SOCIAL SECURITY AT A GLANCE 2018
Foreword

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

Article 20 (1) of the German Basic Law

Germany is a strong country and it is economically successful. The social state and the social market economy make life in our country worth living.

To me, the social market economy means everyone having the opportunity to participate in the labour market and our society. And anyone for whom that is no longer possible because of misfortune, illness or old age is looked after by the community.

This is the principle of solidarity underlying Germany’s social security systems. It is something that many women and men work for every day. Because economic success and social security are not mutually exclusive: they are mutually dependent.

Even though our country is currently doing well economically, social security must continue to evolve in response to emerging developments and to keep pace with the challenges of the future. The ways people live and work are changing. Digitalisation is transforming the workplace. I firmly believe that change always creates opportunities. If we seize the opportunities together, we can shape technical progress so that it also brings social progress benefiting as many as possible.

Our social security systems are sound. I am personally committed to ensuring that people in Germany can continue to count on a strong social state in the future.

Hubertus Heil, Member of the German Bundestag
Federal Minister of Labour and Social Affairs
Contents

Foreword 3

Contents 4

Child benefit 6

Federal parental allowance 8
Parental leave 11
Maintenance advance 13
Supplementary child allowance 13

Maternity protection 16

Employment promotion 23

Basic security benefits for job-seekers 46

Labour law 53

Industrial democracy 59

Codetermination 66

Minimum wage 72

Occupational safety and health and prevention of occupational accidents 75

Key occupational safety and health legislation 77

Occupational accident insurance 86

Rehabilitation and participation of persons with disabilities 92

Health insurance 105

Long-term care insurance 117
Child benefit

(Kindergeld)

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 rebate, first and foremost to meet the constitutional rule that income is untaxable up to a child’s subsistence level. Any child benefit over and above that level is paid to support the family.

Your rights

Anyone who has children and lives in Germany can claim child benefit. Foreign citizens are also entitled, as long as they have a valid permanent settlement permit (Niederlassungserlaubnis) or residence permit (Aufenthaltserlaubnis). In certain limited circumstances, mothers and fathers living abroad for a period, for example because they have been posted to another country by their employer, can also receive child benefit, although (as ever, with some exceptions) the state only pays the benefit for children living in German territory, in an EU member state or in Switzerland.

Important:

Only one person can receive child benefit for each child. Parents can choose which parent claims child benefit for the children living in their household.

In the case of parents who 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 whose household the children live in (for example, grandparents) or the person 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 are no longer under the care and custody of their parents;
- 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 reached the age of 18. In certain circumstances, you may also be able to claim child benefit for children over 18.
The age limit is 25 for the following:

• Young people in education or training. Child benefit can normally be claimed for a child aged 18 or over in education or training 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 engage in paid work for more than 20 regular working hours a week. A short gap between two education or training stages still counts as education or 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 (Bundesfreiwilligendienstgesetz); ‘weltwärts’ development service in accordance with the Federal Ministry of Economic Cooperation and Development directive of 1 August 2007; ‘all generations’ voluntary service under Section 2 (1a) of Book VII of the Social Code; 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 within the meaning of the Federal Voluntary Service Act.

• 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

• €194 for each of the first two children
• €200 for the third child
• €225 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 rebate, a tax-free allowance for children and a tax-free allowance for childcare, child-rearing or education and 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 rebate due to them). If not, their tax bill is reduced by the tax-free allowance for children and the tax-free allowance for childcare, child-rearing or education and training, less the child benefit they have already received. The child benefit is left as it stands if that is to the parents’ advantage.

Child benefit is paid out by the family benefits department of the applicable employment agency (Agentur für Arbeit) or public-sector employer.
**Special cases**

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

Parents can continue to claim child benefit for children with disabilities who are over 25 if they have had their disability since before that age and cannot support themselves.

Orphans receive €194 a month in child benefit 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).

**Information**

If you have any questions about child benefit, please contact the Familienkasse (family benefits department) at your local Agentur für Arbeit (employment agency).

**Tax-free allowance for children and tax-free allowance for childcare, 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 (€4,788 a year) and a tax-free allowance for childcare, child-raising or education and 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 constitutionally required amount is checked during income tax assessment.

**Federal parental allowance**

Parental allowance (Elterngeld) is an important source of support for families in the first months of their child’s life. The allowance cushions the loss of earnings after the birth of a child. Parental allowance 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 allowance 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 life partners who look after a child from birth can receive parental allowance under the same conditions even if the child is not their own.

Parental allowance is also paid for adopted children and children taken in with a view to adoption if the child is taken into the household. The entitlement lapses with the child’s eighth birthday. In the event of the parents’ severe illness, severe disability or death, parental allowance 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 life partners.

There is no entitlement to parental allowance for parental couples 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 a taxable income upwards of €250,000.

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

Other foreign nationals can claim parental allowance 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 settlement permit (Niederlassungserslaubnis) satisfy the conditions for claiming automatically. Holders of a residence permit (Aufenthaltserslaubnis) only meet the conditions for claiming if they are or previously have been entitled to work 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 allowance if they have been resident in Germany for at least three years and are in employment or receiving unemployment benefit.

Amount of allowance and duration

Parental allowance cushions the loss of the income that the parent looking after a child had 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 allowance and their income from employment is decreased for two months of claiming (‘partner months’).

The allowance substitutes 65% of a prior monthly income of €1,240 or higher, rising in small increments from 65% of an income of €1,240 to 67% of an income of €1,220, and is 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 progressively up to 100%; the lower the income, the higher the percentage. The minimum amount of parental allowance 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 allowance entitlement, or €75, whichever is greater. For multiple births, parental allowance increases by €300 a month for the second and each additional multiple birth child.

Parental allowance plus (ElterngeldPlus) is mainly intended for parents who wish to return to work earlier. It enables them to claim parental allowance for longer and to make better use of their parental allowance budget. Parental allowance plus is calculated identically to parental allowance, except that the maximum amount is half of the parental allowance that the parents would otherwise have been entitled to after the birth without part-time income. However, parental allowance plus is paid for double the length of time: one month of parental allowance becomes two months of parental allowance plus. Parental allowance plus is paid in an amount ranging from a minimum of €150 to a maximum of €900. Parental allowance plus can thus also be claimed beyond the 14th month of the child’s life. Parents can extend the length of time for which they claim parental allowance with parental allowance plus regardless of whether or not they work part-time while claiming it. The new arrangement also applies for single parents, who with the combination of income from part-time employment and parental allowance plus are able to stay at home with their child for longer – beyond the 14th month of the child’s life – while keeping a foot in the door with regard to their employment. Parental allowance plus is also available to mothers and fathers living separately, thus enabling them to better reconcile family and working life.

Parents can select between parental allowance and parental allowance plus or a combination of the two.

Parental allowance plus is supplemented with a partnership bonus: If both parents work in parallel for between 25 and 30 hours a week in four consecutive months, each parent receives four additional months of parental allowance plus. Mothers and fathers living separately who simultaneously go part-time can also claim the partnership bonus of four additional months of parental allowance plus each. This also applies for single parents if they work for between 25 and 30 hours a week for four consecutive months.

Parental allowance 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 up to a maximum of €300 per month for basic parental allowance or €150 for parental allowance plus. Up to this amount, parental allowance is not deducted from the benefits and so remains at the parents’ disposal.
The law


Information

Responsibility for implementing the act lies with agencies designated by the German states (Länder):

- Baden-Württemberg: Landeskreditbank Baden-Württemberg
- Bavaria: the Zentrum Bayern Familie und Soziales (Bavarian centre for family and social affairs)
- Mecklenburg-West Pomerania: the Landesamt für Gesundheit und Soziales (state office of health and social affairs)
- Hessen: the local Amt für Versorgung und Soziales (welfare and social office)
- Berlin and Rhineland-Palatinate: the local Jugendamt (youth welfare office)
- Brandenburg: the Landkreise and kreisfreie Städte (district administrations and urban municipalities)
- Hamburg: the local Bezirksamte (district administration office)
- Bremen: the Amt für Soziale Dienste (social services office)
- Bremerhaven: the Amt für Jugend, Familie und Frauen (youth welfare, family and women’s office)
- Lower Saxony: the kreisfreie Städte (urban municipalities), a number of other municipalities and local authorities, the towns and local authorities in the Hannover region, and the Landkreise (district administrations)
- North Rhine-Westphalia, Saxony, Saxony-Anhalt and Thuringia: the Kreise/Landkreise and kreisfreie Städte (district administrations and urban municipalities)
- Saarland: the Elterngeldstelle (parental benefits office)
- Schleswig-Holstein: the 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 employed or are not fully employed (over 30 hours per week on a monthly average).
Parental leave may be taken from the child’s birth until the child’s third birthday. Since parental leave is treated separately for each parent, the child’s mother or father may each take their shares alone or both parents may take parental leave simultaneously. If both parents take parental leave at the same time, however, this is not allowed to result in an entitlement to unemployment benefit II or social assistance, meaning that 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 no urgent operational need conflicts with the arrangement. If the part-time employment is to be taken during parental leave between the birth and the child’s third birthday, 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.

When parental leave ends, the employment relationship automatically goes back to how it was before the period of parental leave.

Parents enjoy employment protection while on parental leave. The protection begins either on the date of notification of parental leave or one week before the beginning of the notice period, whichever is the later.

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 the Act Introducing Parental Allowance Plus with the Partnership Bonus and More Flexible Parental Leave in the Federal Parental Allowance and Parental Leave Act. The following changes resulted 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 notice 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 basis for parental allowance and parental leave is contained in the Federal Parental Allowance and Parental Leave Act (Bundeselterngeld- und Elternzeitgesetz) of 5 December 2006 (BGBl. I, p. 2748, as most recently amended by Article 6(9) of the Act of 23 May 2017 (BGBl. I, p. 1228). Detailed information is contained in a German-language leaflet, ‘Elterngeld, ElterngeldPlus und Elternzeit’ (on parental allowance, parental allowance plus 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.

The amount paid is as follows:
• For children aged up to 5 years: €154 per month
• For children aged 6 to 11 inclusive: €205 per month
• For children aged 12 to 17 inclusive: €273 per month

Children aged 12 to 17 have been entitled to maintenance advance since 1 July 2017. In order to receive maintenance advance, they must not be dependent on benefits under Book II of the Social Code (SGB II) or the single parent receiving benefits under Book II of the Social Code must have income of their own of at least €600.

For children aged under 12, the single parent’s income is irrelevant.

Since 1 July 2017, maintenance advance has been paid without a time limit.

Important:

Maintenance advance cannot be claimed if the single parent fails to give information about the other parent, to help identify the father, or to help locate the other parent. This also applies 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 who 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 €170 per month for each child. Supplementary child allowance and the €194 monthly 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 €170 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 (up to €10 per month)

This education and participation 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 non-bureaucratic 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 (Familienkasse). 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


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.
Maternity protection

*(Mutterschutz)*

Ensuring a uniform level of health protection for all women in pregnancy, after childbirth and while nursing is the purpose of the new Maternity Protection Act *(Mutterschutzgesetz)*, which entered into force on 1 January 2018.

The new law aims to guarantee the best possible health protection for pregnant and nursing women, avoid career disadvantages, give women greater self-determination with regard to the continuation of their employment during pregnancy and nursing, and combat discrimination.

The revised Maternity Protection Act notably introduced adjustments with regard to health protection and employment protection together with a broadening of scope.

**Who is covered by the Maternity Protection Act?**

The Maternity Protection Act covers all expectant and nursing mothers who are in employment. The employment must be in the Federal Republic of Germany or the employment must be subject to German law. Nationality and marital status are irrelevant.

This includes:

- Full-time workers
- Part-time workers
- Home helps
- Home workers
- Public service employees
- People in marginal employment
- Trainees
- Students (see the section headed ‘Students’)
- Women with disabilities who are employed in a workshop for persons with disabilities
- Women volunteers (under the Youth Voluntary Service Act *(Jugendfreiwilligendienstgesetz)* or Federal Voluntary Service Act *(Bundesfreiwilligendienstgesetz)*
- Women who, as members of a religious order, deacons or members of a similar community, serve such an order or community as the holder of a post or under a secondment contract
- Quasi-employees

Special provisions apply for civil servants, judges and members of the armed forces; these provisions are laid down in civil service law and in regulations on maternity protection in the armed forces.
Overview

As an expectant or nursing mother, you enjoy special protection from workplace hazards and special employment protection from the beginning of your pregnancy to four months after childbirth. Statutory maternity leave of six weeks before and at least eight weeks after childbirth 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 after childbirth is extended by the number of days by which a child is born prematurely. If within eight weeks of birth your child is found to have a disability, you can apply for your maternity leave to be extended from eight to twelve weeks.

Under certain circumstances, you may receive maternity benefit from 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 for the duration of your maternity leave. 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 allowance, parental allowance plus and parental leave (at the same time if they wish). For more information on this topic, please see the chapter headed Child Benefit, Federal Parental Allowance, Parental Leave, Maintenance Advance and Supplementary Child Allowance.

With the exception of maternity benefit and the employer’s maternity benefit top-up payment, statutory benefits for a child do not start until 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).

Provision under the Maternity Protection Act

Financial benefits

Maternity benefit from the statutory health insurance fund

During the protection periods before and after childbirth and for the day of the birth, you receive maternity benefit from your statutory health insurance fund if you are a member (compulsorily insured or voluntarily insured with entitlement to sickness benefits). Further preconditions:

- You are in employment or employed as a home worker; or
- Your employer has lawfully terminated your employment during your pregnancy; or
- If you are a member of a statutory health insurance fund and your employment does not begin until after the protection period has already started, you become entitled to maternity benefit at the time when your employment begins.
If you are a voluntary member of statutory health insurance and you are self-employed as your main occupation, you are entitled to maternity benefit only if you have submitted an optional declaration (Wahlklärung) to your health insurance fund stating that you wish your membership to include sickness benefit.

The maternity benefit amount depends on your average earnings from employment in the last three fully paid calendar months less statutory deductions. If you are paid weekly, the basis for calculation is the last 13 weeks before the start of the protection period before childbirth. The maximum amount of maternity benefit is €13 per calendar day.

Under amendments to the Insurance Contract Act (Versicherungsvertrags-gesetz/VVG), self-employed women who have a daily sickness benefit insurance policy are entitled to payment of the agreed daily sickness benefit for the duration of the protection periods. Expectant and nursing mothers can then decide independently of financial considerations whether and how much they wish to work during this time.

**Maternity benefit from the Federal Insurance Office**

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

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

If the average take-home pay per calendar day exceeds €13 (monthly take-home pay of €390), 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 monthly take-home pay exceeds €390.

**Maternity pay**

If you have to change your job due to the rules on maternity protection or if you are subject outside of the protection periods to a full or partial employment ban, you do not need to worry about being placed at any financial disadvantage. You are entitled to maternity pay (Mutterschutzlohn), meaning as a rule that you will receive the average earnings you had before the beginning of your pregnancy.

**When do you begin to be protected from dismissal and for how long?**

**Employment protection**

Your employer cannot normally terminate your employment relationship while you are pregnant or within four months of your child’s birth. Nor is your employer allowed to give you your notice following a miscarriage after the twelfth week of pregnancy.
Termination of employment is only possible in exceptional cases, subject to prior approval of the relevant supervisory body (usually the labour or occupational safety and health inspectorate).

Only the employer is prevented from giving notice. You yourself are free to terminate your employment at any time during pregnancy or 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 as of 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, or 13 weeks in the case of parental leave after the child’s third birthday – 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 occupational safety and health hazards.

**Hazard assessment and employment ban on operational grounds**

Irrespective of whether there are expectant or nursing mothers on the workforce at the time, your employer is required in the course of general hazard assessment under the Occupational Safety and Health Act (Arbeitsschutzgesetz) to check for hazards to which an expectant or nursing mother or her child is or may be exposed and to determine whether protective measures are necessary under maternity protection law.

When you notify your employer that you are expecting or nursing, your employer must take the necessary protective measures for you and your (unborn) child on the basis of the existing hazard assessment.

If there is a hazard, the employer must determine whether the hazard can be removed by modifying the workplace or transferring the employee to other duties. If neither of these is possible, the employer must impose an employment ban (employment ban on operational grounds).
Your employer is not allowed to have you perform any work in which there is an irresponsible risk, for example as a result of:

- Hazardous substances (chemical substances, such as fertility-damaging chemicals)
- Biological agents (viruses, bacteria and fungi)
- Physical hazards (primarily ionising and non-ionising radiation)
- A physically demanding working environment (such as in a pressure chamber)
- Working at a set speed (such as piecework and assembly line work)
- Heavy lifting
- Static work
- Physically demanding work (stretching, bending, squatting, stooping; forced posture)
- Deployment on a vehicle
- Accident hazard (danger of slipping or falling)
- Having to wear heavy protective clothing
- Foot-intensive work
- Work in a pressurised or reduced oxygen environment, or underground in a mine
- Working overtime, Sundays, public holidays or nights

Exceptions from the employment ban between 8 and 10 pm and on Sundays and public holidays may come into consideration if you give your express consent and have a doctor’s note saying there is nothing to prevent you from working at such times, and your employer has submitted an application to the competent supervisory authority for all times to be worked (official approval procedure). You can withdraw your consent to working between 8 and 10pm or on Sundays and public holidays at any time with effect for the future.

**Employment ban on medical grounds**

An employment ban may be imposed on medical grounds if a doctor determines in an examination that – irrespective of any employment ban on operational grounds – your health or the health of your child is at risk if you continue to work as before.

In the event of a full or partial employment ban on operational or medical grounds where it is not possible to modify your workplace or transfer you to other duties, you must cease to be employed to the extent stipulated. You do not lose any pay as a result because your employer is required to provide you with maternity pay (see under ‘Financial benefits’ – ‘Maternity 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.

**School and higher education students**

The Maternity Protection Act applies to school and higher education students wherever a place of learning (school, university, etc.) makes mandatory stipulations as to the location, timing and conduct of lessons, lectures, etc., or students undertake a mandatory placement or internship as part of their education.
School and higher education students are subject to special rules under maternity protection law with regard to working times:

In contrast to employees, the **protection period following childbirth** is non-binding for school and higher education students. Your school or higher education institution can let you continue your education if you expressly ask to be allowed to do so. You can revoke this request at any time with effect for the future.

Unlike employees, school and higher education students may be required to attend between 8 and 10 pm and on Sundays and public holidays provided that they give their express consent and attendance is necessary for the purposes of their education. An **official approval procedure** is not required. However, the school or higher education institution must notify the competent supervisory authority of attendance by students between 8 and 10 pm.

The special stipulations of maternity protection law with regard to employment protection and financial benefits (Sections 16-23 of the Maternity Protection Act) generally do not apply to school and higher education students.

School and higher education students without a contract of employment are normally members of statutory health insurance without entitlement to sickness benefit and therefore **have no entitlement to maternity pay**.

Responsibility for your protection under the maternity protection law generally lies with your school or higher education institution.

You and your school or higher education institution can take any questions to the competent supervisory authority – the Gewerbeaufsichtsamt (labour inspectorate) or Amt für Arbeitsschutz (safety and health office).

**The law**

The law on maternity protection is set out in the Maternity Protection Act (Mutterschutzgesetz) 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 Länder (labour or occupational safety and health inspectorates).

**Information**

A German-language pamphlet on maternity protection (Leitfaden zum Mutterschutz) is available from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. Information on maternity protection 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).
Information on maternity benefits for employees who are not members of the statutory health insurance system themselves is provided by the Bundesversicherungsamt (Mutterschaftsgeldstelle), Friedrich-Ebert-Allee 38, 53113 Bonn.

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).
Employment promotion

(Arbeitserziehung)

Book III of the Social Code: Employment Promotion

As many people as possible in Germany 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:

• Advice on the labour market
• Vocational guidance and orientation
• Job and traineeship placement
• Support to improve people’s chances on the labour market
• Other vocational integration measures
• Income replacement benefits

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 vocational guidance and orientation, and job and traineeship placement. To receive other help – such as unemployment benefit – you need to have been subject to contributions for employment promotion.

Advice and placement

Vocational guidance

Vocational guidance targets 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 labour market, and finding a training place or permanent job.

For young people wanting to study, careers advice officers at local employment agencies provide a special advisory service. They advise on choosing a course of study, explain the acceptance requirements and what is expected of students on particular courses, outline the employment prospects and go through the various funding options. They work with young people to identify their personal goals, employment options and alternatives.
**Vocational orientation**

Systematic vocational orientation can help people in choosing an occupation and thus positively influence the career paths of young people and adults alike. It can also aid the vocational guidance process by providing in-depth information on questions of career choice, occupations, job requirements and prospects, routes into and funding for vocational training and education, and work-related developments in business, public administration and the labour market in general. The service includes visits to schools to talk with students due to leave school in the current or next school year, vocational orientation events – for example in careers information centres (Berufsinformationszentren/BIZ) – and online and print media published by the Federal Employment Agency.

**Labour market advisory service**

The labour market advisory service provided by local employment agencies targets employers and is designed to support them in filling trainee places and vacant positions. Employers are informed in particular about the situation and trends in the labour market and occupations, workplace organisation and design, employment conditions, working hours, in-company initial and further training, and integration of trainees and employees in need of support.

**Training placement and job placement**

Anyone seeking work can use the placement 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. Job placement is the employment agencies’ main task. The remaining benefits and assistance for employment promotion can only be provided if they contribute or support integration into the labour or vocational training market.

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. The duty to register does not apply in the case of in-company training.
Placement assistance

Placement budget

Assistance out of the placement budget is intended as a flexible, targeted and needs-oriented means of removing potential obstacles while taking account of the specific needs of the individual looking for work or vocational training. It is designed to help people who are looking for a training place, facing unemployment or out of work with finding and taking up employment subject to compulsory social insurance. The placement budget thus offers broad scope for individually tailored assistance, enabling various forms of assistance to be provided in each case. Accordingly, rather than applications for assistance being governed by detailed statutory requirements, professional 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.

Assistance can be provided as follows:

- If you face unemployment, are seeking work or are unemployed and wish to take up employment subject to compulsory social insurance.
- If you are looking for a vocational training place.
- Recipients of basic security benefits for job-seekers can also be provided with support in finding and taking up a course of education.

Eligibility requirements:

- The assistance must be necessary in order to overcome obstacles in finding and taking up either employment subject to compulsory social insurance or vocational training.
- The amount of assistance must be reasonable.
- The employer must not provide similar assistance.
- Other public agencies must not be required by law to provide similar services.
- Assistance out of the placement budget must be applied for before the costs are incurred.
- Assistance out of the placement budget is provided on a discretionary basis and is not a legal entitlement.

Assistance may also be provided to help with finding or taking up employment subject to compulsory social insurance in another EU Member State, in a Signatory State to the Agreement on the European Economic Area (EEA), or in Switzerland. This is subject to the requirement that the employment must be for at least 15 hours per week.
Activation and vocational integration measures

Training place seekers and job-seekers who are at risk of unemployment or are unemployed can be provided with support in the form of activation and vocational integration measures to improve their occupational integration prospects. The measures can be used to ready individuals for the training and labour market, identify, alleviate and reduce obstacles to placement, place them in employment subject to compulsory social insurance, assist them in becoming self-employed, or stabilise their entry into employment.

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 in whole or part at or by an employer, for up to a maximum of six weeks per measure. In the case of people who are in long-term unemployment or who are unemployed and very hard to place, the maximum duration of measures carried out at or by an employer is twelve weeks.

Participation is at the suggestion or with the approval of 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.

An 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

Employees who end their unemployment by taking up self-employment as their 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 taking up self-employment. To qualify for the grant, applicants must demonstrate that they have the necessary knowledge and skills to carry out the self-employed occupation. They must also present to the employment agency a statement from a competent source that their self-employment is viable. Such a statement can be provided, among others, by a chamber of commerce, guild, industry association or bank.

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 Social Code (SGB III). Claimants who reach the statutory retirement age 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 for becoming self-employed 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.

**New business support/back-to-work allowance**

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 new business support or back-to-work allowance (Einstiegs geld) to help them enter self-employment as their main occupation or employment subject to compulsory social insurance. The support is provided by the local job centre.

**How to claim/amount**

The new business support/back-to-work allowance can be granted as a supplement to basic security benefits for job-seekers on taking up self-employment as their main occupation or employment subject to compulsory social insurance. There must be reasonable grounds to expect that the employment or self-employment will remove the need for assistance.

The amount of the new business support/back-to-work allowance 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.
Other assistance for self-employed individuals

Individuals who are entitled to assistance and who take up or carry on self-employment as their main 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 employment. Initial vocational training in particular is becoming increasingly important in the labour market due to the sharp drop in the number of jobs available for unskilled and semi-skilled workers. Employment promotion law thus offers a variety of opportunities to support young people in their search for vocational training.

Recognised refugees, persons entitled to asylum and persons eligible for subsidiary protection have access not just to introductory training, but to the full range of statutory provision and instruments for training preparation and promotion of training, without a prior residence period, provided that they meet the respective eligibility requirements.

For other foreign nationals, access to the various individual measures for training preparation and promotion of training depends on their residence status and prior residence duration.

Vocational orientation measures

Vocational orientation measures (Berufsorientierungsmaßnahmen) are activities and events to provide secondary schools students with vocational orientation and help with preparing to choose a career. At least 50% of the cost must be met from a third-party source. For four weeks in the school holidays, students can gain a detailed insight into the various occupations, what the occupations require, and their prospects. The measures are also designed to meet the needs of students with special educational needs and severe disabilities.
Career entry mentoring

Career entry mentoring (Berufseinstiegsbegleitung) 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 career entry mentoring during the last two years before leaving school and up to six months into their vocational training. Students are selected for career entry mentoring by the careers advice service at the recommendation of the teacher.

Career entry 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, career entry mentors are expected to ensure that the young people in their charge actually make use of the help provided (such as additional tutoring during school, careers advice, and measures provided during the transition from school to training). The support – which includes social education approaches – aims to enhance the skills and hence the chances of occupational integration for the students concerned. Career entry 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 with 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, career entry mentoring has been permanently incorporated in Book III of the Social Code (SGB III) since 2011 and 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, career entry mentoring is co-financed with resources from the European Social Fund (ESF). In the five cohorts this period covers, career entry 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 (Berufsvorbereitende Bildungsmaßnahmen/BvB). These serve the purposes of vocational orientation, career choice and targeted preparation for vocational training. The schemes usually run for 10 to 11 months.
The Federal Employment Agency has also established BvB-Pro, an additional, 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 a vocational training grant (BAB).

