have to do

You must fulfil the following requirements in order to continue receiving German unemployment benefits after moving to another member state: Before your departure, you must have been registered with the German employment services as an unemployed person and have been available for work for at least four weeks after becoming unemployed. You are also required to register as a job seeker with the employment services in the EU member state you have moved to within seven days of your arrival.

### Information

Information and advice are provided by your local employment office (*Arbeitsamt*) and by Federal Employment Services (*Bundesanstalt für Arbeit*) in Nuremberg.

## **The social courts**

### **Sozialgerichtsbarkeit**

*Social security and legal protection by the social courts go hand in hand. The social courts ensure that, in case of need, anyone can have their rights under social welfare law reviewed and enforced through the courts.*

### **Jurisdiction of the social courts**

The social courts firstly judge disputes involving social insurance matters. These include health insurance, occupational accident insurance and pension insurance. Secondly, the social courts decide on cases involving unemployment insurance, social compensation law with the exception of compensation and assistance for war victims, and the law relating to severe disabilities. Since 1 January 2005, the social courts have also been the courts of responsible jurisdiction for disputes about basic security benefits for job-seekers ('Hartz IV' benefits), social assistance and benefits for asylum seekers.

### **Organisation of the social courts**

The social courts are organised in three levels. The social courts of first instance are known as Sozialgerichte. Länder social courts (Landessozialgerichte) – one for each of the sixteen German states – adjudicate in the second instance. The final instance is the Federal Social Court (Bundessozialgericht). Each first-instance social court has a number of chambers, each dealing with specific areas of law within the social court jurisdiction. A chamber comprises a professional presiding judge and two lay assistant judges. The Länder social courts primarily take appeals against decisions of the first-instance social courts. Their senates comprise a presiding judge, two additional professional judges and two lay judges. The senates of the Federal Social Court, which decides appeals on points of law, likewise consist of a presiding judge, two additional professional judges and two lay judges.

The lay judges have the same rights and duties as the professional judges. Lay judges appointed to social court chambers and senates are selected for their particular experience as practitioners in the applicable area of law.

### **Filing a complaint**

Before filing for reversal of an administrative decision or for the granting of a refused administrative decision, complainants must generally first lodge an administrative appeal against the decision or refusal. Such appeals must be lodged in writing with or dictated into the record at to the office that issued the decision or refusal, within one month of its issue. The authority or agency concerned then reviews the lawfulness and expediency of the decision or refusal in an administrative appeal procedure. If an authority or agency finds an administrative appeal to be justified, it reverses the disputed decision and if applicable grants the decision sought. If not, the authority or agency responsible for taking the administrative appeal issues a notice rejecting it and affirming the decision or rejection. In this event, a complaint can be filed with a social court.

Complaints must be filed with the court of competent jurisdiction in writing or dictated into the record. 'Dictated into the record' means that complainant files a complaint by describing the matter at dispute to the clerk of the court, who puts the complaint in writing. The complaint must name the complainant and the respondent. It must also state the remedy sought. If there is a decision notice, it should be filed with the complaint. Facts and evidence supporting the complaint must also be given.

Complaints must be normally filed with the first-instance social court of local jurisdiction for the complainant's place of domicile at the time.

There is a time limit for bringing complaints: A complaint must be filed with the competent social court within one month of the notice rejecting the administrative appeal.

## **Court proceedings**

Social court proceedings generally include one oral hearing. In advance of the oral hearing, the presiding judge can request papers, electronic documents and health records. The presiding judge can also request information, hear witnesses, including expert witnesses, commission written opinions from expert witnesses, summons others to appear at the hearing, and discuss the matter in person at a meeting with the parties so that the dispute can be dealt with if possible in a single hearing. The oral hearing is public and is chaired by the presiding judge. The latter first announces the case, after which instructions are given to any witnesses who have been summonsed. The witnesses then leave the courtroom until they are heard. The presiding judge next presents the facts and the dispute as they stand. Any evidence is then taken and heard as necessary, and the complainant and respondent state their case. Once the dispute has been heard, the presiding judge declares the oral hearing closed.

Taking and hearing evidence is a very important part of social court proceedings. It consists of hearing witnesses, including expert witnesses such as doctors, and review of documents submitted in support of specific factual claims. The court is not restricted to evidence submitted by the parties to a case, because social court proceedings are governed by the principle that the court must investigate the matter on its own initiative. It must determine all facts material to deciding a case. The parties can be called in to assist in this process.

Parties to social court proceedings can be represented by someone who has their power of attorney. This is only absolutely necessary before the Federal Social Court. Such representation might be provided by a lawyer, or an employee of a union or employer's association.

Court proceedings normally end with a decision. This is usually announced at the session in which the oral hearing is held and brought to conclusion.

## **Judicial review of social court decisions**

Two types of appeal are possible: an appeal on the merits of the case (Berufung) and an appeal on a point of law (Revision). An appeal on the merits can in principle be lodged against any decision of a first-instance social court; an exception is where the amount at dispute is less than €750, for which an appeal on the merits can only be lodged if the first-instance court expressly gives leave to appeal. The amount at dispute is the difference between what the appellant received in the proceedings before the first-instance social court and what he or she seeks on appeal. In an appeal on the merits, the competent Länder social court reviews all factual and legal aspects of the case.

