



Federal Ministry  
of Labour and Social Affairs

# **SOCIAL SECURITY AT A GLANCE 2020**

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**(SOZIALE SICHERUNG IM ÜBERBLICK 2020)**



# Foreword

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“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, a disability 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 technological 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.

A handwritten signature in blue ink that reads "Hubertus Heil".

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

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# 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 nationals who have the right to freedom of movement are also entitled, as long as they have a valid permanent settlement permit (Niederlassungserlaubnis) or residence permit for specific purposes (Aufenthaltserlaubnis). Newly immigrated EU and EEA nationals are only entitled to child benefit for the first three months if they are employed in Germany. After the first three months, entitlement to child benefit is tied to the person's right to freedom of movement. If a person's stay is solely for the purpose of finding work, there is normally no entitlement to child benefit. 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:

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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.

**To claim child benefit, you must apply for it.**

### Children you can claim child benefit 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); volunteering in the framework of the European Solidarity Corps within the meaning of Regulation (EU) 2018/1475 of the European Parliament and of the Council of 2 October 2018 laying down the legal framework of the European Solidarity Corps and amending Regulation (EU) No 1288/2013, Regulation (EU) No 1293/2013 and Decision No 1313/2013/EU (OJ L 250, 4 October 2018, p. 1); ‘weltwärts’ development volunteer service in accordance with the Federal Ministry of Economic Cooperation and Development funding guidelines of 1 January 2016; ‘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 25 May 2018 (GMBI. 2018 p. 545); 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 jobseekers with a local employment agency.

### **How much child benefit do you receive?**

Child benefit is paid monthly as follows:

- €204 for each of the first two children
- €210 for the third child
- €235 for the fourth and each additional child.

Child benefit is paid regardless of the parents’ income.

Child benefit is paid out by the family benefits office of the local 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 over 25 with disabilities if they have had their disability since before that age and cannot support themselves.

Orphans receive €204 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 office) at your local Agentur für Arbeit (employment agency).

**The Federal Employment Agency website ([www.arbeitsagentur.de](http://www.arbeitsagentur.de)) provides a large selection of forms and lists the addresses of local family benefits offices (Familienkassen).**

## Tax-free allowance for children and tax-free allowance for childcare, child-rearing and vocational training

Under a system of tax relief for families, child benefit takes the form of a tax rebate, a tax-free allowance for children or 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. If the child benefit payments do not reach the untaxable subsistence level for a child, a tax-free allowance for children (€2,586 a year for each parent) and a tax-free allowance for childcare, child-rearing or education and training (€1,320 a year for each parent) 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. Child benefit is left as it stands if that is to the parents' advantage.

## 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.

### Eligibility requirements

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.

It is possible to work part-time for up to 30 hours a week. Parental allowance is also provided for parents who had no income before the birth.

Parents can claim parental allowance as a parental couple, as a single parent or as separated parents.

Parental allowance can also be claimed subject to the same requirements for natural children of spouses and life partners.

Parental allowance is also paid for adopted children and children taken in with a view to adoption as soon as 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 paid to first, second and third-degree relatives (brothers and sisters, uncles and aunts, grandparents and great-grandparents) and by their spouses or registered life partners.

Foreign parents can also claim parental allowance. As with child benefit, their nationality is an important factor here. If parents come from another European Union (EU) state or from Iceland, Liechtenstein, Norway or Switzerland, they can claim parental allowance in Germany as a rule if they live or work there. Otherwise, it depends on whether their stay is likely to be long-term and they are permitted to work in Germany.

### **Amount of parental allowance and duration**

Parental allowance is available in three variants:

- Basic parental allowance
- Parental allowance plus
- Partnership bonus

Parents are able to combine these variants. How long parents can claim parental allowance in total depends on which variants they opt for.

### **Basic parental allowance**

One parent can receive basic parental allowance for a minimum of two months and a maximum of 12 months. If both parents make use of the parental allowance and they lose income from employment, parental allowance is paid for two additional months (partner months). The parents are thus entitled to a total of 14 months of basic parental allowance. They are free to divide the months among themselves.

Basic parental allowance can only be paid within the first 14 months of the child's life; after that, parents can only claim parental allowance plus or the partnership bonus.

### **Parental allowance plus**

Parents are able to claim parental allowance plus (ElterngeldPlus) for twice as long as basic parental allowance: one month of parental allowance is equal to two months of parental allowance plus. If parents do not work following the birth of the child, parental allowance plus is only half the amount of basic parental allowance. If parents work part-time following the birth of the child, the monthly amount of parental allowance plus can be equal to the monthly amount of basic parental allowance with part-time working. Parents can nevertheless claim parental allowance plus for twice as long. As a result, they can even receive more parental allowance in total. Parental allowance plus is therefore particularly attractive for parents who go to work part-time soon after the birth of the child.

## **Partnership bonus**

Partnership bonus is an option for parents who share their family and work commitments. If both parents work concurrently for a monthly average of not less than 25 and not more than 30 hours a week in four consecutive months of the child's life, each parent receives four additional months of parental allowance as a partnership bonus. If parents opt for the partnership bonus, it must be claimed for four consecutive months.

The amount of parental allowance depends on how much parents earned in the year before the birth of their child. Depending on their income, the basic parental allowance is between €300 and €1,800 per month and parental allowance plus between €150 and €900 per month. Higher amounts may be paid if parents already have children or if they have twins, triplets or higher-order multiple births.

As a basic parental allowance, parents normally receive 65 percent of the net income they had before the birth that is lost after the birth. This means that in months of the child's life in which they have no income, the basic parental allowance is 65 percent of their net income before the birth. In months of the child's life in which they have income, the basic parental allowance is 65% of the difference between their net income before and after the birth.

If parents had a net income of less than €1,240 before the birth of their child, they receive more than 65% of their net income and thus more parental allowance. The percentage of their income difference that parents receive as parental allowance then increases. The smaller their net income, the higher the percentage – up to 100% of net income.

Parental allowance plus is calculated in the same way as the basic parental allowance. It is limited in amount, however, to half of the basic parental allowance that parents would theoretically receive if they had no income after the birth. On the other hand, parents can receive parental allowance plus for twice as long as basic parental allowance. The partnership bonus is calculated in the same way as parental allowance plus.

Parents can find out how much their parental allowance is likely to be using the parental allowance calculator (Elterngeldrechner) on [www.familienportal.de](http://www.familienportal.de).

## **Offsetting against other benefits**

Parental allowance is offset against various other benefits. This can work in either of two ways:

- Either the other benefit is deducted from parental allowance. Parental allowance is then less but the other benefit stays the same.
- Or parental allowance is deducted from the other benefit. The other benefit is then less but the parental allowance stays the same.

How exactly another benefit is offset against parental allowance depends on the other benefit. Different benefits are offset against parental benefit in different ways.

Maternity benefits are deducted from parental allowance. If maternity benefits exceed the parental allowance amount, the mother is only paid the maternity benefits. If the parental allowance amount is more, the mother is paid the excess over the maternity benefits in the form of parental allowance.

If a mother has private health insurance including daily sickness benefits insurance (Krankentagegeld-Versicherung), the mother may be entitled to daily benefits during statutory maternity leave. This applies, for example, to many self-employed mothers. In such cases, parental allowance is deducted in full from the daily sickness benefits. In other words, the mother is only paid out any amount by which daily sickness benefits exceed the parental allowance. Months in which a mother claims maternity benefit for the same child or claims daily sickness benefits are counted as months with basic parental allowance.

Parental allowance is deducted in full, as income, from unemployment benefit II, social assistance and child supplement. 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 depends on the income before the birth of the child and is a maximum of €300 per month for basic parental allowance and €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

The legal basis for parental allowance and parental leave is contained in the Federal Parental Allowance and Parental Leave Act (Bundeselterngeld- und Elternzeitgesetz).

### Applying and information

Parents can apply for parental allowance at their local parental allowance office (Elterngeldstelle). In certain Länder, parents can also apply for parental allowance using an online service, ElterngeldDigital, at [www.elterngeld-digital.de](http://www.elterngeld-digital.de). A software wizard guides parents through the application step by step, explains technical terms and provides answers to frequently asked questions. The input is validated as it is entered. Parents can find out where ElterngeldDigital is available on the website.

You can find out which parental allowance office is responsible for you and which application form you need, on [www.familienportal.de](http://www.familienportal.de). This website also provides useful tips and information about parental allowance along with a detailed booklet, "Elterngeld, ElterngeldPlus und Elternzeit" ("Parental Allowance, Parental Allowance Plus and Parental Leave").

Parents should apply in good time to ensure that their parental allowance is paid out on time. Parental allowance is paid retrospectively for a maximum of three months of the child's life.

**Information is available on the service line provided by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth: +49 (0)30 201 79130, Mondays to Thursdays 9am to 6pm, email: [info@bmfsfjservice.bund.de](mailto:info@bmfsfjservice.bund.de)**

## Parental leave

Parental leave (Elternzeit) is a time out from employment for parents who look after and raise their children themselves. There is special employment protection during parental leave. Employees can claim parental leave from their employer if they

- Live in a shared household with their child;
- Care for and raise the child themselves; and
- Are not employed or are not fully employed (not more than 30 hours per week).

Each parent can take parental leave for up to three years from the birth of the child. For the child's mother, parental leave begins at the earliest after maternity leave. The duration of maternity leave is deducted from the parental leave. A portion of up to 24 months of parental leave can also be claimed in the time between the child's third and eighth birthdays.

Parents must give their employer advance notice that they are going to take parental leave as follows:

- For parental leave in the first three years of the child's life, seven weeks' advance notice;
- For parental leave between the child's third and eighth birthday, 13 weeks' advance notice.

During parental leave, the main obligations under the employment relationship are suspended. However, the employment relationship remains in force during parental leave and parents have a right to return to their previous working hours at the end of parental leave. As the employment relationship is merely suspended during parental leave and is reinstated in full at the end of parental leave, the employee must be employed in accordance with what is agreed in the contract of employment.

Both parents can take up to three years of parental leave at the same time. 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. 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.

### Three blocks

Each parent may divide their total parental leave entitlement into three blocks. An employer can refuse the third block of parental leave for urgent operational needs if the entire block of leave falls between the child's third and eighth birthday. Dividing parental leave into additional or more than three blocks is only possible with the employer's consent.

### Permitted part-time working during parental leave

Parents are permitted to work up to 30 hours per week during parental leave. If both parents take parental leave at the same time, this means they can together work for a total of 60 (30 + 30) hours per week.

Employees have a right to a reduction in working hours (a legal right to part-time working) during parental leave under the following conditions:

- The employer normally employs more than 15 people (not counting trainees);
- The employee has been employed by the same employer or enterprise for more than six months without interruption;
- The contractually agreed minimum number of working hours is to be reduced to not fewer than 15 and not more than 30 hours per week;
- No urgent operational reasons conflict with the arrangement; and
- The employer has been given advance notice of the employee claiming the right to work part-time as follows:
  - Until the child's third birthday, seven weeks' notice; and
  - Between the child's third and eighth birthday, 13 weeks' notice before commencing to work part time.

To facilitate part-time working during parental leave, an implied consent rule has been introduced. Under this rule, if a parent announces that they plan to work part-time before the child's third birthday, then this can only be refused in writing by the employer for urgent operational reasons within four weeks.

Planned part-time working (as a legal right) between the child's third and eighth birthday can only be refused in writing by the employer for urgent operational reasons within eight weeks.

If the employer fails to respond during the stated period, the employer's consent is implied in accordance with the employee's wishes.

### **Employment protection during parental leave**

Employment protection for parental leave within the first three years of the child's life begins on notification of the parental leave or eight weeks before the commencement of the parental leave if notice is given earlier.

For parental leave between the child's third and eighth birthday, employment protection applies from the date of notification or 14 weeks before the commencement of the parental leave if notice is given earlier. Dismissal can only be declared lawful in exceptional cases. Whether dismissal is lawful is determined by the highest regional occupational safety and health authority or by a body designated by that authority.

In all circumstances, employment protection ends when parental leave ends.

### **Where and how to apply**

Employees must give their employer sufficient notice of parental leave. For parental leave in the first three years of the child's life, the notice period for notifying the employer is seven weeks before the start of the parental leave. For parental leave between the child's third and eighth birthday, the notice period is 13 weeks before the start of the parental leave.

### **The law**

The legal basis for parental allowance and parental leave is contained in the Federal Parental Allowance and Parental Leave Act.

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 will be paid from public funds where children receive no maintenance or no regular maintenance from the other parent.

Throughout Germany, the amount of the maintenance advance depends on the minimum maintenance level. For the purpose of determining the maintenance advance, the amount of child benefit payable for a first child is deducted in full from the minimum maintenance level.

From 1 January 2020, the amount paid is as follows:

- For children aged up to 5 years: €165 per month
- For children aged 6 to 11: €220 per month
- For children aged 12 to 17: €293 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 before deductions.

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:**

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Maintenance advance cannot be claimed if the single parent fails to give information about the other parent, fails to help identify the father, or fails to help locate the other parent. This also applies if the parents live together or if the single parent marries.

## **Child supplement**

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

- They claim child benefit for the child;
- They have sufficient income for themselves and, together with the child supplement, can meet their family's needs;
- The income that is deducted from the child supplement is not so high that the child supplement is reduced to zero.

Child supplement is limited to €185 per month for each child. Child supplement and the €204 monthly child benefit together meet the average needs of a child. At the applicable income levels, housing needs are covered by housing benefit.

Children's income reduces child supplement below the maximum amount of €185. Rather than being deductible in full, however, only 45% of such income is deducted from the child supplement.

If the parents' income or assets just meet their personal subsistence level, the child supplement is paid in full. If the assessable income or assets exceed their total needs, the child supplement is reduced. If income in excess of the parent's needs is income from employment, only 45% of it is deducted. Other income and assets are deducted from the child supplement in full. The extent to which income and assets are taken into account is determined by the provisions governing unemployment benefit II.

In addition to the maximum of €185 in cash benefit, recipients of child supplement are also entitled – subject to conditions detailed in the Act – to education and participation assistance:

- Actual expenditure for single-day and multiple-day school outings (subject to the requirement in the case of class trips that they take place in accordance with the school's policies), preschool or child daycare outings
- Personal school supplies in the amount of €150 per academic year
- Expenditure for pupils' transportation to/from school provided it is necessary and not already paid for by others
- Expenditure for extramural learning support, in certain circumstances including if the child or adolescent is not at risk of being held back a year
- Expenditure for participation in school communal meals (including in cooperation between school and afterschool care) or preschool or child daycare communal meals
- Expenditure for participation in the social and cultural life of the community (such as sports clubs and music lessons) for children and adolescents up to the age of 18 (usually a lump-sum €15 per month).

Child supplement is applied for in writing from the local family benefits office (Familienkasse). Applications can also be completed online. 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 child supplement, please contact the family benefits office at your local employment agency.

### **The law**

The legal basis is contained in the Federal Child Benefit Act (Bundeskindergeldgesetz) of 28 January 2009 (BGBl. I, p. 142, 3177) as most recently amended by Article 7 of the Act dated 12 December 2019 (BGBl. I, p. 2451).



**Information**

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

# Maternity protection

## (Mutterschutz)

*How can a uniform level of health protection be ensured for all women in pregnancy, after childbirth and while nursing?*

*This 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 entitled to maternity protection?

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
- Domestic workers
- Home workers
- Public service employees
- People in marginal employment
- Trainees
- Interns (under Section 26 of the Vocational Training Act (Berufsbildungsgesetz))
- School and higher education 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 child 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 Office for Social Security (Bundesamt für Soziale Sicherung, Friedrich-Ebert-Allee 38, 53113 Bonn) and the employer's maternity benefit top-up payment for the duration of your maternity leave and for the day of childbirth. 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 Child Supplement.

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).

## What is covered by 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 (Mutterschaftsgeld) 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 (Wahlerklärung) 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. The maximum amount of maternity benefit is €13 per calendar day.

Under amendments to the Insurance Contract Act (Versicherungsvertragsgesetz – VVG), self-employed women who have a daily sickness benefit insurance policy (Krankentagegeld-Versicherung) 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 Office for Social Security**

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 Office for Social Security (Bundesamt für Soziale Sicherung) 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. If you have a miscarriage after the twelfth week of pregnancy, your employer is not allowed to give you your notice within four months after the miscarriage.

Termination of employment is only possible in exceptional cases, subject to prior approval of the relevant supervisory body – usually the trade supervisory body (Gewerbeaufsichtsamt) or occupational safety and health office (Amt für Arbeitsschutz).

Only the employer is prevented from giving notice. You yourself continue to be free to give your notice, observing the statutory or agreed period of notice, at any time during the pregnancy and after childbirth.

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 (such as toxic or fertility-damaging substances)
- Biological agents (such as 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 attend school or university 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 17-24 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 benefit.

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 (trade supervisory office) or Amt für Arbeitsschutz (occupational 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 die Krankenversicherung der 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 (Gewerbeaufsichtsamt/Amt für Arbeitsschutz).

