

Social Security at a Glance

Preface

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

(Article 20, Paragraph 1 of the Basic Law)

Peace of mind and personal freedom are unthinkable without social security. The German social security system is one of the best in the world. Parliament, political parties, the courts, the unions, industry associations, and numerous social policy bodies and lobby groups have all worked together to build this social safety net. Many generations of women and men have fought hard to achieve what we now take for granted. It is our common duty to maintain this system for the future while adapting it to changing social conditions.

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Law stated as of 1 January 2003

Former East Germany

This brochure describes social security law as it applies in all sixteen States of the Federal Republic of Germany. Any differences in the law resulting from transitional arrangements for former East Germany are noted under a separate heading.

Child benefit, child-raising allowance, parental leave and maintenance advance

Little Laura did not come unplanned. Bank teller Jochen and export clerk Irene consciously decided to have a child at thirty, four years after getting married. Jochen had already done his sums: Even though Irene would be off work for some time, the family could easily make ends meet—especially since he had recently been promoted. They both knew they could get 138 euros a month in child benefit. But it was only at a prenatal advisory course that they heard, from other prospective parents, that the state also pays a child-raising allowance and that parents can demand parental leave from their employer.

Jochen and Irene went into this and learned that they could claim a monthly 307 euros child-raising allowance for the first six months of their child's life. Their family income was too high for them to receive more. Irene then spoke with her employer about parental leave. Except for a few formalities, all was set by the time Laura came. Laura is now five months old. Her parents have taken advantage of the new Federal Child-raising Allowance Act to take two years' joint parental leave. At the same time, Jochen works 30 hours a week and Irene goes to work for 20 hours a week now that her statutory maternity leave has finished.

Child benefit

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 tax relief, primarily to meet the constitutional rule that income is untaxable up to a child's minimum subsistence level. Any child benefit awarded over and above this amount is paid to support the family.

YOUR RIGHTS

Anyone with children who lives in Germany can claim child benefit. Foreign citizens are also entitled, as long as they have a valid right of residence or residence permit. Mothers and fathers living abroad for a period, say for job-related reasons, can also receive child benefit, although (as ever, with some exceptions) the state only pays the benefit for children living on German soil.

Important: Only one person can claim child benefit for each child. Parents can choose which one of them claims child benefit for the children living in his or her household.

If the parents are separated or divorced, child benefit is paid to the parent with whom the child lives. But what about children who do not live with their parents? Child benefit is then usually paid to the person in whose household the children live, or who primarily supports the children. Child benefit is not paid to pensioners who receive a child-support supplement to their statutory pension or occupational injury pension, or other payments equivalent to child benefit. The sole exception is if the supplement or equivalent falls short of the standard rate of child benefit, in which case the shortfall is made up in child benefit.

CHILDREN YOU CAN CLAIM FOR

You can also claim child benefit for:

- > Your spouse's children if they live in your household
- > Foster children if they live in your household, are long-term members of your family, and their parents no longer have custody over them
- > Grandchildren, if you have taken them into your household

Do you meet any of these criteria? If so, you can certainly claim child benefit for any children aged 18 or less.

You may still be able to claim child benefit if your child is over 18. The 'age limit' is 27 for the following:

- Young people who are still in education or training and do not earn more than EUR 7,188. Benefits paid for or earnings spent on specific education and training purposes are not taken into account—for example book grants for gifted children, or tutorial fee refunds for study abroad under the Education Assistance Act (BAföG). Because students can earn up to DM EUR 7,188 in income and benefits over the year without loss of child benefit, their earnings from holiday jobs rarely affect the benefit. A short break between two training stages still counts as training.
- Young people who are doing a year of voluntary social or environmental work, voluntary service as part of the EU Youth Action Programme, or other voluntary service abroad under Section 14b of the Civilian Alternative Service Act (Zivildienstgesetz).
- Young people who are unable to start or continue vocational training for want of a training place.

SPECIAL CASES

In certain circumstances, parents can continue to claim child benefit when their children are over 27.

Child benefit is paid for sons over 27 who are still in education or training and have completed compulsory military or civilian service, or a period of equivalent service (such as police service for a maximum of three years or service as a development worker). The age limit of 27 is then raised by the length of their military or civilian service. For example, parents whose son has completed 15 months of military service can claim child benefit until he is 28 years and 3 months old.

You can continue to claim child benefit for disabled children over 27 if they became disabled before this age and cannot look after themselves.

An exception is also made for children from 18 to 21 who are unemployed and available for work. You can claim child benefit for them—as long as they do not earn more than EUR 7,188 in income and benefits.

Orphans receive EUR 154 in child benefit a month if no one else can claim child benefit or equivalent payments for them. The same applies for children who do not know where their parents are.

THE LAW

The law on child benefit is set out in the Income Tax Act and the Federal Child Benefit Act.

INFORMATION

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

Tax-Free allowance for children and child-care allowance

If the child benefit payments do not equal or exceed the untaxable minimum subsistence level for a child, a tax-free allowance for children and a child-care allowance (as mentioned earlier) are deducted from the parents' taxable income. The allowances amount to EUR 3,534 and EUR 1,546 a year respectively. The child-care allowance is only deductible for one child under the age of 17. The question of whether child benefit is less than the tax-free allowance for children together with the child-care allowance is determined in the course of income tax assessment.

Supplementary child benefit

Families who have built or purchased their own home can claim supplementary child benefit (Kinderzulage) for up to eight years, in addition to the normal child benefit and the basic tax relief on homebuilding. Owner-occupiers of homes built or purchased since 31 December 1995 receive EUR 767 a year for each child. The law on supplementary child benefit is set out in the Income Tax Act.

CHILD-RAISING ALLOWANCE

Bringing up children is a great responsibility. Many mothers and fathers take leave off work or reduce their working hours for several years in order to give priority to looking after their children. Since January 1986, they have been able to claim child-raising allowance (Erziehungsgeld) in recognition of this commitment. Child-raising allowance is available until the child is 24 months old.

The information in this section applies for parents of children born from 2001 onwards. The legal basis is an act reforming child-raising allowance and introducing the new parental leave. The statutory euro amounts stated apply only for children born from 2002 onwards. The earlier legislation continues to apply in respect of children born prior to 2001; the DM amounts stated will be converted into euros.

The Federal States of Baden-Württemberg, Bavaria, Mecklenburg-West Pomerania and Thuringia pay state child-raising allowance when the entitlement to federal child-raising allowance expires.

The information given in the following apply for parents whose children were born in or after 2001. Its foundation in law is the Child-Raising Allowance and Parental Leave Reform Act. Amounts stated in euros apply for births in or after 2002.

BENEFITS AND CONDITIONS

You can claim child-raising allowance as a mother or father if

- your permanent or usual place of residence is in Germany,
- you have custody of the child,
- you care for and bring up the child in your own household,
- and you are not gainfully employed, or do not work full-time (you can work up to 30 hours a week without losing your entitlement to child-raising allowance).

Fathers who do not have custody can also claim child-raising allowance if the mother agrees. European Union citizens in Germany have the same rights as German citizens. Other foreign citizens can claim child-raising allowance if they have a right of residence or a residence permit, or have been granted asylum or refugee status.

WHAT YOU RECEIVE

The maximum child-raising allowance for each child is EUR 307 per month. Alternatively, a budget of EUR 460 a month is possible, but only up to the child's first birthday.

Child-raising allowance is subject to income limits.

In the first six months of the child's life, child-raising allowance is not paid to married couples who are not permanently separated, whose income exceeds EUR 51,130 a year, and who have a single child. This income limit also applies to parents living as common law man and wife. The limit for single parents is EUR 38,350 a year. The income limits in the Federal Child-raising Allowance Act are roughly comparable with an aggregate net income of the same amount after tax and deductions.

From the seventh month of the child's life onwards, child-raising allowance is reduced in the case of married couples who are not permanently separated and whose income exceeds EUR 16,470 a year, and in the case of other entitled claimants (single parents) whose income exceeds EUR 13,498 a year. If your annual income exceeds the limit, your child-raising allowance is reduced in increments. The allowance is not paid if it amounts to less than EUR 10.

The income limits increase by EUR 2,797 for each additional child (for children born in 2002) and EUR 3,140 for children born from 2003 onwards. Note that the limits are not based on the usual definition of net or gross income, but on a special definition of income in the Federal Child-Raising Allowance Act.

THE LAW

The law on child-raising allowance and parental leave is set out in the new Federal Child-Raising Allowance Act.