**Introductory training**

Introductory training (Einstiegsqualifizierung) gives young people with limited placement opportunities new perspectives for gaining access to in-company 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.

Employers who provide young employees an introductory training position for six to twelve months receive €231 per month plus a combined amount towards social insurance from the local employment agency.

**Vocational training grant (BAB)**

Young people taking part in vocational preparation schemes and those in vocational training may receive a vocational training grant (Berufsausbildungsbeihilfe/BAB) 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 a vocational training grant if they do not live at home with their parents. Trainees with disabilities can also be provided with a vocational training grant if they live at home with their parents.

The vocational training grant 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 successfully completed their vocational training, 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.
The grant amount depends on the trainee’s living arrangements, the amount of pay the trainee receives and the annual income earned by the trainee’s parents, spouse or life partner. In some cases, living expenses, travel expenses, childcare costs and outlay for educational materials and working clothes can be provided for on a lump-sum basis.

Participants in vocational preparation schemes also receive a vocational training grant 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 persons 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 severe disability) 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.

**Training-related assistance (abH)**

Disadvantaged young people can be provided with training-related assistance (ausbildungsbegleitende Hilfen/abH) 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 address language and education deficits, promote the learning of subject-specific theory and practice, and social education support.

Training-related assistance 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.

**Non-company vocational training at a training centre (BaE)**

If despite training-related assistance it is not possible to place disadvantaged young people in in-company training, support can be made available for non-company vocational training at a training centre. 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 remain in non-company training. If necessary for vocational integration, support can be provided for a second course of vocational training.
In accordance with Federal Employment Agency directives, non-company training (BaE) can be provided on a cooperative or integrative basis. With training on a cooperative basis, the practical part of the training is provided at the premises of cooperating employers. With training on an integrative basis, the 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 limited-term policy instrument 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 for 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 help match up supply and demand on 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 occupational further training**

**How to claim**

Funding can be provided for the costs of occupational further training where:
- The further training is necessary to enable an unemployed person’s integration into the labour market or to avert unemployment, or the need for the further training is recognised due to the lack of a vocational qualification;
- The employment agency has advised the person prior to the further training;
- The training measure is approved and the training provider accredited for the funding.

An exception applies in the case of funding to obtain a lower secondary school leaving certificate (Hauptschulabschluss), or equivalent, on a second-chance basis (legal entitlement to funding if the funding requirements are met).
Type and scope of promotion

Education vouchers (Bildungsgutscheine) are issued to all entitled individuals. A voucher is usually issued for a specific educational goal and limited to a specific 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, however, is solely up to the voucher holder. The education voucher must be handed over to the training provider, who bills the employment agency directly.

The employment agency can assume the following costs of further training:

- 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 (such as a health check) prior to starting the training course.
- Travel expenses
- Accommodation and meals away from home
- Child care costs (€130 per child per month).

Commencing 1 August 2016, employees without a vocational qualification can be provided with funding in order to obtain necessary basic skills (reading, writing, arithmetic, and information and communication technology) in preparation for occupational further training leading to a qualification; the funding is provided if it is necessary for successful participation in the further training measure (and the measure begins before 31 December 2020). In addition, in order to motivate and help people persevere with further training leading to an occupational qualification, further training bonuses can be paid in the event of success in intermediate and final examinations. There is an entitlement to payment of a further training bonus in relation to courses of further training leading to an occupational qualification where the course commences between 1 August 2016 and 31 December 2020 (Section 444a (2) and 131a (3) of Book III of the Social Code (SGB III)).

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

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

Funding is provided for the following:

- Low-skilled workers with or without vocational qualifications 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 or over who are employed by an employer with a workforce of less than 250 where the employer continues to pay wages for the duration of the training.
• For a limited period (with measures commencing before 31 December 2020), all other workers who are employed by an employer with a workforce of less than 250 where the employer both continues to pay wages and also meets at least 50% of the cost of the training.
• The employer co-financing requirement does not apply for employers with fewer than ten employees.

Support can be provided for further training which:
• Provides knowledge and skills that can generally be used in the labour market;
• Leads to a recognised occupational qualification;
• Concludes with a certified partial qualification or a cross-industry-association or cross-sectoral qualification.

Employees receive the funding in the form of education vouchers for use in recognised further training courses.

The funding covers the cost of training 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. ‘Zukunftsstarter’ initiative

Commencing 1 August 2016, the former ‘Spätstarter’ (‘Late Starters’) initiative continues in revised form as the ‘Zukunftsstarter’ (‘Future Starters’) initiative. Based on new and expanded scope for funding under legislation to strengthen vocational further training and unemployment insurance coverage, 120,000 young people are to be recruited for occupational further training leading to a qualification on a second-chance basis. The main focus is on cutting drop-out rates and recruiting more people in long-term unemployment for second-chance occupational training. There is also increased provision for funding in-company retraining and obtaining partial qualifications. The initiative is directed not only at unemployed persons, but also at employees who so far lack vocational training. Young adults with disabilities and refugees can also benefit from the initiative if they meet the requirements for funding. The initiative thus contributes towards long-term integration into employment and towards meeting demand for skilled labour.
Labour market support for people with migrant backgrounds

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 has expanded the ‘Integration durch Qualifikation (IQ)’ (‘Integration through Training’) funding programme into a national structure of 16 Länder networks. Among other things, training is 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 the Federal Recognition Act (Anerkennungsgesetz) 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, and to help people seeking recognition of their qualifications in identifying the relevant reference occupation and the recognition authority responsible for them. From 2015, the IQ funding programme was broadened with a new focus on skills adaptation for migrants in the context of the Federal Recognition Act. 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, where applicable, licence to practice.

Promoting the participation of persons with disabilities in working life

Under Book III of the Social Code, persons with disabilities are individuals whose prospects of participating or continuing to participate in working life are substantially impaired, other than temporarily, on account of a disability as defined in Section 2 (1) of Book IX of the Social Code and who consequently need help to promote their participation in working life, including persons with learning disabilities. Persons at risk of disability with like consequences have equivalent status to persons with disabilities. Under Section 2 (1) of Book IX of the Social Code, a person has a disability if they have a physical, psychological, intellectual or sensory impairment that, in interaction with attitudinal and environmental barriers, is highly likely to impair their equal participation in society for longer than six months. A person has an impairment if their physical and health condition falls short of that typical for their age. A person is at risk of disability if such an impairment is to be expected.

The range of general benefits and services provided under SGB III to promote the participation of persons with disabilities in working life comprises:

- Activation and vocational integration assistance
- Support with vocational preparation and vocational training, including vocational training grants, assisted training and support for occupational further training
- Help becoming self-employed
Provision is also made for special measures promoting the participation of persons with disabilities in working life where needed due to the nature or severity of disability or to ensure that integration is successful. For example, vocational initial and further training can be provided in specially equipped rehabilitation centres. Under Book III of the Social Code, funding can also be provided for entry-level and vocational training in a workshop for persons with disabilities or with another provider.

Employers can receive support in helping persons with disabilities and persons with severe disabilities to integrate:

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

With the Supported Employment Act (Gesetz zur Einführung Unterstützter Beschäftigung) of 22 December 2008, a new instrument was introduced to promote the integration of persons with disabilities and persons with severe disabilities into working life.

Where a disability makes vocational training impossible even when use is made of all available assistance and disability concessions, supported employment can provide a pathway into the labour market. Under supported employment, persons with disabilities who have special needs are placed in new employment opportunities that meet their abilities and leanings. In line with the principle of ‘place first, then train’, they are trained and supported on the job with the ultimate aim of them being taken on permanently by their employer. This opens up new opportunities on the general labour market.

The benefits and services governed by Section 55 of Book IX of the Social Code (SGB IX) take in individual in-company training and support in employment. Individual in-company training is possible for a period of up to two and a maximum of three years. Important features of the training include cross-occupational course content, key skills and personal development measures. Participants are covered under the social insurance system. Contributions are paid by integration providers (usually the employment agency). If continued support is necessary following integration into employment subject to compulsory social insurance, it is usually provided by the integration offices in the form of support in employment.
**Income replacement benefits**

**Unemployment benefit**

To receive unemployment benefit (Arbeitslosengeld), you must:

- Be unemployed;
- Have personally registered as unemployed;
- Have completed the qualifying period; and
- Be actively seeking work and be available for job placement by the employment agency.

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 last two years before registering as unemployed.

Anyone who is self-employed for at least 15 hours per week, is employed outside Germany in a non-EU country or in a country not associated with the EU, is on a course of occupational further training or takes parental leave beyond the child’s third birthday may make voluntary unemployment insurance contributions. This gives people who are not members of the insured community by law the opportunity to pay a voluntary contribution to maintain their unemployment insurance. The applicant must, however, have previously been a member of the insured community.

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 (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 assessed earnings, income tax and solidarity surcharge.

Your unemployment benefit is 67% of your net assessed earnings (benefit-related earnings) 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 how long you have been in employment subject to compulsory social insurance and your age on becoming unemployed:

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<th>Minimum number of years in employment subject to compulsory social insurance</th>
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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 for economic reasons 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 employees in employment and avoid layoffs despite a lack of work.

You can claim 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;
- The personal requirements are met (primarily that you are in unterminated employment subject to compulsory social insurance);
- 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 receive 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 customary for the sector or enterprise 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 enterprise 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 amount 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 net amounts assessed in accordance with the applicable legislation (Verordnung über die pauschalierten Nettoentgelte für das Kurzarbeitergeld) from 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. The short-time allowance is 67% or 60% of the difference between the two net amounts. The calculation does not take account of any changes in agreed working hours under collective guaranteed working hour agreements.

The statutory entitlement period is 12 months.

**How to claim**

Short-time allowance is paid on application submitted by 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 the contribution assessment ceiling (2018: €6,500 a month in western Germany and €5,800 a month in eastern Germany). The employment agency also pays outstanding compulsory 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 insolvency proceedings started, after a petition to start insolvency proceedings was dismissed on account of insufficient assets, or after your employer finally ceased trading.

**Seasonal short-time allowance**

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; and
- Both company and individual requirements for eligibility are met.

A construction enterprise is an enterprise 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 built structures. Eligible enterprises and enterprises excluded from funding are listed in applicable legislation (Baubetriebe-Verordnung). Eligible enterprises include the primary construction trade, the roofing trade, the scaffolding trade and the landscape gardening trade.

To be eligible, an enterprise must have at least one employee.

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

A cut in working hours is deemed avoidable if:

- It 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 enterprise in question.

If, since the last bad weather season, credit time balances on flexible working hour accounts that 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, cuts in working hours are deemed avoidable up to the credit time balances used. A cut in working hours is deemed avoidable if it is customary in the industry or the enterprise or if it is seasonal.
A cut is weather-related if it is exclusively for compelling weather-related grounds and at least one hour of regular working time is lost in one 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 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 that would lead to the start of a new eligibility period.

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

Seasonal short-time allowance is paid out on application submitted by the employer or works council. Applications must be submitted to the responsible employment agency within three months. The three-month period begins as soon as the month containing the days for which seasonal short-time allowance is claimed has ended. Seasonal short-time allowance should be claimed if possible 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 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 sectoral transfer fund. The supplementary benefits are consequently not paid out of unemployment insurance contributions, and are only paid in relation to employment relationships 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 employees 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 each in January and February.
The supplementary benefits are paid on application submitted by the employer or the works council. The eligibility period begins immediately the calendar month containing the days for which supplementary benefits are claim has ended. Supplementary benefits should be claimed if possible on or before the 15th 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 (such as severance pay) for losses to employees resulting from changes in a business.

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.

Employees 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 employees into the labour market and 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 employees 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 relating to labour law, the external solution is usually preferred. Employees affected by layoffs are brought under a transfer company under a three-way 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). In addition, necessary training for employees over the age of 45 and for employees without a vocational qualification can be funded by the employment agency if the employer meets at least 50% of the course costs. The funding includes further training leading to a vocational qualification and continues beyond the closure of the transfer company.

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

Employees are entitled to transfer short-time allowance:

- For the duration of any sustained unavoidable loss of working time and pay caused by a change in their employer’s business;
- If certain organisational and personal 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 taking up a position in the same or another workplace belonging to the same enterprise or to another enterprise in the same corporate group. Public-sector employees are also excluded with the exception of employees of enterprises incorporated as independent entities and run on a for-profit basis.

**Personal requirements**

Employees 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 employment subject to compulsory social insurance 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 employees are brought under an organisationally independent 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 independent unit is operated by a third party, that party must be licensed.

**Employee integration**

**Integration subsidy**

**How to claim**

Employers can receive wage subsidies to help integrate employees who are difficult to place for reasons to do with the employees themselves. The subsidy is based on the extent to which an employee’s working capacity is impaired and on 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 persons with disabilities or persons with severe disabilities. 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 persons with severe disabilities who have 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 persons with severe disabilities who have special needs and are aged 55 or older.

The decision as to both the amount and the duration also includes consideration of whether the person with disabilities was employed other than by statutory obligation or in a manner that exceeds the employment obligations set out in Part 3 of Book IX of the 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 statutory accident insurance institutions (Berufsgenossenschaften). The contributions are paid by employers as well as employees (blue and white-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 ceiling. The monthly limits in 2018 are €6,500 in western Germany and €5,800 in eastern Germany.

The law

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

The law is implemented by the Federal Employment Agency in Nuremberg (www.arbeitsagentur.de) together with its regional directorates, employment agencies and other agency offices. The Federal Employment Agency is a self-governing body incorporated under public law.
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) are a tax-funded system designed to provide people 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 meet their living expenses out of their own resources and earning capacity. The benefits aim to support individuals in need and entitled to assistance in taking up employment and meeting 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, and hence 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. Empowerment and encouragement thus go hand in hand.
Everyone who is entitled to unemployment benefit II is expected to do everything 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 authority generally work together as the agencies ultimately responsible for the benefits. Employment agencies are responsible for payment of the basic needs rate to meet living expenses and of integration assistance. Local authorities are responsible for covering appropriate levels of expenditure to meet housing and heating needs 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 cost-of-living assistance in the form of unemployment benefit II (the basic needs rate and assistance with any additional needs plus coverage of appropriate levels of expenditure for housing), normally in a single monthly amount. A total of 104 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 statutory retirement age for receipt of a standard old-age pension 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 a person’s inability to meet their own necessary living expenses and 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 twelve months at a time. The granting period is reduced to six months if the benefits are initially granted provisionally, for example because income assessment is still pending.
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 who applies for unemployment benefit II must be provided with support without delay. If a person has no vocational qualification, particular use must be made of the available possibilities for placement in vocational training.

Provided that they are in need of assistance, young people over 15 who are capable of earning receive unemployment benefit II as cost-of-living assistance. 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. Unemployment benefit II can continue to be paid during vocational training if the training pay and assistance are not sufficient to meet living expenses.

Integration assistance

A range of services are available to support (re)integration into the general labour market:

• Assistance provided out of the placement budget for the purpose of finding or taking up employment
• Activation and vocational integration measures
• Assistance for occupational further education and training, including obtaining a lower secondary school leaving certificate (Hauptschulabschluss) on a second-chance basis
• Benefits and services to promote participation in working life
• Assistance for employers
• Assistance for further education and training for persons in employment
• Assistance with careers guidance and vocational training
• Community integration support (such as childcare services, addiction and debt advisory services)
• New business support or back-to-work allowance
• Assistance in taking up self-employment
• Work opportunities
• 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 in the case of a physical, intellectual or psychological impediment or unethically low pay. 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, training or place on an integration scheme can expect to have their unemployment benefit II reduced or, in case of repeated refusal, stopped altogether.
The amount of benefit can be reduced to begin with by 30% of the standard basic needs rate for three months. Claimants who fail to comply three times in a year lose all entitlement to unemployment benefit II. Stricter sanctions apply for claimants under 25, whose benefit is stopped if they fail to comply twice. If a person capable of earning and entitled to assistance subsequently agrees to fulfil their obligations, the sanctions can be partially lifted. 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 (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**

Assessment of unemployment benefit II is based on the principle that it is a subordinate welfare benefit. Benefits from other providers must therefore 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 basic needs rate plus assistance with any additional needs, including a reasonable amount for accommodation and heating.

The basic needs rate of cost-of-living assistance for individuals capable of earning and entitled to assistance covers food, body care, household effects and everyday personal necessities, plus expenditure on taking part in social and cultural life. It is intended to cover both recurring items of expenditure and non-recurring items (replacement purchases).

From 1 January 2018, the standard basic needs rate for singles, single parents and job-seekers whose partner is under 18 is €416 per month. If both partners are of age, the basic needs rate is €374 per month each.

For children and young adults, the standard basic needs rate is set by age group. It is €240 for children up to six years old, €296 for ages 6 to 13, €316 for ages 14 to 17 and €331 for ages 18 to 24.

In addition to the standard basic needs 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), 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 (additional needs) 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 persons with disabilities who are capable of earning, to promote their participation in working life
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.

The sum total of the recognised additional expenditure needs listed under items 1 to 4 above is not allowed to exceed the applicable standard basic needs rate.

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

In addition to the basic needs rate, non-recurring assistance is 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 cost-of-living assistance because they are not considered to be in need, claimants are nonetheless entitled to the above three special forms of assistance if their income is not sufficient to pay for special needs in full.
Housing costs: Local authorities recognise reasonable accommodation and heating expenditure for a claimant’s entire joint household as part of unemployment benefit II/social benefit. This includes expenditure for hot and cold water and sewage charges. A loan may also be provided for rent arrears if homelessness otherwise threatens. Local authorities are responsible for deciding what is reasonable and appropriate. Recipients of unemployment benefit II where accommodation expenditure is included are no longer entitled to housing benefit.

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

If a move becomes necessary because expenditure on accommodation is unreasonably high, the local authority meets the cost of the removal. These costs are also met if a move becomes necessary for other reasons and alternative accommodation cannot otherwise be found within a reasonable time.

### Standard basic needs rates

<table>
<thead>
<tr>
<th>Single persons and single parents</th>
<th>Other members of a joint household</th>
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<tbody>
<tr>
<td>Children up to age 6</td>
<td>Children age 7 to 14</td>
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<tr>
<td>€416</td>
<td>€296</td>
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</tbody>
</table>

### Social insurance contributions

Individuals capable of earning and entitled to assistance are compulsorily insured in statutory health insurance and social long-term care insurance while receiving unemployment benefit II. 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 self-employed as their main occupation or were not subject to compulsory social 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 tariff. 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 €170 per child per month. It is applied for at the local employment agency (Agentur für Arbeit) in 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 assistance with additional needs.

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.
Labour law

(Arbeitsrecht)

Employees are dependent on their employers, not just economically, but personally under their contract of employment. The resulting need for protection is met by labour law. This branch of the law applies to both wage and salary earners. Home workers, who are especially economically dependent on their employers, are also covered by labour law, partly under special provisions and partly under provisions applying to all employees. Labour law is divided into individual labour law, which governs relations between employers and employees, and collective labour law, which applies to legal relations between unions and employer associations at company and most of all at 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: what work you are expected to do, and what pay you are entitled to in return.

Your employment contract may also lay down other rights and duties that go to make up your overall working conditions. There may be rights and duties both for you as an employee and for your employer. Various laws give you certain minimum rights as an employee. These include the Federal Paid Leave Act (Bundesurlaubsgesetz), 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 Part-Time and Fixed-Term Employment Act (Teilzeit- und Befristungsgesetz), the Care Leave Act (Pflegezeitgesetz), and the Family Care Leave Act (Familienpflegezeitgesetz). Subject to certain requirements, the Part-Time and Fixed-Term Employment Act allows employees to reduce their working hours; its provisions are designed to prevent part-time employees from being treated differently to full-time employees unless there are justified grounds for doing so. The Care Leave Act and the Family Care Leave Act make it easier to reconcile work and family care by allowing employees, subject to certain requirements, 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) 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 – going beyond the statutory minimum – by individual contract of employment or by collective agreement (see under Collective Bargaining Law).
Periods of notice are also stipulated by law. Employees and employers alike always have to observe the basic period of notice of four weeks to the 15th or to the end of a calendar month. The longer you have worked for the same employer, the longer the notice period you will have to be given to terminate your contract. If you have worked for an employer 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.

A collective agreement can specify longer or shorter periods of notice. Unless it states that it follows the collective agreement, a contract of employment can normally only stipulate longer periods of notice. An exception applies to individual temporary employment contracts, in which a shorter notice period can be agreed for the first three months. In small establishments with no more than 20 employees, a 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 15th or the end of a month). Employees cannot be required to give a longer period of notice than the employer has to give them.

According to the Employment Protection Act (Kündigungsschutzgesetz), an ordinary dismissal (with due notice) is socially justified and legal if it is issued for reasons to do with the individual or their behaviour or is necessary for operational reasons that do not allow their continued employment. Whether the Employment Protection Act applies to an employment relationship depends on the size of the company (or public employer) and the commencement date of the employment contract.

- For employment that commenced on or after 1 January 2004, the Employment Protection Act applies to establishments that normally have a workforce of ten or more employees.
- For employment that commenced on or before 31 December 2003, the Employment Protection Act applies to establishments that normally had a workforce of more than five employees as of 31 December 2003 who are still employed in the establishment at the time notice is given. Employees hired after 31 December 2003 are not counted for this purpose.

When determining the number of employees, part-time employees are counted in proportion to their working hours, and trainees are not counted. Temporary workers are counted if their employment reflects staffing requirements that apply ‘as a rule’.

Application of the Employment Protection Act requires the employee to have been employed in the same establishment or company for more than six months continuously prior to receiving notice (waiting period).

Employment can be summarily terminated (meaning without notice) for cause.
An employee wishing to contest the validity of the social or other grounds given for termination with notice or the reasons for summary dismissal must file legal action with the labour court (Arbeitsgericht) of competent jurisdiction within three weeks of the notice being served.

Persons with severe disabilities have special protection against dismissal. The integration office must thus normally give prior approval for any termination of an employment relationship by the employer, as the notice of termination is otherwise invalid. Notice of termination served by an employer on a person with a severe disability is likewise invalid if the notice is given without involving the representative for employees with severe disabilities.

The preconditions for limiting the term of an employment contract and the legal consequences of an invalid term limitation are governed by the Part-Time and Fixed-Term Employment Act (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 applicable collective agreement. An employee wishing to contest the validity of a term limitation in an employment contract must file legal action with the labour court within three weeks of the agreed end of the contract.

Any notice of termination or employment termination agreement and any term limitation in an employment contract must be in written form in order to be valid.

**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, employer associations and individual employers.
- The law on labour relations at the workplace – the level dealing with relations between employer and workforce in individual establishments.

**Collective bargaining law**

Collective bargaining autonomy is among the constitutionally protected rights of trade unions and employer associations. The collective bargaining partners thus have the right to enter into collective agreements under their own responsibility.

Most employment relationships are governed by collective agreements. This in itself shows the importance of collective bargaining autonomy in Germany.

Collective agreements are drawn up either between trade unions and employer associations, 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 imposing working conditions unilaterally, because a contract of employment is not allowed to fall short of the minimum working conditions set by the applicable collective agreement.

2. Organisational
   A collective agreement lays down specific conditions for 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 conditions agreed in the collective agreement.

Typical conditions laid down in collective agreements include:

- Pay levels
- Working hours
- Leave entitlement
- Periods of notice

You are not automatically entitled to collectively agreed conditions, wage levels, and so on. Under the Collective Bargaining Act, a collective agreement only applies to you of either of the following applies:

- Your employer belongs to the employer association, and you are in the trade union, that concluded the agreement (alternatively, your employer may be a direct party to the agreement)
- 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 possible for your employer to agree with you under the terms of your individual employment contract that collectively agreed conditions should also apply to your working relationship, provided that it is normal practice in your workplace to apply collective agreements.
### Agreed working week

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**Average working hours**

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### The law on labour relations at the workplace

The law on labour relations at the workplace regulates relations between workforce and employer. The basic philosophy is to ensure a constructive working relationship between the trade unions and employer associations represented at each workplace, to the benefit of employees and 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 ensures that all legal requirements, safety regulations, collective agreements and establishment-level agreements designed to benefit employees are adhered to and implemented.

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

These participation rights are classified by scope as:

- **Codetermination rights**
- **Consultation rights**.

Codetermination is the stronger form of participation. Where the works council has codetermination rights, the employer has to obtain its approval before being allowed to act. What happens if the works council refuses its consent? The matter is then referred to an arbitration board made up of an equal number of employer and works council delegates plus a neutral chairperson appointed by mutual agreement of the two sides.
Where the works council solely has consultation rights, the employer is required to inform it, hear it or 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:

- Civil Code (Bürgerliches Gesetzbuch)
- Employment Protection Act (Kündigungsschutzgesetz)
- Federal Paid Leave Act (Bundesurlaubsgesetz)
- Maternity Protection Act (Mutterschutzgesetz)
- Continuation of Pay Act (Entgeltfortzahlungsgesetz)
- Written Statement Act (Nachweisgesetz)
- Hours of Work Act (Arbeitszeitgesetz)
- Family Care Leave Act (Familienpflegezeitgesetz)
- Act on the Protection of Young People at Work (Jugendarbeitsschutzgesetz)
- Trade Regulation Code (Gewerbeordnung)
- Collective Bargaining Act (Tarifvertragsgesetz)
- Part-time and Limited-term Employment Contracts Act (Teilzeit- und Befristungsgesetz)
- Works Constitution Act (Betriebsverfassungsgesetz)
- Executive Committees Act (Sprecherausschussgesetz)
- Coal, Iron and Steel Industry Codetermination Act (Montan-Mitbestimmungsgesetz)
- One-Third Participation Act (Drittelbeteiligungsgesetz)
- Codetermination Act (Mitbestimmungsgesetz)
- Care Leave Act (Pflegezeitgesetz)
- Posting of Workers Act (Arbeitnehmer-Entsendegesetz)
- Minimum Wage Act (Mindestlohngesetz)
- General Equal Treatment Act (Allgemeine Gleichbehandlungsgesetz)

**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)

What are the participation and codetermination rights of employees and their workplace representatives? What rights do trade unions have in the workplace? These questions are answered by the Works Constitution Act, which governs how workplace labour relations are organised.