### **Information**

Pamphlets are available free of charge from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. A guide on maternity protection (Leitfaden zum Mutterschutz) is mainly intended for pregnant and nursing mothers; there are also separate guides for employers (Arbeitgeberleitfaden zum Mutterschutz) and for higher education institutions and university hospitals (Leitfaden für Hochschulen zum Mutterschutz im Studium). 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 Federal Office for Social Security (Bundesamt für Soziale Sicherung, 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

*(Arbeitsförderung)*

## Book III of the Social Code: Employment Promotion

*As many people of working age as possible in the Federal Republic of Germany should have work. Employment promotion is directed at countering unemployment from the outset, reducing the duration of unemployment and helping to balance supply and demand on the training and labour market. Employment promotion is governed by Book III of the Social Code (SGB III) and is often referred to as unemployment insurance. SGB III is implemented by the Federal Employment Agency (Bundesagentur für Arbeit) in Nuremberg and its local employment agencies (Agenturen für Arbeit). Various policy instruments are provided for in SGB III for this purpose.*

### Tasks and benefits

The Federal Employment Agency has a wide range of tasks. It is mainly concerned with the following:

- Promoting employability and earning capacity
- Placement in vocational training or employment
- Vocational guidance
- Advice for employers
- Promoting vocational training
- Promoting continuing vocational education and training
- Promoting the labour market integration of persons with disabilities
- Supporting people in taking up employment
- Supporting people in becoming self-employed
- Payment of income replacement benefits such as unemployment and insolvency benefit.

The Federal Employment Agency provides services primarily for potential employees and for employers.

You are entitled to some of these services whether or not you have paid unemployment insurance contributions. These include personal advice on questions about integration into the labour market, compiling and updating an individual applicant profile, suggestions for placement in employment, use of the JOBBÖRSE job finder on [www.arbeitsagentur.de](http://www.arbeitsagentur.de) and free use of the BiZ vocational guidance centres. To receive other benefits, you need to meet certain requirements. You will only be paid unemployment benefit, for example, if you have been subject to compulsory insurance for employment promotion.



## Funding

Employment promotion under Book III of the Social Code (SGB III) is funded from contributions, though additional funds come from pay-as-you-go levies on employers and their occupational accident insurance funds (Berufsgenossenschaften). The contributions are normally paid by employees as well as employers. Their respective share of the contributions depends on the current contribution rate (2.5% of gross pay since 2019). The maximum contribution is set by a contribution assessment ceiling. The monthly limits in 2020 are €6,900 in western Germany and €6,450 in eastern Germany.

The Federal Employment Agency provides a wide range of information online at [www.arbeitsagentur.de](http://www.arbeitsagentur.de). Your local employment agency will help with any questions.

**The Federal Ministry of Labour and Social Affairs (BMAS) provides a service line on labour market policy and promotion: +49 (0)30 221911003, Mondays to Thursdays 8am to 8pm.**

## Advice and placement

### Vocational guidance

Vocational guidance (Berufsberatung) targets young people and adults. It involves the provision of advice and information concerning career choice, occupations and the respective requirements, options for vocational education and training and for improving individual employability and developing individual career prospects, 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 job.

For young people wanting to study, careers advice officers at local employment agencies provide information 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 (Berufsorientierung) 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 school visits to talk with students beginning in the year before they leave school, vocational orientation events – for example in vocational guidance centres (Berufsinformationszentren/BIZ) – and online and print media published by the Federal Employment Agency.

## **Labour market advisory service**

The labour market advisory service available from local employment agencies targets employers and is designed to provide them with information and advice when it comes to filling training places and vacant positions and with regard to workforce skills development and training needs. 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 continuing vocational education and training, and integration of trainees and employees in need of support.

## **Placement in vocational training or employment**

Anyone seeking work can use the placement services of a local 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 local 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 that 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 local 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 vocational training.

## **Placement assistance**

### **Placement budget**

Assistance out of the placement budget (Vermittlungsbudget) is intended as a flexible, targeted and needs-oriented means of removing various 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 from local employment agencies or providers of basic income support for jobseekers look at each case individually to assess the specific type of necessary support and assistance that can be applied for from the placement budget.

### **Persons eligible for support:**

- 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 income support for jobseekers can also be provided with support in finding and taking up school-based vocational education and training.

**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 jobseekers 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 labour market 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 people 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 latter 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 local 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 local employment agency's expense. Vouchers are surrendered to the provider, who settles the costs directly with the local employment agency.

## Help becoming self-employed

### Start-up grants

#### Eligibility requirements

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 security expenses 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 local 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, a chamber of skilled crafts, industry association or credit institution.

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 of funding

The start-up grant is paid out in two phases. For the first six months, new business owners can receive a grant matching their last unemployment benefit to cover living expenses plus €300 a month for social security expenses. The €300 a month for social security expenses can be paid for a further nine months if the claimant can demonstrate intensive entrepreneurial and business activity.

#### Back-to-work allowance

Individuals who are eligible for benefits and claim basic income support for jobseekers under Book II of the Social Code (SGB II) can receive a back-to-work allowance (Einstiegsgeld) 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.

#### Eligibility requirements/amount of funding

The back-to-work allowance can be granted as a supplement to basic income support for jobseekers 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 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 eligible for benefits, come under Book II of the Social Code (SGB II) and 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 capable of work and in need of 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.

Access for foreign nationals to instruments for the promotion of training under SGB III and SGB II used to be subject to in some cases strict requirements. Foreign nationals gained broader access to training promotion instruments under the Foreign Nationals Employment Promotion Act (Ausländerbeschäftigungsförderungsgesetz), which entered into force on 1 August 2019. Access to promotion instruments provided in parallel with training was opened up completely. This generally includes the vocational training grant (Berufsausbildungsbeihilfe), which is paid as support towards living expenses during in-company training. Foreign nationals with permission to remain pending their asylum decision (Gestattete) cannot claim a vocational training grant, however, and instead receive benefits under the Asylum Seekers Benefits Act (Asylbewerberleistungsgesetz). Foreign nationals whose deportation has been suspended (Geduldete) and who have taken up in-company training initially receive benefits under the Asylum Seekers Benefits Act and, after 15 months' residence in Germany, the vocational training grant plus top-up benefits under the Asylum Seekers Benefits Act if needed. Foreign nationals whose deportation has been suspended who take up in-school training can likewise receive benefits under the Asylum Seekers Benefits Act in addition to Federal Education Assistance (BAföG). Finally, access to instruments for vocational training preparation was also greatly simplified, although foreign nationals with permission to remain pending their asylum decision and those whose deportation has been suspended remain subject to waiting periods. Under the new legal framework, foreign nationals are now better able than before to receive the support they need to take up and successfully complete in-company training.

## **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. 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 labour market integration for the students concerned. Career entry mentors work closely with, but do not perform the work of, school teachers and local employment agency advisors. They also work in regional networks such as with local 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, career entry mentoring was permanently incorporated in employment promotion law from 1 April 2012 and has since been available at all general education schools. Under the shared federal and Länder responsibility with regard to the transition from education to employment, the arrangements provide for at least 50% co-finance by third parties.

## **Pre-vocational training programmes (BvB)**

Young people who are unable to enter into vocational training for whatever reason can be provided with support by local employment agencies to take part in pre-vocational training programmes (Berufsvorbereitende Bildungsmaßnahmen/BvB). These serve the purposes of vocational orientation, career choice and targeted preparation for vocational training. The programmes usually run for 10 months.

The Federal Employment Agency has also established BvB-Pro, an additional, low-threshold form of pre-vocational training programme 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.

Pre-vocational training programmes can also help prepare for a lower secondary school leaving certificate (Hauptschulabschluss) to be attained on a second-chance basis (legal entitlement). 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 pre-vocational training programmes receive support in the form of a vocational training grant (BAB).

### **Introductory training**

Introductory training (Einstiegsqualifizierung) gives young people who for individual reasons have limited placement opportunities new perspectives for gaining access to in-company vocational training by enabling them to gain initial vocational experience. They also build bridges for young people who do not yet have the skills required for entry into 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 up to €243 per month (up to €247 per month from 1 August 2020) plus a combined amount towards social insurance from the local employment agency.

### **Vocational training grant (BAB)**

Young people taking part in pre-vocational training programmes 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 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 pre-vocational training programmes 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 extra-company training, or following successful completion until entry into or stabilisation of employment, or during introductory training.

### **Extra-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 extra-company vocational training at a training centre (Berufsausbildung in außerbetrieblichen Einrichtungen). While a young person is in extra-company training, all efforts must be made to enable their transition to in-company training.

Support for extra-company training can also be provided for individuals who have dropped out of in-company or extra-company training if there is no prospect of integration into in-company training. Young people who are not classified as disadvantaged can remain in extra-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, extra-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 vocational training**

Assisted vocational training (Assistierte Ausbildung) is a new 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 vocational 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 extra-company training. To allow for regional differences and so that it can be adapted to existing regional structures, assisted vocational training has been designed to be very flexible. For example, assisted vocational 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. Initially available for a limited term, the provision has now been extended for two years to the end of 2020.

### **Youth foyers**

Loans and grants can be made available to providers of youth foyers 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 continuing vocational education and training**

#### **Eligibility requirements**

Funding can be provided for the costs of continuing vocational education and training where:

- The continuing education and training is necessary to enable an unemployed person's integration into the labour market or to avert unemployment, or the need for the vocational education and training is recognised due to the lack of a vocational qualification; the need for continuing education and training is also recognised if acquiring additional occupational skills improves individual employability and the continuing education and training is suitable for the purpose in view of the current state and development of the labour market;
- The local employment agency has advised the person prior to the continuing education and training;
- The continuing education and training measure is approved and the training provider accredited for the funding.

There is normally considered to be a need for continuing education and training due to the lack of a vocational qualification in cases where employees:

- Do not have an occupational qualification for which at least two years of training are required;
- Do have an occupational qualification but, because they have worked for more than four years in semi-skilled or unskilled employment, are no longer able to work in the occupation they originally trained for.

Employees who have not completed vocational training can receive funding to obtain an occupational qualification under the promotion of continuing education and training if they have been previously employed for at least three years. An exception applies if the intended continuing education and training leads to a qualification in a skills-shortage occupation or initial vocational training or participation in a pre-vocational training programme is not possible or cannot reasonably be expected.

Since 1 August 2016, employees without an occupational qualification, in preparation for continuing vocational education and training leading to a qualification, have been able to receive funding for the acquisition of necessary basic skills (reading, writing, arithmetic and information and communication technologies) if required for participation in a continuing education and training course (and provided that the course begins before 31 December 2020).

The continuing education and training applicant does not have to be entitled to unemployment benefit or unemployment benefit II in order to receive funding. However, there is no legal entitlement to funding for continuing education and training and the decision to provide it is at the discretion of the local employment agency or job centre. 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). Training providers and their training courses are accredited for the funding of continuing education and training under applicable legislation (Akkreditierungs- und Zulassungsverordnung Arbeitsförderung/AZAV). Funding can only be provided for participation in training courses if the provider and the courses themselves meet the quality requirements under AZAV and the courses are certified for the funding of continuing education and training.

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

Those entitled to funding are normally issued with education vouchers (Bildungsgutscheine). A voucher is issued for a specific educational goal and limited to a specific geographic area. It allows continuing education and training applicants to choose among accredited training providers and training courses. Local employment agencies and job centres provide information on available courses (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 local employment agency directly.

Local employment agencies can assume the following costs of continuing education and training:

- Course costs (course fees, including the costs of educational materials, working clothes, exam fees for state or generally recognised intermediate 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
- Continuing education and training and child care costs (€130 per child per month).

Employees participating in funded continuing vocational education and training leading to an occupational qualification for which Federal or Länder law requires at least two years of training may receive a bonus in the event of success in intermediate and final examinations provided the training course commences between 1 August 2016 and 31 December 2020.

## Cost-of-living support

### Eligibility requirements

For the duration of continuing education and training, trainees are paid unemployment benefit for continuing vocational education and training provided that the statutory requirements for funding are met.

Unemployment benefit can also be paid if continuing vocational education and training is not paid for by the local employment agency but by the unemployed person out of their own resources. The local employment agency must have approved the training and the entitled trainee must assent to discontinuing the training as soon as a vocational integration opportunity arises and obtain agreement with the training provider on an option to discontinue.

Trainees entitled to unemployment benefit II continue to be paid unemployment benefit II for the duration of continuing education and training necessary to labour market integration.

### Continuing education and training for employees

Continuing vocational education and training can also be funded or partially funded for employees.

Provided that the general requirements are met, employees who are at risk of unemployment can receive funding for continuing vocational education and training if it helps them avert unemployment. Employees who do not have a vocational qualification can also be provided with funding for the costs of continuing education and training in order to obtain a vocational qualification on a second-chance basis (see also the requirements for the funding of continuing vocational education and training on page 32).

Where there is a recognised need for continuing education and training due to the lack of a vocational qualification, employers can obtain a subsidy for continuation of pay while employees are on leave of absence for continuing vocational education and training. This funding is available irrespective of the size of the enterprise.

The scope for the promotion of continuing education and training for employees was expanded from 1 January 2019 under the Skills Development Opportunities Act (Qualifizierungschancengesetz). Funding can now be provided for all employees who perform jobs that are susceptible to being replaced by technology, who are otherwise affected by structural change or who intend to take continuing vocational education and training in a skills-shortage occupation.

In addition to the funding for the continuing education and training costs, employers can also be provided with subsidies for continuation of pay while employees are in continuing education and training. Funding for training course costs and pay subsidies are normally subject to co-financing by the employer and vary according to the size of the enterprise:

Training course costs can be subsidised for employees in enterprises:

- With fewer than 10 employees at up to 100%;
- With fewer than 250 employees at up to 50% (100% in the case of employees over 45 and employees with severe disabilities);
- With fewer than 2,500 employees at up to 25%;

- With 2,500 employees or more at up to 20% if there is a firm-level agreement/collective agreement on skills development (up to 15% otherwise).

Pay can be subsidised for employees in enterprises:

- With fewer than 10 employees at up to 75%;
- With fewer than 250 employees at up to 50%;
- With 250 employees or more at up to 25%.

No funding is available for the promotion of continuing education and training for employees who are already eligible for funding under the Upgrading Training Assistance Act (Aufstiegsfortbildungsförderungsgesetz, under which funding is provided for continuing education and training leading to a master craftsperson or other advanced vocational qualification). Employees with a vocational qualification can only be funded as a rule if they obtained the qualification more than four years ago. No funding is available for employees who have taken continuing education and training funded under this system in the last four years.

Funding is only available for continuing education and training provided outside of the workplace or provided by an accredited provider in the workplace and having a duration of at least 160 lessons. Funding is not available for training that an employer has to provide under Federal or Länder law.

### **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, in cooperation with the Federal Ministry of Education and Research and the Federal Employment Agency, has expanded the ‘Integration durch Qualifikation (IQ)’ (‘Integration through Training’) funding programme since 2005 into a national structure with 16 Länder networks and five competence centres each covering a specific priority area.

At regional level, the Länder networks 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. These provide information, help people seeking recognition of their qualifications in identifying the relevant reference occupation and inform them about the responsible recognition authorities.

A further priority area in the IQ funding programme consists of providing refugee and non-refugee immigrants with skills development programmes under the Federal Recognition Act. This includes counselling, coaching and skills development modules to remedy expertise and language deficits in order to attain full equivalence of qualifications and full professional recognition, where applicable with a licence to practice.

The IQ funding programme has also established ‘fair integration’ counselling centres, which provide refugees with information about their rights as employees, thus helping to protect refugees from discrimination and exploitation in employment.

Training and professional development in intercultural and migration-related matters is provided for staff of mainstream public agencies (primarily local employment agencies and job centres) who are involved in the provision of advice.

Since 2019, the IQ funding programme has had an additional priority area, ‘Regional Skilled Labour Networks – Immigration’. To support the introduction of the Skilled Immigration Act (Fachkräfteeinwanderungsgesetz), project positions are to be established for regional skilled immigration coordination units. This new priority area is directed at supporting the Employer Service (Arbeitgeberservice), advising employers (and especially SMEs) on the possibilities for skilled immigration and the processes involved, supporting the new Central Service Agency for Professional Recognition (ZSBA), bringing initiatives and stakeholders in the field of skilled labour immigration together in regional platforms and advising employers on integration management.

**Further information is provided at [www.netzwerk-iq.de](http://www.netzwerk-iq.de)**

### **Promoting labour market participation for persons with disabilities**

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 labour market participation, 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 vocational training and support for continuing vocational education and 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, initial and continuing vocational education and 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 grant (Eingliederungszuschuss – see under Integration Grant) 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 (individuelle betriebliche Qualifizierung) 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 rehabilitation providers (usually the local employment agency). If continued support is necessary following integration into employment subject to compulsory social insurance, it is usually provided by the integration offices (Integrationsämter) 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 local 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 local 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 continuing vocational education and 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 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 20% of your assessed earnings, income tax and solidarity surcharge.

Your unemployment benefit is 67% of your net assessed 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 in the qualifying period, which is extended for this purpose by 30 months, and your age on becoming unemployed:

<b>Minimum number of months in employment subject to compulsory social insurance</b>	<b>Age (years)</b>	<b>Entitlement period (months)</b>
12		6
16		8
20		10
24		12
30	50	15
36	55	18
48	58	24

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 local 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 work 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 work allowance (Kurzarbeitergeld) subject to the meeting of statutory requirements. The main purpose of short-time work allowance is to keep employees in employment and avoid layoffs despite a lack of work.