INFORMATION

Which agency gives advice on child-raising allowance depends on where you live:

- Baden-Württemberg: the Landeskreditbank (the state credit bank)
- Bavaria: the local Amt für Versorgung und Familienförderung (war pensions and family welfare office)

- Mecklenburg-West Pomerania and North Rhine-Westphalia: the local Versorgungsamt (war pensions office)
- Berlin, Brandenburg, Rhineland-Palatinate and Thuringia: the local Jugendamt (youth welfare office)
- Hamburg: the Einwohnermeldeamt (citizens registration office)
- Bremen: the Amt für Soziale Dienste (social services office)
- Bremerhaven: the Amt für Familie und Jugend (family and youth welfare office)
- Lower Saxony: the local council
- Saxony-Anhalt and Hessen: the local Amt für Versorgung und Soziales (pension and welfare office)
- Saxony: the local Amt für Soziales und Familie (welfare and family office)
- Saarland: the Landesamt für Jugend, Soziales und Versorgung (state youth, welfare and pension office)
- Schleswig-Holstein: the local offices of the Landesamt für Soziale Dienste (state social services)

A new German-language brochure, Erziehungsgeld – Elternzeit (‘Child-raising Allowance and Parental Leave’) is available free of charge – and for the parents for whom it still applies, the old brochure Erziehungsgeld/Erziehungsurlaub (‘Child-raising Allowance and Child-raising Leave’) is available from The Federal Ministry for Family, Senior Citizens, Women and Youth, Broschürenstelle, 53107 Bonn, Germany.

The new parental leave*

* Formerly ‘child-raising leave’ (Erziehungsurlaub)

As with the former child-raising leave, parents must already be in employment to qualify for the new parental leave.

If they wish, parents can now take parental leave (Elternzeit) jointly for all or part of the maximum duration of three years for a child. With the employer’s consent, up to one year of the parental leave can be taken later between the child’s third and eighth birthday. Each parent who takes parental leave may work up to 30 hours a week. An important provision is the general right to part-time work if the employer has more than 15 employees, and to reinstatement of the prior working hours on termination of parental leave. Parental leave is granted subject to the employer being given six weeks’ advance notice if it is to begin immediately after the birth or the end of statutory maternity leave, or eight weeks’ advance notice at other times. The entitlement to take a reduction in working hours must be claimed no later than eight weeks before beginning part-time work.

Special protection from dismissal begins eight weeks before parental leave starts, or on the date of notification if the employer is notified less than eight weeks in advance. It continues until the end of the parental leave.

Maintenance advance

BENEFITS AND CONDITIONS

By way of special help for single parents, the Maintenance Advance Act stipulates that a minimum level of child maintenance set in the regulations on standard rates of child maintenance

will be paid from public funds if a child receives no maintenance from the other parent and no orphan's benefits.

Maintenance advance (Unterhaltsvorschuss) is available for children up to 12 years old, and is paid for a maximum of 72 months. The amount paid is the standard rate of maintenance less half the child-benefit rate for a first child (that is, less EUR 77). Accordingly, the monthly maintenance advance as of 1 January 2003 is as follows:

- For children in western Germany:
 - aged under 6 years: EUR 111
 - aged 6 to 11 inclusive: EUR 151
- For children in eastern Germany:
 - aged under 6 years: EUR 97
 - aged 6 to 11 inclusive: EUR 134

Important: You are barred from claiming maintenance advance as a single parent if you fail to give information about the other parent, or fail to help identify the father or locate the other parent. This continues to apply if you still live with the other parent or if you remarry.

THE LAW

The law on maintenance advance is set out in the Maintenance Advance Act of 23 July 1979 (BGBL/Federal Gazette I p. 1184) in the revised version published by Announcement of 2 January 2002 (BGBL I p. 2).

INFORMATION

Information is available from the offices responsible for paying maintenance advance, usually your local youth welfare office (Jugendamt). This is also where you must submit your claim. A free brochure on maintenance advance is available from the Ministry for Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, Rochusstr. 8-10, 53123 Bonn, Germany.

How to claim

To claim child benefit, you must apply for it. The family benefits department (Familienkasse) at your local Employment Office (Arbeitsamt) will be pleased to help—or if you are in public service, your employer's family benefits department.

What you receive

Child benefit is paid monthly as follows

- EUR 154 for each of the first three children
- EUR 179 for each additional child

Child benefit is paid regardless of the parents' income. Under the family compensation system, child benefit takes the form of tax relief or a tax-free allowance for children (Kinderfreibetrag) and child-care allowance (Betreuungsfreibetrag). Child benefit is paid throughout the year. When assessing income tax, the tax office checks that the amount of child benefit paid satisfies the constitutional rule on tax relief (in other words, that the parents have received enough child benefit to cover the tax refund due to them). If not, their tax bill is reduced by the tax-free allowance for children and the child-care allowance less the child benefit they have already

received. The child benefit payments are left as they stand if this calculation comes out to the parents' advantage.

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

Promotion of employment

Günter B. is unemployed. He has been applying for jobs for a year and a half now, but so far has received nothing but letters of refusal. Now 31, his career had initially got off to a good start. After lower secondary school, trade college and military service he began work at an electronics shop. Then came the first shock: the shop closed down. Günter enquired about vacancies at the employment office. As there were none available, the careers advisor suggested retraining in industrial administration and computer programming. The employment office would pay not only 60 per cent of his adjusted net income in transitional allowance, but all costs of the training scheme as well. Günter was over the moon. Two years later he gained a good pass mark in the Chamber of Industry and Commerce exams, and the employment office found him a job as an industrial clerk. But then the firm became insolvent soon after he started. For the first twelve months after that he received unemployment benefit. He now claims unemployment assistance. He may well be drawing a salary again soon, though, as one of his job applications looks like being successful—for a computer programming vacancy at a sizeable local firm. After the second interview, the manager of the personnel department said he was '90 per cent sure' that he would take Günter on. The young man now hopes the other 10 per cent will come out in his favour.

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

The new Job ACQTIV Act in force since 1 January 2002 concentrates the efforts of employment offices on job placement in order to make the most of available employment opportunities. A key element of this process is the introduction of integration agreements (Eingliederungsvereinbarungen) with job seekers.

To promote equal opportunities for men and women as a vital step towards achieving high levels of employment, gender equality is now enshrined as a universal objective in Volume III of the Social Code.

BENEFITS AND CONDITIONS

The main tasks of Federal Employment Services are:

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

Federal Employment Services are there for employers and employees alike. They provide various kinds of help:

- For the unemployed

- Choosing a career
- Finding jobs, training places, workers and trainees
- Safeguarding and creating jobs
- Vocational training
- Mobility assistance
- Rehabilitation
- Fighting long-term unemployment
- Becoming self-employed
- When employers become insolvent

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

Advance Registration

Experience has shown that people find it far easier to take up new employment when they are still in their previous job. In recognition of this fact, from 1 July 2003, job seekers must register in person with their local employment office (Arbeitsamt) without delay as soon as they know that their previous employment is coming to an end. This helps speed job placement and allows the critical period between receiving notice and commencing unemployment to be used for finding new work or for training. People on fixed-term employment contracts are not required to register until three months before their employment ends. Filing with a court for wrongful dismissal does not remove the obligation to register.

Late registration is penalized. If a job seeker's average weekly pay prior to becoming unemployed (Bemessungsentgelt) is EUR 400 or less, their unemployment benefit is reduced by EUR 7 for each day registration is delayed, up to a maximum of 30 days. The penalty rises to EUR 35 a day for an assessed pay level of up to EUR 700 and EUR 50 a day thereafter. It is levied by halving the daily benefit amount until the amount of the penalty has been deducted from the benefit to which the job seeker is entitled.

In-company apprentices are exempt from the obligation to register because the decision whether or not to offer an apprentice permanent employment is usually decided only immediately after completion of the examinations at the end of the apprenticeship.

Job Placement Vouchers

Unemployed people who are entitled to unemployment benefit or unemployment assistance are given job placement vouchers by their employment office provided that they have been unemployed for at least three months and have not yet been placed in employment. Placement vouchers are issued for amounts of EUR 1,500 (after three to six months' unemployment), EUR 2,000 (six to nine months) or EUR 2,500 (nine months or more) and are valid for three months. People employed in job creation or structural adjustment schemes are also entitled to placement vouchers.

The unemployed person or scheme employee can go to a private employment service of his or her choice. The job seeker and the employment service enter into a **placement contract** stating

the amount of commission payable on successful placement. The maximum amount is the value of the voucher.

If the private employment service is successful in placing the voucher holder during the validity period of the voucher, the employment office pays it the value of the voucher in two instalments: an initial EUR 1,000 on commencement of the employment contract and the remainder when the voucher holder has been employed in the new job for at least six months. Only EUR 1,000 is paid out if the person is placed in employment for between three and less than six months.

Unemployment Benefit

To receive unemployment benefit (Arbeitslosengeld), you must:

- be unemployed
- have personally registered as unemployed
- and have completed the qualifying period

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. You must also be actively seeking work and be available for work.

To register as unemployed you must visit the employment office in person and report that you have become unemployed; you cannot register by phone or by post. You can register for a maximum of three months, and must renew your registration before it expires if you are likely to remain unemployed.