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

Rights

You have many clearly defined rights as an employee. For example, you are entitled to information and to be heard by your employer in matters relating directly to your job. You can:

- Demand to be informed about how new technologies will affect your job
- View your employee file
- Have your performance assessment 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 with the support of the works council (Betriebsrat), which represents your interests in dealings with your employer.

It is incumbent on the works council and your employer to maintain a constructive working relationship in the interests of employees and employer alike. They also cooperate with trade unions and employer associations.

Composition of the works council

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

- 5-20 employees eligible to vote: one member
- 21-50 employees eligible to vote: three members
- 51-150 employees eligible to vote: five members.

Larger establishments have correspondingly larger works councils.

If there are a number of works councils within one 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 corporate group. The same applies to youth and trainees councils (Jugend- und Auszubildendenvertretungen).
If a company has more than 100 employees, a finance committee (Wirtschaftsausschuss) must also be formed. The finance committee has extensive rights of information and consultation on financial matters. It members are nominated by the works council.

If a works council has three or more members, whichever gender is in the minority in 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.

Subject to certain requirements, delegates of trade unions whose members are in the works council may also take part in works council meetings.

**Establishments in which a works council can be formed**

If a private-sector establishment has at least five employees over the age of 18, they are entitled to elect a works council (Betriebsrat). However, at least three employees need to have been there for at least half a year (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 a youth and trainees council.

A central works council must be established if a company has several establishments that each have a works council. A group works council may be established the level of a corporate group.

Public-sector establishments at federal, Länder and local level and other public-sector institutions do not have works councils. Instead of the Works Constitution Act, they come under the Federal Personnel Representation Act or under Länder personnel representation acts.

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

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**Note:**

Senior managerial staff can only elect an executive committee if a majority votes in favour the first time a ballot is held.
**Representative for persons with severe disabilities**

The special interests of persons with severe disabilities are safeguarded in establishments and organisations by a representative/spokesperson for persons with severe disabilities (Schwerbehindertenvertretung/Vertrauensperson). The spokesperson is elected in establishments or organisations that have at least five persons with severe disabilities on their permanent workforce. All severely disabled persons employed in the establishment or organisation are entitled to vote.

The representative for persons with severe disabilities promotes the integration of persons with severe disabilities, represents their interests in the establishment or organisation and provides them with help and advice. In respect of these responsibilities, the spokesperson has, among other things, a right to be heard and a right to participate vis-à-vis the employer and other codetermination bodies.

The remaining codetermination bodies (such as the works council, staff council or judges’ council) also promote the integration of persons with severe disabilities in the establishment or organisation.

**The right to vote for the works council**

All employees aged 18 and over have the right to vote for the works council. Temporary workers can to vote in works council elections in the company where they are deployed if they have worked there for more than three months. Employees are not eligible to stand for works council membership, however, until they have been with the establishment or another establishment in the same company or corporate group for at least six months.

Under an amendment to Section 5 of the Works Constitution Act effective since July 2009, civil servants, public-sector employees and members of the armed forces are normally considered employees for the purposes of the Act when employed in an establishment belonging to a private-sector enterprise. The rule governing classification as a member of senior managerial staff under Section 5 (3) of the Act likewise applies to civil servants and members of the armed forces employed in a private-sector enterprise. There is thus general provision for civil servants and public-sector employees to vote for and to be elected onto the works councils, supervisory boards and executive committees of private-sector enterprises.

**Tasks of the works council**

The tasks of the works council include watching over compliance with primary and secondary legislation and safety regulations applicable to the employer and with any collective and establishment-level agreements.

The works council has codetermination rights in various social matters:

- Questions relating to internal rules and employee conduct;
- Setting working hours and introducing short-time working or overtime;
• Determining principles on paid leave and a leave schedule, and when individual employees can take leave if employer and employee are unable to agree;
• The form, structure and management of social facilities restricted to the establishment, company or corporate group;
• Introduction or application of mechanisms to monitor employee conduct or performance;
• As provided by law, when measures are proposed to prevent occupational accidents or illnesses, or when issues of health protection are involved;
• When company residential accommodation is to be allocated or vacated;
• Questions relating to the composition of pay, devising remuneration systems, or setting piecework and bonus rates or similar performance-related payments;
• Setting principles for group working practices.

The works council also cooperates and has a substantial amount of say on:
• Workplace organisation and design, work processes and the working environment
• Personnel planning
• Vocational training

Job security and training are important issues where works councils are able to exercise influence. A works council can, for example, make proposals to the employer regarding flexible working hours, on arrangements for part-time working and partial retirement, on in-company training, and on new forms of work organisation and changes to processes and workflows.

If the employer plans structural changes in the establishment (such as cutbacks, closing down or relocating operations), the works council, subject to certain requirements, can require a social plan to compensate for or alleviate the financial disadvantages faced by employees.

The employer must give the finance committee 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 individual personnel changes, namely:
• New appointments
• Gradings
• Regradings
• Transfers

Subject to certain requirements defined by law, the works council is entitled to refuse its consent. If the employer still wishes to implement a measure that 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, or the dismissal will be invalid.

Furthermore, the works council has the right to contest ordinary dismissals. If your employer has given you due notice of dismissal, the works council has contested it on one of a number of legally admissible grounds, and you have filed an action for unfair dismissal, your employer must normally keep you on if you so demand. Only a labour court can then relieve your employer of the duty to keep you on.

If the works council contests a dismissal giving grounds, this will strengthen the employee’s 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 must ensure that this is observed. They particularly need to ensure that nobody is treated differently from others on account of race or ethnic origin, heritage or other background, nationality, religion or world view, disability, age, gender, sexual identity, political or trade union activities or attitudes. The works council and the youth and trainee council 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 they are older. 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 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 resolution.

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 EU-wide companies and corporate groups that have operations in two or more member states of the EU or the European Economic Area. The Act covers such companies and groups that have their registered office in Germany, have at least 1,000 employees in total in all member states and of those have 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 companies and corporate groups. It supplements national employee representations (works council, central works council, and group works council) without encroaching on their powers.
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 voluntary agreements. The EU Directive gives both employer and employee representatives maximum freedom as regards the company-specific structure and organisation of the EWC. The EU Directive and Germany’s Act on European Works Councils do however provide a list of matters to be addressed for guidance. The agreements should thus set out the responsibilities and tasks of the EWC, the procedure for informing and consulting employees, the place, frequency and duration of meetings, and the financial and material resources made available.

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 require the establishment of an EWC by law and sets out the specific responsibilities and the procedure to be used in informing and consulting employees.

The minimum requirements for an EWC established by law call for the EWC to be informed and consulted once per calendar year about the business developments and prospects of the company or group. This includes details of the economic and financial situation, expected trends in business, production and sales, the employment situation, capital expenditure, relocations of production, mergers, downsizing or closure of companies, operations or significant portions of operations, and mass layoffs. This largely corresponds to the stipulations on financial matters in Section 106 (3) of Germany’s Works Constitution Act.

Between regular meetings, the EWC must always be informed and, upon request, consulted on extraordinary transnational changes where they have an impact on the workforce and significantly affect employee interests (such as any relocation of production, plant closures or mass layoffs). This means that if extraordinary circumstances arise, central management must inform the EWC, provide it with the necessary documentation without delay and must consult it if requested. The EWC must normally be consulted in good time for its proposals and concerns to be taken into account before a business decision is taken.

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 concerned, and that members of the EWC must be provided with necessary training. The new provisions were transposed into German law with amendments to the Act on European Works Councils and entered into force on 18 June 2011.
The law

The legal basis is contained in the following:

- The Works Constitution Act (Betriebsverfassungsgesetz)
- The Federal Personnel Representation Act (Bundespersonalvertretungsgesetz) and personnel representation acts in each of the Länder
- The Executive Committees Act (Sprecherausschussgesetz)
- The Act on European Works Councils (Europäische Betriebsräte-Gesetz)

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

(Mitbestimmung)

Whether they relate to sales planning, new products, capital expenditure or rationalisation measures, virtually all operational and business decisions taken by an enterprise also affect its employees. This is why employees have codetermination rights, which allow employees, via their representatives, to participate in policymaking in the workplace and the company.

Employee codetermination is a fundamental element of the social order. It stems from a basic conviction that democratic principles should not be confined to the state, but need to be rooted in all areas of society.

Codetermination also means that employees and their trade unions are prepared to take a share in corporate responsibility.

They have thus helped shape and stabilise the social order in the Federal Republic of Germany in past 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 codetermination. It helps 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% for newly elected supervisory board positions in listed companies with parity codetermination. All listed companies and companies subject to codetermination 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 codetermination is not confined to employee welfare issues – it covers the complete range of business activity.
The powers of the supervisory board include:

- Appointing and removing members of the management (executive) board. This does not apply in a partnership limited by shares (KGaA).
- The right to be comprehensively informed on all of the company’s affairs
- The ability to make important business decisions, such as on major items of capital expenditure or rationalisation measures, conditional on its approval.

**Codetermination in large companies under the Codetermination Act**

Incorporated companies not in the coal, iron and steel industries and employing more than 2,000 people, either directly or in dependent subsidiaries, are subject to the Codetermination Act of 1976. The Act stipulates that a company’s supervisory board must be made up of equal numbers of employee and shareholder representatives. 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 a representative of senior managerial staff. Despite this, the company’s owners still have slightly more say, since the chairperson – who in practice is invariably a shareholder representative – has an additional casting vote in the event of a tied vote. Unlike in 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 is appointed.

**Election of employee representatives to the supervisory board**

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**

How the shareholder or ‘capital’ representatives on the supervisory board are elected depends on the form of company. In a public limited company (AG), they are elected by the shareholders in the general meeting; in a private limited company (GmbH), they are elected by the shareholders in the shareholders meeting.

**Election of the chairperson**

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

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**Important:**

If a candidate does not attain the required majority, a second ballot is held in which the shareholder representatives elect the chairperson and the employee representatives the deputy chairperson, in each case by simple majority.
Management board

The supervisory board is responsible for appointing – and removing – members of the management board.

The management 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.

Codetermination 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 companies 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 family-owned. That is, companies fitting this description must also have one third of their supervisory board made up of employee representatives, even if they have less than 500 employees. 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.

Codetermination in the coal, iron and steel industries

Codetermination in the coal, iron and steel industries not only has the longest tradition but is also more extensive than elsewhere. In these industries, the rules apply to any incorporated company 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 management board are appointed and removed by the supervisory board. The management board must also include a labour relations director. A person cannot be appointed to or removed from this office if a majority of the employee representatives are opposed to it. This ensures that labour relations directors always have the confidence of the employee representatives on the supervisory board.

Note:

An incorporated company that does not itself belong to the coal, iron and steel industries but is the parent of other companies that do so is subject to a diluted form of these codetermination rules.
The law

In the coal, iron and steel industries, the key pieces of legislation are the Coal, Iron and Steel Industry Codetermination Act (Montan-Mitbestimmungsgesetz) of 1951 and the Supplementary Codetermination Act (Mitbestimmungsergänzungsgesetz) of 1956.

Codetermination in a European company under the Act on Employee Participation in European Companies (SEBG)

The EU Regulation on the Statute for a European Company (SE) and the supplementing Employee Involvement Directive were transposed into German law by the Act Concerning the Introduction of European Companies (SEEG). The SE (Societas Europaea) is a legal form under EU law and takes its place alongside the Aktiengesellschaft (AG) and GmbH under German law. The introduction of the SE aims to facilitate cross-border business combinations within the EU. An SE can be established in four ways: by transformation, merger, or establishment of a holding company or subsidiary.

Organisational structures

The SE may be organised under either a two-tier system with a management board, a supervisory board and 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 supervises 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 German law in the 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 agreement, a set of standard statutory rules apply that include information, consultation, and also codetermination rights for employees.

The following applies with regard to employee codetermination in the supervisory or administrative board of 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 codetermination rights is automatically based on the largest proportion who previously had such rights; if the thresholds are not reached, the largest 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 reach.
Cross-border information and consultation is secured by a special employee representative body, the SE works council.

**Codetermination 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 arrangement and substance of the two acts are near-identical. 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 codetermination 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 incorporated companies pursuant to 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 codetermination law. The company law provisions have been transposed into German law by amendments to the Transformation Act (Umwandlungsgesetz).

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 lesser employee participation than is operated in the merging companies or stipulates lesser employee participation in 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 codetermination:

- Codetermination Act (Mitbestimmungsgesetz) of 1976
- One-Third Participation Act (Drittelbeteiligungsgesetz)
- Coal, Iron and Steel Industry Codetermination Act (Montan-Mitbestimmungsgesetz)
- Supplementary Codetermination Act (Mitbestimmungergänzungsgesetz)
- Act on Employee Participation in European Companies (SE-Beteiligungsgesetz)
- SCE Employee Participation Act (SCE-Beteiligungsgesetz)
- Act on Employee Participation in the Event of Cross-Border Mergers (Gesetz über die Mitbestimmung der Arbeitnehmer bei einer grenzüberschreitenden Verschmelzung – MgVG).
Minimum wage

(Mindestlohn)

The extent of statutory rights to the minimum wage, how they are enforced and how enforcement is monitored is laid down in the Minimum Wage Act (Mindestlohngesetz), the Posting of Workers Act (Arbeitnehmer-Entsendegesetz) and the Temporary Employment Act (Arbeitnehmerüberlassungsgesetz).

Your rights

As an employee in Germany, you have a right to the statutory minimum wage at a gross amount before deductions of €8.50 per hour worked from 1 January 2015, increasing to €8.84 per hour worked from 1 January 2017. 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 vocational 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.

You likewise have a right to the statutory minimum wage when you are on a 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).

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. 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 in that regard.
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 higher 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 applies both for sectors expressly listed in the Posting of Workers Act and for all other sectors as well.

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 an ordinance issued by the Federal Ministry of Labour and Social Affairs.

In addition, minimum wages can be set for the nursing care sector by an ordinance issued 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. This precedence is universal.
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 issue an ordinance setting 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 workers are entitled to pay of at least that amount. The current minimum wage is laid down in the Third Ordinance on a Minimum Wage Level for Temporary Workers (Dritte Verordnung über eine Lohnuntergrenze in der Arbeitnehmerüberlassung), which entered into force on 1 June 2017.

Sectors with minimum wage levels

Sectoral minimum wage levels are not set in the acts themselves, but in ordinances issued under them. The minimum wage levels are regularly updated on the websites of the Federal Ministry of Labour and Social Affairs (www.bmas.de) and of the Customs Administration (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.
Occupational safety and health and prevention of occupational accidents
(Arbeitsschutz, Unfallverhütung)

Employees need safety. They must be protected from occupational safety and health risks. Occupational safety and health (OSH) provides this protection.

Responsibility for occupational safety and health in the workplace lies with your employer. Employers must set up and maintain the workplace, tools, machines, plant and equipment, etc., so that you are protected as an employee from safety and health risks. They must take action to prevent accidents at work and work-related health risks, and to provide ergonomic workplace organisation and design. They must do this by law, under national occupational safety and health provisions – notably the Occupational Safety and Health Act (Arbeitsschutzgesetz) and ordinances (secondary legislation) based on it – and accident prevention regulations published by the occupational accident insurance funds.

Occupational safety and health involves the following interrelated areas:
• The workplace, including workplace hygiene
• Tools, machinery, plant and equipment
• Hazardous substances
• Stipulations on working hours
• Protection of specific groups
• Organisation of workplace occupational safety and health
• Preventive occupational health care
• Load handling
• Biological agents
• Noise and vibration
• Artificial optical radiation
• Electromagnetic fields

Scope

The rules and regulations on occupational safety and health apply to all employees, including in agriculture and public service.

Children and adolescents enjoy special protection under the Act on the Protection of Young People at Work (Jugendarbeitsschutzgesetz). Only adolescents – defined for this purpose as persons aged from 15 to 17 – are normally allowed to work.
Employees are insured against occupational accidents and diseases with a statutory occupational accident insurance fund (see also the Occupational Accident Insurance chapter). For most employees this will be one of the statutory accident insurance institutions for the industrial sector (gewerbliche Berufsgenossenschaft), whose members are employers.

The statutory accident insurance institutions have set up technical inspectorates. Together with the occupational safety and health inspectorates in the various Länder, these make sure that all occupational safety and health requirements are strictly observed and that all available protective equipment is used.

**Legal basis**

Stipulations on occupational safety and health are to be found in various acts and ordinances, and in the accident prevention regulations published by the statutory accident insurance institutions.

Occupational safety and health rules and regulations can apply to specific sectors of trade and industry, for specific types of manufacturing plants, for workplace organisation and design, and so on. Other examples include:

- 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.

**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. As an employee, this means you must follow safe working practices and support your employer with regard to safety precautions. These obligations are laid down in the Occupational Safety and Health Act.

Accident prevention regulations also 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 health care.
Key occupational safety and health legislation

Occupational Safety and Health Act

The Occupational Safety and Health Act (Arbeitsschutzgesetz) requires your employer to assess hazards at the workplace, take appropriate preventive measures, and inform you about the measures applied. 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 on all workplace occupational safety and health matters. You can also complain to the inspectorates about inadequate occupational safety and health provision at your workplace without fear of retribution if you have already taken a complaint to your employer and nothing has been done about it.

Act relating to Company Doctors, Safety Engineers and other Occupational Safety Experts (Occupational Safety Act)

The Occupational Safety Act (Arbeitssicherheitsgesetz) requires employers to appoint appropriately qualified officers to support them in occupational safety and health matters, including ergonomic workplace organisation and design. The duties of the occupational safety and health experts include advising employers on the entire range of safety and health factors in the working environment. This begins with the planning of operating facilities, the purchasing of equipment and workplace organisation and 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 persons with disabilities. The Act is supplemented by German Social Accident Insurance (DGUV) Regulation 2, the Accident Prevention Regulation on Occupational Physicians and OSH Professionals (DGUV-Vorschrift 2, Unfallverhütungsvorschrift Betriebsärzte und Fachkräfte für Arbeitssicherheit).

Hours of Work Act

The Hours of Work 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 employee safety and health. Specific protection is provided for night workers regardless of gender. There is a general ban on Sunday and holiday working, with exceptions subject to certain requirements.
Act on the Protection of Young People at Work

The Act on the Protection of Young People at Work (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 paid leave they must be granted. The Ordinance on the Protection of Children at Work (Kinderarbeitsschutzverordnung) sets out in greater detail the types of light employment allowed by way of exception and deemed suitable under the Act on the Protection of Young People at Work for children from age 13 and for older children required to attend school full time.

Maternity Protection Act

The Maternity Protection Act (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 the Product Safety Ordinances issued under it, and applies both to consumer goods and to products used by employees in the workplace. The act and the ordinances also serve to transpose into German law EU legislation under which the free movement of goods in the single market is restricted to safe products.

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

Ordinance on Occupational Health Care

Occupational health care serves the purposes of individual investigation of and employee consultation on interactions between work and health and is an important adjunct to technical and organisational occupational safety and health measures. Its objectives include preventing work-related illness and maintaining employability. The Ordinance on Occupational Health Care (Verordnung zur arbeitsmedizinischen Vorsorge) lays down obligations on employers and physicians, guarantees employee rights, provides transparency regarding the need for mandatory and optional preventive check-ups, and strengthens employees’ entitlement to voluntary check-ups. It stipulates a general separation of occupational health check-ups and aptitude physicals, the admissibility of which is governed by labour law and data protection law. The ordinance is supplemented by occupational health rules. Drawing up rules in line with current occupational health knowledge and of occupational health recommendations is among the responsibilities of the Occupational Health Committee (Ausschuss für Arbeitsmedizin).
Ordinance on the Use of Personal Protective Equipment

The Ordinance on the Use of Personal Protective Equipment (PSA-Benutzungsverordnung) relates to the selection, provision and use of personal protective equipment in all sectors. Employers must also ensure that employees are instructed in the safe use of such equipment.

Manual Handling of Loads Ordinance

The Manual Handling of Loads Ordinance (Lastenhandhabungsverordnung) governs safety and health 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 maximum level of safety and minimum health risk to employees. For this purpose, working conditions are assessed to decide appropriate occupational safety and health measures.

Construction Site Ordinance

The provisions of the Construction Site Ordinance (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. Key elements 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 employees can be identified and eliminated at an early stage.

Ordinance on Industrial Safety and Health

The Ordinance on Industrial Safety and Health (Betriebssicherheitsverordnung) sets out objectives and provisions to ensure that the use of tools and machinery does not endanger employee safety and health. It also comprehensively stipulates on measures to protect employees and third parties in the use of installations subject to monitoring. Such equipment includes steam boilers, pressurised containers and elevators.

The Committee for Industrial Safety and Health (Ausschuss für Betriebssicherheit/ABS) provides detailed stipulations in the form of Technical Rules for Industrial Safety and Health (Technische Regeln für Betriebssicherheit/TRBS) and findings, which employers must observe when deciding protective measures. If these rules and findings are observed, the requirements laid down in the Ordinance are presumed to be met. Departures from the rules and findings are permitted, however, if at least equivalent standards of safety and health can be achieved by other means.
**Workplaces Ordinance**

The Workplaces Ordinance (Arbeitsstättenverordnung) specifies how workplaces – factories, workshops, offices and administrations, warehouses, shops, etc. – must be equipped and operated. Employers must ensure that there is no risk to employee safety and health in the operation of workplaces. The Ordinance thus covers a wide range of matters including display screen work, workplace dimensions, ventilation, lighting and temperature.

**Hazardous Substances Ordinance**

The Hazardous Substances Ordinance (Gefahrstoffverordnung) stipulates on the protection of employees from hazardous substances – primarily hazardous chemicals – at work.

The Ordinance gives employers freedom of choice in the selection of workplace-specific protective measures because only they know the full extent of the working conditions at their facilities. Where more detailed stipulations are required, the Hazardous Substances Committee (Ausschuss für Gefahrstoffe/AGS) drafts Technical Rules on Hazardous Substances (Technische Regeln für Gefahrstoffe/TRGS). If these rules are observed, compliance with the Ordinance is presumed. Employers are nonetheless free to implement measures other than those contained in the technical rules as long as they are appropriate, adequate and justifiable. The Ordinance contains a number of annexes setting out detailed provisions on specific areas requiring particular attention with regard to occupational safety and health.

**Biological Agents Ordinance**

The Biological Agents Ordinance (Biostoffverordnung), which underwent major revision in 2013, provides an up-to-date, cross-sectoral legal framework for the protection of employees from biological agents (microorganisms) at work. Based on a classification of biological agents into risk groups, protective measures are stipulated for the protection of employees against infection and any sensitising or toxicological effects.

These provisions protect an estimated five million employees who come into contact with biological agents at work in research, in biotechnical production, and in the food, agriculture, waste disposal, waste water and health care sectors. To address these various areas of application in a single piece of legislation, the Ordinance takes an underlying approach of stipulating uniform and flexible basic rules allowing employers to lay down and implement measures to protect employees in accordance with the specific workplace risk situation. The Committee on Biological Agents (Ausschuss für Biologische Arbeitsstoffe/ABAS) provides detailed stipulations in Technical Rules for Biological Agents (Technische Regeln für Biologische Arbeitsstoffe/TRBA).
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 Ordinance and the associated Technical Rules also provide for safety measures, notably for health care 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 ILO Convention No. 148 into German law. The Ordinance serves to improve employee safety and health at work.

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

**Ordinance on Occupational Safety and Health Protection of Workers Exposed to Artificial Optical Radiation**

The Ordinance on Occupational Safety and Health Protection of Workers Exposed to Artificial Optical Radiation (Arbeitsschutzverordnung zu künstlicher optischer Strahlung) transposes the EU safety and health 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. Even very minor exposures can thus have delayed effects in the form of skin cancer.

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

**Occupational Safety and Health Ordinance on Electromagnetic Fields**

The Occupational Safety and Health Ordinance on Electromagnetic Fields (EMF Ordinance) (Arbeitsschutzverordnung zu elektromagnetischen Feldern) newly issued in 2016 transposes the requirements of the European safety and health Directive 2013/35/EU into German law.

The objective of the EMF Ordinance is to protect the safety and health of employees from risks arising from electromagnetic fields at work.
High field strength electromagnetic fields arise in many different applications and branches of industry, such as industrial galvanisation, electrolysis, welding, sealing, inductive heating and curing processes, in radio, mobile communication and radar applications, in power generation, and in medical techniques such as magnetic resonance imaging (MRI).

The Annex to the Ordinance lays down exposure limit values and action levels to avoid risks from direct and indirect effects of exposure to electromagnetic fields. Exposure limit values and action limits relate solely to short-term effects of electromagnetic fields. Provided that the exposure limit values and action limits are observed, employers are able to assume that the safety and health protection of employees is ensured with regard to exposure to electromagnetic fields.

Directive 2013/35/EU and the Ordinance do not address long-term effects of exposure to electromagnetic fields since there is currently no well-established scientific evidence of a causal relationship.

Direct effects of static and low-frequency electromagnetic fields include the stimulation of nerves, muscle tissue and sensory organs in exposed employees. These effects can be detrimental to the functioning of the central or peripheral nerve system and can lead to dizziness, nausea, metallic taste and magnetophosphenes (flashes of light on the retina). Direct effects of high-frequency electromagnetic fields (such as radio, mobile communication and radar applications) lead to tissue heating in exposed employees. Overexposure can lead to tissue damage and even to burns.

Indirect effects of electromagnetic fields include interference with medical implants (such as pacemakers) and projectile risk from ferromagnetic objects in strong static magnetic fields.

**Book VII of the Social Code**

Book VII of the Social Code (SGB VII) requires statutory accident insurance institutions (Berufsgenossenschaften) 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 public and private-sector workplaces. Based on the law, and after a mandatory needs appraisal, the Berufsgenossenschaften issue accident prevention regulations that are legally binding on their members (employers) and on insured employees. Technical inspectors make sure that the accident prevention regulations are observed and advise the employers and insured employees.
Federal Ministry of Labour and Social Affairs Model Programme on Combating Work-Related Diseases

Under the Model Programme on Combating Work-Related Diseases (Modellprogramm zur Bekämpfung arbeitsbedingter Erkrankungen), the Federal Ministry of Labour and Social Affairs has provided targeted funding for model projects in occupational safety and health since 1993. The outcomes of such projects assist employers and employees in the practical implementation of occupational safety and health and in shaping working conditions. By the publication and dissemination of findings, the projects contribute to reducing work-related health risks and diseases in Germany’s production, crafts/trades and service sectors and to improving German business competitiveness. The projects involve 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 (Initiative Neue Qualität der Arbeit/INQA) is a joint initiative in which stakeholders from government, business, the unions, research and civil society have joined forces to seek practicable solutions for making working conditions both more attractive, motivating and healthy for employees and more conducive to innovation and economically viable for employers. The New Quality of Work Initiative cuts across otherwise 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 Conference of Ministers for Labour and Social Affairs, the Federation of German Local Authority Associations 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 the public and private sector 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 motivation 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 both the public and the private sector for these interdependencies and for low-threshold, practice-focused solutions.
With a view to the challenges facing public and private-sector employers 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:

- 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 expertise: 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 substantive issues and for the provision of information and advice under the New Quality of Work Initiative. Fair and reliable working conditions are the basis of all four action areas and of the enterprise of the future – for employers and employees alike.