You can claim short-time work 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 are affected. The loss of pay must also be greater than 10%.

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.

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 work 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 work allowance is 67% of the net pay lost.

The statutory maximum entitlement period is 12 months.

### **Eligibility requirements**

Short-time work allowance is paid on application submitted by the employer or the works council. The application must be submitted to the local employment agency.

### **Insolvency allowance**

Insolvency allowance (Insolvenzgeld) is paid where an employer becomes insolvent and an employee has not received all outstanding pay. Employees can claim insolvency allowance if they are owed pay from the last three months they worked before the insolvency event. An insolvency event is any of the following:

- The start of insolvency proceedings in relation to the employer's assets;
- Dismissal of a petition to start insolvency proceedings on account of insufficient assets;
- Final cessation of trading by the employer if no petition to start insolvency proceedings has been filed and insolvency proceedings do not come into question due to insufficient assets.

In the event of insolvency, the local employment agency steps in to pay employees in the place of the employer. In certain circumstances, an advance can be paid against the insolvency allowance or the entitlement to insolvency allowance can be transferred to a third party.

Insolvency allowance is paid out of funds contributed solely by employers in the form of a monthly insolvency levy. Employers thus provide a form of mutual bailout fund in this regard.

Insolvency allowance covers outstanding net pay if the employee's gross earnings do not exceed the contribution assessment ceiling (2020: €6,900 a month in western Germany and €6,450 a month in eastern Germany). The local employment agency also pays outstanding compulsory social insurance contributions (health, pension and long-term care insurance) and employment promotion contributions for the last three months.



Insolvency allowance must be applied for 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 the employer finally ceased trading.

### **Seasonal short-time work allowance**

Seasonal short-time work allowance (Saison-Kurzarbeitergeld) 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 is weather-related if it is exclusively for compelling weather-related grounds.

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

Seasonal short-time work 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.

Seasonal short-time work allowance is paid in the same amount as the general short-time work allowance.

Seasonal short-time work allowance is paid out on application submitted by the employer or works council. Applications must be submitted to the local employment agency.

Apart from entitlement to seasonal short-time work allowance, waged 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 (Branchenumlage).

Additional winter allowance is paid an 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 work allowance is avoided.

Winter expenses allowance 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.

The supplementary benefits are paid on application submitted by the employer or the works council. Applications must be submitted to the local employment agency.

### **Transfer benefits**

Transfer benefits (Transferleistungen) 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 work allowance.

### **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 local 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 work allowance**

The objective of transfer short-time work 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 work 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 an outplacement services provider (Transfergesellschaft) under a three-way contract.

While claiming transfer short-time work allowance, the outplacement services provider 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 local employment agency if the employer meets at least 50% of the course costs. The funding includes continuing education and training leading to a vocational qualification and continues beyond the closure of the outplacement services provider.

The amount of transfer short-time work allowance is the same as that of short-time work allowance. The maximum period of entitlement is 12 months.

### **General requirements**

Employees are entitled to transfer short-time work 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 local employment agency before deciding to claim transfer short-term allowance;
- If sustained loss of working time is reported to the local 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 work 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 work allowance;

- Before being transferred to an organisationally independent unit, have registered with the local 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 an outplacement services provider) 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 grant**

#### **Eligibility requirements**

Employers can receive a grant towards employees' pay in order to help integrate employees who are difficult to place for reasons to do with the employees themselves. The grant is based on the extent to which an employee's working capacity is impaired and on the needs of the workplace.

Integration grant (Eingliederungszuschuss) 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 grant.

#### **Amount and duration of grant payments**

The amount of the integration grant 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 is 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.

# Basic income support for jobseekers

## (Unemployment Benefit II/Social Benefit) (Grundsicherung für Arbeitsuchende)

*Basic income support for jobseekers (Grundsicherung für Arbeitsuchende) under Book II of the Social Code (SGB II) is a tax-funded system designed to provide people capable of work 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 income support for jobseekers is 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 work but live in a joint household with someone who is capable of work and eligible for benefits.

### The principle of rights and responsibilities

The objective of basic income support for jobseekers is to empower those who are capable of work and eligible for benefits, 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 capable of work and eligible for benefits 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 or training as quickly as possible. Under basic income support for jobseekers, individuals capable of work and eligible for benefits 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 capable of work are used to full effect. An integration agreement (Eingliederungsvereinbarung) is entered into with jobseekers containing a binding commitment to working together towards their integration into employment while giving due regard to the individual circumstances of those capable of work and eligible for benefits 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 jobseekers 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. Rights and responsibilities 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 public aid and the associated financial burden on society as soon as possible.

### **Providers of basic income support for jobseekers**

The basic income support for jobseekers is provided by local job centres. These are the point of contact for those eligible for benefits; they pay out the benefits and provide the assistance needed.

A job centre is usually operated as a joint institution (*gemeinsame Einrichtung*) in which the local employment agency and the local authority work together as the two providers ultimately responsible for the benefits. Local employment agencies are responsible for payment of benefits 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 (*Bildungspaket*) and supplementary forms of integration assistance (debt and addiction counselling, psychosocial counselling, childcare and home care for family members). Job centres pay cost-of-living assistance in the form of unemployment benefit II (the standard needs rate and assistance with any additional needs plus coverage of appropriate levels of expenditure for housing and heating), normally in a single monthly amount. In about a quarter of cases, rather than a job centre operated as a joint service, an authorised municipal provider (*zugelassener kommunaler Träger*) provides basic income support on its own without the Federal Employment Agency.

### **Entitlement to unemployment benefit II**

Persons capable of work and eligible for benefits 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.

Persons who are not capable of work but are eligible for benefits and 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 income support for jobseekers**

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 work receive unemployment benefit II as cost-of-living assistance. In determining whether a young person is capable of work (see above), what matters is not that they are still at school and therefore not capable of work but that they are theoretically able to take up paid work. Unemployment benefit II can continue to be paid during vocational training if the training pay and assistance are not sufficient to meet living expenses.

### **Labour market integration assistance**

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

- Assistance provided out of the placement budget (Vermittlungsbudget) for the purpose of finding or taking up employment
- Activation and vocational integration measures
- Assistance for continuing vocational education and training, including obtaining a lower secondary school leaving certificate (Hauptschulabschluss) on a second-chance basis
- Labour market participation assistance
- Assistance for employers
- Assistance for continuing vocational education and training for persons in employment
- Assistance with careers guidance and vocational training
- Community integration support (such as childcare services, psychosocial support, addiction and debt advisory services)
- New business support or back-to-work allowance
- Assistance in taking up self-employment
- Work opportunities
- Assistance for integration of long-term unemployed persons
- Assistance for hard-to-reach young people
- Assistance for labour market participation.

### **Assistance for long-term unemployed persons**

The Federal Government set itself the objective in the current electoral period of improving the integration of long-term unemployed persons by means of a holistic approach. Drawing on the experience of initiatives in the preceding electoral period, the ‘MitArbeit’ back-to-work package aims to promote skills development, job placement, (re)integration and the employability of long-term unemployed persons with intensive mentoring, individual counselling and effective assistance combined with real options for employment. The first phase of the package introduced two new policy instruments: integration of long-term unemployed persons under Section 16e and labour market participation under Section 16i of Book II of the Social Code (SGB II). These were introduced under the Participation Opportunities Act (Teilhabechancengesetz), the tenth act amending SGB II, which entered into force on 1 January 2019.

### **Integration of long-term unemployed persons (Section 16e of SGB II)**

Funding can be provided to subsidise employment on the general labour market for people who are not yet far removed from the labour market but despite efforts to place them have been unemployed for at least two years. The funding can be applied for by all employers who offer a person eligible to the funding employment subject to compulsory social insurance (without unemployment insurance contributions) for at least two years. The funding period is 24 months. The wage subsidy is a fixed 75% of the applicable pay in the first year and 50% in the second. To help them achieve stability in their new employment, the employee is provided with ongoing coaching by the job centre or a third-party provider. The long-term aim is primarily for the person, by means of the work experience gained, to make the transition to lasting, unfunded employment on the general labour market.

### **Labour market participation (Section 16i of SGB II)**

Labour market participation under Section 16i of SGB II is a policy instrument targeted at long-term unemployed persons over 25 who are furthest removed from the labour market, have already claimed benefits under SGB II for at least six years and in that time have not been in employment or not for more than a short period. The funding is provided for employment subject to compulsory social insurance with all types of employers. There are no additionality, public interest or competitive neutrality criteria. Employment can be funded for up to five years. The employer is paid a subsidy at 100% of the subsidisable wage in the first two years, decreasing by 10% a year from the third year onwards. The wage subsidy is based on the minimum wage under the Minimum Wage Act (Mindestlohngesetz) unless the employer is required to pay a higher wage rate by collective agreement or ecclesiastical employment law, in which case the wage subsidy is based on that wage rate. Participants are also provided with ongoing coaching to help them achieve stability in employment and to support them in the transition to subsequent unfunded employment. Funding is also available for continuing education and training of reasonable duration or for an internship or work placement of reasonable duration with another employer. For this purpose, the employer can obtain subsidies towards continuing vocational education and training costs of up to €3,000 per subsidised employee.

### **Assistance for hard-to-reach young people (Section 16h of SGB II)**

This assistance supplements other forms of provision for integration into employment at the intersection point with youth welfare and makes it possible to provide low-threshold, primarily psychosocial or outreach advice and support for young people between 15 and 25 who because of their individual situation are not (or no longer) reached by the regular provision under the social welfare systems. The primary aim is not so much to integrate the person directly into training or employment as to guide them (back) to the regular forms of provision and in particular the (regular) forms of labour-market integration assistance. With regard to the general criteria for claiming unemployment benefit II, it is sufficient for it to be highly probable that they are met or for them to be met in substance.



## 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 benefits can be reduced to begin with by 30% of the standard needs rate for up to three months. Any reduction in benefits is normally required to end as soon as the obligation to cooperate is fulfilled or there is demonstrated to be a lasting and ongoing intention to fulfil the required obligations in future.

**The Federal Ministry of Labour and Social Affairs (BMAS) provides a service line on labour market policy and promotion: +49 (0)30 221911003, Mondays to Thursdays 8am to 8pm.**

## 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. Any entitlement to unemployment benefit II is reduced by income and assets that must be taken into account after deducting exempt amounts.

Ultimately, the amount of unemployment benefit II depends on the specific needs of the person capable of work and eligible for benefits and the needs of any others (spouse/partner and any children under 25) living with them in a joint household.

Persons eligible for benefits receive cost-of-living assistance – unemployment benefit II or social benefit – in the form of the standard needs rate plus assistance with any additional needs, including a reasonable amount for accommodation and heating.

The standard needs rate of cost-of-living 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). For this purpose, persons eligible for benefits are provided with a fixed cash benefit for all necessary purchases.

From 1 January 2020, the standard needs rate (Regelbedarf) for singles, single parents and jobseekers whose partner is under 18 is €432 per month. If both partners are of age, the standard needs rate is €389 per month each.

For children and young adults, the standard needs rate is set by age group. It is €250 for children up to six years old, €308 for ages 6 to 13, €328 for ages 14 to 17 and €345 for ages 18 to 24.

## Standard needs rates

Single persons and single parents	Other members of a joint household				
	Children up to age 6	Children age 7 to 14	Children age 15 to 18	Children age 19 to 25	Partners age 18 or over
€432	€250	€308	€328	€345	€389

In addition to the standard needs rates, education and participation assistance are provided for children and young adults under a series of education policy packages. The aim is for children to have fair education and social participation opportunities and be able to develop their abilities regardless of their parents' financial means. Provision under the education package was significantly improved as of 1 August 2019 under the Strong Families Act (Starke-Familien-Gesetz).

The education package (Bildungspaket) consists of the following types of assistance, subject to conditions detailed in the Act:

- Actual expenditure for single-day and multiple-day school outings (subject to the requirement in the case of class trips that they take place in accordance with the school's policies), preschool or child daycare outings
- Personal school supplies in the amount of €150 per academic year
- Expenditure for pupils' transportation to/from school provided it is necessary and not already paid for by others
- Expenditure for extramural learning support, in certain circumstances including if the child or adolescent is not at risk of being held back a year
- Expenditure for participation in school communal meals (including in cooperation between school and afterschool care) or preschool or child daycare communal meals
- Expenditure for participation in the social and cultural life of the community (such as sports clubs and music lessons) for children and adolescents up to the age of 18 (usually a lump-sum €15 per month).

The various forms of assistance under the education package are provided as non-cash benefits, services or cash benefits. Personal school supplies and expenditure for pupils' transportation are always provided as a cash benefit.

Only the extramural learning support has to be applied for separately.

Assistance under the education package is also provided for children for whom child supplement or housing benefit is granted or who receive benefits under the Asylum Seekers Benefits Act (Asylbewerberleistungsgesetz).

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 work, to promote their labour market participation
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 boiler or electric instantaneous water heater) 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 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 standard needs rate, non-recurring assistance is provided in certain situations:

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 needs for a claimant's entire joint household as part of unemployment benefit II/social benefit. This includes, for example, expenditure for water and sewage charges and for hot water if not provided centrally. Local authorities are responsible for deciding what is reasonable and appropriate. A loan may also be provided for rent arrears if there is otherwise a risk of becoming homeless. Recipients of unemployment benefit II where accommodation expenditure is included are not normally entitled to housing benefit because accommodation and heating needs are already covered by unemployment benefit II. This does not apply if the provision of housing benefit prevents the need to claim unemployment benefit II.

If the actual expenditure for accommodation and heating needs is unreasonable, it is initially 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 expenditure, 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.

## Social insurance contributions

Persons capable of work and eligible for benefits 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 eligible for benefits receive a subsidy towards insurance contributions. Recipients of social benefit are generally covered by family health and long-term care insurance.

## Applying and information

Applications for unemployment benefit II can be made without any formality and relate to the first of the calendar month in which the application is made.

You can apply for cost-of-living support under Book II of the Social Code (SGB II) on the website of your local job centre.

At the end of the grant period, a grant continuation application (Weiterbewilligungsantrag) has to be made if needed. If the local job centre is a joint institution (gemeinsame Einrichtung) in which the local employment agency and local authority work together, you can also make a continuation application or a notice of change in circumstances (Veränderungsmitteilung) online at [www.jobcenter-digital.de](http://www.jobcenter-digital.de). If the local job centre is operated as an authorised municipal provider (zugelassener kommunaler Träger) by the local authority on its own, the job centre will provide information about any online services. General information and information sheets on unemployment benefit II are provided on the Federal Employment Agency website: <https://www.arbeitsagentur.de/arbeitslos-arbeit-finden/anspruch-hoehe-dauer-arbeitslosengeld-2>.

Detailed information on the application procedure and how to contact your local municipal provider are available on the website for municipal job centres: <https://www.kommunale-jobcenter.de/>.

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## Prevention of need with child supplement

Parents capable of covering their own living expenses but not their children's upkeep can receive child supplement (Kinderzuschlag). This is to prevent parents from having to apply for basic income support for jobseekers solely for the children's upkeep.

The maximum supplement is €185 per child per month. It is applied for at the local employment agency (Agentur für Arbeit) in the family benefits office (Familienkasse), which also pays out child benefit. You receive child supplement up to a certain income level. It also depends on the amount of rent you pay, the size of your family, the age of your children and any additional needs.

If the parents' income exceeds their own needs, 50% of the excess is not deductible from the child supplement. The remainder of the excess is deducted. The supplement is generally approved for six months at a time. Approval may be renewed if the criteria continue to be met.

Child supplement may also be paid to low-income families if with their earned income, child supplement and any housing benefit taken together they are €100 short of the amount needed to avoid being in need of assistance under Book II of the Social Code.

# Labour law

## (Arbeitsrecht)

*The central purpose of labour law is to protect employees. Employees are dependent on their employers, not just economically, but personally under their contract of employment. The resulting need for special protection is met by labour law. The basic idea of labour law is to bring about a fair balance of interests between employers and employees. The main purpose of labour law consists of protecting employees from violations of personal integrity, economic disadvantage and health risks involved in working as an employee. Temporary agency workers have an employment contract with one enterprise (the temporary work agency) and are deployed at another (the user company) while remaining under contract to the agency. While on hire, however, temporary agency workers are integrated into the user company's organisation and required to follow the hirer's instructions. Because of this three-way arrangement, they are in need of special protection. This need is met by the Act on Temporary Agency Work (Arbeitnehmerüberlassungsgesetz). 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. Certain minimum standards for conditions of employment are contained in various laws, including the Federal Paid Leave Act (Bundesurlaubsgesetz), the Continued Payment of Remuneration Act (Entgeltfortzahlungsgesetz), the Part-time and Fixed-term Employment Act (Teilzeit- und Befristungsgesetz), the Caregiver Leave Act (Pflegezeitgesetz), and the Family Caregiver Leave Act (Familienpflegezeitgesetz). Subject to certain requirements, the Part-time and Fixed-term Employment Act allows employees to reduce their working hours; employees can also apply for this for a limited duration ('Brückenteilzeit', meaning a 'bridge' period of part-time employment between periods of full-time employment). The Act's 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 Caregiver Leave Act and the Family Caregiver 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.