To complete the qualifying period, you must accumulate at least twelve months of Federal Employment Services contributions, either by working or otherwise (for example, by claiming sickness benefit), within the timeframe of the last three years. This timeframe can be extended on a discretionary basis in certain circumstances (child-rearing, caring for relatives or having recently become self-employed). The contribution period is six months for people on military or civilian service and for seasonal workers. From 1 January 2003, periods spent drawing a full reduced-earning-capacity pension or maternity benefit and periods spent rearing a child under three years of age also establish a requirement to pay contributions if the person concerned was previously required to pay contributions or previously received wage replacement benefits (for example unemployment benefit).

The amount of unemployment benefit you receive is based on your average weekly pay on which statutory insurance contributions were levied in the last 52 weeks before becoming eligible to claim (the assessment period). The resulting gross earnings figure (gross assessed earnings) less the usual statutory deductions (taxes and national insurance) gives your net assessed earnings. Your unemployment benefit is 67 per cent of your net assessed earnings if you have at least one child who you can claim tax relief for, and 60 per cent if you do not. Gross assessed earnings figures are adjusted each year in line with the general trend in pay increases.

While you are drawing unemployment benefit, the employment office 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.

People who have completed military or civilian service and have paid no contributions before or since can claim unemployment benefit for a maximum of three months after a six-month contributory period, and a maximum of four months after an eight month contributory period. The same applies for seasonal workers.

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.

Unemployment Assistance

To claim unemployment assistance (Arbeitslosenhilfe) you must have exhausted your entitlement to unemployment benefit in the twelve months before you claim.

To receive unemployment assistance, you must:

- be unemployed
- register as unemployed at the employment office
- have no claim to unemployment benefit because you have not completed the qualifying period
- apply for unemployment assistance
- and be unable to provide for yourself

Your unemployment assistance is 57 per cent of your net assessed earnings (average gross earnings less deductions) if you have at least one child who you can claim tax relief for, and 53 per cent if you do not.

Whether you are classed as able to provide for yourself depends on a means test. This takes into account:

- Your own income
- If you are married and not permanently separated, how much your spouse or, if you live in a marriage-like relationship, how much your partner earns above an individually assessed exempt amount equal to the hypothetical unemployment assistance amount or 80 per cent of the minimum subsistence level as stipulated in tax law, whichever is the greater
- How much you can claim from others, for example in maintenance from a separated or divorced partner
- Your capital and your partner's capital—provided that it exceeds the exemption limit. The exemption limit is EUR 520 for each year of age that you and your partner have completed; it may not exceed EUR 33,800 in each case.

Unemployment assistance is reduced or refused if the means test shows there is income or capital to take into account.

Unemployment assistance is essentially granted indefinitely until you are 65. It is paid for a maximum of one year at a time, after which you can reapply.

Note: With the employment office's consent, you can do voluntary community work. This does not affect your claim to unemployment assistance.

How long you can claim unemployment benefit for depends on your age and how long you have been in contributory employment during the last seven years.

| Minimum time paying contributions | Age | Period of entitlement |
|-----------------------------------|-----|-----------------------|
| 12 months | | 6 months |
| 16 months | | 8 months |
| 20 months | | 10 months |
| 24 months | | 12 months |
| 28 months | 45 | 14 months |
| 32 months | 45 | 16 months |
| 36 months | 45 | 18 months |

| | | |
|-----------|----|-----------|
| 40 months | 47 | 20 months |
| 44 months | 47 | 22 months |
| 48 months | 52 | 24 months |
| 52 months | 52 | 26 months |
| 56 months | 57 | 28 months |
| 60 months | 57 | 30 months |
| 64 months | 57 | 32 months |

Short-time allowance

When trade is slack, companies sometimes temporarily cut working hours and put the workforce on short time. In this event, the local employment office pays a short-time allowance (Kurzarbeitergeld) for the hours lost. Continued payment of the allowance depends among other things on the jobs being retained.

You can claim the short-time allowance if you are on reduced pay or no pay at all and there has been a substantial cut in working hours. A cut in working hours counts as substantial if at least a third of the workforce at the same establishment suffers a cut in gross monthly pay of 10 per cent or more. The allowance is usually paid out by the employer and refunded by the local employment office on application by the employer or works council.

The amount of the short-time allowance is a percentage of the net loss in pay resulting from the difference between your gross pay on full time and your gross pay on short time: 67 per cent if you have at least one child who you can claim tax relief for, and 60 per cent if you do not.

Insolvency allowance

Insolvency allowance (Insolvenzgeld) is paid if your employer becomes insolvent and you have not received all outstanding pay.

You can claim insolvency allowance if you are owed pay from the last three months you worked:

- before insolvency proceedings started,
- before a petition to start insolvency proceedings was dismissed on account of insufficient assets, or
- if your employer has not filed for insolvency and manifestly does not have sufficient assets to do so, before your employer finally ceased trading in Germany.

That is, insolvency allowance covers outstanding pay (including mandatory social insurance contributions) for the last three months immediately preceding the commencement of insolvency proceedings. As soon as any one of the above insolvency events has taken place, you have a claim to insolvency allowance. Insolvency allowance must be applied for at the relevant local employment office within a limitation period of two months after the insolvency event.

Winter Bad Weather Benefit

Local employment offices pay winter bad weather benefit (Winterausfallgeld) to construction industry workers for hours lost due to bad weather in the winter season (1 November to 31 March), beginning at the earliest with the 121st hour. The benefit is funded out of contributions to Federal Employment Services and is paid to safeguard the jobs of those affected.

You can claim winter bad weather benefit:

- if you cannot be laid off because of bad weather in the winter season
- if you are not claiming sickness benefit
- and if you are entitled under a union agreement, works agreement or employment contract to winter bad weather pay from your employer that adequately compensates at least the first 120 hours lost, and have used up this entitlement

In parts of the construction industry where, by agreement, employers may cease providing winter bad weather pay after 30 lost hours, Federal Employment Services can provide winter bad weather benefit funded by a levy on employers as of the 31st lost hour.

Winter bad weather benefit is usually paid out by the employer and refunded by the local employment office on application by the employer or works council. The amount of the benefit is

a percentage of the net loss in pay resulting from the difference between your gross pay on full time and your gross pay on short time:

- 67 per cent if you have at least one child who you can claim tax relief for.
- 60 per cent if you do not have a child you can claim tax relief for.

Winter allowance

To compensate for unfavourable working conditions due to bad weather, employment offices pay construction workers a winter expenses allowance (Mehraufwands-Wintergeld) in the period from 15 December to the last day of February inclusive. The allowance amounts to EUR 1.03 for each hour worked except overtime.

To offset the loss in pay due to hours lost because of bad weather in the winter season (1 November to 31 March), employment offices also pay an additional winter allowance to supplement bad weather pay where this is less than the normal rate of pay for the hours lost. This additional allowance amounts to EUR 1.03 for each hour lost. The additional winter allowance is paid to roofers, scaffolders, and horticultural and landscaping workers. An additional winter allowance of EUR 1.03 is also paid to construction workers, as of the 31st lost hour, in respect of lost hours that are matched by credit hours accrued on a flexible work schedule.

Job Creation Schemes

Federal Employment Services promote the creation of new jobs for the unemployed to do work that is in the public interest. Job creation schemes (Arbeitsbeschaffungsmassnahmen) can be funded by individuals or legal entities who operate the schemes themselves or through third parties.

You can be placed on a job creation scheme if you are unemployed, can only take up employment if you receive funding for such a scheme and are entitled to some form of income-replacement benefit during unemployment, further training or integration into employment. You may still gain a place even if you do not meet these criteria, for example if you are unemployed and under 25 and have not completed a course of vocational training, are needed as an instructor or helper on a job creation scheme, or are severely disabled and your job prospects cannot be safeguarded or improved by other means. There is also a 10 per cent rule, under which exceptions can be made from the above criteria for 10 per cent of scheme places each year.

Priority is given to schemes that substantially improve the conditions for creating permanent jobs, provide employment opportunities for hard-to-place workers, prepare for or supplement structural improvement measures, or improve the environment or social infrastructure.

Private-sector job creation schemes only attract funding if they are carried out at business firms.

The aim of this rule is to avoid distorting competition in the private sector and to better integrate people into the jobs market through employment in a business enterprise. In certain cases, as with schemes that are supervised by youth education workers or serve particularly hard-to-place groups, private-sector job creation schemes can be run independently by their sponsors.

The sponsors of a jobs creation scheme receive between 35 per cent and 75 per cent of the subsidizable wage for each person placed with them, the maximum subsidizable wage being 80 per cent of the going rate for comparable work that is not so subsidized. The subsidy may be increased to 90 per cent of the subsidizable wage for hard-to-place job seekers or financially weak sponsors, or even 100 per cent in exceptional cases and in cases involving high-priority schemes. Additional subsidies and loans can be granted to cover added costs associated with the approval of a scheme.