Key products of the New Quality of Work Initiative include the ESF-funded ‘unternehmensWert: Mensch’ programme and the ‘Zukunftsfähige Unternehmenskultur’ audit programme.

The ‘unternehmensWert: Mensch’ (‘Human Capital’) programme supports small and medium-sized enterprises (SMEs) with professional consulting to help identify their human resources needs and develop tailored human resources policies. The consulting is provided by experienced experts and is adapted to the needs of each business. A programme requirement is that employees must be involved in change processes.

‘Zukunftsfähige Unternehmenskultur’ (‘Future-Oriented Corporate Culture’) is an audit service provided under the New Quality of Work Initiative to show public and private-sector managers where they stand regarding human resources policy and corporate culture. Employers and employees work jointly from the outset to identify scope for improvement and develop responses across all four action areas, with issues ranging from health promotion, flexible working hours and reconciliation of family and working life to training and employee development. Successful implementation of this comprehensive, consultative process is recognised with an award.
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 continues 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.

**Information**

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

Each of Germany’s Länder has a special safety and health authority: the Amt für Arbeitsschutz (safety and health office) or the Gewerbeaufsichtsamt (labour inspectorate).

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

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

Statutory occupational accident insurance (Unfallversicherung) was established in Germany in 1884. It is provided by statutory accident insurance institutions for the industrial sector (gewerbliche Berufsgenossenschaften), the statutory accident insurance institution for the agricultural sector (landwirtschaftliche Berufsgenossenschaft), and public-sector occupational accident insurance funds (Federal and Länder-level occupational accident insurance funds and municipal occupational accident insurance associations).

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 at nursery school or in the care of suitable daycare providers
- Children at 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 own a business or are self-employed and are not already required to carry insurance by law or under the rules of the statutory accident insurance institutions, you can take out voluntary insurance for yourself as well as your spouse if he or she works with you. Special occupational accident insurance provisions apply to civil servants (Beamte).

Benefits and conditions

Statutory occupational accident insurance protects you and your family against the consequences of accidents at work and occupational diseases.

In addition, it contributes towards the prevention of occupational accidents, occupational diseases and work-related health hazards.
In the event of an occupational accident or occupational disease, statutory occupational accident insurance provides:

- Payment for full medical treatment.
- Benefits and services to promote participation in working life (including retraining if necessary), benefits and services to promote social participation, 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 disease, 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.

**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 your gross pay before deductions lost as a result of accident or injury, up to a maximum of your take-home pay. It is granted for a maximum of 78 weeks.

**Benefits and services to promote participation in working life**

If you are unable to return to your present employment because of an accident or occupational disease, you can claim benefits and services to promote participation in working life. These primarily comprise help allowing you to retain your present employment or to obtain new employment. If this does not succeed, you can undergo retraining or on-the-job training in another occupation. You will then receive a transitional allowance. This is reduced by the amount of any income from employment you earn at the time.
Benefits and services to promote social participation and supplementary assistance

These include financial assistance to modify your car or home to meet your needs, home help, psychosocial counselling and rehabilitative sport. They are granted in addition to medical treatment and benefits and services to promote participation in working life 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 or occupational disease reduces your earning capacity by at least 20% for 26 weeks (at least 30% in the case of farmers, their spouse or life 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 disease.

Important:

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

Long-term care allowance

If you require nursing care as a result of a work accident or an occupational disease, you are entitled to nursing care benefits and services, a long-term 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 disease, your surviving dependants will receive a funeral allowance 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 disease, 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 from employment 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, an occupationally disability or invalidity
- 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 is being raised in phases to 47; this is in line with the raising of the age limit for surviving dependant’s pension under statutory pension insurance.

If you are not yet 45 (or 47 – see above) and have no children, your annual pension entitlement is 30% of your deceased spouse’s annual income from employment, 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 disease, 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 from employment to your children if they still have one parent, and 30% if they have lost both parents. Orphans’ pensions are paid beyond the age of 18 and up to age 27 for orphans who are:

- Attending school or in vocational training;
- On a year of voluntary social or voluntary environmental service under the Youth Voluntary Service Act or service under the Federal Voluntary Service Act;
- Unable to provide for themselves because of a physical, intellectual or psychological disability.

Orphans’ pensions are not subject to deduction of income.

**Important:**

Important: If the widow’s or widower’s pensions and orphans’ pensions granted to one family exceed 80% of the deceased’s annual income from employment, 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 disease that you would be entitled to a larger pension. The size of the settlement is determined in accordance with the Net Present Value Ordinance (Kapitalwertverordnung) issued by the Federal Government, 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 disease, you can apply to have half of the pension due to you over a ten-year period paid out as lump-sum settlement (not to exceed nine times your half-yearly pension entitlement). No documentation is required concerning how the funds are used. You 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

Statutory occupational accident insurance is provided by statutory accident insurance institutions for the industrial sector (gewerbliche Berufsgenossenschaften) and the statutory accident insurance institution for the agricultural sector (landwirtschaftliche Berufsgenossenschaft). These are funded out of employer contributions. An employer’s contribution level is determined by the sum total of employee annual pay and the employer’s accident risk level.

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

The law

The legal basis for statutory occupational accident insurance is contained in Book VII of the Social Code (SGB VII). Other applicable laws and regulations include:

- Book IX of the Social Code (SGB IX)
- The Ordinance on Occupational Diseases (Berufskrankheiten-Verordnung)

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.
Information

Further information is available from the statutory accident insurance institutions (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 online, including: www.dguv.de and www.bmas.de/EN/Our-Topics/Social-Security/statutory-occupational-accident-insurance.html.
Rehabilitation and participation of persons with disabilities

(Rehabilitation und Teilhabe von Menschen mit Behinderung)

Rehabilitation is the deployment of measures to help people overcome health-related restrictions to their capabilities. The goal is full participation – enabling everyone to lead an active and self-determined social and working life.

This is also the central precept of the UN Convention on the Rights of Persons with Disabilities (UN CPRD), which entered into force for Germany on 26 March 2009. The purpose of the UN CPRD is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Important principles of the UN CPRD are non-discrimination and inclusion, meaning that persons with disabilities and their concerns must be included from the outset in all aspects of life – political, economic, social and cultural – with the objective of participation on an equal basis with others. Rather than creating special rights for persons with disabilities, the UN CPRD further elaborates and specifies the universal human rights from the perspective of persons with disabilities. The pivotal right is the right to equal treatment, participation and self-determination. The various articles of the UN CPRD apply this right to individual aspects of life.

This is the basis on which all persons who have disabilities or are at risk of disability and therefore need special help are entitled to benefits and services for rehabilitation and participation. Various circumstances can give rise to a need for assistance with participation. 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 benefits and services.

Part 1 of Book IX of the Social Code (SGB IX) – Rehabilitation and Participation of Persons with Disabilities – brings together the law relating to various benefit sectors with uniform stipulations on benefits and procedures. Book IX of the Social Code thus 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 persons who have disabilities or are at risk of disability, but on their self-determined participation in society and on the elimination of barriers to equal opportunities.
Book IX of the Social Code provides for medical, occupational and welfare benefits and services along with benefits and services for access to education in order to achieve this aim quickly, effectively, economically and permanently. Accordingly, the benefits have been brought together under the heading of benefits and services to promote participation. People with disabilities or at risk of disability are empowered to conduct their own affairs as far as possible independently and on their own responsibility.

In ratifying the UN CPRD, the Federal Republic of Germany has given a fundamental commitment to further develop the law in line with the Convention.

It was in this context that the Federal Participation Act (Bundesteilhabegesetz/BTHG) was adopted in 2016. In force since 1 January 2017, the Federal Participation Act aims to improve the situation of persons with disabilities in the interests of greater participation and self-determination and to develop integration assistance (Eingliederungshilfe) into a modern legal framework for participation. The Federal Participation Act also includes a reform of integration assistance, though this does not enter into general effect until 1 January 2020.

Benefits and conditions

Persons with disabilities or at risk of disability naturally have the same entitlements to social benefits and services and other state assistance as anyone else. These are supplemented with entitlements to benefits and services to promote participation, which may be needed to:

• Avert, eliminate or reduce a disability;
• Prevent a disability from becoming worse or alleviate its effects, regardless of the cause of the disability.

These benefits and services to promote participation are provided to help you secure your place in the community – and that includes employment that suits your interests and abilities.
Benefits and services to promote participation

Benefits and services to promote participation (Leistungen zur Teilhabe) comprise the following:

Benefits and services for medical rehabilitation

Benefits and services for medical rehabilitation (Leistungen zur medizinischen Rehabilitation) include:

- Medical and dental treatment
- Early identification and early intervention for children
- 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, benefits and services for medical rehabilitation are provided on an out-patient basis or in rehabilitation clinics on an in-patient basis. Where necessary, the benefits cover any food and accommodation.

Benefits and services to promote participation in working life

Benefits and services to promote participation in working life (Leistungen zur Teilhabe am Arbeitsleben) include:

- Assistance to help keep or obtain employment, including placement support, training and mobility assistance;
- Vocational preparation including any basic training made necessary by a disability (for example in the case of blindness);
- Trial employment, vocational training and further training, including any school-level qualifications required to take part in occupational further training;
- Other benefits and services to promote participation in working life aimed at making it possible for persons with disabilities to find and retain adequate and suitable employment or self-employment.

When selecting forms of occupational rehabilitation assistance, the aptitude, inclinations and previous employment of persons with disabilities are taken into account together with the current situation and outlook on the labour market. Benefits and services to promote participation in working life cover the cost of food and accommodation when, for example, the nature and severity of a disability is such that, or the success of the rehabilitation measures depends on, a person being accommodated other than at their own or in the parental home.
Benefits and services to promote participation in education

Benefits and services to promote participation in education (Leistungen zur Teilhabe an Bildung) consist of support to enable persons with disabilities to take equal advantage of education opportunities. They include:

- Assistance for school education, primarily in connection with compulsory school attendance
- Assistance for vocational school education
- Assistance for higher education
- Assistance for further education at school and higher education level

Benefits and services to promote social participation

Benefits and services to promote social participation (Leistungen zur Sozialen Teilhabe) include:

- Assistance relating to accommodation
- Personal assistance with coping day-to-day on a self-determined and independent basis, including with participation in social and cultural life
- Special education for pre-school children
- Assistance relating to communicating with others
- Assistance relating to mobility

Benefits to cover living expenses and other supplementary benefits

To meet your living expenses while receiving benefits and services for medical rehabilitation, you will generally receive – depending on which provider is responsible – either sickness benefit (Krankengeld), social compensation sickness benefit (Versorgungskrankengeld), injury benefit (Verletzengeld) or a transitional allowance (Übergangsgeld). 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 take-home pay 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 into employment, employees receive sickness benefit or transitional allowance. The incapacity for work continues to apply during this time.
If you are provided with benefits and services to promote participation in working life, 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. For young persons with disabilities in initial vocational training, the Federal Employment Agency will also pay a training allowance in certain circumstances if it is not possible to pay transitional allowance. Persons with disabilities who are capable of earning and in need of assistance receive cost-of-living assistance under Book II of the Social Code.

**Prevention**

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 to avoid loss of employment.

**Personal budget**

To secure them the greatest possible degree of independence and control over their own lives, persons with disabilities and in need of nursing 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 a personal budget.

**Facilities**

**Vocational youth training centres**

Vocational youth training centres (Berufsbildungswerke) are centralised, transregional facilities that provide vocational preparation and vocational training for young persons with disabilities. Young people who require special assistance are trained by qualified staff and supported in their personal and vocational development by a range of services (for example, medical, psychological and educational services).

**Vocational retraining centres**

Vocational retraining centres (Berufsförderungswerke) are centralised, transregional facilities that provide retraining and further training for adults with disabilities who can no longer perform the occupation they have trained for or their prior employment. As social service providers, they provide qualified staff and support services (such as medical, psychological services) to enhance people’s vocational and personal skills.
Vocational training centres

Vocational training centres (berufliche Trainingzentren) are specialist facilities to promote the participation of persons with psychological disabilities in working life. They aim to help people realistically assess their employment prospects and rejoin the mainstream labour market or prepare them for subsequent retraining or initial training or to return to employment. Vocational training centres have training places that correspond to workplace conditions and requirements.

Vocational rehabilitation clinics

Vocational rehabilitation clinics (Einrichtungen der medizinisch-beruflichen Rehabilitation) are committed to providing very comprehensive, seamlessly integrated medical, educational, occupational and psychosocial rehabilitation services. The objective is the educational, vocational, occupational, family and social integration of people with illness-related impairments, learning difficulties and social behaviour or workplace conduct disorders.

Workshops for persons with disabilities

Workshops for persons with disabilities (Werkstätten für behinderte Menschen) offer suitable vocational training and employment for persons with disabilities who are permanently or temporarily unable to find employment on the general labour market due to the nature or severity of their disability. The workshops provide persons with disabilities with an opportunity to develop, increase or regain their ability to work productively and earn.

Other providers

Under the Federal Participation Act, the employment opportunities provided by recognised workshops for persons with disabilities have been supplemented by the accreditation of other providers and the introduction of the ‘budget for work’.

Other providers are able to serve as providers that satisfy the requirements to be met by workshops for persons with disabilities. They provide vocational education and employment in the same way as do workshops for persons with disabilities. The persons with disabilities employed with them have the same rights as they have in a workshop for persons with disabilities.

Budget for work

Under the ‘budget for work’ (Budget für Arbeit), persons with disabilities who are entitled to employment in a workshop for persons with disabilities are provided with a pathway into the general labour market. Employers who employ a person with disabilities in employment subject to compulsory social insurance are paid a wage subsidy in the amount of up to 75% of the employee’s regular pay to compensate on an ongoing basis for the employee’s reduced capacity on account of disability. Any personal assistance that may be needed is funded in addition.
**Special provisions for persons with severe disabilities**

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

The special employment protection provisions mostly relate to protection from dismissal by the employer. The integration office must thus give prior approval for any termination of an employment relationship before the employer gives the notice in order for the notice to be valid. Notice given by an employer before approval has been obtained from the integration office is invalid. Notice served by an employer on a person with a severe disability is likewise invalid if the notice is given without involving the representative for employees with severe disabilities.

Persons with severe disabilities are also entitled to additional paid leave (usually five additional working days for persons with a severe disability who are employed for the full year).

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**Important:**

Persons with disabilities employed at a workshop for persons with disabilities are covered under statutory health, accident, long-term care and pension insurance.

Any public or private-sector employer with more than 20 positions is required to reserve 5% of them for persons with severe disabilities. Some federal public employers are required to reserve up to 6% of positions. Positions occupied by trainees are not included when calculating the number of reserved places. Two reserved places are counted for each trainee with a severe disability. In addition, local employment agencies can treat a person with a severe disability 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 position not assigned to a person with a severe disability. 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 representation/spokesperson for employees with severe disabilities (Schwerbehindertenvertretung/Vertrauensperson) must be elected in any establishment or organisation that employs five or more persons with severe disabilities other than on a temporary basis. The spokesperson is responsible for promoting the integration of employees with severe disabilities in the establishment or organisation, for providing them with help and advice, and for representing their interests in the establishment or organisation.
In some cases, benefits and services to promote participation in working life must be supplemented by special assistance to ensure that persons with severe disabilities are able to find adequate, long-term employment. In such cases, the Federal Employment Agency and the integration offices provide special cash benefits for purposes such as refitting machinery so that the workplace is accessible and ensures equal participation on an ongoing basis.

As a person with a severe disability, you can also claim disability concessions in compensation of disadvantages or additional expenditure arising from your disability. The concessions are normally conditional on the existence of specific health conditions and include:

- Tax relief (such as a lump-sum disability allowance)
- Free public transport
- Reduced vehicle taxes
- Parking concessions
- Reduced radio and television licence fees

**Disability pass**

As a person with a severe disability, you can apply for a severe disability pass (Schwerbehindertenausweis) at the responsible compensation office (Versorgungsamt). This pass serves as proof of your severe disability and enables you to claim disability concessions.

When you apply for a pass, the compensation office will also ascertain whether you are entitled to special disability concessions. 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 to free public transport or to claim 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) rail travel nationwide.

So that you can use this service, your pass must contain a special stamp (Wertmarke). These stamps are issued by the compensation office and cost €80 for one year or €40 for six months. The 12-month stamps are issued on application free of charge to persons who are blind or otherwise incapacitated and to certain groups of persons on low incomes. This exemption also applies to certain categories of war victims. If you are authorised to be accompanied by a carer (with a ‘B’ in your pass), they will also be allowed to travel free of charge. This also applies to long-distance travel.
**Persons with disabilities of equivalent status to persons with severe disabilities**

**Important:**

If you have a level of disability that is less than 50% but at least 30%, subject to certain requirements you may have equivalent status to a person with a severe disability. This is decided by the employment agency. A precondition is that you cannot obtain suitable employment or keep your present employment without the equivalent status. If you have equivalent status, you can claim the same benefits and services to promote integration into working life as are available to persons with severe disabilities (except additional annual leave and free transport).

**Who provides what assistance**

The social benefits system has various rehabilitation providers which assume specific responsibilities with regard to rehabilitation and participation and have the specialised expertise, services, amenities and also the administrative structures that are needed for the purpose.

To ensure that the benefits and services in this multi-provider social benefits system are easily accessible for all, a ‘one-stop’ service rule is applied under the participation plan system (see ‘Participation plan’ below). Under this system, it is not important for an application to be made with the ‘right’ agency. All rehabilitation providers must accept and process applications for participation benefits and services, having due regard to the responsibilities of other agencies. This saves applicants the trouble of obtaining a clarification of responsibilities.

Responsibilities are divided among rehabilitation providers in the rehabilitation plan system as follows:

- **Statutory health insurance** provides benefits and services for medical rehabilitation for insured persons. The providers are as follows:
  - Local health insurance funds
  - Company health insurance funds
  - Guild health insurance funds
  - Deutsche Rentenversicherung Knappschaft-Bahn-See
    (the miners, railway and maritime pension insurance fund)
  - Substitute funds
  - Agricultural health insurance fund

- **Statutory pension insurance** is responsible for providing benefits and services for medical rehabilitation and benefits and services to promote participation in working life for their members. The providers are as follows:
  - Deutsche Rentenversicherung Bund (federal level)
  - Regional Deutsche Rentenversicherung providers (regional level)
  - Deutsche Rentenversicherung Knappschaft-Bahn-See (miners, railway and maritime)
- Statutory occupational accident insurance is responsible for providing benefits and services for medical rehabilitation, benefits and services to promote participation in working life and benefits and services to promote social participation following a work-related accident or an occupational disease. The providers are as follows:
  - Statutory accident insurance institutions for the industrial sector (gewerbliche Berufsgenossenschaften)
  - Statutory accident insurance institution for the agricultural sector (landwirtschaftliche Berufsgenossenschaft)
  - Public-sector occupational accident insurance funds (occupational accident funds and municipal occupational accident insurance associations)

- Providers of social compensation in the event of injuries to health provide war victims, persons injured during military service and victims of violent crime with benefits and services for medical rehabilitation, benefits and services to promote participation in working life, participation in education and social participation. The providers are as follows:
  - Compensation offices
  - Local integration offices
  - The Federal Office of Bundeswehr Personnel Management

Integration offices offer additional assistance when persons with disabilities or persons with severe disabilities face employment-related difficulties. If no other fund is responsible, they have the authority to grant financial incentives to employers to provide employment for persons with severe disabilities.

The Federal Employment Agency, its regional directorates and local employment agencies provide benefits and services to promote participation in working life if no other provider is responsible. The Federal Employment Agency is also the rehabilitation provider with regard to benefits and services for the promotion of participation in working life for persons with disabilities who are entitled to assistance under Book II of the Social Code unless another rehabilitation provider is responsible.

Social assistance and youth welfare providers cover all benefits and services to promote participation, 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.

**Rehabilitation plan**

It is not always easy to know who is responsible for what. So that this does not place persons with disabilities at a disadvantage, the various agencies responsible for rehabilitation are required to work closely with each other.
From 1 January 2018, in cases involving multiple categories or providers of benefits and services to promote participation, the procedure for obtaining those benefits and services has been considerably simplified. Under the participation plan (Teilhabeplan) system, a single application for rehabilitation is enough to start a comprehensive assessment and decision process even though the various different agencies continue to be responsible. For this purpose, rules on responsibilities on inter-agency cooperation have been laid down in law for all rehabilitation providers. Where multiple rehabilitation providers are involved or a number of different benefits and services are applied for, all rehabilitation providers now have to follow a joint needs assessment procedure. With the consent or at the request of the applicant, a participation plan meeting can additionally be held for consultation on the applicant’s individual support needs. In this way, persons with disabilities gain greater involvement in the procedure in instances where multiple types of benefits and services or multiple agencies come into consideration.

**Arbitration Service under the Act on Equal Opportunities for Persons with Disabilities**

From the beginning of December 2016, persons with disabilities who consider that there has been an infringement of their rights under the Act on Equal Opportunities for Persons with Disabilities (Behindertengleichstellungsgesetz/BGG) can make use of the Arbitration Service set up in accordance with Section 16 of the Act. Persons with disabilities are thus provided with a channel for rapid extra-judicial conflict resolution. The Arbitration Service is set up under the Federal Government Commissioner for Matters relating to Persons with Disabilities.

Use of the Arbitration Service is free of charge. Applicants may be refunded the costs of necessary travel.

Procedural details are laid down in the Ordinance on the Arbitration Service set up in Accordance with Section 16 of the Act on Equal Opportunities for Persons with Disabilities (Bundesgleichstellungsschlichtungsverordnung/BeGleiSV), which entered into force on 3 December 2016.

Registered associations that are recognised under the Act on Equal Opportunities for Persons with Disabilities can also use the service. Use of the service is also a precondition for a registered association to file subsequently for representative action.
Compensation offices and integration offices

Compensation offices (Versorgungsämter, 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. Compensation offices are responsible for determining a person’s disability, their level of disability and any further health conditions that are a requirement for claiming disability concessions. These offices also issue the disability pass. The Federal Employment Agency provides incentives for hiring persons with severe disabilities and monitors compliance with the statutory obligation to employ persons with severe disabilities. Special employment protection, 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’ Compensation Act (Bundesversorgungsgesetz)

Information

Points of contact

From 1 January 2018, all rehabilitation providers must designate points of contact that provide applicants, employers and also other rehabilitation providers with, among other things, accessible information on obtaining benefits and services to promote participation and on the option to have them provided by way of a personal budget. As the points of contact are required to link up regardless of who is responsible for what, there is now no longer any need to worry about submitting applications to the ‘right’ agency.

Complementary independent participation counselling

The objective of better coordination and cooperation among rehabilitation providers is systematically pursued under the Federal Participation Act (Bundesteilhabegesetz/BTGH). In particular, the inter-agency, inclusive participation plan system and the introduction of complementary participation counselling that is independent of agencies and service providers have the aim of ensuring significantly better advice and support on a low-threshold basis everywhere in the country for persons with disabilities or at risk of disability and their families.
On 30 May 2017, the Federal Ministry of Labour and Social Affairs issued a directive on funding for the provision of complementary independent participation counselling (ergänzende unabhängige Teilhabeberatung/EUTB) under which several hundred counselling services have been provided with funding since 1 January 2018. A new participation counselling support unit, Fachstelle Teilhabeberatung, commenced work on 1 December 2017 and information on participation counselling has been available on a dedicated website, www.teilhabeberatung.de, since 2 January 2018. The work of the support unit includes, among other things, identifying training needs for counselling centres, developing initial and further training courses for counsellors together with quality standards, and setting up a feedback management system.

Funding is provided for independent regional counselling centres which are independent of agencies and service providers and which complement existing advice and counselling services. A special funding criterion is the use of peer counselling methods under which persons with disabilities have greater self-determination and empowerment and receive significantly better advice and support. Complementary independent participation counselling is primarily intended to provide those seeking advice with the guidance they need on identifying their participation options before applying for specific benefits and services. The funding, in the amount of €58 million a year, is provided out of federal funds and is initially provided for a limited period until 31 December 2022.

Important:

All rehabilitation providers must accept your application for benefits and services for rehabilitation and participation – a specific form is not required – and if necessary forward it to the agency responsible. The rehabilitation provider to which an application is forwarded must normally give you a final decision. Only in very exceptional cases can an application be forwarded a second time, and then only if the agency to which it is forwarded has stated that it will give a decision.
Health insurance

(Statutory health insurance (Krankenversicherung) provides for 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. These are covered by statutory accident insurance.

Until the end of 1995, which health insurance fund (Krankenkasse) you were insured with depended on your profession or who you worked for. As from 1 January 1996, anyone in a local, company, guild or other statutory health insurance fund is free to choose between health insurance funds, although company and guild funds can only be chosen if they have changed their statutes to accept outsiders. Since 1 April 2007, it has additionally been possible to choose Deutsche Rentenversicherung Knappschaft-Bahn-See, the miners, railway and maritime pension insurance fund. Special conditions apply for agricultural health insurance.

What statutory health insurance covers

Benefits and services you can 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 as stipulated by the Federal Joint Committee (Gemeinsamer Bundesauschuss) on the basis of recommendations from the Standing Vaccination Committee (STIKO) at the Robert Koch Institute.
- Orthodontic treatment for insured persons, as a rule up to age 18.
- Medical and dental treatment, with free choice among panel doctors and dentists, medical care centres (medizinische Versorgungszentren), non-panel doctors or dentists authorised to treat members of statutory health insurance (ermächtigter Arzt/Zahnarzt), and dental clinics and other health care facilities (Eigeneinrichtung) operated by statutory health insurance funds.
- Medicines, dressings, therapies, and aids such as hearing aids and wheelchairs
- A nationally standardised medication plan, on paper, drawn up and updated by a panel doctor and handed out to you, if you have to take at least three prescribed medicines concurrently over a period of at least 28 days.
- Medically necessary provision of dentures and crowns.
- Hospital treatment.
• Discharge management: On discharge, hospitals can prescribe home nursing care, therapies, aids and sociotherapy for their patients for a period of up to seven days at the expense of statutory health insurance. They can also determine if a patient is unfit for work. Hospitals and hospital doctors are now also able to prescribe medicines.