The statutory guaranteed minimum standards generally apply for all employees, including people employed on a limited-term, part-time or marginal basis and people employed by temporary work agencies.

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, 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 Act on Protection against Dismissal (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 Act on Protection against Dismissal 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 Act on Protection against Dismissal applies to establishments that normally have a workforce of ten or more employees.
- For employment that commenced on or before 31 December 2003, the Act on Protection against Dismissal 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 agency workers are counted if their employment reflects staffing requirements that apply 'as a rule'.

Application of the Act on Protection against Dismissal 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 must file legal action in writing with the competent labour court (Arbeitsgericht) 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 of 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.
- Workplace labour relations law (also known as works constitution) – 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 if either of the following applies:

- Your employer belongs to the employer association, and you are in the trade union, that concluded the agreement (alternatively, in the case of firm-level agreements, 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, or that it is normal practice in your workplace to apply collective agreements.

## Agreed working week

Working hours	Percentage of employees								
	2018	2015	2012	2008	2005	1998	1985	1980	1975
35	20.1	19.0	19.9	19.7	20.5	19.8	18.8	–	–
36	2.3	2.8	3.0	2.7	2.8	2.3	0.9	–	–
36.5	0.5	0.5	0.5	0.5	0.4	0.6	0.3	–	–
37	6.0	5.5	5.8	6.0	6.8	6.8	9.0	–	–
37.5	13.6	12.0	12.6	13.0	12.5	12.7	12.6	–	–
38	11.2	9.8	10.3	10.9	11.0	10.0	6.9	–	–
38.5	11.9	20.2	21.1	21.9	22.7	21.1	20.6	–	–
39	23.8	16.7	18.1	14.3	13.4	17.0	18.3	–	–
39.5	0.5	0.2	0.2	0.2	0.7	0.2	0.2	–	–
40	9.9	13.0	7.9	8.6	9.0	9.2	12.3	94.0	90.6
41	0.2	0.1	0.1	0.2	0.2	0.2	0.1	1.4	1.6
41.5	–	–	–	–	–	–	–	–	0.7
42	–	–	–	–	–	–	–	3.5	1.5
42.5	–	–	–	–	–	–	–	0.4	0.4
43	–	–	–	–	–	–	–	0.7	1.6
44	–	–	–	–	–	–	–	2.7	–
45	–	–	–	–	–	–	–	–	0.9
<b>Average working hours</b>	<b>38.12</b>	<b>37.64</b>	<b>37.63</b>	<b>37.59</b>	<b>37.64</b>	<b>37.65</b>	<b>37.80</b>	<b>40.12</b>	<b>40.27</b>

## Workplace labour relations law

Workplace labour relations law (Betriebsverfassungsrecht) regulates relations between workforce and employer. The basic philosophy is to ensure a constructive working relationship between the employer and works council that also involves the trade unions and employer associations represented at each workplace, to the benefit of employees and the workplace establishment 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 firm-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 strongest form of participation. Where the works council has codetermination rights, the employer has to obtain its approval before being allowed to decide and 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 workplace labour relations.

### The law

The laws and acts of parliament governing labour law include the following:

- Civil Code (Bürgerliches Gesetzbuch)
- Act on Protection against Dismissal (Kündigungsschutzgesetz)
- Federal Paid Leave Act (Bundesurlaubsgesetz)
- Maternity Protection Act (Mutterschutzgesetz)
- Continued Payment of Remuneration Act (Entgeltfortzahlungsgesetz)
- Written Statement Act (Nachweisgesetz)
- Working Time Act (Arbeitszeitgesetz)
- Family Caregiver 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 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)
- Caregiver Leave Act (Pflegezeitgesetz)
- Posting of Workers Act (Arbeitnehmer-Entsendegesetz)
- Minimum Wage Act (Mindestlohngesetz)
- General Equal Treatment Act (Allgemeine Gleichbehandlungsgesetz)

### Important:

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In all public services, the Federal and Länder Personnel Representation Acts operate in place of the Works Constitution Act.

# Workplace labour relations

## (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 (Betriebsverfassungsgesetz), 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 the workplace establishment 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. Its 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 at 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 (Sprecherausschuss). 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.

### **Note:**

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Senior managerial staff can only elect an executive committee if a majority votes in favour the first time a ballot is held.

### **Representative of persons with severe disabilities**

The special interests of persons with severe disabilities are safeguarded in establishments and organisations by a representative of persons with severe disabilities (Schwerbehindertenvertretung/Vertrauensperson). The representative 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 of 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 representative has, among other things, a right to be heard and a right to participate vis-à-vis the employer and other codetermination bodies. In particular, for example, a notice of dismissal issued against a person with severe disabilities is not valid if it is issued without the involvement of the representative.

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 agency workers can 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 firm-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 (Kurzarbeit) 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 occupational safety and health 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
- Training

Job security and skills development 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 skills development, 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 rejected, the matter has to be referred to a labour court.

## **Important:**

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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 (Kündigungsschutzklage), your employer must normally keep you on. 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 (Betriebsversammlung) 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.

### **Workplace labour relations 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 (SNB), 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 the EWC, 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 information and consultation procedure.



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 (Bundespersönalvertretungsgesetz) 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 decision-making 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 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 so, 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 (Arbeitsdirektor) 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.

## Important:

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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 (Arbeitsdirektor). 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:**

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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 (SNB) 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 SNB. 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 natural persons.

### **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 structure; 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 (Mitbestimmungsergänzungsgesetz)
- 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 any right to the general statutory minimum wage, how it is enforced and how enforcement is monitored is laid down in the Minimum Wage Act (Mindestlohngesetz), the Posting of Workers Act (Arbeitnehmer-Entsendegesetz) and the Act on Temporary Agency Work (Arbeitnehmerüberlassungsgesetz).*

### Your rights

Employees in Germany have had a right to a statutory minimum wage since 1 January 2015. The minimum wage per hour worked increased as of 1 January 2020 from €9.19 to €9.35 (gross amount, before deductions). 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 (including if you are in marginal employment).

To help them back into the labour market, long-term unemployed persons 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 work 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. Since the entry into force of the Care Wages Improvement Act (Pflegelöhneverbesserungsgesetz), the nursing care sector is subject to special arrangements which take account of the special nature of that sector by ensuring comprehensive consultation of church organisations.

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 effectiveness of this commission was enhanced by the Care Wages Improvement Act.

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 normally 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.

### **Act on Temporary Agency Work**

If proposed by the collective bargaining parties for temporary agency work, under the Act on Temporary Agency Work (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 work agency is domiciled in Germany or in another country. Temporary agency workers are entitled to pay of at least that amount. In line with the term of the collective agreement, the most recent Third Ordinance on a Minimum Wage Level for Temporary Agency Workers (Dritte Verordnung über eine Lohnuntergrenze in der Arbeitnehmerüberlassung) expired on 31 December 2019. The collective bargaining parties can apply for a new ordinance to be issued when they reach a new collective agreement.

### **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](http://www.bmas.de)) and of the Customs Administration ([www.zoll.de](http://www.zoll.de)).

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

As with the general statutory minimum wage, the customs and excise authorities verify that employers comply with minimum wage levels under the Posting of Workers Act and the Act on Temporary Agency Work. 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., as well as the entire workplace establishment, 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 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

## **Benefits/eligibility**

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 accident insurance fund (see also the Accident insurance chapter). For most employees this will be one of the occupational accident insurance funds for the industrial sector (gewerbliche Berufsgenossenschaft), whose members are employers.

The occupational accident insurance funds 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 occupational accident insurance funds.

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 use and characteristics 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 mental and physical health 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.

## **Occupational Safety Act**

The Occupational Safety Act (Arbeitssicherheitsgesetz) requires employers to appoint occupational physicians (Betriebsärzte) and occupational safety and health (OSH) professionals holding a recognised occupational safety and health qualification (Sicherheitsingenieur, Sicherheitstechniker or Sicherheitsmeister) 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, occupational physicians 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).

## **Working Time Act**

The Working Time 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 pregnant women and their children from hazards, overwork, and damage to their health at work.

## **Product Safety Act**

Only safe products are allowed to be brought into free circulation within the European Union. Accordingly, only products that meet various safety and other requirements are allowed to be marketed and sold in Germany. This applies equally to consumer products and to products used by employees in the course of their work. The legal basis for this comprises the Product Safety Act (Produktsicherheitsgesetz) and the Product Safety Ordinances issued under it (which transpose European directives into national law) together with EU regulations that have direct effect and corresponding national implementing acts.

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 Preventive Occupational Health Care**

Occupational health care serves the purposes of individual awareness-raising 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 Preventive 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 care 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 (PPE) in all sectors. Employers must also ensure that employees are instructed in the safe use of such equipment.

### **Handling of Loads Ordinance**

The 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.

### **Industrial Safety Ordinance**

The Industrial Safety Ordinance (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.

### **Workplace Ordinance**

The Workplace 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) 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 globally feared Ebola virus and the novel SARS-CoV-2 virus.

### **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 Directives on noise (2003/10/EC) and vibration (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 Occupational Safety and Health Ordinance on 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) 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 occupational accident insurance funds (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 of their own that are legally binding on their members (employers) and on insured employees. 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**

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, social insurance funds and foundations 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 motivating working conditions for employees is a key element here.

This is where the New Quality of Work Initiative comes in. Its central aim is to raise awareness in 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 more exacting requirements necessitating a good leadership culture and coordination of human resources planning and strategy adapted to organisational needs and individual abilities and aptitudes.
- **Equal opportunities and diversity:** Modern human resources policy 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:** Mental and physical 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. Continuing vocational education and 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 outcomes 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 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 continuing education and 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 occupational safety and health or occupational accident prevention you can contact several places for advice:

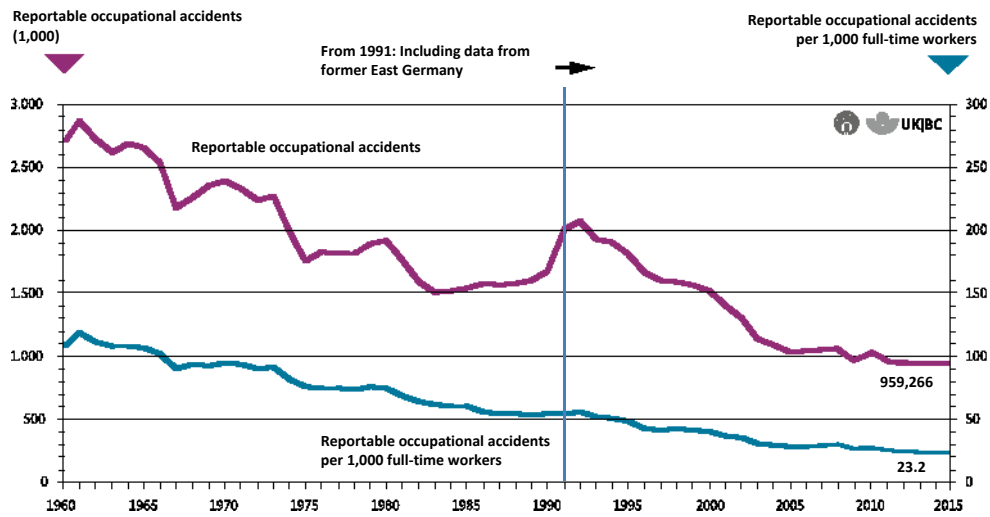
Each of Germany’s Länder has a special occupational safety and health authority: the Amt für Arbeitsschutz (occupational safety and health office) or the Gewerbeaufsichtsamt (trade supervisory office).

The accident insurance funds each have their own technical inspectorates.

The Federal Institute for 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.

**The Federal Institute for Occupational Safety and Health provides a service line on safety and health at work: +49 (0)231 9071-2071, Mondays to Fridays 8am to 4.30pm.**

### Reportable occupational accidents: Absolute numbers and per 1,000 full-time workers, 1960-2015



(Source: Accident insurance Funds (Unfallversicherungsträger); see BMAS, Sicherheit und Gesundheit bei der Arbeit – Berichtsjahr 2018, p. 35)

# Accident insurance

## (Unfallversicherung)

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

### Who is insured?

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

Statutory accident insurance also covers:

- Farmers
- Children at nursery school or in the care of suitable childminders
- Children at school
- Students
- People helping at the scene of an accident
- Civil defence and emergency rescue workers
- Blood and organ donors
- Home carers
- Volunteers in the case of certain voluntary activities

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 occupational accident insurance funds, you can take out voluntary insurance for yourself as well as your spouse if he or she works with you. Special accident insurance provisions apply to civil servants (Beamte).

### Benefits and conditions

Statutory 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 accident insurance provides:

- Payment for full medical treatment.
- Labour market participation assistance (including retraining if necessary), social participation assistance and supplementary assistance.
- Cash benefits to the insured and their surviving dependants.

## Important:

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Statutory accident insurance provides benefits regardless of fault. Employers' and employees' statutory liability toward one another is transferred to their 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 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 (Verletzensgeld) as long as you are unable to work and your employer is not paying you. Injury benefit is 80% of your gross pay 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.

#### Labour market participation assistance

If you are unable to return to your present employment because of an accident or occupational disease, you can claim labour market participation assistance (Leistungen zur Teilhabe am Arbeitsleben). This primarily comprises help allowing you to retain your present employment or to obtain new employment. If this does not succeed, you can undergo retraining or on-the-job training in another occupation. You will then receive a transitional allowance (Übergangsgeld). This is reduced by the amount of any income from employment you earn at the time.

#### Social participation assistance and supplementary assistance

This includes financial assistance to modify your car or home to meet your needs, home help, psychosocial counselling and rehabilitative sport. It is granted in addition to medical treatment and labour market participation assistance if the nature and severity of your injury or illness makes them necessary.

#### Pension for insured persons

You will receive a pension if an accident 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:

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Like statutory old-age pensions, pensions payable under 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 (Pflegegeld) or, if necessary, residential care in addition to your injury pension. According to your individual circumstances, the amount of long-term care allowance is between €374 and €1,941 (western Germany) and between €354 and €1,423 (eastern Germany) (as of 1 July 2019).

### Funeral allowance

If you die from an accident at work or an occupational disease, your surviving dependants will receive a funeral allowance (Sterbegeld) equal to one seventh of the reference income level at the time of your death (2020: €5,460 in western Germany; €5,160 in eastern Germany).

### Survivor's pension

If your spouse dies as a result of an accident at work or an occupational disease, your accident insurance will pay you a survivor'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 survivor'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, are unable to work (erwerbsunfähig) or unable to work in your established occupation (berufsunfähig)
- 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 survivor's pension under statutory pension insurance.

If you are not yet 45 (or 47 – see above) and have no children at the time of the death, 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 couples married before 1 January 2002 where at least one partner was at least 40 years old at the time.

## Important:

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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 survivor'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. 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:

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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 (Abfindung der Unfallrente). 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 accident insurance will pay your full pension starting the 11th year.

## Funding

Statutory accident insurance is provided by occupational accident insurance funds for the industrial sector (gewerbliche Berufsgenossenschaften) and the occupational accident insurance fund for the agricultural sector (landwirtschaftliche Berufsgenossenschaft), which are funded out of employer contributions; the landwirtschaftliche Berufsgenossenschaft receives a federal subsidy. An employer's contribution level is determined by the sum total of employee annual pay and by the accident risk level.

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



## The law

The legal basis for statutory 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 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 occupational accident insurance funds (Berufsgenossenschaften) and public-sector accident insurance funds (such as municipal accident insurance associations). Accident insurance providers offer a nationwide information line on work-related accidents, accidents while travelling to and from work 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](http://www.dguv.de) and [www.bmas.de/EN/Our-Topics/Social-Security/statutory-occupational-accident-insurance.html](http://www.bmas.de/EN/Our-Topics/Social-Security/statutory-occupational-accident-insurance.html).

# 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 (CPRD), which entered into force for Germany on 26 March 2009. The purpose of the 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 safeguard their inherent dignity. Persons with disabilities include those who have long-term physical impairments or what are called psychological, 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 CPRD are non-discrimination and inclusion, meaning that persons with disabilities and their concerns must be accessibly 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 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 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 rehabilitation and participation assistance. 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 participation assistance. 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 CPRD, the Federal Republic of Germany and the European Union gave 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 participation assistance, 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.

This participation assistance is provided to help you secure your place in the community – and that includes employment that suits your interests and abilities.

## **Participation assistance**

Participation assistance (Leistungen zur Teilhabe) comprises the following:

### **Medical participation assistance**

Medical rehabilitation assistance (Leistungen zur medizinischen Rehabilitation) includes:

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

### **Labour market participation assistance**

Labour market participation assistance (Leistungen zur Teilhabe am Arbeitsleben) includes:

- 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, initial and continuing vocational education and training, including any school-level qualifications required to take part in continuing vocational education and training;
- Other participation assistance 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. Labour market participation assistance covers the cost of food and accommodation when, for example, the nature and severity of a disability is such that, or the success of the participation assistance depends on, a person being accommodated other than at their own or in the parental home.