Extra subsidies remain available for a limited period in eastern Germany in view of the difficult jobs situation there. For schemes that begin before 1 January 2004, 100 per cent of the subsidizable wage can be funded if working hours on the scheme in question do not exceed 90 per cent of working hours in equivalent full-time employment. Wage subsidies may also be paid as a lump-sum amount that is calculated according to the type of work performed in the jobs creation scheme.

Places on job creation schemes are usually funded for a maximum of one year, or up to two years in the case of priority schemes. This can be extended to three years in the case of a priority scheme if the sponsor gives an undertaking that the employee will be taken on permanently—by either the sponsor or the third-party establishment operating the scheme—when the funding expires. Places on job creation schemes providing vocational training for unemployed instructors and supervisors can be funded for the duration of the training course.

Promotion of Vocational Training

Vocational training is becoming increasingly important in the jobs market due to the sharp drop in the number of jobs available for unskilled and semi-skilled workers. Employment promotion policies thus offer a variety of opportunities to assist young people in their search for vocational training:

- **Career Orientation:** The Career Advice Centres (BIZ) at employment offices offer a wide range of informational material on training opportunities, academic study and career choice.
- **Personal Career Guidance** in questions relating to the personal choice of career.
- **Training Placements**
- **Pre-vocational Training Schemes:** Employment offices can arrange pre-vocational training schemes for young people who are unable to enter into vocational training for whatever reason. They serve career orientation, career choice and targeted preparation for vocational training.
- **Educational Support:** Trainees who have learning difficulties or are socially disadvantaged can receive additional educational support during vocational training with a company.
- **Vocational Training in Training Institutes:** Young people who are unable for whatever reason to enter into a traineeship with a company can receive additional help in commencing and even completing vocational training at a training institute and thus gain a recognised vocational qualification.

Promotion of Initial and Further Vocational Training

Help is available to promote three types of training for individuals:

- Initial training
- Further training

Federal Employment Services provide different amounts of funding according to the situation.

Examples of benefits:

- If you come from a low-income family and are in vocational training at a training centre that is too far away for you to live at home, you can claim a vocational training grant (Berufsausbildungsbeihilfe). Young people on preparatory vocational training schemes can also claim a grant if they live at home.

- If you attend a necessary, accredited course of further training that is officially recognised by the employment office, you can claim assistance towards living expenses. The assistance is 67 per cent of your averaged net pay if you have at least one child who you can claim tax relief for, and 60 per cent if not.
- Grants are also available for further training courses attended in combination with a part-time place on a job creation scheme. Employment Services may pay a reduced cost-of-living assistance in certain cases.
- Prior to training, you must take part in an advisory session at the employment office and submit an application for assistance.
- Education vouchers are available. These can be cashed in with an accredited education provider for courses in accordance with agreed objectives.

Note: Besides the cost-of-living assistance, the employment office may also meet some or all of the cost of training courses, working clothes, travel expenses, and child care.

Aptitude Testing

Training Measures

Training measures include training courses and practical activities that aim to improve the prospects of the unemployed or those facing unemployment and seeking new work for integration into the labour market. They are also a means of assessing a person's readiness and ability to work.

The duration of the various available measures varies between two and eight weeks according to their purpose, with a maximum limit of twelve weeks.

The measures include aptitude testing for the unemployed or those facing unemployment to assess their level of knowledge and skill, assess their capacities and developmental potential, to reveal supporting circumstances that may be of importance in integrating a person into the labour market and to identify the most suitable type of work relative to current job market conditions or the most suitable form of active employment assistance. Aptitude testing usually takes about four weeks.

Up to two weeks' training may be provided in job application and interview skills, together with targeted career guidance to promote self-initiative in looking for work. Additional training is funded in the acquisition of the knowledge and skills needed to further facilitate job placement or successful completion of initial or further vocational training.

Participation in a training measure is suggested or approved by the local employment office.

The measures also include assumption of the costs of the respective measure and continuation of unemployment benefit or unemployment assistance payments to the unemployed where they already receive or are entitled to receive or claim such assistance. Assistance may however be limited to continued payment of unemployment benefit or unemployment assistance.

Local employment offices also provide funding for training measures financed by the European Commission and carried out in other member states of the European Union or in another European country that has an association agreement with the European Union. Additional grants may be made available for training measures carried out in the border regions of countries that share a border with Germany.

Guidance and Placement Assistance

If you are looking for work or a training placement and are unemployed or in danger of becoming unemployed, you may be able to claim help obtaining guidance or placement from your local employment office. To claim, you must be unable to reclaim the costs from the employer you apply to.

The following costs are covered:

- Up to EUR 260 per year for preparing and sending applications
- Costs of travel by public transport for attending careers guidance, placement services, aptitude assessment services or job interviews. Accommodation and other expenses may be paid for overnight stays.

Mobility benefits

You can claim mobility benefits if you are unemployed or are in danger of becoming unemployed and need help in order to take up an offer of employment in which you will be paying contributions.

Available mobility benefits:

- Bridging loan of up to 80 per cent of anticipated gross pay until receipt of the first pay packet.
- Equipment allowance of up to EUR 260 for work clothes and equipment.
- For the first six months if entering employment away from home:
- Travel allowance to cover daily costs of travel between home and work.
- Dual household allowance for maintaining a second home.
- Relocation loan for costs of moving to a new home within two years of entering employment.
- The cost of the journey to start a new job (travel allowance).

People who receive unemployment benefit or unemployment assistance may claim mobility benefits to facilitate entering into employment abroad. The travel allowance may not exceed EUR 300.

People seeking training who are registered with their local employment office can claim some of these loans and allowances on entering a course of training.

Integration Subsidies

Employers can receive wage subsidies to help integrate entitled workers and to compensate for their lower productivity.

The following integration subsidies are available:

- 1. **Induction subsidy** for workers who need special help settling into employment.
- 2. **Integration subsidy for hard-to-place workers**; that is, workers who are difficult to place due to personal circumstances, particularly long-term unemployment or a severe or other disability.
- 3. **Integration subsidy for older workers**; that is, workers aged 50 and above.
- 4. **Induction subsidy for workers returning to employment** who need special help settling in.
- 5. **Integration subsidy for severely disabled persons with special needs**; that is, workers who need help integrating and who are classed as severely disabled persons under Section 104 (1) 3 of Book IX of the German Social Code or whose disability is deemed equivalent to a severe disability by Federal Employment Services under Section 2 (3) of Book IX of the German Social Code.

Amount: up to 70% (of the subsidizable wage).

Duration: up to 36 months, or up to 60 months for severely disabled persons aged 50 or over and 96 months for severely disabled persons aged 55 or over.

The amount and duration of the subsidy depends on the extent to which the employee's productivity is reduced and the degree of help he or she needs to settle in. For severely disabled persons, the subsidy may also be paid in the form of subsidised limited pre-employment (e.g. job creation scheme or structural adjustment measures) which is determined by the amount and the duration of integration subsidy.

Save in exceptional cases, the maximum amount and duration of the integration subsidies are as follows:

- Induction subsidy
Amount: 30 per cent (of the subsidizable wage)
Duration: 6 months
- Integration subsidy for hard-to-place workers
Amount: 50 per cent (of the subsidizable wage)
Duration: 12 months
- Integration subsidy for older workers
Amount: 50 per cent (of the subsidizable wage)
Duration: 24 months

The duration or amount of the subsidy may be increased in cases of exceptionally low productivity or special induction or integration needs. The employer's adjusted share of social insurance contributions is additionally refunded with all forms of induction and integration subsidy.

Help Becoming Self-Employed

Unemployed people who want to become self-employed can claim transitional benefit (Überbrückungsgeld) from the employment office to secure a living in the early stages. To claim, you need to have been drawing income replacement benefit under the provisions of Book III of the Social Code or have participated in a jobs creation scheme or structural adjustment measure. Transitional benefit may not be granted, however, if there are grounds for a claim to be suspended under Sections 142 to 145 of Book III of the Social Code (SGB). The amount is the same as the unemployment benefit or unemployment assistance that you have been claiming, plus social insurance contributions at a fixed rate. The benefit is paid for six months.

Further assistance in becoming self-employed is available in the form of start-up grants:

The 'Ich-AG' or 'Familien-AG' ('Me, Inc.' or 'Family, Inc.') is a new form of self-employment. People who have been registered unemployed can apply for a start-up grant (SGB III s. 421 I) from their local employment office to take up self-employment in the form of an 'Ich-AG' if they have previously been employed as workers in a job creation or structural adjustment scheme.