• 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 ceiling, 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. Farmers are provided with a farm help 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 have disabilities and are 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 out-patient rehabilitation treatment or receive home nursing care, are unable to look after your home as a result, and have a child living in your household who has not reached the age of 12 when home help begins or who has a disability and is 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 four 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 who has not reached the age of 12 when home help begins or who has a disability and is 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.

• Sociotherapy for insured persons who have a severe psychological affliction that prevents them from taking medical treatment.
Maternity benefit (Mutterschaftsgeld) and assistance (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 childbirth (the statutory period of maternity leave) in addition to the day of the birth. In the case of multiple or premature births or where the child is found within eight weeks of birth to have a disability, this is extended on application to twelve weeks after childbirth in addition to the day of the birth. The amount depends on your average pay over the last three months, or the last 13 weeks before the statutory period of maternity leave. 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 statutory period of maternity leave. Under amendments to the Insurance Contract Act (Versicherungsvertrags-gesetz/VVG), self-employed women who have a daily sickness benefit insurance policy are entitled to payment of the agreed daily sickness benefit for the duration of the protection periods. Expectant and nursing mothers can then decide independently of financial considerations whether and how much they wish to work during this time.

**Who is insured**

You are compulsorily insured as an employee if your regular income from employment before deductions exceeds €450 per month and is below the compulsory insurance income limit (Jahresarbeitsentgeltgrenze). This ceased to be tied to the pension insurance contribution assessment ceiling on 1 January 2003. Instead, there is now a general annual income limit and a special reduced annual income limit. The general annual income limit for 2018 is €59,400. For reasons of fairness, a reduced annual income limit of €53,100 in 2018 applies for employees who were exempt from compulsory health insurance contributions because they exceeded the contribution assessment ceiling on 31 December 2002 and had comprehensive health cover with a private health insurance fund. This amount is identical to the contribution assessment ceiling in statutory health insurance.

In addition to employees and people in paid employment for the purpose of vocational training, the following, among others, are also compulsory members of statutory health insurance:

- Students at state and state-recognised universities;
- People on placements or internships or in second-chance education;
- Pensioners who have been in statutory health insurance or insured as a family member for most of the latter half of their working life;
- Persons with disabilities employed at a recognised workshop or on measures to promote participation in working life;
- 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 statutory health insurance is normally possible on first entering employment in Germany, following previous compulsory insurance or insurance through a family member, and, subject to certain requirements, for persons with severe disabilities.

Individuals who are voluntarily insured in statutory health insurance, such as employees whose income from employment exceeds the compulsory insurance income limit, 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 better for them 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 limited circumstances.

According to German health insurance law, anyone who lives in Germany and is not entitled to other provision for the event of illness receives health insurance cover in either the statutory or private health insurance system.

From 1 April 2007, anyone lacking other provision for the event of illness and who has previously been in statutory health insurance is subject to compulsory insurance on a subordinate basis (Section 5 (1) 13 of Book V of the Social Code/SGB V). You are 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 Insurance Contract Act (Versicherungsvertragsgesetz/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 of €5,000.

Self-employed persons whose self-employment is their main occupation are not subject to compulsory statutory health insurance and therefore come under private health insurance 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 are entitled to government aid covering medical treatment and care of civil servants (Beihilfe) and who have no supplementary comprehensive health insurance to cover costs not met by Beihilfe, are not subject to compulsory insurance on a subordinate basis (section 5 (1) 13 of SGB V) in the statutory health insurance system even if they were in statutory health insurance previously. Since 1 January 2009, persons in this group are required to have private health insurance to cover costs not met by Beihilfe. The private insurance requirement also applies to employees who are exempt from the requirement to have insurance, meaning wage and salary earners whose regular annual income from employment exceeds the compulsory insurance income limit and who are not voluntary members of the statutory health insurance system.

The insurance requirement can be met with insurance at the basic tariff (Basistarif). Private health insurers have been required to offer such a tariff alongside their other tariffs since 1 January 2009.

**Provision for the event of illness for recipients of social assistance**

For anyone who on 1 April 2007 was, and still is, in receipt of ongoing assistance provided under Chapter 3, 4, 6 or 7 of Book XII of the Social Code (SGB XII), the social assistance provider that provides that assistance will also provide assistance in the event of illness. Under Section 264 of SGB V, medical treatment is then generally paid for by a statutory health insurance fund and subsequently refunded by the social assistance provider. The continued responsibility of social assistance providers 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 any interruption in entitlement to the ongoing social assistance of less than one month, irrespective of whether the social assistance provider deregisters a person from the procedure under Section 264 of SGB V; the sole requirement is that the person was in receipt of ongoing 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 ongoing assistance provided under Chapter 3, 4, 6 or 7 of Book XII of the Social Code subsequent to 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 statutory health insurance. 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 statutory health insurance 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, on 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 statutory health insurance if they later receive regular cost-of-living assistance (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 private health insurance 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 statutory health insurance (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 tariff as reduced by half for recipients of social assistance. Higher premiums can be met for up to three months and in justified exceptional cases for up to six months.

**Family insurance**

Statutory health insurance also covers your family at no extra charge. A spouse or life partner and, up to a certain age, children of members are covered, provided among other things that their collective regular income does not exceed €435 a month in 2018 and they are not themselves insured as members. If you are in marginal employment, the allowable collective income is €450.

All members of statutory health insurance should promptly report changes in their financial and personal circumstances to their health insurance fund. Those receiving unemployment benefit (Arbeitslosengeld or Arbeitslosengeld II) must also promptly report the changes to the local employment agency or job centre.

**Patients’ contributions**

It is important that health insurance should remain affordable. 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.
Patients’ contributions in statutory health insurance:

<table>
<thead>
<tr>
<th>Benefits</th>
<th>Patients’ contributions from 1 January 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medicines</td>
<td>10% of the pharmacy counter price minimum €5 and maximum €10*</td>
</tr>
<tr>
<td>Dressings</td>
<td>As above*</td>
</tr>
<tr>
<td>Travel expenses</td>
<td>10% of the travel expenses minimum €5 and maximum €10 per journey*</td>
</tr>
<tr>
<td>Therapies</td>
<td>10% of the counter price plus €10 per prescription*</td>
</tr>
<tr>
<td>Aids</td>
<td>10% of cost minimum €5 and maximum €10*</td>
</tr>
<tr>
<td>Consumable aids</td>
<td>10% of cost maximum €10 per month</td>
</tr>
<tr>
<td>Hospital treatment</td>
<td>€10 per day for a maximum of 28 days within a calendar year</td>
</tr>
<tr>
<td>Outpatient rehabilitation treatment</td>
<td>€10 per day</td>
</tr>
<tr>
<td>Inpatient preventive treatment and</td>
<td>€10 per day</td>
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<tr>
<td>rehabilitation treatment</td>
<td></td>
</tr>
<tr>
<td>Post-hospital rehabilitation treatment</td>
<td>€10 per day for a maximum of 28 days within a calendar year, minus contributions</td>
</tr>
<tr>
<td>paid towards hospital treatment</td>
<td></td>
</tr>
<tr>
<td>Preventive and rehabilitation treatment for mothers and fathers</td>
<td>€10 per day</td>
</tr>
</tbody>
</table>

* Not exceeding actual cost

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

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 €5,481 in 2018. The amount for each child is €7,428.

Family gross income means family disposable income before deductions: the sum of all financial income, of the insured and any live-in dependants, that is available for meeting living expenses. This includes rental income and capital gains – types of income on which compulsory members of statutory health insurance do not pay 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 with reference to 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 life 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 (Befreiungsbescheid) 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.

Insured persons in ongoing treatment for the same illness have a lower contribution limit of 1% of annual income before deductions. Under Section 62 of Book V of the Social Code (SGB V), the detailed definition of a serious chronic illness is laid down in directives issued by the Federal Joint Committee (Gemeinsamer Bundesausschuss). Under the applicable Federal Joint Committee directive, 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 is in need of nursing care in care grade 3, 4 or 5 under Chapter 2 of Book XI of the Social Code (SGB XI).

• The patient has at least a 60% disability under severe disability law/pensions law or at least a 60% reduction in earning capacity under occupational accident insurance law.

• Continuous medical care is required (medical or psychotherapeutic treatment, drug treatment, technical nursing and/or provision with therapies and aids) without which, in a professional medical appraisal, a life-threatening exacerbation 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 decision as to whether a patient has a serious chronic illness as defined in the directive is made by 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

Individuals entitled to assistance under Book II or XII of the Social Code (Basic Security Benefits for Job-Seekers or Social Assistance) or welfare benefits for war victims are more favourably placed than other insured persons. For these individuals, their entire household’s assessable gross disposable income for the purpose of establishing their contribution limit is equated only with basic needs level 1 (Regelbedarfsstufe 1) under the annex to Section 28 of Book XII of the Social Code.

The individuals entitled to assistance must pay the patients’ contributions themselves out of the standard rate. A higher basic needs level is not recognised. Extrapolated to the full 2018 calendar year, basic needs level 1 is €4,992. The corresponding patients’ contributions to be paid for the household by social assistance and unemployment benefit II recipients per calendar year are as follows:

• 1% contribution limit (chronic illness): €49.92
• 2% contribution limit (without chronic illness): €99.84

This concession also applies for people whose costs of accommodation in a home or similar establishment are met by a social assistance provider or out of welfare provision for war victims, and for the groups named in Section 264 of SGB V (social assistance recipients for whom health care is provided by statutory health insurance 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 Standard Rate Ordinance.

For insured persons who receive cost-of-living assistance 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 contribution limits of 2% or 1%, as applicable, of annual gross disposable income.
For social assistance recipients living in homes, as they only have an appropriate cash allowance at their disposal, 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 this arrangement, the social assistance provider 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 cash allowance recipients a note exempting them from patients’ contributions.

The cash allowance recipients repay the loan to the social assistance provider in fixed amounts over the entire calendar year.

**Special hardship clause with regard to 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.

**Funding**

Uniform general and reduced contribution rates have applied under statutory health insurance since January 2009.

The general contribution rate, which applies among other things for contributions paid out of income from employment and pensions, has been 14.6% since 1 January 2015 and is paid in equal shares by employer and employee or pension insurance fund and pensioner. 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. 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 basic security benefits and social assistance, the additional contributions are paid by the responsible agencies.

The contributions are based on assessable income and go together with tax revenue into the Health Fund (Gesundheitsfonds). The health insurance funds in turn receive from the Health Fund lump-sum allocations per insured person plus age, risk and gender-adjusted additions and deductions to meet their expenditure. In this way, allowance is made for differences in insured populations and morbidity.
Health insurance funds that are unable to meet expenditure out of the resources allocated to them must first exhaust any efficiency reserves and, if there is still a shortfall, charge an additional contribution from members (or increase the additional contribution if one is already charged). If the financial situation of a health insurance fund permits, it can either offer additional benefits and services or reduce additional contributions.

Average additional contribution rate

Certain groups of people are subject to the average additional contribution rate. Examples include trainees (earning up to €325) and recipients of unemployment benefit II.

The projected figure for the average additional contribution rate for 2018 is 1.0%.

Statutory health insurance members also have the option, subject to statutory rules on termination, of switching to another health fund to avoid additional contributions. 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 (2018: 1.4%) must expressly tell members that they have the option of switching to a fund with lower contributions.

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.

Pensioners who are voluntarily insured in statutory health insurance receive a contribution supplement from their pension insurance fund to assist with health insurance costs.

When calculating contributions, the contribution assessment ceiling (Beitragsbemessungsgrenze) must be taken into account (€4,425 per month in 2018). 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 – as is the case with other employees subject to compulsory social employment contributions.
Electronic health card

As from 1 January 2015, the electronic health card is the sole valid 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 non-bureaucratic provision of medical treatment across 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.

The possibility of storing medical data such as emergency information and a medication plan is to be added in future. A medication plan is important most of all for older people and people with chronic illnesses, and anyone who uses three or more medications. Patient autonomy is strengthened with the already legislated introduction of electronic patient records and the ability of patients to require 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)

Help where it is needed

We cannot lay out the course our own lives will take. Many things happen that we simply cannot influence. Things generally go smoothly – as they did for most people who rely on nursing care today until the day they became in need of care.

Many people in need of nursing care today, and their families, were at one point suddenly faced with the massive 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) in 1995.

A few numbers to illustrate the size of the problems related to long-term care: Today, some 2.8 million people in Germany are in need of nursing care. That is more than the population of Hamburg. About 0.8 million of these people live in nursing homes. The remaining approximately 2 ½ million are cared for at home by a host of relatives, neighbours, volunteers and 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 social long-term care insurance as well.

If you are a voluntary member of statutory health insurance, you can apply to be exempted from social long-term care insurance. Documentary proof of equivalent cover from a private insurance company must be enclosed with your application, which you must submit to your long-term care insurance fund (Pflegekasse) within three months after your voluntary membership begins.

Since 1 January 1995, anyone who has private health insurance must have private compulsory long-term care insurance as well. If you are currently privately insured but become subject to social compulsory long-term care insurance at some later date, you will be allowed to terminate your private insurance with effect from that date.

Benefits provided under private compulsory long-term care insurance must be equivalent to those provided by social long-term care insurance. Private insurance companies are also required to offer reasonable terms and rates for families and older members.
Unless they are members of statutory health insurance, civil servants (Beamte) must also take out private compulsory long-term care insurance. However, private compulsory long-term care insurance for civil servants solely provides top-up cover to supplement government aid covering medical treatment and care of civil servants (Beihilfe).

In addition, other groups of individuals who have provision for the event of illness under certain benefit laws or special systems are subject to social or private compulsory long-term care insurance commensurate with that provision.

Dependent children, spouses and life partners are insured free of charge as family members under the family insurance provisions of the social long-term care insurance system providing their collective regular monthly income does not exceed €435, or €450 for anyone in marginal employment.

**Benefits and conditions**

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

**What is meant by ‘need for long-term care’**

According to the legal definition, a need for long-term care (Pflegebedürftigkeit) can arise at any time of life. The definition in the Long-term Care Insurance Act (Pflegeversicherungsgesetz) covers anyone who exhibits health-related restrictions to their independence or abilities and consequently needs the help of others. It thus relates to all individuals who cannot independently compensate for or overcome physical, cognitive or psychological impairments or health-related impairments or needs. The need for long-term care must be enduring – meaning it must be expected to last at least six months – and must be of at least the severity stipulated in Section 15 of Book XI of the Social Code (SGB XI).

**Definition of need for long-term care, assessment instrument and care grades**

The need for long-term care can take many different forms. This fact is recognised in the statutory definition of the need for long-term care.

Assessment of the need for long-term care and classification into a care grade are performed using an assessment instrument that takes a person’s individual care situation as its starting point and is based on questions such as what the person in need of nursing care can manage to do in everyday life, what abilities they still have, how independent they are and what activities they need help with.

What matters is therefore the individual person and the degree to which they can manage alone in everyday life. The assessment thus leads to a more individual classification as, with five care grades, it takes fuller and more accurate account of people’s impairments and faculties than used to be the case. This is notably of benefit to dementia sufferers with their special care and attendance needs.
**Progression of care grades**

The care grades reflect how severely the independence and abilities of the person in need of nursing care are impaired. Classification into a care grade is performed using an assessment instrument based on principles of nursing science.

The five care grades progress from minor impairment of independence or abilities (care grade 1) to extreme impairment of independence or abilities resulting in special requirements for long-term care (care grade 5). People in need of nursing care with a special needs profile exhibiting specific, exceptionally pronounced need for help with special requirements for long-term care can be classified with reference to nursing science-based considerations as care grade 5 even if the requisite total number of points is not attained. The Federal Association of Long-term Care Insurance Funds (Spitzenverband Bund der Pflegekassen) elaborates nursing science-based criteria for such needs profiles in assessment directives.

**How to claim**

Applications for long-term care must be submitted to your long-term care insurance fund, which is an arm of your health insurance fund. Applications may also be made on your behalf by family members, neighbours or close friends if you authorise them to do so. Once the application 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/MDK) or an independent assessor to assess your need for long-term care.

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

**Identification of the need for long-term care**

The long-term care insurance fund asks the MDK, an independent assessor or in the case of those insured with Knappschaft (miners, railway and maritime) insurance funds the Social Medical Service (sozialmedizinischer Dienst/SMD) to produce an assessment in order to determine the need for long-term care and the specific care effort required; for people with private insurance, the assessment is performed by the Medical Service of MEDICPROOF. To carry out the assessment, the assessor (a carer or a doctor) makes a home visit by prior appointment; there are no unannounced visits.

The family or carers who support the applicant should ideally be in attendance during the assessor’s visit. By speaking with them, the assessor can gain a more complete picture of how independent the applicant still is and of the applicant’s impairments.
Since 2013, the National Association of Statutory Health Insurance Funds (GKV-Spitzenverband) has issued guidelines on service orientation in the assessment procedure. These are binding on all Medical Services and ensure greater transparency and service orientation in assessment. In particular, they lay down a code of conduct that assessors must follow when performing assessments, require individual and comprehensive information for insured persons about the assessment procedure (including in Croatian, English, French, Greek, Italian, Polish, Russian and Turkish) and stipulate on surveys of the insured population and on complaints management.

Questions covered in assessment

To assess the independence of a person in need of nursing care, the assessor takes a close look at the following six areas:

1. **Mobility:** The assessor looks at the individual’s physical mobility, such as whether they can get up and make their way from bed to bathroom on their own, move around independently within their own four walls, or climb stairs.

2. **Cognitive and communication abilities:** This area relates to comprehension and verbal expression, such as orientation in time and space and whether the individual can understand matters, judge risks and hold conversations with others.

3. **Behaviour and psychological problems:** These include problems such as night-time restlessness, anxiety and aggression that are stressful both for the patient and for family members; resistance to nursing care also comes under this heading.

4. **Self-care:** For example whether the applicant can wash, dress, go to the toilet and eat and drink unaided.

5. **Ability to deal and cope independently with illness-related or therapy-related needs and stress:** The assessor verifies whether the individual can take medicines themselves, measure their blood sugar level unaided, use aids such as prosthetics or a walking frame, and visit a doctor.

6. **Managing everyday life and social contacts:** Questions such as whether the person concerned can budget their time and manage their everyday routine, enter into direct contact with other people or meet friends for a card game unaided.

For each criterion in the areas listed, the assessors determine the applicant’s degree of independence, generally as a score from 0 points (able to carry out activity without assistance, although possibly only with aids) and – as a rule – 3 points (unable to carry out activity at all, not even partially). In this way, the degree of impairment is identified in each area. Finally, the points are combined with different weightings into an overall score that corresponds to one of the five care grades.
Assessors additionally assess **activities outside of the domestic setting** and **household maintenance**. The answers in these two areas are not used in determination of the degree of need for long-term care because the relevant impairments are already covered in the questions on the other six areas. However, this information is useful to long-term care insurance fund advisers if a need for long-term care is identified. They can then advise the person in need of nursing care with a view to additional benefits and services and draw up a long-term care plan tailored to their needs. The information also provides important supplementary help in the planning of long-term care by carers.

**Identification of the need for long-term care in children**

For children, assessment of the need for long-term care is generally performed by specially trained Medical Service assessors or other independent assessors who are qualified in child health care or in child nursing care or as paediatricians. The care grade of children in need of nursing care is determined by comparing the degree to which their independence and abilities are impaired with children whose level of development is typical for their age.

A special approach is applied when assessing children aged up to 18 months. Children in this age group are naturally dependent in all areas of everyday life. To identify a suitable care grade for such children, the assessment includes areas that are not age-dependent, such as ‘Behaviour and psychological problems’ and ‘Ability to deal and cope independently with illness-related or therapy-related needs and stress’. It is also determined whether a child has serious problems with food intake resulting in an exceptionally intensive need for assistance.

**Duration of the approval process**

The legally prescribed processing period for long-term care applications is 25 working days. If the applicant is in hospital or in a rehabilitation clinic, in a hospice or receiving out-patient palliative care, the assessment by the MDK or an independent assessor must take place within one week if the assessment is necessary to ensure ongoing care or if an employer has been notified of leave of absence under the Care Leave Act (Pflegezeitgesetz) or the Family Care Leave Act (Familienpflegezeitgesetz). If the applicant is at home and not receiving palliative care and an employer has been notified of leave of absence under the Care Leave Act or the Family Care Leave Act, the processing time for claims is two weeks.

If a long-term care insurance fund fails to respond to an application with a written assessment notice within 25 working days of receipt of the application or if the shorter statutory assessment periods are not observed, the insurance fund is required to pay the applicant, without delay, an amount of €70 for each week or part thereof after the deadline. This does not apply if the long-term care insurance fund is not responsible for the delay or where applicants are in institutional care and have already been assessed as having, at minimum, considerable restrictions to their independence or abilities (at least care grade 2).
**Content of assessment notice**

The long-term care insurance fund’s decision on the assessment of need for long-term care is required to be transparent and verifiable for the insured person. The long-term care insurance fund sends the assessment to the applicant unless the applicant states that they do not want to be sent it. The applicant can also demand to be sent the assessment at a later date.

The insured person is also sent the separate prevention and rehabilitation recommendations made in connection with the assessment. They are also informed – provided that they have consented to this – that referral to the responsible rehabilitation provider triggers an application for benefits and services for medical rehabilitation.

**Home care and institutional care**

Long-term care insurance benefits are granted on the basis of a person’s care grade and whether they need nursing care at home or institutional care. Two important principles apply here: prevention and rehabilitation (measures to overcome, reduce or prevent an increase in the need for long-term care) take precedence over nursing care, and home care takes precedence over institutional care.

**Home care**

The main ‘provider’ of long-term care has always been the family. Most people in need of nursing care who live at home are taken care of by relatives. And most people who need long-term care want to live with their families and in familiar surroundings as long as they can. 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 grade. People in need of nursing care can choose between mobile care (ambulante Pflegesachleistung – care provided by mobile care services or individual carers) and long-term care allowance (Pflegegeld – which the person in need of nursing care can use to obtain appropriate care themselves, for example with the help of relatives). It is possible to combine non-cash and cash benefits, thus allowing the assistance to be tailored to the personal requirements of the person in need of nursing care.

Since 1 January 2017, people in need of nursing care who are cared for at home have been entitled to a support allowance (Entlastungsbetrag) of up to €125 per month. Rather than being provided as a lump-sum cash payment, the support allowance is to be used on a purpose-linked basis to reimburse expenses in connection with the use of part-time institutional day or night care, a temporary stay in institutional short-term care, or mobile care services (although in care grades 2 to 5, not in relation to the activities that come under the heading of self-care). It can also be used for everyday support services recognised under Länder law. This relieves the burden on carers and helps those in need of nursing care to stay in their home surroundings for as long as possible, keep up social contacts and retain maximum independence in day-to-day life.
The support allowance is provided in addition to other long-term insurance benefits for home care, meaning it is not taken into account against other benefits. Any unused amount in a given month can be carried over to subsequent months within the same calendar year and any unused amount at the end of a calendar year can be carried over to the next calendar half-year.

For people in need of nursing care with at least care grade 2, in the case of mobile care, long-term care insurance pays the cost of using a care service or individual carer for bodily care, nursing attendance and assistance with the household (home care assistance). The entitlement to home care assistance encompasses assistance up to a total value of €689 per calendar month for persons in need of nursing care in care grade 2, up to €1,298 in care grade 3, up to €1,612 in care grade 4 and up to €1,995 in care grade 5.

If part or all of the amount provided for mobile care is not used for mobile care services, the unused amount can also be used in addition to reimburse the cost of everyday support services recognised under Länder law. A maximum of 40% of the amount for mobile care can be repurposed in this way.

Two or more people in need of nursing care, for example those living in new forms of collective housing, can also pool their mobile care entitlements. The resulting savings in terms of time and money are then to be used exclusively in the interests of the individuals in need of nursing care.

In the case of home care obtained by the individual, for example with the aid of relatives or other volunteer carers, long-term care insurances pays long-term care allowance provided that the person in need of nursing care has at least care grade 2. The amount the of long-term care allowance is €316 per calendar month for persons in need of nursing care in care grade 2, €545 in care grade 3, €728 in care grade 4 and €901 in care grade 5.

**Additional benefits provided under long-term care insurance:**
- Reimbursement of expenditure for consumable nursing aids in the amount of up to €40 per month;
- Durable nursing aids (such as a nursing care bed), in suitable cases preferentially on loan from the long-term care insurance fund;
- Subsidies for modifications to the home to accommodate nursing care needs of up to €4,000 per project (measures to improve the home environment). The subsidy can be paid in an amount of up to four times €4,000 – meaning a maximum of €16,000 – if a group of individuals in need of nursing care live together;
- Comprehensive individual care advice;
- Free nursing care courses for relatives and volunteer carers;
- Care advice for insured persons and relatives.

These additional benefits are also available for persons in need of nursing care in care grade 1.
Allowance for members of groups provided with mobile care in collective accommodation

Anyone in need of nursing care who receives mobile care and/or the support allowance and is a member of a group provided with mobile care in collective accommodation can, on application, receive a collective accommodation allowance (Wohngruppenzuschlag) of €214 per month in addition to the other benefits. The collective accommodation allowance can also be paid for persons in need of nursing care in care grade 1, who do not need to receive long-term care allowance, mobile care or the support allowance in order to claim the collective accommodation allowance.

Eligibility requirements for the collective accommodation allowance:

• The person lives with at least two and no more than eleven other people in collective accommodation for the purpose of collectively organised nursing care and at least two of the other people are in need of nursing care;
• One person (a care assistant) is appointed by the members of the collective living arrangement to carry out, independently of individual nursing 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, including part-time institutional care, in which the organiser of the collective living arrangement or a third party provides care for those in need of nursing care that largely matches the agreed scope for institutional care.