### **Educational participation assistance**

Educational participation assistance (Leistungen zur Teilhabe an Bildung) consists of support to enable persons with disabilities to take equal advantage of education opportunities. It includes:

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

### **Social participation assistance**

Social participation assistance (Leistungen zur Sozialen Teilhabe) includes:

- 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

### **Assistance to cover living expenses and other supplementary assistance**

To meet your living expenses while receiving medical rehabilitation assistance, you will generally receive – depending on which provider is responsible – either sickness benefit (Krankengeld), social compensation sickness benefit (Versorgungskrankengeld), injury benefit (Verletztengeld) 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 labour market participation assistance, you will generally receive a transitional allowance. Transitional allowance is paid by the Federal Employment Agency if it is responsible for meeting the cost of your rehabilitation and you have been covered by unemployment insurance for a designated period of time. 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. Provided the remaining requirements are met, persons with disabilities who are capable of work and in need of assistance receive cost-of-living assistance (Hilfe zum Lebensunterhalt) under Book II of the Social Code.

### **Integration assistance**

Integration assistance (Eingliederungshilfe) is assistance to enable persons with disabilities to lead a self-determined life and 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 enable entitled individuals to lead their life individually in human dignity and to promote full, effective and equal participation in society.

Integration assistance can only be provided if the same assistance is not provided by another agency with priority responsibility such as statutory health insurance, statutory pension insurance or the local employment agency.

Integration assistance comprises:

- Medical rehabilitation assistance (Leistungen zur medizinischen Rehabilitation); this corresponds to the rehabilitation benefits and services under statutory health insurance.
- Labour market participation assistance (Leistungen zur Teilhabe am Arbeitsleben); this comprises 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’).
- Educational participation assistance (Leistungen zur Teilhabe an Bildung); this consists of assistance in connection with school education and with continuing vocational education and training. Support can be provided, among other things, for attending secondary school, vocational school, a course of higher education or continuing education and training.
- Social participation assistance (Leistungen zur Sozialen Teilhabe); this is intended to enable and facilitate equal participation in community life. It includes, for example, personal assistance with coping day-to-day on a self-determined and independent basis and assistance relating to accommodation or mobility.

Except as otherwise specified, integration assistance (in the above categories) is income-dependent.

It is provided on the basis of the sum total of income and/or gross pension benefits in the previous year. A partner’s income is not taken into account.

The income threshold above which personal contributions are required is determined as a percentage of the social insurance reference amount under section 18 (1) of Book IV of the Social Code (SGB IV).

The annual amounts are as follows:

- |   |     |                 |
|---|-----|-----------------|
| • For employees subject to social insurance     | 85% | (2020: €32,487) |
| • For employees not subject to social insurance | 75% | (2020: €28,665) |
| • For pensioners                                | 60% | (2020: €22,932) |

These amounts increase in the case of underage children in the household and of partners with low incomes.

A monthly contribution to integration assistance is payable in the amount of 2% of income in excess.

No contribution is payable for the following:

- Assistance for special education
- Assistance for medical rehabilitation
- Assistance for participation in the labour market
- Assistance for participation in education
- Assistance for vocational education and training or a course of study in higher education
- If cost-of-living assistance is claimed under Book II or Book XII of the Social Code (SGB II or SGB XII)

Use of assets is not required for certain categories of assets (such as subsidised pension plans or a reasonable owner-occupied built property). Cash funds in the amount of 150% of the social insurance reference amount (2020: €57,330) are also exempt.

### **Pilot projects**

Section 11 of Book IX of the Social Code (SGB IX) as amended by the Federal Participation Act provides for pilot projects to be carried out in order to promote rehabilitation within the sectors covered by basic income support for jobseekers and by statutory pension insurance. 'rehapro', a federal programme on innovative approaches to labour market participation, covers projects involving innovative forms of assistance and innovative organisational measures to better safeguard or restore the employability of people with health impairments. A long-term aim is also to achieve a lasting reduction in intake into reduced earning capacity pensions and into integration assistance/social assistance.

### **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 continuing education and 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 a person’s level of disability is at least 50% (a person’s disability level is generally determined by the Versorgungsamt – the social affairs office), special employment protection provisions apply with regard to their 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 of 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).



## Important:

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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. At present, the levy is normally 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 of 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 representative 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, labour market participation assistance 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, among other things, 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

### Severe disability pass

As a person with a severe disability, you can apply for a severe disability pass (Schwerbehindertenausweis) at the responsible social affairs 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 social affairs 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 social affairs 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. 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:**

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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 local 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 labour market participation assistance as is 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 planning procedure (see below under 'Participation planning procedure' and for integration assistance under 'Integrated planning procedure'). 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 assistance, 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 medical rehabilitation assistance 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 medical rehabilitation assistance and labour market participation assistance 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 accident insurance is responsible for providing medical rehabilitation assistance and occupational and social participation assistance following a work-related accident or an occupational disease. The providers are as follows:
    - Occupational accident insurance funds for the industrial sector (gewerbliche Berufsgenossenschaften)
    - Occupational accident insurance fund for the agricultural sector (landwirtschaftliche Berufsgenossenschaft)
    - Public-sector accident insurance funds (occupational accident funds and municipal 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 medical, occupational, educational and social participation assistance. The providers are as follows:
    - Social affairs 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 labour market participation assistance if no other provider is responsible. The Federal Employment Agency is also the rehabilitation provider with regard to labour market participation assistance for persons with disabilities who are capable of work and eligible for benefits under Book II of the Social Code unless another rehabilitation provider is responsible.

Integration assistance and youth welfare providers cover all forms of participation assistance, though only when no other body is responsible. In such cases, integration assistance providers and youth welfare offices are the main points of contact.

### **Participation planning procedure**

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 participation assistance, the procedure for obtaining that assistance has been considerably simplified. Under the participation planning procedure (Teilhabeplanverfahren), 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 planning procedure 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.

### **Integrated planning procedure**

The integrated planning procedure (Gesamtplanverfahren) in integration assistance is the basis for ensuring that needs-based assistance is provided as if from a single source. It is part of the participation planning procedure and is not carried out in parallel. Responsibility for coordinating benefits and assistance is governed in integration assistance as elsewhere by the general provisions on the participation planning procedure in Division 1 of Book IX of the Social Code (SGB IX), which apply for all rehabilitation providers. The provisions on the integrated planning procedure in Part 2 of SGB IX are supplementary. For example, it may be necessary in integrated assistance to involve additional providers beyond the rehabilitation providers to be involved in the participation planning procedure. These include the long-term care insurance fund, the provider of assistance towards long-term care and the provider of benefits to meet living expenses. The integrated planning procedure is carried out in integration assistance for every entitled individual, including for individual benefits and assistance categories.

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

Since December 2016, persons with disabilities have been able to apply to the independent Arbitration Service under Section 16 of the Act on Equal Opportunities for Persons with Disabilities (Behindertengleichstellungsgesetz – BGG) in order to resolve infringements of their rights under the Act by federal public authorities. The Arbitration Service is established under the Federal Government Commissioner for Matters relating to Persons with Disabilities.

The Arbitration Service provides a channel for rapid extra-judicial conflict resolution. Use of the service is free of charge. The costs of necessary travel may be refunded.

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

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).

### **Social affairs offices and integration offices**

Social affairs 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. Social affairs 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 severe 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 – primarily Book IX of the Social Code (SGB IX) on rehabilitation and participation for persons with disabilities
- Federal War Victims' Compensation Act (Bundesversorgungsgesetz – BVG)

### **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 participation assistance and on the option to have it 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 planning procedure 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 over 500 have so far been provided with funding. 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](http://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 continuing education and training 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:

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All rehabilitation providers must accept your application for rehabilitation and participation assistance – 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

## (Krankenversicherung)

*Statutory health insurance (gesetzliche 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 substitute 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 Bundesausschuss) on the basis of recommendations from the Standing Committee on Vaccination (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 (ermächtigte Ärzte/Zahnärzte), facilities authorised to treat members of statutory health insurance (ermächtigte Einrichtungen) and dental clinics and other health care facilities (Eigeneinrichtungen) 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 allowed 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 gross wage or salary 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 has to be supervised, cared for or looked after due to illness, 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.
- Psychotherapy 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 eight 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 and an application has been filed, the statutory period of maternity leave after the birth extends to twelve weeks. The amount of maternity benefit 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. As an additional allowance, your employer pays the difference between maternity benefit and your average take-home pay. Under amendments to the Insurance Contract Act (Versicherungsvertragsgesetz – 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 mothers and women in childbed can then decide independently of financial considerations whether and how much they wish to work during this time.



**Statutory health insurance is the oldest branch of the German social insurance system. The legal basis for it is to be found in legislation including Book V of the Social Code (SGB V) and the Second Health Insurance for Farmers Act (Zweites Gesetz über die Krankenversicherung der Landwirte).**

### Who is insured

You are compulsorily insured as an employee if your regular gross income from employment 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 annual income limit. The general annual income limit for 2020 is €62,550. For reasons of fairness, a reduced annual income limit of €56,250 in 2020 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;
- Interns or apprentices 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 labour market participation;
- Unemployed people receiving unemployment benefit (Arbeitslosengeld) and in some circumstances unemployment benefit II (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, retired civil servants 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 on 1 April 2007 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 XII).

Recipients of regular assistance under Chapter 3, 4, 6 or 7 of SGB XII 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 €455 a month in 2020 and they are not themselves insured as members.

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 unemployment benefit II (Arbeitslosengeld II) must also promptly report the changes to the local employment agency or job centre.

## Patients' co-payments

It is important that health insurance should remain affordable. Accordingly, members of the statutory health insurance system must generally pay patients' co-payments for various statutory health insurance benefits and services from the age of 18.

### Patients' co-payments in statutory health insurance:

Benefits	Patients' co-payments from 1 January 2004
Medicines	10% of the pharmacy counter price minimum €5 and maximum €10*
Dressings	Normally as above*, with the amount of the patient's contribution based on the total cost of dressings per prescription item
Travel expenses	10% of the travel expenses minimum €5 and maximum €10 per journey*
Therapies	10% of the counter price plus €10 per prescription*
Aids	10% of cost minimum €5 and maximum €10*
Consumable aids	10% of cost maximum €10 per month
Hospital treatment	€10 per day for a maximum of 28 days within a calendar year
Outpatient rehabilitation treatment	€10 per day
Inpatient preventive treatment and rehabilitation treatment	€10 per day
Post-hospital rehabilitation treatment	€10 per day for a maximum of 28 days within a calendar year, minus co-payments paid towards hospital treatment
Preventive and rehabilitation treatment for mothers and fathers	€10 per day

\* Not exceeding actual cost

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

These co-payments 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' co-payments**

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

### **Co-payment limit**

The limit for patients' co-payments is 2% of assessed gross disposable income (1% for people with chronic illnesses). Family gross income is the figure taken as the starting point by the legislature. 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 €5,733 in 2020. The amount for each child is €7,812.

Family income means family gross disposable income: 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 gross income. A person's health insurance contributions likewise depend on their gross income. Accordingly, the same measure, rather than net income, is used to set the limit for patients' co-payments.

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' co-payments 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 co-payment limit applies for all patients' co-payments, 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 co-payment limit of 1% of annual gross income. 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 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 patients' co-payments applies for all family members living in the same household.

### **Concessions for social assistance recipients and other groups**

Persons eligible for benefits under Book II or XII of the Social Code (Basic Income Support for Jobseekers or Social Assistance) or social compensation welfare benefits 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 standard needs level 1 (Regelbedarfsstufe 1) under the annex to Section 28 of Book XII of the Social Code (Section 62 (2) of SGB V).

The persons eligible for benefits must pay the patients' co-payments themselves out of the standard rate. A higher standard needs level is not recognised. Extrapolated to the full 2020 calendar year, standard needs level 1 is €5,184 in total. The corresponding patients' co-payments to be paid for the household by social assistance and unemployment benefit II recipients for the 2020 calendar year are as follows:

- 1% co-payment limit (chronic illness): €51.84
- 2% co-payment limit (without chronic illness): €103.68

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 social compensation welfare benefits, 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 (Hilfe zum Lebensunterhalt) 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, a standard statutory procedure to help in cases of (temporary) hardship has been put in place as they only have an appropriate cash allowance at their disposal. 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' co-payments.

The loan is repaid 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. 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. The reduced contribution rate, which normally applies for members without entitlement to sickness benefit, is 14.0%. Health insurance funds may also charge an additional contribution. The additional contributions can vary from fund to fund.

The contributions on income from employment and pension income are paid in equal shares by employer and employee or pension insurance fund and pensioner. The contributions (including any additional contribution) are paid directly to the health insurance fund by the employer. In the case of recipients of basic income support and social assistance, 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.

After analysis of the statutory health insurance assessor panels' findings, the Federal Ministry of Health announced an average additional contribution rate of 1.1% for 2020.

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 announced by the Federal Ministry of Health (2020: 1.1%) 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 (€4,687.50 per month in 2020). 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 whose earnings fall within the 'transition range' ('Übergangsbereich', from €450.01 to €1,300). Under the law, part of employees' income within the transition range 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. In addition, patients are to be able to use the electronic patient record to inform those treating them about important health data – such as diagnoses and therapies – and also to store data of their own such as a blood glucose monitoring diary. Data privacy and security are given top priority 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 nursing 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. 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 4.1 million people in Germany are in need of nursing care. That is more than the population of Berlin. About 0.8 million of these people live in nursing homes. The remaining approximately 3.3 million are cared for at home by hundreds of thousands 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 €445, 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 in which the person’s impairment in terms of independence and abilities is assessed in six areas of life.

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.

### **Eligibility requirements**

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. Applications can also be made by phone. 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 degree of need for long-term care; 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.

In addition, supporting measures can help enable a person in need of nursing care to be able to remain in their familiar surroundings. In the course of assessment, assessors can therefore also recommend prevention or rehabilitation measures or measures for the provision of aids and care aids.

### 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 applications for the assessment of care needs 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 Caregiver Leave Act (Pflegezeitgesetz) or the Family Caregiver 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 Caregiver Leave Act or the Family Caregiver Leave Act, assessment must take place within two weeks and the applicant must be notified without delay of the recommendations made by the assessor to the long-term care insurance fund.

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 full-time institutional care and have already been assessed as having, at minimum, considerable restrictions to their independence or abilities (at least care grade 2).

### **Documents sent with the 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 of the need for care and if applicable of the care grade 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 medical rehabilitation assistance.

### **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, in all care grades (1 to 5), 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 provision, 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.

Two or more people in need of nursing care, for example those living in new forms of collective accommodation, 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.

If part or all of the amount provided for mobile care is not used for services provided by a mobile care service, 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 each month (repurposing entitlement).

In the case of home care obtained by the individual, for example with the aid of relatives or other volunteer carers, long-term care insurance pays long-term care allowance provided that the person in need of nursing care has at least care grade 2. The amount 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;
- Advisory home visits in matters of nursing care in certain intervals;
- Free nursing care courses for relatives and volunteer carers;
- Comprehensive individual care advice for insured persons and relatives.

These additional benefits are also available for persons in need of nursing care in care grade 1.

People in need of nursing care who receive services under the repurposing entitlement and/or receive the support allowance can, on application, receive a collective accommodation allowance (Wohngruppenschlag) 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, services under the repurposing entitlement 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 members of the collective living arrangement with support in housekeeping;
- 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 temporarily unable to provide care for a relative in care grade 2 to 5 due to holiday, illness or other reasons, 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, for example, 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/in-law 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 normally allowed to exceed 1½ times the long-term care allowance for the assessed care grade. However, if additional documentary evidence is presented of the stand-in 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 per calendar year.

In addition to the amount paid for a stand-in, up to 50% of the short-term care amount (€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.

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.

## 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. Up to specified maximum amounts, the long-term care insurance fund pays care-related costs including the costs of attendance and the costs of medical treatment that is necessary within the 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 need of nursing care in care grade 1 can use the support allowance in the amount of up to €125 per month in order to make use of day and night care services.

Part-time institutional care also includes necessary transportation of the person in need of nursing care from their home to the day or night care facility and back. Long-term care insurance also pays the cost of additional attendance staff for additional attendance and activation of persons in need of nursing care (care grades 1 to 5) at the facility.

As well as day and night care, entitlements to mobile care and/or (pro rata) long-term care allowance can be claimed in full without deduction.

### 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 temporarily following a stay in hospital. Short-term care is provided in suitable full-time institutional care 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.

Long-term care insurance also pays the cost of additional attendance staff for additional attendance and activation of persons in need of nursing care (care grades 1 to 5) at a full-time institutional care facility.

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 the facility concerned. This makes it easier for relatives providing care to make use of preventive healthcare and rehabilitation.

In individual, justified cases, a person in need of nursing care may go into short-term care in a facility that is not accredited to provide short-term care under a provision agreement with the long-term care insurance funds – such as, for example, a facility for persons with disabilities or a similar suitable facility – provided that it is not possible or does not appear appropriate for the person to be provided with care in a facility accredited for short-term care by the long-term care insurance funds.

Insured persons with no care grade have had an entitlement to short-term care as a statutory health insurance benefit since 2016 and people in need of care in care grade 1 since 2017. If home support in the form of nursing care at home and/or a home help is not enough, such 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 per calendar year for up to eight weeks in the calendar year.

### **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 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 accident insurance on the way, by a direct route, to or from the place of care.