Funding with a start-up grant is limited to a maximum of three years. The amount of the grant declines over time, from EUR 600 a month in the first year after ceasing to be unemployed to EUR 360 a month in the second year and EUR 240 a month in the third. The grant is only awarded one year at a time, however, and only if the recipient's earned income in a given year does not exceed EUR 25,000. 'Earner income' for these purposes includes income from other employment as well as from the 'Ich-AG'.

All start-up grant recipients must pay statutory pension, health and long-term care insurance contributions for the duration of the grant payments (SGB VI s. 2).

Recipients of transitional benefit (SGB III s. 57) cannot be awarded a start-up grant (SGB III s. 421 I). Applications must be submitted to the local employment office before taking up self-employment.

Recruitment Subsidy for New Businesses

Employers who became self-employed within the last two years can claim a wage subsidy if they appoint a person who was previously unemployed and entitled to assistance for at least three months—or a person in equivalent circumstances—to a newly created position. To qualify, an employer must have no more than five employees. The recruitment subsidy is granted for no more than two employees at a time.

The recruitment subsidy for new business is paid for a maximum of twelve months and is 50 per cent of the subsidizable wage.

Structural adjustment measures (SAMs)

Structural adjustment measures promote employment in specific sectors for people who would otherwise be unemployed. They build on the positive outcomes of employment promotion schemes introduced in eastern Germany in 1993 under Section 249(h) and extended to include western Germany from August 1994 under Section 242(s) of the Employment Promotion Act. These schemes, which were initially planned to last until the end of 1997, took account of the differing jobs situation in eastern and western Germany. The new structural adjustment measures, which have been extended to the end of 2008, apply equally in all parts of the country.

Environmental conservation and improvement schemes and schemes to promote social services or youth work qualify for assistance throughout Germany. Certain measures were originally restricted to eastern Germany. These include schemes that provide opportunities for mass sports or voluntary cultural activities, work on the conservation of heritage sites or schemes preparing for such work, urban regeneration and urban heritage conservation schemes, and schemes to improve the residential environment. The territorial restriction ceased to apply in August 1999, and all the above types of scheme can now qualify for subsidy in all German states. Funding has also been extended to include schemes for the improvement of the economic support infrastructure.

Employers receive a lump subsidy of up to EUR 1,075 a month (in the case of full-time employment) towards the pay of each worker placed with them. However, the subsidy must not be greater than the subsidizable wage on a job creation scheme. Workers placed on such schemes can usually be subsidized for up to 36 months. This can be extended to a total of 48 months on condition that the project sponsor or the company at which it is carried out takes on the worker permanently when the subsidy expires. A funding period of up to 60 months can be approved in eastern Germany and in unemployment blackspots served by employment offices in western Germany for structural adjustment measures that mainly employ workers aged 55 or older. For a scheme to be approved, any costs in excess of the wage cost subsidy must be met by the sponsor of the scheme or from another source. Measures that include people over the age of 55 also include grants to cover the remaining costs.

Up to 31 December 2003, wage cost subsidies may be paid to industrial firms in former East Germany and Berlin that take on additional unemployed workers. The subsidies are paid for one

year, and there is a limit on the number of subsidized workers at a given workplace. This class of subsidies is restricted to workers who particularly in need of assistance. The amount of the wage cost subsidy is EUR 691 a month (in the case of full-time employment).

Subsidising Job-Creating Infrastructures

With Administrative Board agreement, public bodies (e.g. municipalities) may receive funding from the unemployment office to cover the costs of infrastructural enhancement if the during those measures, the sponsor contracts work by an industrial enterprise that agrees to employ a certain number of unemployed assigned by the unemployment office for a period that is mutually determined by the unemployment office and the sponsor. Alongside its core workforce, the industrial enterprise is obliged to employ a maximum of 35 per cent formerly unemployed workers. The funding must be used separately. The amount of funding can be up to 25 per cent of the total costs of the respective measure.

The funding should be used to:

- Finance additional infrastructural activities.
- Employ the sponsored workers in accordance with the conditions of the primary labour market.
- Facilitate the award of additional contracts to the ailing construction industry and its affected workers.

FUNDING

Most Federal Employment Services funding comes from contributions, though additional funds come from pay-as-you-go levies on employers and their liability funds. The contributions are paid by employers as well as employees (white and blue-collar workers, people employed on vocational training schemes, and people who work from home). Their respective share of the contributions depends on the current contribution rate (6.5 per cent of gross pay in 2002). The maximum contribution is set by a contribution assessment limit. The monthly limits in 2002 are EUR 4,500 in western Germany and EUR 3,750 in eastern Germany.

THE LAW

The law on employment promotion is set out in the Volume III of the Social Code. The law is implemented by Federal Employment Services in Nuremberg, the central and local employment offices in each of the Länder, and various other agencies. Federal Employment Services are a self-governing public agency.

INFORMATION

Do you need further information? If so, please feel free to contact your local employment office, Land employment office, or Federal Employment Services in Nuremberg. You can also find a wide range of information at <http://www.arbeitsamt.de>.

Partial retirement

Partial retirement provides a gradual transition from work into retirement. Generally, each employee is free to decide whether to take partial retirement in agreement with his or her employer. Some employees have a union-negotiated right to partial retirement.

Going into partial retirement creates a partial vacancy. Employers can reclaim some of the cost of financing partial retirement from their local employment office if they fill such partial vacancies by taking on unemployed workers or by employing apprentices on completion of their training; in smaller establishments it is enough to set on an apprentice.

When an employee goes into partial retirement, his or her prior working hours are reduced by half—either by reducing the number of hours the employee works each day or by splitting the remaining period of service into working and non-working phases with a maximum duration of six months each. A union-negotiated agreement may allow a maximum of five years for each phase.

Partial retirement counts towards an employee's years of service. The employer must pay pension contributions at the rate that would apply if the employee were on 90 per cent of his or her previous pay and, for the entire period the employee is in partial retirement, must pay at least 70 per cent of the normalized pay rate net of deductions that is commensurate with the number of hours per week that the employee worked before entering partial retirement (the statutory minimum net pay rate). This is kept in line with any pay rises. These are minimum requirements that employers may exceed.

In order to take partial retirement, a number of basic requirements must be satisfied:

- The employee must be at least 55 years old.
- The employee must have worked and paid statutory contributions for at least three of the five years preceding the time he or she enters partial retirement.
- The employee must not be entitled to a full state pension.

BENEFITS AND CONDITIONS

As an employee you are free to decide between partial retirement and continuing to work full time: no one can force you to reduce your working hours. If you wish to take partial retirement, you must sign an agreement with your employer. Your employer can only claim for partial retirement with your signature on such an agreement.

Your employer may be compelled to agree to your partial retirement if a union agreement, in-house agreement or, where applicable, ecclesiastical law so provides.

There are many specific provisions to protect your status as an employee wishing to take partial retirement. For example, your employer cannot dismiss you merely because you are entitled to take partial retirement. Under an equal opportunities rule, your ability to take partial retirement cannot weigh against you when employees are selected to be laid off.

If you become unemployed when partially retired you can, of course, claim unemployment benefit, unemployment assistance or a cost-of-living allowance. The amount of benefit is assessed from the wage you would have been receiving had you not reduced your working hours. This applies until you reach pensionable age.

(See also 'Old-age pension after unemployment or partial retirement' in the Pension Insurance chapter.)

THE LAW

The law on partial retirement is set out in the Act Promoting Gradual Transition into Retirement of 23 July 1996 (Federal Gazette Vol. I, p. 1078), as most recently amended by Article 6c of the Act of 23 December 2002 (Federal Gazette Vol. I, p. 4621). Further provisions are contained in Books One, Three, Four and Six of the Social Code.

INFORMATION

Please contact your local employment office or your pension fund if you would like detailed advice about partial retirement. Employers and unions in numerous industries have negotiated their own collective agreements for a gradual transition into retirement on the basis of the prevailing law.

Detailed information on partial retirement is also given in the German-language brochure *Altersteilzeit ab 55*, available on order free of charge from the Federal Ministry of Labour and Social Affairs, Public Relations Department, Postfach 500, D-53107 Bonn, Germany.

What you must do

As an employee, you must inform your employer immediately about any changes in your circumstances that substantially affect your partial retirement. If the employment office provides payments, your employer must inform them of any such changes, too. Both the employee and the employer must return any payments they are not entitled to if they have intentionally or negligently failed to fulfil their duty to cooperate or have given false information. In the event of abuse, the employer, the employee, or both may incur a fine of up to EUR 25,000.

Educational assistance

By the time he was 17, Rainer J. knew what he wanted to do: he would study medicine and become a doctor. He had always had an interest in science, and the idea of working with people appealed to him, too. His average mark in his school-leaving exams (Abitur) was 1.9, which meant he had to wait for one year before being allocated a university place, but he filled in that time well by doing a year of voluntary social service for his local parish church. The more difficult problem was how to pay his way as a student, as he couldn't expect his parents to give him any support at all. His father, once a successful businessman, had now been unemployed for many years due to a chronic illness, and his mother was not in work either.