Persons in need of nursing care who establish a group provided with mobile care in collective accommodation can apply for a start-up grant in addition to the subsidies for measures to improve the home environment. The grant amount is up to €2,500 per person. It is available to persons who are entitled to the collective accommodation allowance mentioned above and who are founder-members of the group. The grant is limited to a maximum of €10,000 per collective accommodation arrangement. If there are more than four founder-members, the total maximum amount is divided equally among them. The start-up grant is to be used on a purpose-linked basis to make the new home senior-friendly or accessible.
**Stand-ins**

If a carer is unable to provide care for a relative due to holiday or illness, the long-term care insurance fund will pay for a necessary stand-in. This is subject to the condition that the carer has provided care for at least six months. If the stand-in provides paid care or is provided by a mobile care service, the amount covered is up to €1,612 per calendar year. Up to €1,612 can also be claimed if the stand-in is a relative other than a first or second-degree relative/in-law or a neighbour. If the stand-in is a first or second-degree relative of or a member of the shared household with the person being cared for, the amount is based on the level of long-term care allowance (Pflegegeld). The expense to the long-term care insurance fund is not allowed to exceed 1½ times the long-term care allowance for the assessed care grade. If documentary evidence can be presented of the carer’s expenses (such as travel expenses or loss of earnings), the amount can be increased to up to a total of €1,612. The maximum is not allowed to exceed €1,612, however.

For the duration of care by a stand-in, long-term care allowance continues to be paid for up to six weeks per calendar year at half the amount previously received.

For the duration of the carer’s holiday, the long-term care insurance fund continues to pay pension and unemployment insurance contributions. The carer’s pension entitlement is thus unaffected by going on holiday and they retain their unemployment insurance.

In addition to the amount paid for 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**

Day and night care (part-time institutional care) refers to care for part of the day in a facility that provides such care. For persons in need of nursing care in care grades 2 to 5, the long-term care insurance fund pays the costs of care, the costs of attendance and the costs of medical treatment. This also includes the cost of any transportation service provided by the facility between the person’s home and the day or night care facility. Any remaining costs (such as for meals and investment costs) must be met privately.

Part-time institutional care is provided when it is not possible for an adequate level of care to be provided at home or when it is needed in order to supplement and support home care. Day care is generally used by persons in need of nursing care whose carers go to work during the day. For relatives caring for someone with dementia, such care is often a major relief. In most cases, the person needing care is picked up in the morning and brought home in the afternoon.

The monthly amount depends on the care grade. It is up to €689 in care grade 2, up to €1,298 in care grade 3, up to €1,612 in care grade 4 and up to €1,995 in care grade 5. Persons in care grade 1 are able to make use of their support allowance.
As well as these amounts, persons attending part-time institutional care have an individual entitlement to additional attendance and activation.

Alongside day and night care, entitlements to mobile care and/or long-term care allowance can also be combined without deduction.

Persons in need of nursing care in care grade 1 can use of the support allowance in the amount of €125 per month in order to make use of day and night care services.

**Short-term care**

Some people in need of nursing 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. For people in need of nursing care in care grades 2 to 5, the amount paid is up to €1,612 for up to eight weeks in any one calendar year.

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.

Persons in need of nursing care in care grade 1 can use the €125 per month support allowance in order to take advantage of short-term care.

Half of the long-term care allowance received so far continues to be paid during short-term care for up to eight weeks in each calendar year.

A person in need of nursing care can also go into short-term care in an institutional prevention or rehabilitation facility that is not accredited to provide nursing care under Book XI of the Social Code while the relative providing care obtains preventive healthcare or rehabilitation in or near the facility concerned. This makes it easier for relatives providing care to make use of preventive healthcare and rehabilitation.

Since 1 January 2016, there has been an entitlement to short-term care as a statutory health insurance benefit. If home support in the form of nursing care at home and/or a home help is not enough, insured persons can make use of short-term care in a suitable facility as a new statutory health insurance benefit. The scope of provision is the same as under statutory long-term care insurance, meaning that expenses are paid up to a maximum of currently €1,612.

**Additional attendance and activation in institutional care**

From 1 January 2017, everyone in need of nursing care is entitled in full-time and part-time institutional care to additional attendance and activation going beyond the level of care commensurate with the nature and severity of their need for long-term care. For people in institutional care, this additional attendance and activation means increased attention, increased contact with other people and greater participation in the community.
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, long-term care insurance provides social security benefits for carers.

Anyone who provides one or more persons in need of nursing care in care grades 2 to 5 with unpaid nursing care at home for at least 10 hours regularly spread over at least two days a week is a carer for the purposes of long-term care insurance. If a carer does not work more than 30 hours a week, their pension insurance contributions are paid by long-term care insurance. The contribution rate depends upon the care grade and the types of benefit provided (long-term care allowance only, mobile care only, or a combination of the two).

Carers who provide nursing care for someone close to them at home are covered by statutory occupational accident insurance free of contributions. This relates to the activities that comprise part of nursing care for the purposes of long-term care insurance and to assistance with the household. Carers who do not share a home with the person they provide nursing care for are also covered by statutory occupational accident insurance on the way, by a direct route, to or from the place of care.

Carers who provide one or more persons in need of nursing care in care grades 2 to 5 with unpaid nursing care at home for at least 10 hours regularly spread over at least two days a week are covered subject to certain requirements by unemployment insurance, for which long-term care insurance pays the contributions.

From 1 January 2017, if a carer stops working to look after a relative in need of nursing care, long-term care insurance pays the carer’s unemployment insurance contributions for the entire duration of the care. Carers are thus entitled to unemployment benefit and active employment promotion benefits if they do not make a seamless transition back into employment when they finish providing care. The same applies for carers who stop claiming under unemployment insurance in order to provide nursing care.

The contributions are paid by long-term care insurance. In the case of carers who under the law as it stood until 31 December 2016 were voluntary members of unemployment insurance on account of providing nursing care, the voluntary insurance continues from 1 January 2017 as compulsory insurance (meaning with contributions paid by long-term care insurance alone) for the duration of the care.

The long-term care insurance fund continues to pay a carer’s pension and unemployment insurance contributions while the carer is on holiday.
Measures supporting the reconciliation of caring and working

Care leave and family care leave

Home care is also promoted by the Care Leave Act (Pflegezeitgesetz) and the Family Care Leave Act (Familienpflegezeitgesetz), which have been revised to safeguard the interests of close relatives providing home care and taking special account of the differing care situations and types of care needed. Working relatives of people in need of nursing care can take leave of absence from employment in case of need as follows:

- In the event of an unexpected exceptional care situation, employees have the right to take up to ten working days off work (temporary absence) to organise and secure adequate care for a close relative in need of nursing care. They thus have chance to respond to an emergency, 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 nursing 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 allowance (Pflegeunterstützungsgeld) for up to a maximum of ten days. This applies to carers of persons in need of nursing care in all care grades. The care support allowance is an income replacement benefit. The gross amount of care support allowance is 90% (on claiming a one-off payment subject to contributions in the last 12 months prior to leave of absence 100%) of the lost pay net of deductions.

- Employees who wish to provide a close relative in need of nursing care with care at home have the option of being released from work for a maximum of six months (Pflegezeit, or care leave). The leave can be taken on a full-time or part-time basis. The entitlement to care leave may be exercised if the employer has a regular 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 (Familienpflegezeit) 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 nursing 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 looked after by close relatives. So that employees can look after children and adolescents in need of nursing care at home or elsewhere, they are entitled to full-time or part-time leave as provided for in the Care Leave 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 Care Leave 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 Care Leave 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 Care Leave Act and the Family Care Leave Act is not allowed to exceed 24 months.

Employees who take leave under the Care Leave 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 (Bundesamt für Familie und zivilgesellschaftliche Aufgaben/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.

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 Care 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. Health and long-term care insurance cover is normally maintained during care leave as in most cases insurance as a family member applies. If not, the carer must continue as a voluntary member of statutory health insurance, in most cases subject to the minimum contribution rate. Health insurance automatically includes long-term care insurance. On application, long-term care insurance reimburses health and long-term care insurance contributions for all care grades up to the amount of the minimum contribution rate. During care leave, as for all carers who provide one or more persons in need of nursing care in care grades 2 to 5 with unpaid nursing care for at least 10 hours regularly spread over at least two days a week, carers retain statutory occupational accident insurance cover free of contributions, and compulsory insurance in unemployment insurance continues for the duration of care leave. The necessary contributions are paid by the long-term care insurance fund. Any private compulsory health and long-term care insurance normally remains in place for the duration of care leave. On application, the long-term care insurance fund or the private long-term care insurance company pays the health and long-term care contributions for the person in need of nursing care in all care grades as for persons in the social insurance system.

During care leave, the carer has pension insurance if they provide one or more persons in need of nursing care in care grades 2 to 5 with unpaid nursing care for at least 10 hours regularly spread over at least two days a week and do not work for more than 30 hours a week.

**Full-time institutional care**

In the case of full-time institutional care, long-term care insurance pays lump-sum amounts for care-related costs, including the costs of attendance and medical treatment. Accommodation, meals and separately billable investment costs must be paid for privately.

In care grade 1, the long-term care insurance fund pays a subsidy in the amount of €125 a month. In care grade 2, the lump-sum entitlement is €770 a month, in care grade 3 it is €1,262 a month, in care grade 4 it is €1,775 a month and in care grade 5 it is €2,005 a month.

Previously, the amount paid by long-term care insurance went up with the degree of need for long-term care, but the excess amount to be met by the person in need of nursing care increased as well. From 1 January 2017, within a given institutional care facility, the excess amount to be paid in respect of full-time institutional care is equal across all care grades. A person in need of nursing care is therefore no longer required to pay a higher excess amount if their need for long-term care increases and they come under a higher care grade.
Benefits for persons in need of nursing care in care grade 1

Long-term care insurance benefits are normally granted for care grades 2 to 5. Care grade 1 relates to minor, primarily physical disabilities. Persons in need of nursing care in care grade 1 are entitled to the support allowance in the amount of up to €125 a month. They are also entitled to provision with care aids and where needed subsidies for measures to improve the home environment, the collective accommodation allowance and the start-up allowance for the establishment of a group provided with mobile care in collective accommodation. The benefits relating to care leave and temporary absence from employment are also available. If a person in need of nursing care chooses full-time institutional care, long-term care insurance pays an allowance of €125 a month. They are also entitled to additional attendance and activation in institutional care facilities. And like all persons in need of nursing care, they have a right to care advice, advice on living at home, and nursing care courses for relatives.

Care advice and support facilities

People in need of nursing care and insured persons who have applied to their long-term care insurance fund are entitled to individual care advice (Pflegeberatung) free of charge from a care advisor. Relatives providing care and others receive care advice with the consent of the person in need of nursing care. Before the first advice appointment, long-term care insurance funds are required to designate without delay a care advisor who has personal responsibility for all concerns. Additionally, when an application is made (except repeat applications for reimbursement of costs), 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 on the premises of the applicable long-term care insurance fund or, on request, by telephone or at home. The same rules apply under private long-term care insurance.

Care advisors provide the following services:

- Help with making applications and in all dealings with the long-term care insurance fund;
- Advice on all benefits 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 assessor commissioned by the long-term care insurance fund.
Care advice is provided by specially trained care advisers with expert knowledge, in particular in welfare and social insurance law. This additional 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.

Most care advisers are employees of long-term care insurance funds. There are also advisers who are provided by local authorities. Advisers working for long-term care insurance funds and for local authorities work jointly with welfare advisers in a care support centre (Pflegestützpunkt) under Section 7c of Book XI of the Social Code, where care advice can also be obtained; such centres are not available in all regions, however. The long-term care insurance fund will give the location of the nearest care support centre. Information on nursing care is also available from service and advice centres provided by local authorities and by non-statutory welfare organisations.

Anyone who is privately insured should contact their insurance company or Verband der privaten Krankenversicherung e.V. (the Association of German Private Healthcare Insurers), Gustav-Heinemann-Ufer 74c, 50968 Köln. Private long-term care insurers provide 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 nursing care at home, in a residential care home, in hospital or in a rehabilitation clinic.

**Long-term care for residents of care homes for persons with disabilities**

For persons in need of nursing care in care grades 2 to 5 who are residents of care homes for persons with disabilities where the facility’s primary focus is on the promotion of participation in working life and life in the community, school education and the general education of persons with disabilities, the long-term care insurance fund pays part of the agreed residence fee. The expense to the long-term care insurance fund is not allowed to exceed €266 per calendar month in each individual case. Residents of care homes for persons with disabilities are also entitled to the full amount of long-term care allowance for days they are cared for at home. The days of arrival and departure count as full days of home care.

**Funding**

Social long-term care insurance is financed through contributions that are scaled according to income. The contribution assessment ceiling that applies to health insurance also applies to long-term health insurance: €4,425 a month in both western and eastern Germany in 2018.

Since 1 January 2017, the contribution rate has been 2.55% of assessable income. The rate for contribution payers without children is 2.8%.
Contributions are paid following the same method used for statutory health insurance payments: Your employer deducts your contributions directly from your wages or salary and transfers them to your health insurance fund. To compensate employers for the additional costs arising from long-term care insurance when it was first introduced, a public holiday (Buss- und Bettag, 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 2.55% and employers 1.275%. In Saxony, which kept the public holiday, employees pay 1.775% and employers 0.775%.

As from 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 1.275% to 1.525%. 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 people on military or civilian service.

Pensioners’ contributions paid in respect of their statutory or public service pensions or income from employment are paid by the pensioners themselves.

For employees who are voluntary members of statutory health insurance, the employer pays an amount equal to half of the employee’s social long-term care insurance contribution payable out of their income from employment. Employees with private compulsory long-term care insurance also receive an employer contribution, which is limited to half of the amount the employee pays for their private compulsory long-term care insurance.

For recipients of unemployment benefit or subsistence 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 persons with disabilities the home provider, and for recipients of other welfare assistance towards the cost of living, the responsible agency.

**Private compulsory long-term care insurance**

Rather than being calculated on the basis of your income, premiums for private long-term care insurance depend as with private health insurance on your age when you sign the policy. By law, premiums cannot exceed the maximum contribution for social long-term care insurance. If you first 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. Civil servants whose medical costs are reimbursed in part by the government if they need nursing 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 social long-term care insurance. The married couple rate does not apply for those who took out private health insurance after the introduction of long-term care insurance on 1 January 1995. Children receive free cover, as they do under social long-term care insurance.

Further information

A citizens’ information hotline on long-term care insurance is commissioned by the Federal Ministry of Health. Tel. 030 340606602, Mondays to Thursdays, 8 am to 6 pm, and Fridays from 8 am to 3 pm.

The Federal Ministry of Health provides free advisory brochures entitled Ratgeber Pflege (guidance on long-term care, order number BMG-P07055), Die Pflegestärkungsgesetze – Das Wichtigste im Überblick (overview of the First and Second Acts to Strengthen Long-Term Care, order number BMG-P11019), Die Pflegestärkungsgesetze – alle Leistungen zum Nachschlagen (guide to all benefits and services under the First and Second Acts to Strengthen Long-term Care, order number BMG-P11005), Ratgeber Demenz (guidance on dementia, order number BMG-P11021), and Pflegebedürftig – Was nun? (flyer on what to do if a person becomes in need of care, order number BMG-P07053).

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), Pennefeldsweg 12c, 53177 Bonn. Telephone: 0228 95300. The DVKA became an arm of the National Association of Statutory Health Insurances (GKV-Spitzenverband) 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 are compulsory insured in statutory pension insurance (gesetzliche Rentenversicherung) – as are trainees, persons with disabilities at recognised workshops, people on voluntary military service or federal volunteer service, and people doing a year of voluntary community or environmental work.

The contribution assessment ceiling for 2018 is €6,500 a month in western Germany and €5,800 in eastern Germany. This is not the limit for compulsory insurance: Even if you earn more, you are still compulsorily insured. The contribution assessment ceiling is the maximum amount from which your statutory pension insurance contributions are calculated, even if you earn more.

Workers who took up employment on or after 1 January 2013 and whose earnings do not exceed €450 per month are compulsorily insured as marginally employed workers. Their employer pays a flat rate pension insurance contribution of 15% (in the case of ‘minijobs’ in commercial employment) or 5% (in the case of minijobs in private households). Based on the statutory pension insurance contribution rate of 18.6% for 2018, the remaining worker’s share is 3.6% (for minijobs in commercial employment) or 13.6% respectively (for minijobs in private households). These compulsory contributions give entitlement to the full range of statutory pension insurance benefits. As well as the standard old-age pension, the main such benefits are entitlement to rehabilitation treatment, reduced earnings capacity pension, early retirement pension, and ‘Riester’ personal pension incentives. Anyone earning income from employment of less than €175 a month pays a minimum contribution based on €175.

For employees with earnings between €450.01 and €850, contributions are subject to a ‘progression zone’ that relieves employees from social insurance contributions in line with their 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 on a straight-line basis 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 pension calculation 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 are compulsorily insured. Those who are include self-employed teachers, lecturers, child carers, nursing carers and midwives. Self-employed tradespeople are also compulsorily insured, although they may opt out after 18 years. Self-employed artists and members of the publishing professions are compulsorily insured under the Artists’ Social Insurance Act (Künstlersozialversicherungsgesetz) – though they pay only half the contributions themselves. This is subject to a minimum annual income of €3,900 from self-employment, although new entrants to the profession are not required to attain this minimum. The Artists’ Social Fund (Künstlersozialkasse) in Wilhelmshaven decides who is compulsorily insured and also calculates the contributions.

Since 1 January 1999, you are also compulsorily insured 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. You are considered to work primarily for a single client not only if you work primarily under contract to one client, but also if you are largely economically dependent on one client.

People starting a new business with only one client can be exempted from compulsory insurance for up to three years. An exemption can also be claimed by people who are already near retirement age.

Farmers are not normally compulsorily insured in statutory pension insurance, but in the farmers’ old-age security scheme. This special system provides farmers with partial coverage, which they supplement in other ways, mainly by selling the farm on retirement or claiming Altenteil, the right of a farmer to live on the farm after making it over to their children.

Self-employed people who are not compulsorily insured in statutory pension insurance can apply to be compulsorily insured within five years of becoming self-employed. They then have the same rights and obligations as other compulsorily insured persons.

Child raising periods: Mothers and fathers are compulsorily insured during the child raising period. Compulsory insurance applies during the first three years for children born since 1 January 1992. For children born earlier, a two-year compulsory contribution period is taken into account.
Carers: Anyone who provides one or more persons in need of nursing care in care grades 2 to 5 with unpaid nursing care at home for at least 10 hours regularly spread over at least two days a week and does not work more than 40 hours a week is insured in statutory pension insurance if the person in need of nursing care is entitled to benefits under statutory or private long-term care insurance. The 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 (further 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 while receiving benefit if they were compulsorily insured in the year before they began drawing benefit. If not, they have to apply if they wish to be compulsorily insured. Income replacement benefits include sickness benefit, injury benefit, transitional allowance and unemployment benefit. The contributions are paid – irrespective of who funds them – by the agency providing the benefit. Recipients of unemployment benefit II ceased to be subject compulsorily insured in statutory pension insurance in 2011. Since then, the period during which they receive the benefit can be recognised as a credited period.

Who is exempt from insurance?

People who are not compulsorily insured are exempt from insurance. This includes people who do not come under statutory pension insurance because of their status or because they have other security provision (such as civil servants and judges) as well as people who have reached the statutory retirement age and already receive a full old-age pension. From the statutory retirement age, pensioners on a full old-age pension who are in employment can waive their exemption from insurance in order to further increase their pension.

People 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 go back to a maximum duration of two months or 50 working days. Short-term employment is not normally subject to pension insurance contributions and employers are not required to pay flat-rate contributions.

Who can be exempted from insurance?

Various categories of people have the right in certain circumstances to be exempted from pension insurance, such as members of a professional pension scheme or people in marginally paid employment. Marginally paid employment (a ‘minijob’) is defined as employment in which the pay does not regularly exceed €450 a month. The employer pays a 15% flat-rate pension insurance contribution. A lower flat rate of 5% applies for minijobs in a private household, which are classed as a special form of marginal employment.
If you are in marginally paid 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 2018 is 18.6%, so the contribution rate for people in marginally paid employment in private households is 13.6% and that for people in other forms of marginally paid employment is 3.6% of their pay). If you are in marginally paid employment and are exempted from insurance, only your employer is required to pay the flat rate contributions and you no longer have to top them up. The exemption has to be applied for via the employer. The employer reports it to the Minijob Centre (Minijob-Zentrale), which belongs to Deutsche Rentenversicherung Knappschaft-Bahn-See, the miners, railway and maritime pension insurance fund.

In contrast to the situation under compulsory insurance, where entitlements accumulate at a rate of one month of qualifying period for each month of employment, if you apply for exemption you may only accumulate a marginal number of qualifying period months. Also, if you are in marginal employment and are exempted from compulsory insurance, you are not entitled to a reduced earning capacity pension and pension entitlements are less than they would be if you were compulsorily insured.

Exceptions: Special provisions apply for certain groups such as trainees and persons with disabilities, who continue to be compulsorily insured without any right to be exempted even if the marginal employment criteria are met.

**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 marginal employment thresholds as a result, you are compulsorily insured in all branches of social insurance and have no right to be exempted from statutory pension insurance.

The following applies if you have one or more marginal employment relationships as well as a main employment relationship subject to compulsory social insurance:

If you have one marginally paid employment relationship besides your main employment subject to compulsory social insurance, the two are not counted together to make the marginal employment subject to compulsory social insurance as well. If you have any further marginally paid employment relationships, they do count together with your main employment subject to compulsory social insurance and are fully subject to social insurance themselves without the right to be exempted from statutory pension insurance. 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 subject to compulsory social insurance.
**Binding assessment**

Assessments regarding social insurance in individual cases are performed by the regional statutory health insurance fund or, in the case of people in marginal employment, by Deutsche Rentenversicherung Knappschaft-Bahn-See as the central collection agency (www.minijobzentrale.de). These and all other social insurance agencies also provide information and advice.

**Who can pay voluntary contributions?**

If you are not compulsorily insured, as a rule you can pay statutory pension insurance contributions voluntarily. This option is mainly intended for groups such as self-employed people who are not compulsorily insured and housewives.

**Rehabilitation**

German pension law expressly puts rehabilitation before a pension. The pension insurance funds examine all applications for reduced earning capacity pensions to see if a person’s earning capacity can be maintained or improved by rehabilitation.

Subject to the personal and insurance requirements being met, pension insurance funds provide benefits and services for medical rehabilitation and benefits and services to promote participation in working life (occupational rehabilitation) where earning capacity is at risk or an existing reduction in earning capacity can be ameliorated or reversed. They also provide benefits and services for prevention in order to safeguard earning capacity and benefits and services for follow-up care in order to safeguard the success of previous benefits and services to promote participation.

It is expected that there will be greater need for rehabilitation 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 for benefits and services to promote participation in working life, a demographic factor is now taken into account alongside wage and salary growth in the annual updating of the rehabilitation budget for statutory pension insurance.

**Who can claim a pension?**

To claim a pension, you must have fulfilled a minimum insurance period (qualifying period) and meet certain personal and insurance requirements. 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 five-year general 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 35-year qualifying period for a long service pension or severe disability pension can additionally be made up with non-contributory periods and considered periods for child raising. The exceptionally long service pension has a 45-year qualifying period. Compulsory contributions for employment subject to compulsory social insurance, periods in self-employment, periods providing nursing care 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 normally 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 be taken into account if compulsory contributions have been paid for at least 18 years.

Early qualification

The general qualifying period of five years must normally be completed to claim a reduced earning capacity pension or a surviving dependant’s pension, but it can be fulfilled early on reduction in earning capacity or death following an occupational accident or occupational disease or injury during military or civilian service. In the event of full reduced earning capacity or death 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-based vocational training after the age of 17.
Old-age pensions

Only the insured person can claim an old-age pension. You must have reached a specific age (the statutory retirement age). Depending on the type of pension, certain other conditions must also be fulfilled.

Pensions from age 67

The Pension Insurance Retirement Age Adjustment Act (RV-Altersgrenzenanpassungsgesetz), which was enacted in 2007 to align the statutory retirement with demographic change and strengthen the financial basis of statutory pension insurance, provides for a phased increase in the statutory retirement age from 65 to 67 between 2012 and 2029, with corresponding increases for other types of pension. The five-year lead time allowed employees and employers sufficient opportunity to alter their plans.

The increase in the retirement age is subject to fairness provisions 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 on limited-term employment contracts where the contract term is limited to a date when 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 increases in the retirement age to 67.

The increase in the retirement age is shown in a table on page 144. Different age limits may apply to you than those set out in the following due to transitional and fairness provisions. Please ask your pension insurance fund.

1. Standard old-age pension

You can claim the standard old-age pension (Regelaltersrente) when you reach the statutory retirement age and have completed the five-year general qualifying period. There is no limit on the amount that can be earned on top of a standard old-age pension.

The statutory retirement age is being increased in phases to 67 for anyone born in or after 1947. The phases consist of an increase of one month per birth year (statutory retirement age from 65 to 66) and then two months per birth year for people born in 1959 or after (statutory retirement age from 66 to 67). For everyone born before 1947, the statutory retirement age stays at 65. The statutory retirement age of 67 applies for anyone born from 1964 onwards.

People born in 1953 reach the statutory retirement age in 2018 at the age of 65 and seven months.
2. Exceptionally long service pension

With the start of the phased increase in the statutory retirement age on 1 January 2012, a new old-age pension was introduced for persons with an exceptionally long insurance record. Insured persons were to be able to claim the new long service pension in full on reaching age 65 if they had paid compulsory contributions for a minimum of 45 years, either through employment subject to compulsory social insurance, self-employment, periods of nursing care or periods of childrearing credited until a child is ten years old. Under the Act to Improve Benefits in Statutory Pension Insurance (Pension Benefits Improvement Act – RK-Leistungsverbesserungsgesetz) of 23 June 2014, this special form of old-age pension was temporarily extended. The retirement age for the pension is temporarily set at 63 for claimants born before 1953. For insured persons born after 31 December 1952, the age limit increases again in phases to the previous retirement age of 65. The retirement age increases by two months for each birth cohort and will once again be 65 for persons born in 1964. The pension cannot be claimed early, meaning at a reduced amount before retirement age is reached.