From 1 January 2017, if a carer leaves employment subject to social insurance in order to look after a relative in need of nursing care in the scope stipulated for the purposes of statutory pension insurance, 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 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**

#### **Caregiver leave and family caregiver leave**

Home care is also promoted by the Caregiver Leave Act (Pflegezeitgesetz) and the Family Caregiver Leave Act (Familienpflegezeitgesetz). These have been revised – most recently in legislation on the better reconciliation of family life, nursing care and employment that entered into force on 1 January 2015 – to safeguard the interests of persons in need of care and their close relatives 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), if necessary, to organise adequate care for a close relative in need of nursing care or to provide such care themselves. They thus have a chance, firstly, to respond to an emergency, inform themselves of the care services available and make arrangements for their provision. Secondly, 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, such as after a stay in hospital, can initially be looked after by close relatives at home. 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 statute law or by agreement. Employees who do not receive continued pay from their employer can apply for carer's grant (Pflegeunterstützungsgeld) for up to a maximum of ten workdays. This applies to carers of persons in need of nursing care in all care grades. The carer's grant is an income replacement benefit. The (gross) amount of carer's grant is 90% of the insured person's actual lost net pay that is subject to contributions. If in the last 12 months prior to the leave of absence the employee's pay has included any additional non-monthly payments subject to contributions, the carer's grant is 100% of the lost net pay that is subject to contributions. The carer's grant may not exceed 70% of the contribution assessment ceiling.

- 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 caregiver leave). The leave can be taken on a full-time or part-time basis. The entitlement to caregiver 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 caregiver leave (Familienpflegezeit) for up to 24 months. During family caregiver 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 regular 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 Caregiver Leave Act and the Family Caregiver Leave Act. As with normal caregiver leave, this means they can take full leave of absence for up to six months. Part-time caregiver 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 caregiver leave and family caregiver 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 regular 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 regular 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 Caregiver 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 regular workforce of more than 15 employees.

Caregiver leave under the Caregiver Leave Act can be followed by leave under the Family Caregiver 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 Caregiver Leave Act and the Family Caregiver Leave Act is not allowed to exceed 24 months.

Employees who take leave under the Caregiver Leave Act and the Family Caregiver 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](http://wege-zur-pflege.de).

In small enterprises, employees can negotiate leave with their employer by mutual agreement. They are then likewise entitled to an interest-free state loan.

An employer is not allowed to dismiss an employee from the date when they give notice that they intend to take leave – up to a maximum of 12 weeks before the date on which the leave is intended to commence – to the end of the temporary absence or to the end of the leave under the Caregiver Leave Act or the Family Caregiver 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 caregiver leave. Statutory health and long-term care insurance cover is normally maintained during caregiver 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. Private health insurance and private compulsory long-term care insurance normally remains in force during caregiver leave. Here too, on application, the long-term care insurance fund or the private long-term care insurance company will pay the health and long-term insurance contributions for the person in need of care, in all care grades, up to the minimum contribution amount.

During caregiver leave, the carer has statutory pension insurance if they provide one or more persons in need of nursing care in care grades 2 to 5 with 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. Here, too, the long-term care insurance fund or the private long-term care insurance company pays the necessary contributions.

During caregiver leave, as for all carers who provide one or more persons in need of nursing care in at least care grade 2 with nursing care for at least 10 hours regularly spread over at least two days a week, carers retain statutory accident insurance cover free of contributions. Compulsory insurance in unemployment insurance also continues for the duration of caregiver leave. The necessary contributions are paid by the long-term care insurance fund or the private insurance company. Any private compulsory health and long-term care insurance normally remains in place for the duration of caregiver 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.

### **Full-time institutional care**

For full-time institutional care, long-term care insurance assumes, in the form of lump-sum amounts, 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 of care-related costs to be met by the person in need of nursing care increased as well. From 1 January 2017, the excess amount of care-related costs to be paid in respect of full-time institutional care is equal across care grades 2 to 5. 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.

### **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.

### **Benefits for persons in need of nursing care in care grade 1**

As care grade 1 involves relatively minor impairments, persons in need of nursing care in care grade 1 are not provided with the mobile care services or care allowance that are provided to persons in need of nursing care in care grades 2 to 5. Instead, the long-term care insurance benefits provided for persons in need of nursing care in care grade 1 are directed at providing early assistance in order to maintain the person's independence for as long as possible and enable them to stay in their familiar home surroundings.

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. Members of a group provided with mobile care in collective accommodation within the meaning of Book XI of the Social Code (SGB XI) are also entitled to the collective accommodation allowance and if applicable the start-up allowance for the establishment of a group provided with mobile care in collective accommodation. They additionally have the right to care advice, advisory home visits in matters of nursing care once per half-year, and nursing care courses for relatives and other carers. The benefits relating to caregiver 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. Like all persons in need of nursing care, they are also entitled to additional attendance and activation in institutional care facilities.

## 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 (Pflegerberatung) 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 compulsory 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 individuals 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 (Pflegerstützpunkt) 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 service line run by the agency COMPASS Private Pflegerberatung. The service line 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.

### **Provision for the care of persons with disabilities in full-time institutional care facilities or premises within the meaning of section 43a read in conjunction with section 71 (4) of Book XI of the Social Code**

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 promoting labour market, educational or social participation, school education and the general education of persons with disabilities, the long-term care insurance fund pays part of the facility's agreed remuneration under Book XI of the Social Code (SGB XI). The expense to the long-term care insurance fund is not allowed to exceed €266 per calendar year in each individual case. The same applies to persons with disabilities in care grades 2 to 5 who receive integration assistance and live in premises where:

- The primary focus is on providing accommodation and integration assistance for persons with disabilities;
- The letting of the premises is subject to the Residential Care Agreements Act (Wohn- und Betreuungsvertragsgesetz), meaning that the letting of accommodation and the provision of care and support are connected in the manner described in the Act); and
- Where the overall provision delivered by providers for persons with disabilities living in the premises generally largely corresponds in scope to provision in a full-time institutional care facility; for persons with disabilities living both in such premises and in such facilities, the assessment as to scope must be made having regard to all relevant circumstances.

Section 103 (1) of Book IX of the Social Code – on persons with disabilities and need for nursing care – additionally specifies that where integration assistance is provided in facilities or premises within the meaning of section 43a in conjunction with section 71 (4) of Book XI of the Social Code, the integration assistance also includes the nursing care in those premises or facilities.

Persons in need of care who live in full-time institutional facilities or premises as referred to above are also entitled to long-term care allowance to be paid in the full amount for those days when they are cared for and looked after not in the facilities or premises but at home (such as at their parents'). 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: €4,687.50 a month in both western and eastern Germany in 2020.

Since 1 January 2019, the contribution rate has been 3.05% of assessable income. The rate for contribution payers without children is 3.3%.



Contributions are paid following the same method used for statutory health insurance payments: Employers deduct contributions directly from wages and salaries and transfer the contributions to the health insurance funds. Employers and employees normally each pay half of the contribution – excluding the supplement paid by childless employees – meaning 1.525% each. In Länder such as Saxony that did not abolish a state-wide public holiday that always falls on working day for the purpose of financing long-term care insurance, employees have to meet the contribution in the amount of 0.5% on their own. In such states, the 3.05% long-term care insurance contribution is split as 2.025% paid by employees (plus 0.25 percentage points in the case of childless contribution payers) and 1.025% paid by the employer.

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 1.525% to 1.775%. 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, 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 service line on long-term care insurance is provided by the Federal Ministry of Health. Tel. 030 3406066-02, 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), *Pflegeleistungen zum Nachschlagen* (reference guide to long-term care benefits and assistance, order number BMG-P-11025), *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 nursing 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 has been an arm of the National Association of Statutory Health Insurances (GKV-Spitzenverband) since 1 July 2008.

Advice and support can also be sought from the local authorities responsible for old-age benefit. You can obtain information on this directly from your local authority.

# Pension insurance

## (Rentenversicherung)

*Social insurance and pension insurance go hand in hand. For many 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 in general statutory pension insurance for 2020 is €6,900 a month in western Germany and €6,450 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 workers in marginally paid employment ('minijobs'). 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 2020, 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 'progressive contribution wage band' that relieves employees from social insurance contributions in line with their earnings. Within the progressive contribution wage band, 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 wage band (€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. The progressive contribution wage band for earnings in the range €450.01 to €850 is replaced by a transition range from 1 July 2019. Also from 1 July 2019, the upper end of the pay range increases to €1,300.

## Important:

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As the pension calculation takes into account only the (lower) amount of pay for which contributions 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 progressive contribution wage band and their full pay is taken into account when determining their pension. Since 1 July 2019, the pension calculation has taken into account the actual amount of pay, even though employees in the transition range from €450.01 to €1,300 do not pay full pension insurance contributions.

Not all self-employed people are compulsorily insured. Those who are include self-employed teachers, lecturers, nursery teachers, nursing carers and midwives. Self-employed craftspeople 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. 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 (Kindererziehungszeiten): 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-and-a-half-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 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 (Anrechnungszeit).

### **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. 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. Short-term employment is not normally subject to pension insurance contributions and employers are not required to pay flat-rate contributions. The term limits for short-term employment have been extended in an act in response to the SARS-CoV-2 coronavirus easing access to social security and concerning the deployment and protection of social service providers (the Social Protection Package). Under this act, in the period 1 March to 31 October 2020, non-professional employment with a limited term of up to five months or 115 workdays is not subject to social security from the outset.

### **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 marginally paid 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 2019 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 marginally paid 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 decision**

The decision regarding social insurance in individual cases is made 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](http://www.minijobzentrale.de)). These and all other social insurance agencies also provide information and advice.

### **Who can pay voluntary contributions?**

If you are not 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 homemakers.

### **Rehabilitation**

German pension law expressly puts prevention before rehabilitation and rehabilitation before a pension. The pension insurance funds therefore 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 medical rehabilitation assistance and occupational rehabilitation assistance where earning capacity is at risk or an existing reduction in earning capacity can be ameliorated or reversed. They also provide prevention in order to safeguard earning capacity of insured persons with incipient health impairments that put their job at risk, and follow-up care to safeguard the success of previous participation assistance.

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 labour market participation assistance, 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
- Survivor's 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 survivor's 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 (Kinderberücksichtigungszeiten). The exceptionally long service pension has a 45-year qualifying period. Compulsory contributions for employment subject to compulsory social insurance, periods in self-employment, care-giving 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 continuing education and training, short-time work 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 survivor'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.

### Increase in the statutory retirement age: pensions from age 67

The Pension Insurance Retirement Age Adjustment Act (RV-Altersgrenzenanpassungsgesetz), which was enacted in 2007 to align the statutory retirement age 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 beginning in 2012, with similar increases for other types of pension. The several-year lead time allows 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 138. 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 1954 reach the statutory retirement age in the year 2019/2020 at the age of 65 and eight 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.

Up to the statutory retirement age, supplementary income limits apply while claiming a long service pension.

## **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.

Up to the statutory retirement age, supplementary income limits apply while claiming a long service pension.

#### 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 insured 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.

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 Social Affairs Office (Versorgungsamt).

Up to the statutory retirement age, supplementary income limits apply while claiming a severe disability pension.

#### **Overview of the increase in the statutory retirement age for old-age pensions**

The table on the next page provides a summary, detailed overview of the phased increase in retirement ages.

## Increase in retirement age

Birth cohort	Statutory retirement age		Exceptionally long service pension		Long service pension					Severe disability pension				
	unreduced		unreduced		unreduced		claimable early from			unreduced		claimable early from		
	age		age		age		age		reduc- tion	age		age		reduc- tion
	years	months	years	months	years	months	years	months	%	years	months	years	months	%
<b>1945</b>	65	–	–	–	65	–	63	–	7.2	63	–	60	–	10.8
<b>1946</b>	65	–	–	–	65	–	63	–	7.2	63	–	60	–	10.8
<b>1947</b>	65	1	65	–	65	–	63	–	7.2	63	–	60	–	10.8
<b>1948</b>	65	2	65	–	65	–	63	–	7.2	63	–	60	–	10.8
<b>01/1949</b>	65	3	65	–	65	1	63	–	7.5	63	–	60	–	10.8
<b>02/1949</b>	65	3	65	–	65	2	63	–	7.8	63	–	60	–	10.8
<b>03-12/1949</b>	65	3	65	–	65	3	63	–	8.1	63	–	60	–	10.8
<b>1950</b>	65	4	65	–	65	4	63	–	8.4	63	–	60	–	10.8
<b>1951</b>	65	5	63	–	65	5	63	–	8.7	63	–	60	–	10.8
<b>01/1952</b>	65	6	63	–	65	6	63	–	9.0	63	1	60	1	10.8
<b>02/1952</b>	65	6	63	–	65	6	63	–	9.0	63	2	60	2	10.8
<b>03/1952</b>	65	6	63	–	65	6	63	–	9.0	63	3	60	3	10.8
<b>04/1952</b>	65	6	63	–	65	6	63	–	9.0	63	4	60	4	10.8
<b>05/1952</b>	65	6	63	–	65	6	63	–	9.0	63	5	60	5	10.8
<b>06-12/1952</b>	65	6	63	–	65	6	63	–	9.0	63	6	60	6	10.8
<b>1953</b>	65	7	63	2	65	7	63	–	9.3	63	7	60	7	10.8
<b>1954</b>	65	8	63	4	65	8	63	–	9.6	63	8	60	8	10.8
<b>1955</b>	65	9	63	6	65	9	63	–	9.9	63	9	60	9	10.8
<b>1956</b>	65	10	63	8	65	10	63	–	10.2	63	10	60	10	10.8
<b>1957</b>	65	11	63	10	65	11	63	–	10.5	63	11	61	11	10.8
<b>1958</b>	66	–	64	–	66	–	63	–	10.8	64	–	61	–	10.8
<b>1959</b>	66	2	64	2	66	2	63	–	11.4	64	2	61	2	10.8
<b>1960</b>	66	4	64	4	66	4	63	–	12.0	64	4	61	4	10.8
<b>1961</b>	66	6	64	6	66	6	63	–	12.6	64	6	61	6	10.8
<b>1962</b>	66	8	64	8	66	8	63	–	13.2	64	8	61	8	10.8
<b>1963</b>	66	10	64	10	66	10	63	–	13.8	64	10	61	10	10.8
<b>1964</b>	67	–	65	–	67	–	63	–	14.4	65	–	62	–	10.8

## Reduced earning capacity pensions

A reduced earning capacity pension (Rente wegen verminderter Erwerbsfähigkeit) makes up for lost earnings if your earning capacity is reduced or you can no longer work at all. To claim, it is required that in the five years preceding the loss of earning capacity you 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 (Anrechnungszeiten) and considered periods for child raising (Kinderberücksichtigungszeiten)) – 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. Pension on account of **partially** reduced earning capacity (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 pension on account of partially reduced earning capacity is paid at half the rate of a pension on account of fully reduced earning capacity.
2. Pension on account of **fully** reduced earning capacity (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 pension on account of fully reduced earning capacity.
3. Pension on account of partially reduced earning capacity 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. Pension on account of fully reduced earning capacity 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 pension on account of fully reduced earning capacity 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 commencement of the first old-age pension. Only once you exceed this ceiling is 100% of any supplementary income in excess of the ceiling deducted from the pension.

## Note:

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For 2020, special stipulations apply to the supplementary income limit. The limit for the 2020 calendar year is €44,590. The personal ceiling also does not apply.

### 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 pension on account of fully reduced earning capacity, you can earn up to €6,300 per calendar year without it being deducted from your pension. If you have a pension on account of partially reduced earning capacity, 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 pension on account of fully reduced earning capacity, 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 pension on account of partially reduced earning capacity, 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 pension on account of partially reduced earning capacities, 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.

## Survivor's 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 supplementary pension allowance 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 2 d) – 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 survivor's 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 an equalisation of pension rights (Versorgungsausgleich) following a divorce.

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 survivor's 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: €872.52

Eastern Germany: €841.90

The exempt amount increases for each child entitled to an orphan's pension by:

Western Germany: €185.08

Eastern Germany: €178.58

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 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 at recognised workshops**  
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 2020, it is €3,185 in western Germany and €3,010 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 since 1 January 2020 to 80% of the reference figure.

### Substitute periods (Ersatzzeiten)

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.

### Care-giving periods (Pflegerzeiten) providing nursing care

Since 1 April 1995, under the Long-term Care Insurance Act (Pflegeversicherungsgesetz), periods spent providing unpaid home nursing care count as compulsory contribution periods in statutory pension insurance, with all attendant consequences. Care-giving periods providing nursing care both increase pension amounts and establish pension entitlements in their own right. They are credited based on the care grade 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 (Kindererziehungszeiten)**

The child-raising period for children born before 1992 has been increased commencing 1 July 2014 from one year to two years per child and commencing 1 January 2019 to 2½ years per child ('Mütterrente' – mothers' pension – and 'Mütterrente II'). For children born from 1992 onwards, 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. It is therefore sufficient to have raised two children in order to fulfil the qualifying period for a standard old-age pension.

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 (as of July 2019) amounts to a monthly pension payment of €33.05 in western Germany and €31.89 in eastern Germany for each child raising year. Considered periods for child raising are credited in addition.