Rainer applied for educational assistance (BAföG), and the government awarded him almost 358 euros a month, half as a grant and half as an interest-free loan. At the time, he was still living at home. Later on, when he moved to another university, he rented a small bed-sit. That entitled him to an extra 123 euros or so of BAföG. "I wasn't exactly rolling in money, but I had enough to get by," Rainer recalls. Three weeks ago, he finally qualified as a doctor. "Without BAföG, I might not have been able to go to university," he notes with hindsight, "and I would certainly have needed much longer to finish, because I'd have had to hold down a job at the same time."

A good education is doubly beneficial: it both lays the foundations of a successful career and offers the best form of protection against unemployment.

Everyone in Germany ought to receive the chance to have the kind of education that suits his or her inclinations and capabilities, regardless of his or her personal financial situation. That is what government education assistance is for. It can be roughly divided into three categories: vocational training, schooling and academic study.

Vocational training grants

The promotion of trainees and of those who participate in pre-vocational training schemes is done by way of vocational training grants (known as Berufsausbildungsbeihilfe–BAB). Under Book III of the Social Code, vocational training grants may be paid under the following conditions:

- vocational training is commenced either with a company or a training institute
- participation in a pre-vocational training scheme offered by the unemployment office

Vocational training grants are just that, grants and not loans, which means there is nothing to repay to the unemployment office when training is completed.

What do they cover?

A course of training leading to an **officially recognised vocational qualification** may be funded when the necessary **vocational training contract** has been entered into. It makes no difference whether the vocational training is received in a business or in a training institute (e.g. in a training workshop). An entitlement to a vocational training grant only exists for **initial vocational training**; funding for a second period of training is only possible in exceptional circumstances, i.e. when a trainee has had to end initial vocational training prematurely for reasons of good cause (e.g. illness).

Apart from vocational training, participation in **pre-vocational training schemes** may also be funded. These are courses offered by the unemployment office for actual vocational or occupation-oriented knowledge and skills.

Funding may be made available for vocational training or for training schemes that are **partly held abroad** – but for no longer than a year. Vocational training that is received **solely abroad** may be funded if it is equal to vocational training received in a business within Germany, is recognised by the responsible agency (chambers) and the training abroad is particularly beneficial in attaining the vocational training objective.

Who can claim?

Vocational training grants are available to:

- Trainees
- Those participating in pre-vocational training schemes

Vocational training grants for trainees

Trainees are only entitled to a vocational training grant if they live away from their parental home. However, an exception is made for young people who are disabled: they still receive benefits even if they live with their parents.

Pre-Vocational Training Schemes

Those participating in pre-vocational training schemes are generally entitled to a vocational training grant even if they still live with their parents.

How are vocational training grants calculated?

Total entitlement

– offsettable income

= vocational training grant

(amounts below EUR 11 per month are not paid out)

The total entitlement is based on fixed lump-sum allowances:

- Cost of living
- Other vocational training-related expenses
- Travel costs

The cost of living allowance is subject to different rates for trainees receiving vocational training grants and those participating in pre-vocational training schemes, and also depends on personal circumstances (whether you have your own place to live or you live in a boarding house with or without meals).

- The cost of living allowance for trainees is EUR 443 per month (EUR 310 basic entitlement plus EUR 133 lump-sum accommodation allowance). A EUR 64 excess cost-of-living allowance may be added on a needs assessed basis.
- The cost of living allowance for those participating in pre-vocational training schemes is EUR 192 per month for those who still live with their parents, and EUR 349 for those who live elsewhere, plus the costs of accommodation where they exceed a specific amount.

Other expenses are based on various lump-sum allowances for things like work clothes (EUR 11 per month), educational materials needed for pre-vocational training schemes (EUR 8 per month) and for child care (up to EUR 130 per month for each child).

Travel expenses refers to the cost of public transport for journeys made between the home, the training site and vocational training college, and the costs of one journey home per month if you have to live away from home while in training.

Once your basic entitlement has been calculated – and certain exemption limits have been taken into account – any offsettable income is deducted. Income is not offset for those participating in pre-vocational training schemes, i.e. the basic entitlement is paid out.

For trainees, offsetting of income is done in accordance with the Federal Education Assistance Act (Bundesausbildungsförderungsgesetz—known as BaföG): your personal income and wealth, and also those of your parents and spouse, will be offset against your basic entitlement if they exceed a certain exemption limit.

- If you have an income (trainee pay), EUR 52 are exempt from offsetting; the exempt amounts are increased if you are married or have children.
- If your parents' income is offset, EUR 1,411.17 per month are exempt. This amount is increased – given certain circumstances – for every additional child living in the household. In addition to this exemption limit, another 50% of parental income remains exempt, plus another 5% for each child living in the household. An additional EUR 510 remain exempt if the only suitable training placement is one that requires you to live away from your parental home. Other (unlimited) exemption amounts apply in hardship cases, e.g. when a member of the family is disabled.

How to claim – what and when?

Vocational training grants may only be paid out when they have been applied for. The earliest date of payment is the date of application. An application may be made during a career guidance appointment at the employment office responsible for your (original) place of residence. Payment ceases when your training is completed (the day of the final examination) or when your pre-vocational training is completed. In cases of illness, vocational training grants will be paid out for a maximum of a further three months.

How Vocational Training Grants are calculated:

Gudrun is 17, single and has always lived with her parents in Stralsund. She had no luck in finding a trainee placement as a florist in Stralsund so decided to accept a placement in Lübeck. As the distance between her place of training and home was too great to allow daily commuting, Gudrun rented a room in Lübeck for EUR 210 per month. Her training pay in her first year of training amounted to EUR 320 per month, so she applied to the unemployment office for a vocational training grant. This is how the unemployment office calculated her entitlement:

| | |
|---|------------|
| Gudrun's cost-of-living and accommodation per month amount to | EUR 442,27 |
| Rent, where it exceeds EUR 132,94, but no more than | EUR 63,91 |
| Work clothes | EUR 11,00 |
| Travel costs between her rented accommodation and her training place (monthly ticket) | EUR 41,00 |
| Costs of one journey to and from her parent's home per month | EUR 14,00 |
| Total entitlement: | EUR 572,18 |

The total entitlement is then weighed against Gudrun's offsettable income and that of her parents.

Offsetting of income

| | |
|----------------------------|--------------|
| Gudrun's income | |
| Training Pay | EUR 320 |
| Minus the Exemption Limit | EUR 52 |
| Offsettable income | EUR 268 |
| Parent's income | |
| Salary | EUR 1,900 |
| Exemption Limit | EUR 1,411.17 |
| Additional Exemption Limit | EUR 510 |

Because her parent's income is below the sum of the two exemption limits, it is not offset. If their income exceeded the exemption limits, an additional 50% would be exempt.

Total amount to be offset: EUR 268

Gudrun's total entitlement is EUR 572,18; from this amount, EUR 268 of her training pay of EUR 320 is offset, which leaves her with a vocational training grant of EUR 304,18.

THE LAW

The law governing your entitlement to educational assistance, how it is paid out, and so on, is the Federal Education Assistance Act (Bundesausbildungsförderungsgesetz—known as BAföG, which has become the popular name for the assistance itself). The information that follows is based on the law as amended by the Education Assistance Reform Act of 19 March 2001.

BENEFITS AND CONDITIONS

Educational assistance is intended to provide you with enough to live on and to cover the cost of your education. Your financial needs will depend on what kind of education you are receiving, and on where you are living. There are different rates of BAföG for people attending school and for university students.

Your personal income and wealth, and also those of your parents and spouse, will be offset against your basic entitlement if they exceed a certain exemption limit. How high the exemption limit will be depends on your marital status, whether or not you have children, and how large your family is.

There are also a number of exceptions to the general rule:

- You will only be entitled to BAföG in special cases if you are over 30 years of age when you begin a particular phase of your educational career.
- If you attend formal evening school (Abendgymnasium) or an adult education college (Kolleg), only your own personal income and wealth will be taken into account. This still applies if you are over 30 when you begin the educational phase you have applied for assistance with. Your parents' or spouse's income will not have any influence in this case.
- This also applies if you were in gainful employment for a certain period of time before beginning the educational phase for which you have applied for assistance with.
- In some cases parents fail, wholly or partly, to pay the parental contribution which has been offset against the level of BAföG awarded to an applicant. In this event, you can apply to receive your assistance payment in advance without any parental contribution being deducted.

WHAT FORM DOES THE ASSISTANCE TAKE?

If you are attending a school of any form, you will receive your BAföG in the form of a grant, which you will not be required to repay.

If you are a student, unless your course fits into one of the categories set out below, you will receive half of your BAföG as a **grant** and the other half as an **interest-free loan from the**

government. If you belong to one of the exceptional categories below, you will receive a bank loan on which interest must be paid.