A decision handed down by a Länder social court can be contested by an appeal to the Federal Social Court on a point of law. Unlike an appeal on the merits, an appeal can only be taken to the Federal Social Court if the Länder social court expressly gives leave to appeal. Leave must be granted, for example, if the issue is of fundamental significance – for example because it is one on which the Federal Social Court has not yet handed down a decision or it affects the public interest – or if the Länder court decision is at variance with a decision of the federal court. If a Länder social court denies leave to appeal, a complaint can be filed against the denial. In an appeal on a point of law, the Federal Social Court does not review the factual aspects of a case, focusing instead on the legal point at issue.

An appeal on the merits of the case or an appeal on a point of law must be submitted within one month of the decision being served.

## **Cost of social court proceedings**

Proceedings before the social courts are free of court costs to insured persons in the statutory insurance system, except in cases brought on account of exceptionally long court proceedings. Complainants not in any of the mentioned groups – for example social assistance agencies – must pay a flat-rate fee. If neither the claimant nor the respondent is in any of the three exempt groups, court fees are levied according to the amount at dispute as with other types of court.

## **Social security data protection**

### **Sozialdatenschutz**

### **Principles of social security data protection**

Guaranteeing social welfare rights through social security systems unavoidably entails the handling of personal data (social security data) on the citizens concerned. However, the collection, processing and use of often highly sensitive personal data, for example on people's health conditions, must generally be regarded as an infringement of the individual's constitutional right of informational self-determination. In view of this, particularly strict rules apply.

The constitutional requirement for laws safeguarding social security data as a class of personal data in special need of protection has been met with the provisions on social security confidentiality in Section 35 of Book I of the Social Code ('SGB I'), social security data protection (SGB X, Chapter 2, Sections 67-85a) and supplementary data protection provisions in other parts of the social code. These provisions ensure a high level of protection while safeguarding the functioning of the social insurance system.

Social security data consists of individual items of information about the person or effects of a specific or identifiable individual that are collected, processed or used by, for example, a social welfare provider in the performance of its duties under the Social Code. Business and trade secrets are equivalent to social security data before the law. Special rules apply in some cases for particularly sensitive personal data such as health data.

Collection, processing and use of social security data is only lawful if there is statutory authorisation allowing it or if the individual concerned gives their consent (prohibited subject to consent). The law must, therefore, define the type of personal data that may be collated, processed or used by social security providers. Also, in the collation of personal data, the principle applies whereby the data may only be collected, processed and used if the responsible agency needs them to fulfil its duties. These are usually a social assistance provider, such as a pension insurance fund or a health insurance fund. For example, health insurance funds may only collect personal data if needed to determine an individual's insurance status and membership of the fund. The data may generally only be processed and used for the purpose for which it is collected (the principle of purpose).

The provisions regarding social security secrecy and data protection and privacy apply independent of the prevailing national or Länder (state) Social Code.

Example:

- An employers' liability fund provides a pension fund with information on an injury pension so that the pension fund can assess whether, and if applicable in what amount, it is allowed to deduct pension benefits under SGB VI, Section 93.

Individuals and agencies to whom social data is communicated must maintain the same level of confidentiality as agencies directly subject to social security confidentiality.

### **Communication of data**

Communication of social security data is a particular form of data use and is only lawful with the consent of the individual concerned or if there is statutory authorisation to communicate the data under the Social Code. In the statutory definition, communication means making social security data stored or acquired by data processing known to a third party by way of the data being passed on to the third party or the third party viewing or retrieving data made available for viewing or retrieval.

Common circumstances in which data is communicated:

- Communication of specific enumerated data such as name or address for the work of the police, public prosecutors, etc.
- Communication for the performance of social welfare responsibilities
- Communication for occupational health and safety purposes
- Communication for the performance of special statutory responsibilities and notification powers
- Communication for research and planning

Communication for the performance of social welfare responsibilities is particularly important in practice.

### **Rights of the affected individual**

Protection of social security data provides for a range of special individual rights. If an individual believes that their rights have been breached in the collection, processing and use of their social security data, they may appeal to the Federal Commissioner for Data Protection (Bundesbeauftragten für den Datenschutz) or the responsible agency as defined by Länder (state) law (usually the regional commissioner for data protection). Also, Book X of the Social Code provides rights of information, correction of erroneous data and compensation for affected individuals.

## **Publisher's information**

### **Published by:**

Federal Ministry of Labour and Social Affairs  
Division LK 7 Information, Monitoring, Services for Citizens, Library  
53107 Bonn  
Germany

Information as of January 2016

### **Ordering service:**

Order no.: A 998  
Phone: + 49 (0) 30 18 272 272 1  
Fax: + 49 (0) 030 18 10 272 272 1

Postal address: Publikationsversand der Bundesregierung  
Postfach 481009  
18132 Rostock  
Germany

Email: publikationen@bundesregierung.de  
Website: <http://www.bmas.de>

Service for people with hearing impairments:  
Email: [info.gehoerlos@bmas.bund.de](mailto:info.gehoerlos@bmas.bund.de)  
Fax: 030 221 911-017

**Cover Photo: Colourbox.com**

If you would like to cite this publication, please accurately state the publisher, the title and the publication date. Please also send a complimentary copy to the publishers.