### **Considered periods for child raising (Kinderberücksichtigungszeiten)**

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 (Anrechnungszeiten)**

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 (Zurechnungszeiten)**

Added periods are highly significant in the case of reduced earning capacity and survivor's 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 (Gesetz über Leistungsverbesserungen in der gesetzlichen Rentenversicherung) 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 being further extended in stages between 2018 and 2024 by three years to age 65. The Pension Benefits Improvement and Stabilisation Act has now further improved provision for persons with reduced earning capacity by extending, in a single step, the end of the added period for claiming a pension from 2019 to the age of 65 years and eight months. The end of the added period then rises to the age of 67 in a series of steps between 2020 and 2031.

### ***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. For old-age pensions and pensions on account of fully reduced earning capacity, for example, the factor is 1.0. For pensions on account of partially reduced earnings capacity it is 0.5.

If, despite completion of the qualifying period, an old-age pension is claimed earlier or later than the statutory retirement age, this affects the pension amount by way of an entry age factor (Zugangsfaktor). Reductions in the pension amount compensate for the advantage of earlier retirement and the resulting longer period claiming a pension. The amount of the reduction is 0.3% of the pension for each month for which the pension is claimed early. If a pension is not claimed until after the statutory retirement age, the pension amount is increased to compensate for the shorter duration of the pension. The increase is 0.5% for each month beyond the statutory retirement age before the pension is claimed.

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:

<b>P</b>	Personal earnings points Insured income (up to the contribution assessment ceiling) for each calendar year, divided by the average income of all insured persons in the same calendar year, then totalled over the individual's insurance history, and multiplied by the entry age factor.
<b>T</b>	Pension type factor A factor depending on what the pension is intended to provide for.
<b>V</b>	Current pension value The monthly pension that an average earner would receive after paying contributions for one calendar year (€33.05 in western Germany and €31.89 in eastern Germany as of July 2019).
<b><math>P \times T \times V = \text{Monthly pension}</math></b>	

#### 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 Benefit Improvement and Stabilisation Act (RV-Leistungsverbesserungs- und Stabilisierungsgesetz), the pension adjustment formula has also been supplemented with a pension level protection clause. This ensures that pensions are adjusted up to 2025 in such a way as to attain a pension level of at least 48%.

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% as of 1 January 2019). In the case of employees, the contribution amount depends on individual earnings up to a contribution assessment ceiling of currently €6,900 a month in western Germany and €6,450 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.

**The Federal Ministry of Labour and Social Affairs (BMAS) provides a service line on pension law: +49 (0)30 221911001, Mondays to Thursdays 8 am to 8 pm.**

# 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, occupational pensions 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.*

### Occupational pensions

Occupational pensions 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 occupational 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).

Occupational pensions have the following advantages:

- Transaction and administration costs can be spread across a fairly large group of people (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 occupational pensions by making earnings paid into them exempt from tax and social security contributions. As of 2020, €6,624 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). Payments into these plans up to a maximum amount €3,312 are also exempt from social insurance contributions.

The tax relief during the accumulation phase is offset by taxation at the full rate in the payout phase (deferred taxation). However, as the taxpayer's personal tax rate then will generally be lower than in the accumulation phase, the arrangement still pays off. Deferred taxation is also beneficial in terms of liquidity.

Statutory health and long-term care insurance contributions have to be paid in the full amount from the future pension benefits. From 1 January 2020, for anyone with compulsory insurance in the statutory health insurance system, there is a threshold up to which no more statutory health insurance contributions have to be paid on occupational pensions. Statutory health insurance contributions only begin to be payable from the first euro above the threshold. The threshold is index-linked and is set at €159.25 a month in 2020.

As with personal pension arrangements, occupational pensions can also be made subject to ‘Riester’ incentives in the form of subsidies and tax relief. Under an act to strengthen occupational pensions, anyone with compulsory insurance ceased to be subject to statutory health and long-term care insurance contributions on pensions under company Riester plans from 1 January 2018.

**The Federal Ministry of Labour and Social Affairs (BMAS) provides a service line on pension law: +49 (0)30 221911001, Mondays to Thursdays 8am to 8pm.**

### 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: extra tax relief (as an additional tax-deductible amount) supplemented by subsidies (supplements). The options are as follows:

- Bank savings plans
- Private pension insurance
- Investment fund savings plans
- Combined savings and loan plans (Eigenheimrente or ‘home ownership pension’)
- Purchases of additional shares in a cooperative

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 payout 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 payout 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 payout 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 pension plan.

Make sure that the product bears the number of the certifying agency ('Zertifizierungsnummer') 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 pension 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, for example, to anyone compulsorily insured in German 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 or invalidity pension for civil servants (direct beneficiaries). Married couples are generally also eligible: if either spouse fulfils the requirements, the other automatically receives the incentives in the form of additional contributions (indirect beneficiaries). For this purpose, the other spouse enters into their own retirement savings plan and pays a contribution of at least €60 a year.

### **State incentives**

The main incentive for 'Riester' plans is the supplementary pension allowance (Altersvorsorgezulage), which is made up of a basic allowance (Grundzulage) for each entitled individual and, where applicable, a child allowance (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 supplementary pension allowance 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 additional tax relief may be granted (see table at the end of this chapter).

Owner-occupied residential property can also be incorporated into state-subsidised private supplementary pension arrangements. The following incentives are available for the purchase or construction 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 for the purchase or construction of owner-occupied residential property or to pay off a mortgage on owner-occupied residential property
- Financing conversions to improve accessibility in or to an owner-occupied residential property.

**Deferred taxation means that pension income is not taxed until paid out to the taxpayer – in retirement. Contributions made to pension plans during working life thus remain exempt from tax up to a maximum amount per year.**

The eligible (withdrawn) funds are notionally taxed in the payout 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 payout 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.

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).

### Information

You should always keep sight of both occupational 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 additional tax-deductible amounts and supplements.

Further information is available from your pension insurance institution. Information about occupational 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).

**For further information, please visit the following websites: [www.deutsche-renten-versicherung.de](http://www.deutsche-renten-versicherung.de), [www.bundesfinanz-ministerium.de](http://www.bundesfinanz-ministerium.de), [www.warentest.de](http://www.warentest.de) and [www.vzbv.de](http://www.vzbv.de)**

### Riester incentives

Tax-deductible amount (in addition to pension provision)	up to €2,100
Basic allowance	€175
	€200 <sup>1</sup>
Child allowance, per child	€185
	€300 <sup>2</sup>
Minimum own contribution net of allowances	4% minus allowances <sup>3</sup>
Maximum	€2,100 minus supplements

<sup>1</sup> Lump-sum bonus for people under 25 entering employment

<sup>2</sup> For children born since 1 January 2008

<sup>3</sup> 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 compensation for special sacrifices. Surviving dependants may also claim compensation subject to certain requirements.*

### Social compensation includes benefits for:

- War victims of either of the two world wars
- 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)
- Act on Rehabilitation and Compensation of Victims of Unlawful Criminal Prosecution Measures in the Acceding Territory (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).

Compensation for war victims and for victims of violent crime is described in detail in the following.

## War victims

### Benefits and conditions

On application, victims of the First or Second World War 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 powers.

### Medical and health care

#### Medical care for conditions arising from injury

Injured persons within the meaning of social compensation law are entitled to medical care (Heilbehandlung) for recognised conditions arising from injury such as the following:

- Out-patient medical and dental treatment
- Hospital treatment
- Provision of medication and dressing materials
- Provision of therapies (such as physiotherapy, exercise therapy, speech therapy and 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

#### Medical care for conditions not arising from injury

Persons with a severe invalidity having at least a 50% degree of invalidity also receive medical treatment for health conditions that are not recognised as arising from injury. This does not apply, however, if they have the same entitlement from another provider (such as because they are covered by statutory health insurance) or they have income in excess of the annual income limit for statutory health insurance. The annual income limit is €62,550 in 2020, which corresponds to €5,212.50 per month.

## Health care

Health care (Krankenbehandlung) is provided to the following:

- Persons with a severe invalidity, for their spouse or life partner, children and other relatives living in their household;
- Recipients of long-term care allowance, for people who provide them with unpaid nursing care on other than a temporary basis;
- Surviving dependants.

The health care provision is essentially the same as for medical care. The entitlement to health care does not apply in certain circumstances (see medical care for conditions not arising from injury).

In addition to the medical treatment under the headings of medical and health care, the Federal War Victims' Compensation Act also provides for the payment of social compensation sickness benefit (Versorgungskrankengeld) by way of wage replacement benefit if the person is unable to work.

## Pensions

Pensions are paid to injured persons, widows and widowers, life partners, orphans and parents. The amount of the injury pension (Beschädigtenrente) is scaled according to the recognised degree of invalidity. The degree of invalidity must be at least 25% in order to qualify for an injury pension. The pension provision is as follows:

- A basic pension scaled according to 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 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 their income, including basic and compensatory pensions and any compensatory long-term care allowances, is less than half the income their late spouse would have earned had they not been injured.
- In the event that the injured person's death was not caused by their 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 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.

### **Social compensation welfare benefits**

Social compensation welfare benefits (fürsorgerische Leistungen der Sozialen Entschädigung) supplement the pension benefits with specific assistance in individual cases. They normally depend on income and assets except where a need arises exclusively as a result of the injury. The welfare benefits include the following:

- Assistance towards long-term care
- Domestic help
- Help for the elderly
- Convalescence stays
- Assistance granted under special circumstances, such as participation assistance for persons with disabilities
- Labour market integration assistance
- Supplementary cost-of-living assistance (Hilfe zum Lebensunterhalt)

The important labour market integration assistance helps in gaining, regaining or retaining a suitable occupation. For as long as labour market integration assistance is provided, it is accompanied by a transitional allowance (Übergangsgeld) or subsistence allowance (Unterhaltsbeihilfe).

In the case of at least a 50% recognised degree of invalidity, the provisions with regard to participation that are available for persons with severe disabilities are also available under social compensation. For example, provided that the remaining requirements are met, this includes free travel on local public transport.

### **The law**

The legal basis for social compensation pension and welfare benefits is the Federal War Victims' Compensation Act (Bundesversorgungsgesetz).

### **Information**

Social compensation pension benefits are the responsibility of local social affairs offices (Versorgungsbehörden). Claims can be submitted to these, to local authorities, social insurance providers and diplomatic missions of the Federal Republic of Germany abroad. If an administrative appeal is unsuccessful, administrative decisions can be appealed against at no cost in a social court (Sozialgericht).

Social compensation welfare benefits are the responsibility of the welfare offices (Fürsorgestellen) and principal welfare offices (Hauptfürsorgestellen) in each of the German Länder. The addresses of the principal welfare offices are published on the website of the Federal Association of Integration Offices and Principal Welfare Offices (BIH). Decisions relating to social compensation welfare benefits can be appealed against in administrative courts.

Benefits for members of the armed forces have been the exclusive responsibility of the Federal Office of Bundeswehr Personnel Management since January 2016: Bundesamt für das Personalmanagement der Bundeswehr, Wilhelm-Raabe-Strasse 46, 40470 Düsseldorf.

**Financial benefits under social compensation pension benefits (from 1 July 2019)**

<b>Recipients/benefits</b>	<b>DOI* (%)</b>	<b>Monthly amount (€)</b>
Travel supplement (for blind persons)		177
Basic invalidity pension**	30	138
	40	183
	50	253
	60	320
	70	444
	80	537
	90	645
	100	722
Age supplement on basic pension	50, 60	28
	70, 80	35
	90, 100	43
Supplementary allowance for severe invalidity	Level I	83
	Level II	172
	Level III	256
	Level IV	343
	Level V	427
	Level VI	515
Compensatory invalidity pension	50, 60	444
	70, 80	537
	90	645
	100	722
Married dependants' supplement		80
Care allowance	Level I	305
	Level II	521
	Level III	741
	Level IV	951
	Level V	1,235
	Level VI	1,519
Basic pension for widows/widowers		435
Compensatory pension for widows/widowers		479
Basic pension for orphans		
- having lost one parent		122
- having lost both parents		229
Compensatory pension for		
- having lost one parent		215
- having lost both parents		299
Parental pension for		
- 2 parents		588
- 1 parent		410
Supplement under BVG 51(2) for		
- 2 parents		107
- 1 parent		80
Supplement under BVG 51(3) for		
- 2 parents		334
- 1 parent		242
Funeral allowance: full		1,674
Funeral allowance: half		838
Clothing grant (for clothing subject to wear and tear)		22 – 146**

\* Degree of invalidity

\*\* The precise euro amount depends on the level of impairment.



## ***Victims of violent crime***

### **Benefits and conditions**

Anyone whose 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, is entitled to the same benefits as a war victim.

Foreigners receive the same benefits as Germans if the offence was committed after 30 June 2018. In the case of earlier offences, the benefit amounts are determined by how long the person has been in Germany.

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 in the form of a hardship allowance for injuries suffered by foreigners as a result of crimes committed before this date.

### **Information**

Responsibility lies with local social affairs offices. The above benefits may be applied for there or alternatively from any social security agency or a diplomatic mission of the Federal Republic of Germany in another country.

If an administrative appeal is unsuccessful, administrative decisions can be appealed against at no cost in a social court (Sozialgericht). Decisions relating to benefits that correspond to social compensation welfare benefits can be appealed against in administrative courts.

### **Important information for victims of violent crimes in EU member states**

Germans who have their habitual place of residence in Germany but become the victim of a violent crime in another EU member state may 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.

Further information is published, among other places, on the website of the Federal Ministry of Labour and Social Affairs (BMAS).

### **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 last safety net to protect from poverty and social exclusion. It helps individuals who are:*

- *unable and lack the resources to meet their own subsistence needs; and*
- *have insufficient or no entitlement under other insurance and welfare systems that come before social assistance.*

## Principles underlying social assistance

The German Basic Law (Grundgesetz) guarantees the basic right to a subsistence minimum that is consistent with human dignity. This follows from Article 1 (1) of the Basic Law and the principle of the social state under Article 20 (1) of the Basic Law. These guarantee everyone in need of assistance the financial means essential to meet their subsistence needs and a minimum of participation in social, cultural and political life. The Basic Law does not distinguish according to the cause of the need for assistance. Social assistance and the benefits provided under it therefore constitute the bottommost social safety net.

Social assistance has the purpose of enabling a standard of living and social participation consistent with human dignity when a person's own income and assets are insufficient for that purpose. Social assistance also aims to compensate in case of need for 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.

Various benefits are provided according to personal situation, age and situation. For example:

- Basic income support for jobseekers under Book II of the Social Code (SGB II) for jobseekers capable of work who are aged between 15 and the statutory retirement age;
- Basic income support in old age and in the event of reduced earning capacity under Book XII of the Social Code (SGB XII) for persons who have reached the statutory retirement age and persons with permanent fully reduced earning capacity;
- Cost-of-living assistance under Book XII of the Social Code (SGB XII) for persons who are not capable of work but are not persons with permanent full reduced earning capacity.

All of these benefits have the aim of securing the subsistence minimum in every phase of life. The standard needs rates are therefore uniform.

Social assistance benefits are needs-based. They are only paid to those whose own income and assets and, where applicable, those of their spouse or life partner do not meet the minimum subsistence level.

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 basic principles of social 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).
- Social assistance is a subordinate benefit. As such, it 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 are met. The only **exception** is for **basic income support in old age and in the event of reduced earning capacity** (Leistungen der Grundsicherung im Alter und bei Erwerbsminderung) under Chapter 4 (Section 18 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, activation 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.

Basic income support in old age and in the event of reduced earning capacity was incorporated in SGB XII as of 1 January 2005 as the fourth chapter of the new social assistance legislation. Basic income support for jobseekers (Grundsicherung für Arbeitsuchende) under Book II of the Social Code (SGB II) was likewise introduced in 2005 for individuals capable of work and in need of assistance and their families. If they are not otherwise provided for, individuals aged from 15 up to the statutory retirement age who are capable of work 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 work are entitled to social benefit (Sozialgeld). Both types of benefit correspond in amount and structure to cost-of-living assistance (Hilfe zum Lebensunterhalt) under SGB XII but have to be applied for (Section 37 of SGB II). Anyone in need of assistance who does not receive benefits under SGB II is generally entitled to cost of living assistance in the form of social assistance under SGB XII.

Social assistance covers:

- Cost-of-living assistance (Sections 27-40 of SGB XII)
- Basic income support in old age and in the event of reduced earning capacity (Sections 41-46)
- Assistance towards healthcare (Sections 47-52)
- Assistance towards long-term care (Sections 61-66),
- Assistance in overcoming special social difficulties (Sections 67-69)
- Assistance in other circumstances (Sections 70-74)

Each of these is provided together with advice and support as necessary. Social assistance also includes rules on deduction of income and assets.

## 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 in private households; 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.