As an exception to this rule, the following payments are made entirely as non-repayable grants:

- Supplementary payments provided for courses and placements (internships) abroad during the normal period over which BAFÖG is available, as stipulated by the regulations on supplementary allowances for study abroad.
- Any assistance paid to you for up to ten years beyond the maximum support period if the delay is a result of your being disabled, pregnant, or needing to take care of and to bring up a child (on application).

Your BAföG will be paid in the form of an interest-bearing bank loan in these cases:

- Once you have exceeded the maximum support period, including the assistance provided for bringing your studies to a successful conclusion (Studienabschlussförderung), unless you qualify for one of the exceptions described above.
- For the resulting additional period if the duration of your education increases because you have dropped out of a course or changed to a different one for good reasons that cannot be refused.
- For an in-depth or supplementary training course lasting a maximum of two years and begun before 1st January 1997, if you have already completed a university course.
- For an additional university course, of unlimited duration, if it supplements a course you have already completed and is a necessary legal requirement for entry into your chosen career.
- For one single further course of study if your special circumstances are such that your study objectives justify it.

Any portion of your BAföG paid out to you as a loan will have to be repaid later on.

Note regarding repayment of the government loan that amounts loaned for courses beginning after **28 February 2001** must only be repaid up to a total of **EUR 10,000 (DM 20,000)**.

You have up to 20 years to repay either the government or bank loan forming part of your BAföG. If you have received both government and bank loans, your repayment period rises to 22 years.

Under certain circumstances you may be entitled—on application—to concessions on the repayment of any government loan you have received:

- If your income level is low, you may gain exemption from repayment.
- As long as you are looking after and bringing up a child aged up to ten, or are caring for a disabled child, you will be excused repayment of the instalments due during that period if you are in marginal employment or are not employed at all.
- You will be excused repayment of up to one quarter of your government loan if you are among the top 30 per cent of the students examined in the same final year.
- If you complete your course ahead of schedule and within a certain time limit, the amount you are required to repay will be reduced by EUR 2,560 (DM 5,000).
- You may also obtain a reduction on your outstanding obligations if you repay your loan ahead of schedule.
- Under certain circumstances, borrowers who can prove that they have been victims of political persecution in former East Germany may be excused the portion of their loan issued after 31st December 1990.

Are you entitled to BAföG?

You will be entitled to receive BAföG if:

- You are a student at any form of university, advanced vocational college (Höhere Fachschule), or academy of arts
- In certain specified cases, you are a pupil at an upper secondary school (such as a Hauptschule, Realschule, Gesamtschule or Gymnasium) or vocational school, in Year 10 (under the German system) or above, or if you do not yet have any vocational qualification and are attending technical or senior technical school classes (Fachschule or Fachoberschule), and it is impossible for you to live at your parents' home for one or more qualifying reasons
- You do not yet have any vocational qualification and are attending a course at least two years in length at a technical or vocational school in order to obtain such a qualification
- You are attending formal evening school (such as an Abendhauptschule, Abendrealschule or Abendgymnasium) or an adult education college (Kolleg)
- You are attending a school of vocational development (Berufsaufbauschule)
- You are attending classes at a technical or senior technical school for which a previous vocational qualification is an admission requirement

INFORMATION

Do you need any further information? If so, please feel free to contact the educational assistance office responsible in your case.

If you are applying for assistance for your school attendance, this will usually be a department of the municipal offices in the city or district (Kreis) where your parents live.

If you are studying at a state university, you should contact the educational assistance office at the university itself (usually run by the Studentenwerk, which provides facilities and welfare assistance for students).

Information on BAföG, application forms and an entitlement calculator are available on the Internet: <http://www.bafoeg.bmbf.de/>

EDUCATION LOANS

On written application to the Federal Office of Administration (Bundesverwaltungsamt, 50728 Köln; web site: www.bildungskredit.de), students can receive a **limited term low-interest loan** in place of or in addition to BAföG, to support them during the advanced stages of their vocational or university training. The loans enable non-BAföG recipients to attend a course of study or to complete their studies in less time, and help BAföG recipients with out-of-the-ordinary items of expenditure not covered by BAföG, such as special study materials, excursions and course fees. The loans are paid out at EUR 300 a month up to 24 months. **There is no legal entitlement to an education loan.**

What to do

You must apply for your BAföG in writing to the appropriate educational assistance office (Amt für Ausbildungsförderung—see the Information section for more details). You will need to fill in the forms provided by the office and to supply the items of proof required. Please bear in mind that it may take quite a long time to process your application, so be sure to send it in as early as possible.

Rates¹ for students in higher education

University students and students at other higher education institutes and academies

- living at home EUR 432
- not living at home EUR 585²

The changeover to euros will take place from 1 January 2002 by conversion at the official rate and from 30 June 2002 at the rates specified in the Federal Education Assistance Act.

Rates¹ for school students

Students at schools of further general education, vocational schools, technical colleges and upper secondary schools

that require no vocational qualifications for entry

- living at home no assistance
- not living at home EUR 467²

Students at full-time vocational schools and colleges that require no vocational qualifications for entry and award a vocational qualification in a minimum two-year course of study

- living at home EUR 247
- not living at home EUR 467^{2,3}

Students at lower secondary or intermediate evening schools, vocational extension schools and upper secondary technical colleges (with a vocational qualification)

- living at home EUR 403
- not living at home EUR 536²

Students at technical colleges that require a vocational qualification for entry, and students at upper secondary evening schools or pre-university colleges of adult education

- living at home EUR 409
- not living at home EUR 562²

The changeover to euros will take place from 1 January 2002 by conversion at the official rate and from 30 June 2002 at the rates specified in the Federal Education Assistance Act.

¹ Rates as of 1 April 2001. Health insurance supplements taken into account where able to be granted (EUR 47 per month). All rates also include a long-term care insurance supplement (EUR 8 per month).

² After allowing for the rent supplement under Section 13(3) [S. 12(3) in the case of school students] of the Federal Education Assistance Act.

³ School students only receive the higher rate if it is **necessary** for them to live away from home.

Labour law

Eventually, it got to the point where the management had had enough. Anton C., the 46-year-old employee of a merchandise-trading company, was continually off sick. This had been going on for four years now, and Mr C. had been absent from work on no less than 107 days in the past year. He had always been a reliable worker while he was posted at a stores facility that the company had since closed down. No more sign of that, muttered the managing director at a meeting with the works council's chairperson, ever since he had been made foreman at the cold store. By being off sick so often, the boss said Mr C. was disrupting the flow of work in his department, and placing too much of a burden on his colleagues. So the company was planning to get to the bottom of the matter by holding a meeting with the employees involved. The works council said it wanted to be involved in the process. When they spoke to Mr C., they found that his health problems consisted of colds and bronchial infections that had by now developed into a chronic affliction. Both were evidently connected to his new job in the cold store. By approaching the problem together, a solution was found: Mr C. was moved to another department, also as foreman. His health has considerably improved in the meantime—he now spends just as little time off work as he used to before the trouble started.

Employees depend on their employers, not only economically but also in a personal sense, as is borne out by their contracts of employment. So they need protecting, and this is the task fulfilled by labour law. This branch of the law applies both to blue-collar and white-collar employees (who are distinguished from one another in Germany as Arbeiter and Angestellte). People working from home, whose livings are especially dependent on the organizations providing them with work, are also covered by labour law, partly under laws and regulations applying specifically to their situation, and partly under those applying equally to people who travel to their place of work.

Labour law is divided into two sub-categories. Individual labour law governs relations between single employers and their single employees. Collective labour law applies to legal relations between labour, employers and their representative bodies. Collective labour law aims to create uniform working conditions and encompasses the law relating to freedom of association, collective bargaining, conciliation and arbitration, industrial disputes, employee representation and co-determination.

WHAT INDIVIDUAL LABOUR LAW COVERS

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

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

Your employment contract may also lay down other rights and duties that go to make up your overall working conditions. Both you, as an employee, and your employer may be affected by these rights and duties. A number of different laws ensure that you are entitled to certain minimum employees' rights. These include the Federal Holidays Act and the Continuation of Pay Act which entitles you to sick pay from your employer for up to six weeks if you are absent due to illness.

These minimum legal rights can be enhanced by your individual contract of employment or by a collective agreement covering your workplace (see ‘Collective Bargaining Law’ in the next section). You may, for example, be entitled to more paid holiday than the minimum requirement. Periods of notice are also stipulated by law. Employees and employers alike always have to observe the basic period of notice of four weeks, either to the 15th or to the end of a calendar month. The longer you have worked for the same establishment, the more notice it will have to give you to terminate your contract. Once you have worked there for two years when over 25 years of age, the minimum period of notice is one month to the end of a calendar month. The statutory period increases by one month each time you complete your 5th, 8th, 10th, 12th and 15th year working for the same employer. The final increase, from six to seven months’ notice to the end of a calendar month, comes when you have completed 20 years of service. Your years of service for the same employer are not counted until you are 25 years old.