To claim the exceptionally long service pension, both conditions must be fulfilled – the applicable retirement age and the 45-year qualifying period. Since the changes introduced with the Pension Benefits Improvement Act, periods claiming unemployment benefit and other income replacement benefits under employment promotion policy are normally 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 – at a reduced amount – if they have:

- Have reached the age of 63; and
- Have completed the 35-year qualifying period.

The retirement age for an unreduced old-age pension will rise in phases 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. The reduction amounts to 0.3% of the pension for each month early retirement pension is claimed.

Insured persons born before 31 December 1947 for whom the fairness provisions apply may claim the pension at a reduced amount before reaching the age of 63.
4. Severe disability pension

Insured persons can claim an unreduced severe disability pension (Altersrente für schwerbehinderte Menschen) if they:

• Have reached the required age (see below);
• Are recognised persons with severe disabilities when the pension begins; and
• Have completed the 35-year qualifying period.

The retirement age at which an unreduced severe disability pension may be claimed is being increased in phases from 63 to 65 for anyone born in 1952 or after. The age at which the pension may be claimed early at a reduced rate is being increased in phases 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%.

Special fairness provisions apply for persons:

• Born in 1954 or earlier if they signed a binding early retirement agreement before 1 January 2007; and
• Who are recognised persons with severe disabilities within the meaning of 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 increased.

For reasons of fairness, an unreduced severe disability pension can be claimed from age 60 by insured persons who born before 17 November 1950 and on 16 November 2000 were recognised persons with severe disabilities within the meaning of Section 2 of Book IX of the Social Code (SGB IX) or on 16 November 2000 had an occupational disability or were incapacitated for work within the meaning of applicable law.

Recognised persons with severe disabilities are persons with a degree of disability of at least 50 whose 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). Insured persons without severe disabilities may also 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 the law as applicable on 31 December 2000.

The table on the next page provides a summary, detailed overview of the phased increase in retirement ages.
<table>
<thead>
<tr>
<th>Birth cohort</th>
<th>Statutory retirement age</th>
<th>Exceptionally long service pension</th>
<th>Long service pension</th>
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* The retirement age of 63 also applies for insured persons born before 1951 if no pension has yet been bindingly approved and none is yet paid.
Reduced earning capacity pensions

A reduced earning capacity pension (Rente wegen verminderten 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 paid compulsory contributions for at least three years and you have completed the five-year general qualifying period (also taking into account any credited periods and considered periods for child raising) – unless your reduced earning capacity results from circumstances for which the general qualifying period is deemed to be fulfilled.

The insurance-related requirements are also met if you completed the five-year qualifying period before 1984 and accumulated a pension insurance period for each month since 1984 until the time of the reduction in earning capacity.

A reduced earning capacity pension is paid until you reach statutory retirement 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 illness or disability for the foreseeable future 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 illness or disability for the foreseeable future 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.

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 illness or disability from doing at least six hours of paid work a day in their existing occupation or in another occupation that they can reasonably be expected to accept.

4. Full reduced earning capacity pension for persons with disabilities (Renten wegen voller Erwerbsminderung für Behinderte): Insured persons who were classed as having full reduced earning capacity before completing the five-year general 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; and

• 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

The pensions for insured persons make up for lost earnings. Up to the statutory retirement age, any additional earnings on top of an early retirement pension 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 long-term care allowance, nor does it include income received by persons with disabilities in a workshop for persons with disabilities. In the case of pensions received on account of reduced earning capacity, income 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.

2. Standard old-age pension

There is no limit on supplementary income once you have reached the statutory retirement age. 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 reach that age.

3. Old-age pensions prior to reaching the statutory retirement age

Supplementary income limits apply to old-age pensions claimed before reaching the statutory retirement age. Supplementary income up to a limit of €6,300 per calendar year is not deducted from your old-age pension.

If supplementary income exceeds the €6,300 limit, you may be entitled to a partial pension. The amount of the partial pension is found by deducting the supplementary income from your old-age pension. 40% of supplementary income between the €6,300 per calendar year limit and a personal ceiling is deducted from your pension, with the deduction made on a continuously variable basis rather than in fixed steps. The personal ceiling is equal to your highest annual income subject to compulsory social insurance contributions in the last 15 years before the loss of earning capacity. Only once you exceed this ceiling is 100% of any supplementary income in excess of the ceiling deducted from the pension.
4. Reduced earning capacity pensions

Recipients of reduced earning capacity pensions can likewise earn supplementary income to a certain extent. It is important to note in this regard is that reduced earning capacity pensions are intended as financial compensation for a partial or total loss of earning capacity. This is incompatible with earning unlimited or at least substantial supplementary income. Recipients of reduced earning capacity pensions may therefore only earn supplementary income to a limited extent. The income must also normally be earned within the scope of the residual earning capacity or the pension entitlement may be lost.

If you receive a full reduced earning capacity pension, you can earn up to €6,300 per calendar year without it being deducted from your pension. If you have a partial reduced earning capacity pension, a personal supplementary income limit applies. The supplementary income rules apply to earned income and in certain instances social benefits.

In the case of a full reduced earning capacity pension, 40% of any supplementary income between the €6,300 per calendar year limit and a personal ceiling is deducted from your pension, with the deduction made on a continuously variable basis rather than in fixed steps. Only once you exceed this ceiling is 100% of any supplementary income in excess of the ceiling deducted from the pension.

Likewise in the case of a partial reduced earning capacity pension, 40% of any supplementary income between the €6,300 per calendar year limit and a personal ceiling is deducted from your pension, with the deduction made on a continuously variable basis rather than in fixed steps.

Both for full and for partial reduced earning capacity pensions, the personal ceiling is equal to the highest annual income subject to compulsory social insurance contributions in the last 15 years before the loss of earning capacity. In the case of zero or only marginal earnings in the last 15 years, the figure used is half of the average earnings.

Surviving dependants’ pensions

1. Widow’s or widower’s pension

Widows and widowers are entitled to a statutory widow’s or widower’s pension (Witwen-/Witwerrente) if the deceased spouse completed the general qualifying period and the widow or widower has 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 child who for reasons of disability is unable to fend for him or herself.
A widow’s or widower’s pension supplement of two additional earning points is paid for the first child raised and a supplement of one earnings point 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. 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 fairness, earlier rules (maximum widow’s or widower’s pension of 60% of the deceased spouse’s statutory pension insurance pension excluding child supplement) continue to apply for couples who married before 1 January 2002 where at least 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 registered life 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 2d) – such as the ‘weltwärts’ international voluntary service or Federal Voluntary service – or are unable to support themselves due to physical, intellectual 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 insured person’s pension plus a supplement.

3. Child raising pension

A further surviving dependants’ pension is the child raising pension (Erziehungsrente). This 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; and
• You were legally divorced (western Germany: divorces after 30 June 1977; 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 insurance 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 life partnerships.

The exempt amounts for widow’s or widower’s pensions and child raising pensions are currently as follows:
Western Germany: €819.19
Eastern Germany: €783.82

The exempt amount increases for each child entitled to an orphan’s pension by:
Western Germany: €173.77
Eastern Germany: €166.26

These amounts are linked to the current pension value and are thus index-linked.

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 fairness, the general income deduction rules under earlier rules (deduction of income from employment or income replacement benefits) remain valid for couples who married before 1 January 2002 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 half and half the pension entitlements accumulated during marriage. In place of the conventional provision for spouses and widows/widowers (each receiving their own insured person’s pension while alive and, when one spouse dies, the survivor receiving a subsidiary widow’s or widower’s pension in addition to their own pension), married couples may jointly declare that the total pension entitlements accumulated during 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 the full old-age pension). Pension splitting gives women larger pension entitlements in their own right that 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 life partnerships.
How pensions are calculated

Contribution periods

The pension amount mainly depends on the income from employment or self-employment on which insurance contributions are paid. Periods spent raising children or providing unpaid home nursing care also count as contribution periods.

How much each contribution period counts depends on how a person’s gross annual income from employment before deductions compares with the average income 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 history up to a maximum value corresponding to 75% of the average income of all insured persons.

• Reduced compulsory contributions for persons with disabilities
  The minimum contribution assessment basis for contributions paid by persons with disabilities at recognised workshops and similar institutions is 80% of the reference figure. The reference figure is revised on an annual basis. For 2018, it is €3,045 in western Germany and €2,695 in eastern Germany.

• Compulsory contributions paid out of income replacement benefits
  During periods claiming income replacement benefits such as sickness benefit, injury benefit or unemployment benefit, the agency concerned pays pension insurance contributions regardless of who is responsible for the contributions. The contributions are paid on the basis of 80% of the gross income 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 nursing care

Since 1 April 1995, under the Long-term Care Insurance Act (Pflegeversicherungs-gesetz), periods spent providing unpaid home nursing care count as compulsory contribution periods in statutory pension insurance, with all attendant consequences. Periods providing nursing care both increase pension amounts and establish pension entitlements in their own right. They are credited based on the degree of need for care and on the extent of nursing care provided. For people who provide unpaid nursing care for a relative at home, the contributions to the statutory pension fund are assumed by long-term care insurance. This also applies to carers who also go to work for up to 30 hours a week. Certain groups who are exempt from pension insurance, such as people who already receive a full old-age pension and have reached the statutory retirement age, are excluded from this possibility to have periods of unpaid nursing care credited as contribution periods.

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 three 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.

For pension insurance purposes, such periods are credited as for a compulsory contribution period, and from 1 July 2000 on the basis of 100% of the average income. This currently amounts to a monthly pension payment of €31.03 in western Germany and €29.69 in eastern Germany for each child raising year. Considered periods for child raising are credited in addition.

Considered periods for child raising

Considered periods for child raising begin at childbirth and end the day the child reaches the age of ten. They do not directly affect the amount of pension like other pension insurance periods. Considered periods are significant for pension insurance purposes with regard to fulfilment of the 45-year qualifying period for an exceptionally long service pension and the 35-year qualifying period for an old-age pension and an old-age pension for persons with severe disabilities, enhanced entitlement to a reduced earning capacity pension, and the overall assessment of non-contributory 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 childcare commitments and thus regularly earn below average income. For periods from 1992, the person’s individual earnings that are taken into account are notionally increased by 50% up to a maximum 100% of the average income of all insured persons provided that a total of 25 years of pension insurance periods have been accumulated (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 period accumulated other than as a child raising period. This applies for periods from 1992 onwards provided that a total of 25 years of pension insurance periods have been accumulated (including child raising periods and considered periods for child raising).

For parents who look after a child in need of nursing care, pension insurance contributions paid by the long-term insurance fund are upgraded from the time the child is four until he or she reaches the age of 18 by 50% to a maximum 100% of the average income. Again, this applies for periods from 1992 onwards where a total of 25 years of pension insurance periods have been accumulated (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 pension insurance 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 school-based vocational training beyond the age of 17, the latter being limited to a maximum of eight years.

**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 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 last four years before the reduction in earning capacity do not count towards added periods if counting them would deduct from the value of the added periods (for example if the insured person’s income fell because they went part-time or had time off due to illness before the pension began). Secondly, the added periods were extended from age 60 to age 62. Under a 2017 act to improve reduced earning capacity pension benefits, added periods for future recipients of reduced earning capacity pensions are now being further extended in stages between 2018 and 2024 by three years to age 65.
The pension formula

The guiding principle behind income-based and contribution-based pensions is that the pension amount mainly depends on the income from employment on which contributions are paid over a person’s insurance history. The income from employment and self-employment for which contributions are paid each year is converted into earnings points. Earnings points are also credited for certain non-contributory periods when no contributions are paid, at a rate that depends on the income for which contributions are paid in the remaining time.

A pension type factor determines the amount of the respective pension in comparison with the standard old-age pension.

If, despite completion of the qualifying period, an old-age pension is claimed earlier or later than the statutory retirement age, any loss or gain resulting from the longer or shorter payout period is compensated by an entry age factor. Reductions in the pension amount compensate for the advantage of earlier retirement and the resulting longer 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 part of the pension formula.

Three factors determine the amount of a pension:

<table>
<thead>
<tr>
<th>P</th>
<th>Personal earnings points</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Insured income (up to the contribution assessment ceiling) for each calendar year, divided by the average income of all insured persons, then totalled over the individual's insurance history, and multiplied by the entry age factor.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>T</th>
<th>Pension type factor</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>A factor depending on what the pension is intended to provide for.</td>
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<table>
<thead>
<tr>
<th>V</th>
<th>Current pension value</th>
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<tbody>
<tr>
<td></td>
<td>The monthly pension that an average earner would receive after paying contributions for one calendar year (currently €31.03 in western Germany and €29.69 in eastern Germany).</td>
</tr>
</tbody>
</table>

\[ P \times T \times V = \text{Monthly pension} \]

Total entitlement

Certain non-contributory periods and reduced contribution periods are also credited towards a pension. Non-contributory periods include credited, added and substitute periods. A reduced contribution period arises when a contribution period (for example during employment) and a non-contributory period (such as a credited period during maternity leave) fall in the same calendar month. Certain non-contributory periods and reduced contribution periods are accounted for in pension calculation as the average of all (compulsory and voluntary) contribution periods. Any gap in the insurance history reduces the total entitlement unless it includes a non-contributory period or a reduced contribution period. Considered periods for child raising increase the value of non-contributory periods and reduced contribution periods.
**Pension adjustment**

Pensions are regularly adjusted on 1 July each year in line with changes in the current pension value and in the current pension value for eastern Germany. 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 employee according to the national accounts published by the Federal Statistical Office), taking into account the development of pay components that are subject to compulsory statutory pension insurance contributions. To equitably share the burdens of demographic change between young and old, the development of two further important variables is additionally incorporated into the calculation of pension adjustments: Firstly, pension adjustments take into account changes in employees’ expenditure on accumulating retirement 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).

Under the Pension Alignment Completion Act (Rentenüberleitungs-Abschlussgesetz), pension levels in the eastern German Länder are to be brought fully into line with western German levels in a series of steps commencing with the 2018 pension adjustment and ending 1 July 2024. The separate calculation parameters for eastern Germany are likewise to be progressively aligned with western levels and cease to apply from 1 January 2025. Uniform calculation parameters will then apply for pension calculation throughout Germany.

**Pension information**

Insured persons receive an annual pension statement from age 27. By providing pension statements, the pension insurance funds enhance transparency regarding individual pension entitlements and give people a reliable basis for planning additional personal 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 on 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.
**Organisation**

Pension insurance was reorganised as of 1 October 2005. The past distinction between wage and salary earners was abolished. Pension insurance institutions are divided into federal institutions and regional institutions. These have names beginning with Deutsche Rentenversicherung (literally, ‘German pension insurance’). The remainder of the name reflects the institution’s area of responsibility. The federal institutions are Deutsche Rentenversicherung Bund (which amalgamated the German Insurance Institute for Salaried Employees (BfA) and the Federation of German Pension Insurance Institutions (VDR)) and Deutsche Rentenversicherung Knappschaft-Bahn-See (which amalgamated the former miners, railway and maritime funds), which is also responsible for employees in the mining, railway and maritime sectors. 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 normally each pay half of the current contribution rate (18.6% of the employee’s monthly pay before deductions as of 1 January 2018). In the case of employees, the contribution amount depends on individual earnings up to a contribution assessment ceiling of currently €6,500 a month in western Germany and €5,800 in eastern Germany. Pension insurance expenditure is also partially subsidised by the state.

**Information**

Information is available from the insurance offices in city, district and municipal administrations and from insurance funds’ information and advice services. Advice is also available from the insurance funds’ honorary advisors (Versichertenälteste) and the insurance consultants.
Promotion of additional provision for retirement

(Förderung der zusätzlichen Altersvorsorge)

The average age of the population continues to rise. In statutory pension insurance, ever decreasing numbers of contributors face ever increasing 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 spread more evenly across three pillars: statutory pension insurance, company pension plans and personal pensions. The state provides subsidies, tax relief and relief on social insurance contributions to aid in the establishment of additional fully funded pensions.

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 (known as a deferred compensation). Employers must comply with this wish. How they organise company pensions for employees is a matter for agreement, often at company level or in collective agreements. 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 Direktversicherung – direct insurance).

Company pensions 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 into them exempt from tax and social security contributions. As of 2018, €6,240 can be paid tax-free into a plan implemented in the form of a Pensionskasse (pension institution – a special type of life insurance company), Pensionsfonds (pension fund) or Direktversicherung (direct insurance – life insurance held by an employer on behalf of employees). Deferred compensation up to a maximum amount €3,120 is also exempt from social insurance contributions.
As with personal pension arrangements, company pension plans can also be made subject to ‘Riester’ incentives in the form of subsidies and extra tax relief.

**Personal pensions**

Since 2002, the state has provided incentives for the establishment of fully funded personal pensions. The ‘Riester’ incentives, named after the former Federal Minister of Labour and Social Affairs, take two forms: subsidies (supplements) and extra tax relief (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)

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 large 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.
Make sure that 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.

Since 1 January 2017, providers of ‘Riester’ plans must provide investors with a standard product information sheet so that they can make an objective cost comparison before signing. ‘Riester’ incentives are also available to anyone compulsorily insured in statutory pension insurance or in the farmers’ old-age security scheme, civil servants (Beamte), members of the armed forces, 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 their own retirement savings plan and pays a contribution of at least €60 a year.

The state incentives

The main incentive for personal pensions is the pension supplement (Altersvorsorgezulage), which is made up of a basic supplement (Grundzulage) for each entitled individual and, where applicable, a child supplement (Kinderzulage). If a personal pension agreement is signed, spouses are each entitled to the supplement as well if they pay in a minimum of €60 per year.

Entitlement to the pension supplement is conditional upon a certain minimum own contribution. 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 at the end of this chapter).

Self-employed people are also able to make use of state incentives when making provision for old age (in the form of ‘Basis’ or ‘Rürup’ pension plans).

Owner-occupied residential property can also be incorporated into state-subsidised private supplementary pension arrangements. The following incentives are available 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**

You should always keep sight of both company pensions and personal pensions and weigh up which option is best 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 Riester incentives in the form of supplements and additional tax-deductible amounts.

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).

**Riester incentives**

<table>
<thead>
<tr>
<th>Tax-deductible amount (in addition to pension provision)</th>
<th>up to €2,100</th>
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<tbody>
<tr>
<td>Basic supplement</td>
<td>€175</td>
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<tr>
<td></td>
<td>€200¹</td>
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<tr>
<td>Child supplement, per child</td>
<td>€185</td>
</tr>
<tr>
<td></td>
<td>€300²</td>
</tr>
<tr>
<td>Minimum own contribution net of supplements</td>
<td>4% minus supplements³</td>
</tr>
<tr>
<td>Maximum</td>
<td>€2,100 minus supplements</td>
</tr>
</tbody>
</table>

¹ Lump-sum bonus for people under 25 entering employment
² For children born since 1 January 2008
³ Based on previous year’s income subject to statutory pension insurance, but not less than €60 (minimum contribution)
Social compensation

(Soziale Entschädigung)

In the German social security system, if you suffer damage to your health for which the community bears the consequences, you are entitled to compensation. This provides at least financial redress for special sacrifices, for example. Surviving dependants may also claim compensation subject to certain requirements.

Social compensation includes benefits for:

- War victims
- 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 occupation zone, the Soviet sector of Berlin or in any area specified in Section 1 (2) 3 of the Federal Expellees Act and whose health was impaired as a result
- People who suffer lasting health impairment as a result of imprisonment on the basis of an unjust judicial ruling under the SED regime in the former German Democratic Republic
- 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

Social compensation law comprises the following legislation:

- Federal War Victims’ Compensation Act (Bundesversorgungsgesetz/BVG)
- Military Pensions Act (Soldatenversorgungsgesetz/SVG)
- Act on Administrative Procedure for War Victims’ Compensation (Gesetz über das Verwaltungsverfahren der Kriegsopferversorgung/KOVVfG)
- Civilian Service Act (Zivildienstgesetz/ZDG)
- Crime Victims Compensation Act (Opferentschädigungsgesetz/OEG)
- Criminal Rehabilitation Act (Strafrechtliches Rehabilitierungsgesetz/StrRehaG)
- Prisoner Assistance Act (Häftlingshilfegesetz/HHG)
- Administrative Rehabilitation Act (Verwaltungsrechtliches Rehabilitierungsgesetz/VWRehaG)
- Protection against Infection Act (Infektionsschutzgesetz/IfSG)
- Act to Safeguard Basic Pension Settlements in War Victims Compensation (Gesetz zur Sicherstellung der Grundrentenabfindung in der Kriegsopferversorgung/KOVRentKapG).

The two sections that follow deal with war victims’ compensation and victims of violent crime.
**War victims’ compensation**

**Benefits and conditions**

On application, you receive benefits to compensate for health and financial consequences of injury as a result of:

- Military or equivalent service;
- An accident that occurred in the performance of such service;
- Conditions typical of such service;
- Imprisonment as a prisoner of war;
- Direct effects of war (such as when civilians are injured during an air raid); or
- Violent acts (such as physical injury or rape) by members of occupying forces.

Injured persons within the meaning of social compensation law are entitled to medical treatment for recognised conditions arising from injury:

- Out-patient medical and dental treatment
- Hospital treatment
- Provision of medication and dressing materials
- Provision of therapies
- Physiotherapy, exercise therapy, speech therapy, occupational therapy
- Provision of aids
- Provision of dentures
- Home nursing care
- Treatment in a rehabilitation facility
- Occupational fitness testing and work therapy
- Non-medical sociopaediatric care
- Medical and psychotherapeutic psychotherapy; sociotherapy

**Important for persons with severe invalidity**

If you have a recognised 50% degree of invalidity, you will also receive medical treatment for any further illnesses not related to your injury, provided that it is not already covered by entitlements from other agencies and your earnings do not exceed the income limit for statutory health insurance. The annual income limit is €59,400 in 2018, which corresponds to €4,950 per month.

You also receive social compensation sickness benefit if you are unfit for work as a result of injury, and medical treatment provision.

You are entitled to medical treatment provision

- As a person with a severe invalidity, for your spouse, children and other dependants;
- As a recipient of long-term care allowance, for people who provide you with unpaid nursing care;
- As a surviving dependant.
You also receive benefits and services to promote participation in working life that help you enter, re-enter or continue working in a suitable occupation. You will receive a transitional allowance or maintenance allowance for the duration of your benefits and services to promote participation in working life (war victims’ welfare benefits).

Pensions are paid to injured persons, widows and widowers, life partners, orphans and parents. The amount of the injury pension (Beschädigtenrente) you receive is scaled according to the degree by your recognised degree of invalidity. Your degree of invalidity must be at least 25% for you to qualify for an injury pension. The following benefits are provided:

- A basic pension scaled according to your degree of invalidity. The basic pension paid to severely injured persons increases at age 65.
- A supplementary allowance for the severest injuries, scaled in six grades.
- A long-term care allowance for incapacitated 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. Surviving dependants are also paid a compensatory pension to ensure that they 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 long-term 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 that certain requirements are met.
- The parents of an injured person who died as a result of his or her injury will receive a parents’ pension if they are in need and over 60 years of age or are incapacitated for work. 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 benefits and services to promote participation in working life for persons with disabilities
- Benefits and services to promote participation in working life
- Supplementary cost-of-living assistance

War victims’ welfare benefits are provided as special assistance on an individual basis to supplement other provision under the Federal War Victims’ Compensation Act, to which they are subordinate. 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’ Compensation Act.

Information

Compensation for war victims is the responsibility of local compensation 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 war victims’ welfare providers. Decisions relating to war victims’ welfare may be appealed against in administrative courts.

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 under the War Victims’ Compensation Act (BVG) (from 1 July 2015)

<table>
<thead>
<tr>
<th>Recipients/benefits</th>
<th>DOI* (%)</th>
<th>Monthly amount (€)</th>
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<tbody>
<tr>
<td>Travel supplement (for blind persons)</td>
<td>164</td>
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<tr>
<td>Basic pension for injured persons**</td>
<td>30</td>
<td>138</td>
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<td>40</td>
<td>183</td>
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<td>90</td>
<td>645</td>
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<tr>
<td></td>
<td>100</td>
<td>722</td>
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<tr>
<td>Age supplement on basic pension</td>
<td>50, 60</td>
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<td>70, 80</td>
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<td>90, 100</td>
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<tr>
<td>Supplementary allowance for severest injuries</td>
<td>Level I</td>
<td>83</td>
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<td>Level II</td>
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<td>Compensatory pension for injured persons</td>
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<td>Married dependants’ supplement</td>
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<td>Care allowance</td>
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<td>Compensatory pension for</td>
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<td>- having lost both parents</td>
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<td>Supplement under BVG 51(2) for</td>
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<td>Supplement under BVG 51(3) for</td>
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<td>- 1 parent</td>
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<td>Funeral allowance: full</td>
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<td>Funeral allowance: half</td>
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<tr>
<td>Clothing grant</td>
<td>19 – 124**</td>
<td></td>
</tr>
</tbody>
</table>

* Degree of invalidity
** 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 war victim.

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 in Germany – in other words, by the level of his or her integration into German society. Compensation is also granted to foreigners whose presence in Germany 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 with applications for compensation for crimes committed in countries that are member states of the European Union.

**The law**

The Crime Victims Compensation Act entered 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 subject to certain requirements.

Foreigners, who have been protected under the Act since the Second Act Amending the Crime Victims Compensation Act entered 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 (Sozialgericht). In the event that the benefits correspond to those granted under war victims’ compensation, 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 come under the Contergan Foundation Act (Conterganstiftungsgesetz). Further information is available from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and from the office of the Contergan Foundation (Conterganstiftung für behinderte Menschen).
Social assistance

(Sozialhilfe)

Social assistance (Sozialhilfe) provides a safety net to protect people from poverty, social exclusion and hardship. It helps individuals who are unable and lack the resources to meet their own needs and have insufficient or no entitlement under other insurance and welfare systems that come before it.

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 Book XII of the Social Code (SGB XII). Where income and savings fall short, social assistance covers the subsistence level consistent with human dignity. It also aims to compensate as necessary for other impediments such as disabilities, need of nursing care or exceptional social difficulties so that people can take part in community life as fully as possible. Formerly, social assistance was divided into cost-of-living assistance and assistance in special circumstances.

A central aim of social assistance is helping people to help themselves:

According to the second sentence of SGB XII, “the assistance is intended to give the ability as far as possible to live independently of it; entitled individuals must also work towards this to the best of their abilities”. Entitled individuals and social assistance providers are also expected to cooperate in attaining this aim.