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:

- The standard rate is a fixed amount paid each month to cover standard needs. Its purpose is to cover expenditure such as for food, clothing and purchases of household appliances. The amount paid depends, for example, on whether a person lives alone or is married, or whether they are an adult or a child. The various amounts are regularly adjusted and are referred to as standard needs levels (Regelbedarfsstufen). The euro amounts as of 1 January 2019 are as follows:
  - Standard needs level 1: €432:  
For any adult who lives in private residential accommodation and to whom standard needs level 2 does not apply.
  - Standard needs level 2: €389:  
For any adult who lives together in shared private residential accommodation with a spouse or life partner or as a cohabiting couple.
  - Standard needs level 3: €345:  
For an adult who lives in institutional accommodation.
  - Standard needs level 4: €328:  
For an adolescent from 14 to 17 years of age.
  - Standard needs level 5: €308:  
For a child from 6 to 13 years of age.
  - Standard needs level 6: €250:  
For a child up to five 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 standard needs rate so that targeted assistance can be provided for better integration into the community of children and adolescents in need of assistance.
- Accommodation and heating in the amount of the actual rental cost; if the rental cost is found to be ‘unreasonably high’, it is paid for as long as a move to less expensive accommodation remains impossible or unreasonable, up to a maximum of six months (Section 35 of SGB XII).
- Heating costs in the amount of actual expenses incurred (Section 29 of SGB XII), provided they are reasonable. Costs of centrally supplied hot water are likewise paid in the actual amount incurred. In the case of decentralised water heating (such as a boiler within the living unit), the additional cost is recognised (Section 30 (7) of SGB XII).
- Rent arrears may also be paid to avert eviction or to avert similar emergencies (Section 36 of SGB XII).
- An extra allowance for additional needs is paid for additional costs not covered by the standard needs rate in certain situations and special circumstances provided that the individual requirements are met (Section 30 of SGB XII). Among other things, this includes additional costs for persons eligible for benefits 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 decentralised 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 standard 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 standard 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 standard 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 the provision made available by the facility concerned, this primarily includes clothing and pocket money for personal use. For adults, this is 27% of standard 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**

In addition to the standard needs rates, children, adolescents and young adults are provided with education and participation assistance under what is called the education package (Bildungspaket). The aim is for children to have fair education and social participation opportunities and be able to develop their abilities regardless of their parents' financial means. Provision under the education package was significantly improved as of 1 August 2019 under the Strong Families Act (Starke-Familien-Gesetz).

The education package consists of the following types of assistance, subject to conditions detailed in the Act:

- Actual expenditure for single-day and multiple-day school outings (subject to the requirement in the case of class trips that they take place in accordance with the school's policies), preschool or child daycare outings
- Personal school supplies in the amount of €150 per academic year
- Expenditure for pupils' transportation to/from school provided it is necessary and not already paid for by others
- Expenditure for extramural learning support, in certain circumstances including if the child or adolescent is not at risk of being held back a year
- Expenditure for participation in school communal meals (including in cooperation between school and afterschool care) or preschool or child daycare communal meals
- Expenditure for participation in the social and cultural life of the community (such as sports clubs and music lessons) for children and adolescents up to the age of 18 (usually a lump-sum €15 per month).

The various forms of assistance under the education package are provided as non-cash benefits, services or cash benefits. Personal school supplies and expenditure for pupils' transportation are always provided as a cash benefit.

Only the extramural learning support has to be applied for separately.

### **Chapter 4: Basic income support in old age and in the event of reduced earning capacity (Sections 41-46b of SGB XII)**

Basic income support in old age and in the event of reduced earning capacity (Grundsicherung im Alter und bei Erwerbsminderung) ensures that the subsistence minimum is met for:

- Elderly persons in need from the statutory retirement age;
- Individuals from age 18 with permanent fully reduced earning capacity.

Its provision is needs-based. It is only paid if the entitled individual's own income and assets and those of their spouse or cohabiting partner are not sufficient to meet their needs under social assistance law. Income includes all money incomings in money or money's worth, including, for example, the individual's own old-age pension or reduced earning capacity pension.

The assistance is equal in amount to non-institutional cost-of-living assistance (Chapter 3). Unlike cost-of-living assistance (Hilfe zum Lebensunterhalt), however, it has to be applied for.

The assistance 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 unless their annual income is in excess of €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 income support 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 healthcare (Sections 47-52 of SGB XII)**

Assistance towards healthcare covers the same entitlements as those for statutory health insurance. This means that social assistance recipients without health insurance receive the same health care provision as those who 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 patients with statutory health insurance.

The competent social services office (Sozialamt) reimburses the health insurance fund for the costs of the health care services provided under assistance towards healthcare. Equal treatment of non-insured social assistance recipients and patients with statutory health insurance means that social assistance recipients must also pay patients' co-payments towards treatment up to specific contribution limits.

### **Chapter 6: Repealed January 2020**

Under the Federal Participation Act, the integration assistance (Eingliederungshilfe) previously provided for in Chapter 6 of SGB XII was reformed as of 1 January 2020 and transferred to Book IX of the Social Code (SGB IX).



## **Chapter 7: Assistance towards long-term care (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 assistance towards long-term care 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 XII 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.

Assistance towards long-term care (Leistungen der Hilfe zur Pflege) 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.

Assistance towards long-term care 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 (Betreuungsleistungen).

Assistance towards long-term care 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 impairment is less pronounced, are (only) entitled to care aids and measures to improve their home surroundings. In addition, a support allowance (Entlastungsbetrag) 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 assistance towards long-term care. In particular, persons in need of nursing care in care grades 2 to 5 consequently receive additional attendance benefits.

## **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 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 persons eligible for benefits who receive cost-of-living assistance (Hilfe zum Lebensunterhalt) or basic income support in old age and in the event of reduced earning capacity, income from employment or self-employment is deducted in the amount of 30% of the income up to a maximum of 50% of standard needs level 1 under the annex to Section 28 of Book XII of the Social Code (€216 in 2020).

For employees of workshops for persons with disabilities, the exempt amount for income from employment or self-employment is 12.5% of standard 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 (Arbeitsförderungsgeld) 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 pension on account of fully reduced earning capacity alongside their workshop pay and are therefore not or no longer dependent on basic income support.

A new exempt amount for supplementary pension income – primarily occupational and private pension income such as from ‘Riester’ and basic ‘Rürup’ pension plans – was introduced as of 1 January 2018 in the case of basic income support 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 €216 (50% of standard needs rate 1 in 2020). In departure from this, if a person eligible for benefits 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 person eligible for benefits has from periods of compulsory insurance in statutory pension insurance or similar compulsory insurance schemes or from a civil service pension.

Employed persons receiving assistance towards long-term care likewise benefit in connection with income deduction under SGB XII in the form of a deductible amount (Einkommensfreibetrag) for income from own employment (currently up to approximately €281 per month; 40% of the unadjusted gross income capped at 65% of standard needs level 1). Persons in need of nursing care who themselves meet the conditions for assistance towards long-term care are therefore 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 standard needs level 1 plus 70% of standard needs level 1 for additional family members and accommodation costs.

Maintenance recovery in social assistance has been reformed under the Act to Reduce the Burden on Families (Angehörigen-Entlastungsgesetz). Until now, where, for example, parents in need of nursing care have received assistance towards long-term care under SGB XII, their children have had to pay maintenance. From January 2020, maintenance recovery from the children of parents in need of nursing care only applies if the liable child has an income, before deductions, of more than €100,000 a year.

The €100,000 limit applies throughout in social assistance. There is consequently no maintenance recovery at all up to an annual income of €100,000. The only exception concerns the parents of minors receiving benefits under the third chapter of SGB XII, who are still liable to pay maintenance for their children.

With incomes above the €100,000 limit, maintenance recovery continues to apply as provided for in the German Civil Code. Section 94 (2) of SGB XII also continues to apply: if an adult who is entitled to integration assistance or is in need of nursing care and has a maintenance claim against their parents, the claim is assigned to the social assistance provider at a flat rate of up to €34.44 a month in the case of assistance towards long-term care and up to €26.49 a month in the case of cost-of-living assistance or basic income support in old age and in the event of reduced earning capacity.

The Act to Reduce the Burden on Families also removes the obligation for parents liable for the maintenance of adult children with disabilities to pay a contribution towards their integration assistance benefits – regardless of income.

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 assistance towards long-term care, there is an additional exempt asset amount of €25,000 to secure a reasonable standard of living and adequate retirement provision 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 residential 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)
- Assistance under section 27 (3) of Book II of the Social Code (SGB II) that is provided in the form of a grant for persons in education or training
- Transitional allowance (Übergangsgeld) equal in amount to unemployment benefit II under the first sentence of Section 21 (4) of SGB VI
- Injury benefit (Verletztengeld) equal in amount to unemployment benefit II under Section 47 (2) of SGB VII
- Basic income support in old age and in the event of reduced earning capacity under SGB XII
- Cost-of-living assistance (Hilfe zum Lebensunterhalt) 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.

However, 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 (Mietenstufe).
- 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. For most purposes, 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. Certain deductions are made 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.

Household members to be taken into consideration	Monthly total income ceilings in euros, by rent band						
	I	II	III	IV	V	VI	VII
1	948	987	1,024	1,061	1,092	1,121	1,151
2	1,295	1,350	1,401	1,454	1,497	1,538	1,581
3	1,582	1,645	1,703	1,762	1,811	1,858	1,905
4	2,109	2,176	2,737	2,297	2,347	2,393	2,440
5	2,412	2,485	2,551	2,618	2,673	2,724	2,775

### 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 (Wohngeldbehörde) 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 (Wohngeldgesetz).

**Further information about the law on housing benefit is provided on the website of the Federal Ministry of the Interior, Construction and Community (BMI).**

### 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
- Moldova
- Montenegro
- Morocco
- North Macedonia
- Philippines
- Serbia
- South Korea
- Tunisia
- Turkey
- Uruguay
- USA

The social security 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 security 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 security coverage within the European Union, the European Economic Area (EEA) and Switzerland. The above-listed social security agreements apply elsewhere.

## *Health and long-term care insurance*

### Benefits and conditions

You and your family are normally subject to the rules and regulations in the member state where you live. If you have moved to another EU country to work, you will have health insurance 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, 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, tourists 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 may 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 (Pflegegeld) 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.

### ***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 accident insurance funds (Unfallkassen) and occupational accident insurance funds (Berufsgenossenschaften) and by Deutsche Gesetzliche Unfallversicherung (DGUV) (German Social Accident Insurance), Glinkastrasse 40, 10117 Berlin, Germany.

## Pension insurance

### Benefits and conditions

Have you worked in various different EU member states during the course of your working life? In that case, 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 coverage 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 periods of coverage 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 totalised and applied toward your qualifying period. As a rule, each insurance fund will pay a part of the pension proportionate to the periods during which you were insured with it. Survivors' pensions are paid on the same basis. Your pension will then be paid out in the state where you reside or stay.

### 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 contracting states are provided by the following:

- Deutsche Rentenversicherung Bund  
([www.deutsche-rentenversicherung-bund.de](http://www.deutsche-rentenversicherung-bund.de))
- Deutsche Rentenversicherung Knappschaft-Bahn-See  
([www.deutsche-rentenversicherung-knappschaft-bahn-see.de](http://www.deutsche-rentenversicherung-knappschaft-bahn-see.de))

And by Deutsche Rentenversicherung's regional agencies:

- For Greece, Cyprus, Liechtenstein and Switzerland: Baden-Württemberg ([www.deutsche-rentenversicherung-bw.de](http://www.deutsche-rentenversicherung-bw.de))
- For Poland: Berlin Brandenburg  
([www.deutsche-rentenversicherung-berlin-brandenburg.de](http://www.deutsche-rentenversicherung-berlin-brandenburg.de))
- For Japan, the Philippines and South Korea: Braunschweig-Hannover  
([www.deutsche-rentenversicherung-braunschweig-hannover.de](http://www.deutsche-rentenversicherung-braunschweig-hannover.de))
- For Hungary and Bulgaria: Mitteldeutschland  
([www.deutsche-rentenversicherung-mitteldeutschland.de](http://www.deutsche-rentenversicherung-mitteldeutschland.de))
- For Austria, Slovakia, Slovenia, the Czech Republic, Bosnia-Herzegovina, Croatia, North Macedonia, Serbia, Montenegro, Kosovo: Bayern-Süd  
([www.deutsche-rentenversicherung-bayernsued.de](http://www.deutsche-rentenversicherung-bayernsued.de))

- For Denmark, Estonia, Finland, Great Britain, Ireland, India, Latvia, Lithuania, Norway, Sweden, China, Canada and the USA: Nord  
([www.deutsche-rentenversicherung-nord.de](http://www.deutsche-rentenversicherung-nord.de))
- For Brazil, Moldova, Portugal, Romania and Turkey: Nordbayern  
([www.deutsche-rentenversicherung-nordbayern.de](http://www.deutsche-rentenversicherung-nordbayern.de))
- For Australia: Oldenburg-Bremen  
([www.deutsche-rentenversicherung-oldenburg-bremen.de](http://www.deutsche-rentenversicherung-oldenburg-bremen.de))
- For Belgium, Spain, Chile, Israel and Uruguay: Rheinland  
([www.deutsche-rentenversicherung-rheinland.de](http://www.deutsche-rentenversicherung-rheinland.de))
- For France, Albania and Luxembourg: Rheinland-Pfalz  
([www.deutsche-rentenversicherung-rheinland-pfalz.de](http://www.deutsche-rentenversicherung-rheinland-pfalz.de))
- For Italy, Malta, Morocco and Tunisia: Schwaben  
([www.deutsche-rentenversicherung-schwaben.de](http://www.deutsche-rentenversicherung-schwaben.de))
- For the Netherlands and Iceland: Westfalen  
([www.deutsche-rentenversicherung-westfalen.de](http://www.deutsche-rentenversicherung-westfalen.de))

## **Family benefits**

### **Benefits and conditions**

Family benefits are paid in all member states. However, the form and amount of benefits vary considerably from state to state. You should therefore find out which member state is responsible for granting benefits and what are the criteria or entitlement.

If you are unconditionally required to pay tax or are in paid work in Germany, you can receive child benefit (Kindergeld) for your children, even if they live in other member states.

If you are employed 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 are employed.

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

Family benefits have to be applied for. Submit an application to your local family benefits office (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 office (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. If you return to Germany within this period, any unemployment benefit entitlement acquired before leaving can be reinstated unless it has been used up or has lapsed. If you were previously employed in Germany and are now unemployed in Bosnia-Herzegovina, Serbia, Montenegro or Macedonia, you can receive benefits from that country's insurance fund in certain circumstances.

### **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 public 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 jobseeker with the public 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 agency (Arbeitsamt) and by Federal Employment Agency (Bundesagentur 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, accident insurance and pension insurance. Secondly, the social courts decide on cases involving unemployment insurance, social compensation law with the exception of social compensation welfare benefits, and the law relating to severe disabilities. Finally, the social courts are also the courts of responsible jurisdiction for disputes about basic income support for jobseekers ('Hartz IV' benefits), social assistance (cost-of-living assistance and basic income support 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) 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 (Widerspruch) 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 (Bescheid), 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 (Widerspruchsbescheid).

### **Court proceedings**

Social court proceedings generally include one oral hearing. In advance of the oral hearing, the presiding judge can request official documents, electronic documents and health records. The presiding judge can also request information, hear witnesses, including expert witnesses, commission written opinions from expert witnesses, summons others to appear at the hearing, and discuss the matter in person at a meeting with the parties so that the dispute can be dealt with if possible in a single hearing. The oral hearing is public and is chaired by the presiding judge. The latter first announces the case, after which instructions are given to any witnesses who have been summonsed. The witnesses then leave the courtroom until they are heard. The presiding judge next presents the facts and the dispute as they stand. Any evidence is then taken and heard as necessary, and the complainant and respondent state their case. Once the dispute has been heard, the presiding judge declares the oral hearing closed.

Taking and hearing evidence is a very important part of social court proceedings. It consists of hearing witnesses, including expert witnesses such as doctors, and review of documents submitted in support of specific factual claims. The court is not restricted to evidence submitted by the parties to a case, because social court proceedings are governed by the principle that the court must investigate the matter on its own initiative. It must determine all facts material to deciding a case. The parties can be called in to assist in this process.

Parties to social court proceedings can be represented by someone who has their power of attorney (Bevollmächtigter). This is mandatory in proceedings 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, such 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 and 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 (Nichtzulassungsbeschwerde). 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, benefit recipients and people with disabilities except in cases brought on account of exceptionally long court proceedings. Complainants not in any of the mentioned groups – for example social security providers – must pay a flat-rate fee. If neither the claimant nor the respondent is in any of these exempt groups, court fees are levied according to the amount at dispute as with other types of court.

# Social security data protection

## (Sozialdatenschutz)

### Principles of social security data protection

Guaranteeing social welfare rights through social security systems unavoidably 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) has applied with direct effect in all Member States of the European Union since 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 take precedence and are directly applicable, the social security data protection provisions in SGB I and SGB X have been brought into line with them. The provisions of German social security data protection law are based systematically on and supplement, further elaborate or restrict those of the GDPR; there is thus a mutually complementary, multi-level system of laws.

Section 35 (1) 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 may only collect personal data if needed to determine an individual’s insurance status and membership.

Data may generally only be processed for the purpose for which it is collected (principle of purpose).

### **Transmission of social security data**

Transmission of social security data, as a specific form of data processing, 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 occupational accident insurance fund (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, unless otherwise specified, 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. There is also a right of notification in the event that the protection of a data subject’s social security data is violated and a right to compensation.

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 and Freedom of Information (Bundesbeauftragten für den Datenschutz und die Informationsfreiheit) and the competent authorities for data protection in each of the sixteen German Länder – or file for action against the controller or processor before a social court.

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