The general principles governing the provision of assistance are as follows:

• Assistance is tailored to individual needs, taking into account the entitled individual’s circumstances, wishes and abilities (Section 9 of SGB XII).
• As a subordinate benefit, social assistance is not normally granted until all other resources have been exhausted – such as use of the entitled individual’s income and assets and where applicable those of anyone required to support them, their own earning capacity, and entitlements under other insurance and welfare systems that take precedence (Section 2 of SGB XII).
• Social assistance does not have to be applied for. It is granted automatically as soon as it becomes known to a social assistance provider that the criteria for assistance have been met. The only exception is for basic security benefits in old age and in the event of reduced earning capacity under Chapter 4 (Section 18 read in conjunction with Section 41 of SGB XII). Assistance is provided in the form of services, cash benefits and non-cash benefits other than services, with cash benefits generally taking priority over non-cash benefits (Section 10 of SGB XII).
• In addition to financial support, provision also includes advice, help in being an active member of the community, and other forms of support such as establishing contacts and accompaniment to social services (Section 11 of SGB XII).
• 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. Also, pregnant women and persons with disabilities or in need of nursing care are subject to exemptions from the rebuttable presumption under Section 39 of SGB XII that an entitled individual’s needs are met by others in a shared household.

The development of social assistance: New challenges and legislative reorganisation

When the Federal Social Assistance Act entered 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:

• The sharp rise in unemployment in the years following the introduction of the Federal Social Assistance Act: Long-term unemployed, low-skilled foreign workers and unemployed young people without benefit entitlements increasingly needed cost-of-living assistance;
• The changing structure of families: For many single parents, cost-of-living assistance makes up for insufficient maintenance payments;
• Immigrants making up new groups of entitled individuals: Asylum-seekers, civil war refugees, ethnic Germans resettling from Eastern European countries and unemployed foreign workers;
• Demographic change: Increased numbers of people in need of dependent on care assistance;
• Increasing numbers of persons with disabilities.

This shifting pattern of circumstances necessitating social assistance prompted a several-fold legislative response, comprising amendments to adapt the Federal Social Assistance Act to the changed social situation and various new pieces of legislation taking specific groups and circumstances outside the scope of social assistance:
• 1993: Asylum-Seekers’ Benefits Act (Asylbewerberleistungsgesetz)
• 1995: Long-term Care Insurance Act (Pflegeversicherungsgesetz)
• 2001: Book IX of the Social Code (SGB IX) expressly reclassified social assistance providers as rehabilitation agencies, but did not aim to establish separate assistance legislation or to reduce the burden on social assistance.
• 2003: The Basic Security Act (Grundsicherungsgesetz), providing persons from the age of 65 and persons with full reduced earning capacity between the ages of 18 and 64 with basic security benefits in old age and in the event of reduced earning capacity.
• 31 December 2004: Repeal of the Federal Social Assistance Act (Bundessozialhilfegesetz) and of unemployment assistance (Arbeitslosenhilfe, part of Book III of the Social Code (SGB III)).
• 2005: Social assistance under Book XII of the Social Code (SGB XII).
• 2005: Basic Security Act incorporated, with the benefits under it as primary benefits, as fourth chapter of social assistance.

Regarding cost-of-living assistance for persons in need of assistance, it is importance to note that since 2005, alongside the cost-of-living assistance under the heading of social assistance under SGB XII, there is also cost-of-living assistance under the heading of basic security benefits for job-seekers under Book II of the Social Code (SGB II); this is provided for job-seekers aged from 15 up to the statutory retirement age who are capable of earning. When someone in need is entitled to cost-of-living assistance, whether their entitlement comes under SGB II or SGB XII depends on whether they are capable of earning. It is thus a question of which applies: ‘capable of earning’ (assistance under SGB II) or ‘full reduced earning capacity’ (assistance under 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 entitled individuals’ 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 provided for, individuals aged from 15 up to the statutory retirement age who are capable of earning and in need of assistance receive Unemployment Benefit II to meet their costs of living (Section 19 of SGB II); other members of the household who are not capable of earning are entitled to social benefit (Sozialgeld) (Section 23 of SGB II). Such other members of a household normally have no entitlement to cost-of-living assistance under Chapter 3 of SGB XII (Section 21 of SGB XII). Both types of benefit correspond in amount and structure to cost-of-living assistance under SGB XII but have to be applied for (Section 37 of SGB II). Since the Basic Needs Calculation Act (Regelbedarfs-Ermittlungsgebet) of 29 March 2011 concerning the calculation of basic needs and amending Book II and Book XII of the Social Code, the basic needs (Regelbedarf) rates have been determined on a new basis. They are now determined as a rule on the basis of consumption data for lower income brackets. This ensures that they are determined in conformity with constitutional requirements.

In response to a Federal Constitutional Court decision, the basic needs rates for children and adolescents – which determine the standardised subsistence-level benefit rates – are set directly at different levels according to age group.
Types of social assistance

Social assistance covers:
• Cost-of-living assistance (Sections 27-40 of SGB II)
• Basic security benefits in old age and in the event of reduced earning capacity (Sections 41-46)
• Assistance towards health care (Sections 47-52)
• Benefits and services to promote participation in working life for persons with disabilities (Sections 53-60)
• Care assistance (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: Cost-of-living assistance (Sections 27-40 of SGB XII)

Cost-of-living assistance (Hilfe zum Lebensunterhalt) is mostly paid to individuals living at home; a spouse or life partner and any underage children living in the same household are deemed part of the joint household. Necessary living expenses include food, accommodation, clothing, body care, household effects, heating, and everyday personal necessities (Section 27a, SGB XII). The latter include reasonable expenditure on relations with the outside world and participation in cultural life. Social assistance thus provides not just a physical subsistence level, but a subsistence level that is consistent with human dignity and enables participation in the community.

Cost-of-living assistance is paid where possible as a cash benefit. The individual’s needs are assessed first, and then their income and assets are deducted (as stipulated in Chapter 11 of SGB XII). The need for cost-of-living assistance is made up as follows:

• New basic needs levels (Regelbedarfsstufen) apply from 1 January 2011. The euro amounts as of 1 January 2018 are as follows:
  – Basic needs level 1: €416:
    For an adult entitled to assistance who lives in private residential accommodation with neither a married partner, nor a life partner, nor a cohabiting partner.
  – Basic needs level 2: €374:
    For each of two adults entitled to assistance who live together in a shared home as a married couple, as life partners or as a cohabiting couple.
  – Basic needs level 3: €332:
    For an adult entitled to assistance who lives in institutional accommodation.
  – Basic needs level 4: €316:
    For an adolescent entitled to assistance from 15 to 18 years of age.
  – Basic needs level 5: €296:
    For a child entitled to assistance from 7 to 14 years of age.
Basic needs level 6: €240:
For a child entitled to assistance up to six years of age.

• Education and participation needs for children and adolescents are met to secure a subsistence level consistent with human dignity for them and for school students with regard to participation in the community. These needs are recognised independently of the basic needs rate so that targeted assistance can be provided for better integration into the community of children and adolescents in need of assistance.

• 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 (normally up to a maximum of six months) (Section 35 of SGB XII).

• 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 within the living unit (such as by a boiler), the additional cost is recognised (Section 30 (7) of SGB XII).

• Rent arrears are paid to prevent eviction (Section 36 of SGB XII).

• Social assistance providers are allowed to pay a flat rate for accommodation and heating costs in certain circumstances.

• An extra allowance for additional needs is paid for additional costs not covered by the basic needs rate in certain situations and special circumstances provided that the individual requirements are met. Among other things, this includes additional costs for persons entitled to assistance who have a severe disability pass with a ‘G’ entry (indicating ‘significantly restricted mobility in road traffic’), for expectant mothers and single parents, and to pay for non-communal water heating.

• 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 (Section 31 of SGB XII). Assistance is granted as a loan in the case of undeniably necessary special items normally covered by the basic needs rate (Section 37 of SGB XII).

• Health and long-term care insurance can be paid, as can pension contributions (Sections 32 and 33 of SGB XII).

The basic needs rates and non-recurring assistance are paid on a flat-rate basis. Other cost-of-living assistance 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 basic needs rate; such items are now paid for with a loan, repayment of which begins while still in receipt of cost-of-living assistance.

Cost-of-living assistance 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 basic needs level 1 (Section 27b of SGB XII).

German citizens living abroad cannot receive cost-of-living assistance unless they are in an ‘exceptional emergency’ and there are specific reasons preventing their return (Section 24 of SGB XII).
The education package

The education package (education and participation needs) for pupils attending general education or vocational schools includes:

- Costs of one-day school class/daycare centre outings;
- Assistance for multiple-day school class/daycare centre 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 meals in schools, daycare centres and child care;
- Monthly budget of €10 for participation in social and cultural life.

Chapter 4: Basic security benefits in old age and in the event of reduced earning capacity (Sections 41-46b of SGB XII)

Under Chapter 4 of SGB XII, all individuals from the statutory retirement age and individuals from age 18 who have full reduced earning capacity exclusively for medical reasons are entitled to basic security benefits in old age and in the event of reduced earning capacity if they are in need and their normal place of residence is in Germany. The assistance is equal in amount to non-institutional cost-of-living assistance (Chapter 3); unlike cost-of-living assistance, it has to be applied for. The supplement is normally granted for a year at a time. Income such as a pension and assets belonging to the entitled individual or to their spouse or life partner (provided they do not live separately) or cohabiting partner are taken into account as for social assistance. No recourse is made, however, to children or parents who would otherwise be legally required to support the entitled individual 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 cost-of-living assistance, any actual help received is taken into account against the assistance rates. In all other respects, the rules are essentially the same as for cost-of-living assistance.

Information

Information about basic security benefits in old age and in the event of reduced earning capacity is provided by the social assistance providers and statutory pension funds – both for people with pension insurance and on request for all potentially entitled uninsured individuals.
Chapter 5: Assistance towards health care (Sections 47-52 of SGB XII)

Assistance towards health care 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 have statutory health insurance. 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 services office (Sozialamt) reimburses the health insurance fund for the costs of the health care services provided under assistance towards health care. Equal treatment of non-insured social assistance recipients and insured patients means that social assistance recipients must also pay patients’ contributions towards treatment up to specific contribution limits.

Chapter 6: Integration assistance for persons with disabilities (Sections 53-60 of SGB XII)

Integration assistance under SGB XII is provided to individuals whose ability to participate in society is significantly restricted by an existing or impending physical, intellectual or psychological disability. The purpose of integration assistance is to prevent any impending disability or to ameliorate a disability or its consequences and integrate the individual into society. Integration assistance is provided in part regardless of a person’s income or assets. Further details are laid down in Section 92 of SGB XII.

Integration assistance is only provided if the same assistance is not provided by another agency with priority responsibility – in particular, statutory health insurance, statutory pension insurance or the employment agency.

Integration assistance comprises:

- Benefits and services for medical rehabilitation; these correspond to the rehabilitation benefits and services under statutory health insurance.
- Benefits and services to promote participation in working life; these comprise assistance that forms part of the work of recognised workshops for persons with disabilities, assistance from other providers, and assistance provided by private and public-sector employers (the ‘budget for work’).
• Benefits and services to promote participation in the community; these include assistance relating to communicating with others (such as assistance with the cost of a sign language interpreter), assistance with obtaining, converting, fitting out, furnishing and the upkeep of an accessible home, assistance to promote independent living in supervised accommodation (such as non-institutional shared accommodation) and assistance to promote participation in social and cultural life (such as assistance with the cost of visiting friends or a cultural event). Benefits and services to promote participation in the community also include special education for pre-school children (such as support with supervisory care in a child daycare centre) and assistance with appropriate schooling, vocational schooling for an appropriate occupation or training for other forms of appropriate employment.

On application by the entitled individual, integration assistance is provided in the form of a ‘personal budget’.

**Chapter 7: Care assistance (Sections 61-66 of SGB XII)**

Long-term care insurance is designed as a partial coverage system, and the benefit amounts provided under Book XI of the Social Code (SGB XI) are therefore subject statutory limits. Consequently, notwithstanding the new definition of the need for long-term care in SGB XI and the significant improvement in long-term care insurance benefits, a person’s need for nursing care may not be met in full. In the event of financial need, the shortfall is met by care assistance provided as part of social assistance.

As well as in SGB XI, the new definition of the need for long-term care was also incorporated in Book XII of the Social Code (SGB XII) as of 1 January 2017 to ensure that those in financial need continue to receive adequate provision in the event that they are in need of nursing care.

Under the new definition of the need for long-term care, a person is classified into one of five care grades based on the degree of the health-related restriction to their independence or abilities. In one respect, the definition in SGB XI is broader than that in SGB XI: It is not necessary for the need for long-term care to be expected to last at least six months.

Care assistance is therefore available in the event of financial need:
• For persons in need of nursing care who are not insured under social long-term care insurance;
• In cases where the need for care is not expected to last at least six months and for that reason no benefits are granted under long-term care insurance;
• In cases where the need for care is not fully met because of the limits to the amounts provided under long-term care insurance.

Care assistance largely corresponds to the benefits provided under long-term care insurance. A notable change compared with the previous legal position is the addition of benefits for attendance services.
Care assistance is normally limited to persons in need of nursing care in care grades 2 to 5. Persons in need of nursing care in care grade 1, because their disability is less pronounced, are (only) entitled to care aids and measures to improve their home surroundings. In addition, a support allowance of up to €125 per month is paid.

In contrast to the former definition, the new definition of the need for care also includes cognitive and psychological impairments, and provision must be made for these within care assistance. In particular, persons in need of nursing care in care grades 2 to 5 receive additional attendance benefits that before the adoption of the new definition of the need for care were only available to insured persons as additional benefits under social long-term care insurance.

Chapter 8: Assistance in overcoming special social difficulties (Sections 67-69 of SGB XII)

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 (Sections 70-74 of SGB XII)

Chapter 9 covers various forms of assistance: assistance with household upkeep (Section 70 of SGB XII), 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 (Sections 75-81 of SGB XII)
• Chapter 11: Use of income and assets; assignment of claims (Sections 82-96 of SGB XII)
• Chapter 12: Responsibilities (Sections 97-101 of SGB XII)
• Chapter 13: Repayment of costs of assistance; transfer charging between agencies (Sections 102-115 of SGB XII)
• Chapter 14: Rules of procedure (Sections 116-120 of SGB XII)
• Chapter 15: Statistics (Sections 121-129 of SGB XII)
• Chapter 16: Transitional and final provisions

Information on the rules on deduction of income and assets

In the case of individuals entitled to assistance who receive cost-of-living assistance or basic security benefits in old age and in the event of reduced earning capacity, income from employment or employment is deducted in the amount of 30% of the income up to a maximum of 50% of basic needs level 1 under the annex to Section 28 of Book XII of the Social Code (€208 in 2018).
For employees of workshops for persons with disabilities, the exempt amount for income from employment or self-employment is 12.5% of basic needs level 1 plus 50% of their pay in excess of this amount. This last figure went up from 25% on 1 January 2017 under the Federal Participation Act (Bundesteilhabegesetz).

Employment promotion benefit under Section 59 (2) of Book IX of the Social Code is now exempt from deduction from any form of social assistance and not solely from institutional integration assistance. It has also gone up from €26 to €52 per month. The increase applies for all workshop employees, including those who are paid a full reduced earning capacity pension alongside their workshop pay and are therefore not or no longer dependent on basic security benefits.

A new exempt amount for supplementary pension income – primarily occupational and private pension income such as from ‘Riester’ and ‘Rürup’ pension plans – was introduced as of 1 January 2018 in the case of basic security benefits in old age and in the event of reduced earning capacity. The exempt amount generally applies to forms of income under which the individual receives a stream of monthly payments for life. The exempt amount for this purpose consists of a basic amount of €100 plus 30% of the supplementary pension in excess of this up to a maximum of currently €208 (50% of basic needs rate 1 in 2018). In departure from this, if an individual entitled to assistance receives income that is tax-free under Section 3 no. 12 or Section 26, 26a or 26b of the Income Tax Act (such as for service as a local councillor or sports coach), an amount of up to €200 is not to be deducted as income.

This normally applies to all forms of income that are paid out in monthly amounts for life on a voluntary basis to reduce deprivation after attaining retirement age.

The exempt amount does not apply to income that the individual entitled to assistance has from periods of compulsory insurance in statutory pension insurance or similar compulsory insurance schemes or from a civil service pension.

An exempt amount for income from employment likewise applies for recipients of integration assistance (currently up to approximately €270 per month; 40% of the unadjusted income before deductions capped at 65% of basic needs level 1). Employed persons receiving care assistance likewise benefit in connection with income deduction under SGB XII from the introduction of this deductible amount (exempt income amount) for income from own employment (currently up to approximately €270 per month; 40% of the unadjusted income before deductions capped at 65% of basic needs level 1). Persons with disabilities and persons in need of nursing care who themselves meet the conditions for integration assistance and/or care assistance will therefore be able to retain a lump-sum amount of their income from employment.

With regard to assistance under Chapters 5-9, SGB XII additionally stipulates an income limit equal to 200% of basic needs level 1 plus 70% of basic needs level 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 provider at a flat rate of up to €32.75 a month for integration assistance for persons with disabilities and care assistance, and up to €25.19 a month for cost-of-living assistance. As a rule, no recourse is made to relatives who would otherwise be legally required to provide maintenance in respect of basic security benefits in old age and in the event of reduced earning capacity.

In keeping with the subsidiarity principle in social assistance, assistance recipients must make use of any assets. The law makes a number of exceptions to this rule, however, such as for a reasonable residential property and a small cash amount of currently €5,000.

For recipients of integration assistance, there is an additional exempt asset amount of €25,000 to secure a reasonable standard of living and adequate retirement provision.

This also applies to recipients of care assistance provided that the assets originate in their entirety or predominately from the income from employment of the person in need of nursing care during the receipt of assistance.
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 provided as rent support (Mietzuschuss) for tenants and as mortgage and home upkeep support (Lastenzuschuss) for owner-occupiers. You can only receive housing benefit if you apply for it and demonstrate that the requirements are met.

Benefits and conditions

Rent support is available for 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 a quasi-tenancy right of use and in particular a quasi-tenancy right of permanent residency
• Own a multi-unit dwelling (with three or more flats)
• Live in a home
provided that they use the accommodation themselves.

Mortgage and home upkeep support is available for people who own:
• A house (with one or two living units)
• A flat
• A leasehold property
• A quasi-ownership right of permanent residency, right of residence or usufruct
• A claim to constitution or transfer of any of the foregoing rights
provided that they use the accommodation themselves.

Non-entitlement to housing benefit

Housing benefit is not granted to persons entitled to the following:
• Unemployment Benefit II and social benefit (Sozialgeld) under Book II of the Social Code (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
• Basic security benefits in old age and in the event of reduced earning capacity under SGB XII
• Cost-of-living assistance under SGB XII
• Supplementary cost-of-living assistance and other assistance in a facility under the Federal War Victims’ Compensation Act (Bundesversorgungsgesetz) or other legislation under which that act applies
• Benefits in special circumstances and basic benefits under the Asylum Seekers Benefits Act (Asylbewerberleistungsgesetz)
• Assistance under SGB VIII in households consisting solely of recipients of such assistance

Housing benefits is also not granted to dependants of the above persons who are taken into consideration in the assessment of the benefits and assistance 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 is subordinate to 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:

• How many members of your household are to be taken into consideration (these mainly include the person entitled to housing benefit, spouse, life 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 to be taken into consideration and the rent band.
• Total monthly income of all household members to be taken into consideration.

It is important to note that household members who are to be taken into consideration 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). There is an additional list of tax-exempt types of income.
The total income figure is the sum total annual income of all household members to be taken into consideration, minus certain deductions for tax and social insurance contributions and exempt amounts for certain groups (such as household members with severe disabilities). Proof of income must be provided.

The annual income figure that applies is the annual income that at the time of the application is expected while receiving benefit.

**Housing benefit and income ceilings**

The table below shows by way of guidance, based on the number of household members 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.

<table>
<thead>
<tr>
<th>Household members to be taken into consideration</th>
<th>Monthly total income ceilings in euros, by rent band</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>I</td>
</tr>
<tr>
<td>1</td>
<td>855</td>
</tr>
<tr>
<td>2</td>
<td>1,166</td>
</tr>
<tr>
<td>3</td>
<td>1,427</td>
</tr>
<tr>
<td>4</td>
<td>1,909</td>
</tr>
<tr>
<td>5</td>
<td>2,177</td>
</tr>
</tbody>
</table>

**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.

**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.

**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.
International social insurance
(Internationale Sozialversicherung)

German social insurance 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 EU, common rules stipulate in particular that employees 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:

- Albania
- Australia
- Bosnia and Herzegovina
- Brazil
- Canada
- Chile
- China (secondment)
- India
- Israel
- Japan
- Macedonia
- Montenegro
- Morocco
- Philippines
- Serbia
- South Korea
- Tunisia
- Turkey
- Uruguay
- USA

The social insurance agreement with China exclusively relates 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 EU provisions and some of the social insurance agreements are very comprehensive. The most important provisions involve benefits provided in the event of illness, invalidity and old age, those granted to surviving dependants and to people who have suffered an occupational 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.

Bilateral agreements (those with non-EU states) apply primarily to:
- German nationals
- Nationals of the other contracting state
- Refugees
- Stateless persons

The law

Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 provide the basis for social insurance coverage within the European Union, the European Economic Area (EEC) 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 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 fund 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 developed 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. Long-term 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 disease, 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 disease, 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 an injury 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 occupational accident insurance funds and statutory accident insurance institutions (Berufsgenossenschaften) and by Deutsche Gesetzliche Unfallversicherung (DGUV) (German Social 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 retirement 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. Surviving dependants’ pensions are paid on the same basis. Your pension will then be paid out in the state where you reside or stay.

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)
- Deutsche Rentenversicherung Knappschaft-Bahn-See
  (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)
- For Poland: Berlin Brandenburg
  (www.deutsche-rentenversicherung-berlin-brandenburg.de)
- For Japan, the Philippines and South Korea: Braunschweig-Hannover
  (www.deutsche-rentenversicherung-braunschweig-hannover.de)
- For Hungary and Bulgaria: Mitteldeutschland
  (www.deutsche-rentenversicherung-mitteldeutschland.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 another member state (but were not 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 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 (cost-of-living assistance and basic security benefits in old age and in the event of reduced earning capacity) 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 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 the 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 summoned. 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 providers – 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.
Guaranteeing social welfare rights through social security systems unavoidably involves processing people’s personal data (social security data). However, the processing of often highly sensitive personal data, such as data on health conditions, must generally be considered an infringement of the individual’s constitutional data privacy rights. In view of this, particularly strict rules apply.

The constitutional requirement for laws safeguarding social security data as a category of personal data in special need of protection is met with the provisions on social security confidentiality in Section 35 of Book I of the Social Code (SGB I), provisions on social security data protection in Sections 67-85a of Book X of the Social Code (SGB X), 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.

Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the General Data Protection Regulation – referred to in the following as the GDPR) applies with direct effect in all Member States of the European Union from 25 May 2018. The GDPR aims to ensure an equivalent level of protection for the rights and freedoms of natural persons with regard to the processing of personal data in all Member States. Because the provisions of the GDPR are directly applicable, the social security data protection provisions in SGB I and SGB X have been brought into line with them by means of legislation amending the Federal War Victims’ Compensation Act (Bundesversorgungsgesetz) and other provisions. The provisions of German social data protection law are now based systematically on and supplement, further elaborate or restrict those of the GDPR; there is thus now a mutually complementary system of law.

Section 35 of SGB I establishes an individual right that social security data concerning the individual is not allowed to be processed by agencies without authorisation (social security confidentiality). Social security data is personal data that is processed by an entity referred to in section 35 (1) of SGB I with a view to the entity’s 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.
Processing of social security data is lawful only if it is allowed pursuant to a statutory authorisation or the data subject gives their consent (prohibited unless specifically authorised). The law must, therefore, define what data concerning an insured person or a benefit recipient an agency may collect, store, alter, transmit or restrict the processing of. The legal basis is contained both in Articles 6 and 9 of the GDPR and in the Social Code. Under the system applied in social security data protection law, a legal basis under national legislation outside of the Social Code is not sufficient to constitute authorisation to process social security data. Another key principle of social security data protection is that data may only be processed if it is necessary to the performance of the duties of the entity responsible – generally an agency such as a statutory pension insurance or health insurance fund. For example, statutory health insurance funds many only collect personal data if needed to determine an individual’s insurance status and membership. Data may generally only be processed and used for the purpose for which it is collected (principle of purpose).

**Transmission of data**

Transmission of social security data is a particular form of data processing and is lawful only if there is direct authorisation under a provision in Article 6 or 9 of the GDPR (such as on the basis of the data subject’s consent) or if there is statutory authorisation to transmit the data under the Social Code. Transmission is the disclosure of social security data by way of it being passed on to a third party or by way of a third party viewing or retrieving data held for viewing or retrieval (first sentence of Section 67d (1) of SGB X).

Common circumstances in which data is transmitted:
- Transmission of specific enumerated data such as a person’s name or address for the purposes of the police, public prosecutors, etc.
- Transmission for the performance of social security responsibilities
- Transmission for occupational safety and health purposes
- Transmission for the performance of special statutory responsibilities and notification powers
- Transmission for research and planning purposes

Transmission for the performance of social security responsibilities under Section 69 of SGB X is particularly important in practice.

Example:

- A statutory accident insurance institution (Berufsgenossenschaft) 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 Section 93 of SGB VI.

Individuals and entities to whom social data is communicated must maintain the same level of confidentiality as entities directly subject to social security confidentiality (referred to as extended social security data protection, under Section 78 of SGB X).
Rights of data subjects

Individuals whose personal data are processed have extensive rights under Articles 12 to 22, 34 and 82 of the GDPR; the rights of data subjects give rise at the same time to obligations for controllers. The rights of data subjects include, for example, the right to information concerning data processing, the right of access, the right to erasure of data concerning the data subject and the right to object to the processing of the data subject’s data. These rights are restricted in some cases by provisions in Sections 82 to 84 of SGB X for the protection of social security and to safeguard the functioning of the social security administration.

If someone considers that their rights have been infringed in the processing of social security data, they may appeal to the data protection supervisory authorities – in Germany, the Federal Commissioner for Data Protection (Bundesbeauftragte für den Datenschutz) and the competent authorities for data protection in each of the sixteen German Länder – or file for action against the controller before a social court.
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