Any individual employment contract may include longer—but not shorter—periods of notice if the parties agree, and a collective agreement may include either longer or shorter periods. Under the Unfair Dismissal Protection Act (Kündigungsschutzgesetz), termination with notice is socially justified and legally effective if it is based on reasons relating to the employee’s person, the employee’s conduct, or compelling business requirements that rule out the possibility of continuing to employ the person. The Unfair Dismissal Protection Act applies to establishments with more than five employees (when determining the number of employees, part-time employees are counted in proportion to their working hours, and trainees are ignored). An employment contract can be summarily terminated (that is, terminated without notice) in circumstances such that it would be unreasonable for either side to continue the contractual relationship.

The preconditions for limiting the term of an employment contract and the legal consequences of an invalid term limitation are governed by the Act on Part-Time Work and Fixed-Term Employment Contracts (Teilzeit- und Befristungsgesetz). Limited-term employment contracts terminate without notice when the contract period expires. A limited-term employment contract may be terminated with the agreed period of notice but before it the contract period expires if the possibility of termination is agreed in the employment contract or the applicable collective bargaining agreement.

As of 1 May 2000, any notice of termination or employment termination agreement and any agreement limiting the duration of a contract of employment must be in written form in order to have legal effect.

If employees wish to contest the social justification of termination with notice or the reasons for summary dismissal, they must bring a legal action with the local court (Amtsgericht) of competent jurisdiction within three weeks of the notice being served. There is also a three week limitation of action if an employee wishes to contest the validity of a term limitation in his or her employment contract.

THE RIGHT TO WORK PART-TIME

The Part-time and Limited-time Employment Act (TzBfG) in force since 1 January 2001 promotes part-time working by improving the legal framework for it. The Act includes provisions to prevent discrimination against part-time workers and to make it easier for employees to change from full-time to part-time employment and back again.

The centrepiece of the new law is the right to work part-time. If an employee wishes to work reduced hours and this is feasible at the employee’s place of work, the act assumes agreement on the matter between the employee and the employer. If agreement is not reached, the employer can refuse an employee’s application to work part-time for operational reasons.

The primary effect of the Act is thus to give employees greater control over their working hours, without hindering workplace initiatives to adopt part-time working and other flexible working arrangements.

Another aspect of the Act, equally important as the right to work part-time, is the prohibition of discrimination against part-time employees, including those in marginal employment. Employers may not without due reason treat part-time employees differently from full-time employees, for example in providing fringe benefits. The discrimination ban meets the reservations many employees still have about part-time work as regards career development opportunities, pay levels and general acceptance of part-time working. Part-time employees are not second-class employees.

WHAT COLLECTIVE LABOUR LAW COVERS

Collective labour law can be subdivided into two levels:

Collective bargaining law—the level dealing with relations between trade unions, employers' federations and individual employers.

The law on labour relations at the workplace—the level dealing with relations between employer and workforce in individual establishments.

Collective bargaining law

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

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

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

1) Protective

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

2) Organizational

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

3) Preserving industrial peace

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

Typical conditions laid down in collective agreements include:

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

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

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

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

The law on labour relations at the workplace

The law on labour relations at the workplace regulates the relations between a company or other organization and its employees. The term 'workplace' is used because, in larger organizations, the rules are likely to apply to specific establishments as well as to the organization as a whole. The basic philosophy is to ensure there is trusting co-operation among the trade unions and employers' federations represented at each workplace, to the benefit of employees.

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

In addition, the works council has to be involved in social welfare, personnel and economic issues. These participation rights are classed according to their scope:

- As rights of codetermination
- Or as rights of information and consultation.

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

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

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

Annual holiday entitlements

| | | |
|--------|----------------|---|
| 1880 | — | |
| 1903 | 3 days | Metalworking industries and breweries only |
| 1930 | 3–15 days | Depending on the industry and length of service |
| 1946 | 12 workdays | Statutory minimum holiday entitlement |
| 1963*) | 15–18 workdays | Statutory minimum holiday entitlement |
| 1974*) | 18 workdays | Statutory minimum holiday entitlement |
| 1995 | 24 workdays | Statutory minimum holiday entitlement |

*) In former West Germany

THE LAW

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

- The Civil Code
- Protection against Unfair Dismissal Act
- Federal Holidays Act
- Protection of Working Mothers Act
- Continuation of Pay Act
- Documentation of Employment Conditions Act
- Protection of Minors at Work Act
- Collective Bargaining Act
- Part-time and Limited-term Employment Contracts Act
- Works Constitution Act
- Senior Management Representative Committees Act
- Coal, Iron and Steel Industry Codetermination Act
- Codetermination Act

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

YOUR OBLIGATIONS

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

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

A number of other employer's and employee's duties may also be laid down in your contract of employment.

If you want to leave your job, you too must give sufficient notice (see next paragraph).

The basic statutory period of notice is four weeks to the fifteenth or last day of a calendar month.

The collective agreement affecting your employment conditions may specify a different period of notice (longer or shorter). If it does not simply state that it will abide by the collective agreement, your contract of employment can generally only stipulate longer periods of notice. Shorter periods of notice can be agreed for the first three months in individual employment contracts for temporary workers. In small establishments with no more than 20 employees, the four-week notice period can be agreed in individual employment contracts without stipulating a date to which notice must be served (thus allowing notice other than to the fifteenth or last day of a month). Employees cannot be required to give a longer period of notice than the employer has to give them.

Agreed working week, classified by working hours

| Working hours | Percentage of workers | | | | |
|-----------------------|-----------------------|-------|-------|-------|-------|
| | 2002 | 1998 | 1995 | 1980 | 1975 |
| 35 | 19.1 | 19.8 | 18.8 | — | — |
| 36 | 2.7 | 2.3 | 0.9 | — | — |
| 36.5 | 0.4 | 0.6 | 0.3 | — | — |
| 37 | 6.7 | 6.8 | 9.0 | — | — |
| 37.5 | 12.2 | 12.7 | 12.6 | — | — |
| 38 | 11.9 | 10.0 | 6.9 | — | — |
| 38.5 | 23.3 | 21.1 | 20.6 | — | — |
| 39 | 15.0 | 17.0 | 18.3 | — | — |
| 39.5 | 0.2 | 0.2 | 0.2 | — | — |
| 40 | 8.3 | 9.2 | 12.3 | 94.0 | 90.6 |
| 41 | 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 |
| Average working hours | 37.65 | 37.65 | 37.80 | 40.12 | 40.27 |

Industrial democracy

Udo M. still clearly remembers how his colleagues got him to stand for election to the works council: “Udo, you’ve worked here over 25 years, and hardly anyone knows the place better than you,” they encouraged the toolmaker and work-study expert. That was six years ago now—Udo was elected without further ado. Indeed, for the last two years he has chaired the nine-person works council at his company, a sanitary equipment manufacturer employing more than 300 people.

Now he is no longer required to keep up his former job, he has the time to devote himself to employees’ concerns, large and small. The works council also has its own say in the matter when employees are recruited or sacked. If the management wants to rationalize, or to introduce overtime working, Udo M. and his colleagues are usually informed of this at the planning stage. The works council discusses matters like these at a two-hour meeting once a week. It goes without saying that Udo needs to have an intimate understanding of industrial relations, and to know the collective agreements inside out. To make sure he does, he has attended a number of seminars provided by the trade union. “Our top executives,” says Udo, “would much rather sit round the table with a works councillor who knows what he is talking about than one who talks a lot but doesn’t know his stuff.”

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

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

A new law reforming the Works Constitution Act came into force on 18 July 2001. The Works Constitution Reform Act brings workplace industrial relations into line with today’s working and business environment, ensuring the continuing effectiveness of the workplace industrial relations model to the benefit of employers and employees alike. The 1972 Works Constitution Act had remained virtually unchanged for nearly three decades and had long ceased to be in keeping with the times. The reforms create adaptable, modern employee representative structures, make it easier to constitute works councils, extend representation to special forms of employment such as temporary work, improve the working conditions for the works council itself and for youth and trainee representatives, strengthen works council codetermination rights in job security and training issues, simplify the election procedure in establishments with up to 50 employees (or up to 100 in agreement with the employer) who are entitled to vote, promote equal opportunities for women in the workplace, and abolish the outdated distinction between blue-collar and white-collar workers.

YOUR RIGHTS

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

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

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

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

WHAT ESTABLISHMENTS HAVE A WORKS COUNCIL?

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

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

A central works council is constituted if a company has several operating locations, and a group works council if the company is part of a larger group.

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

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

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

THE RIGHT TO VOTE FOR THE WORKS COUNCIL

All employees aged 18 and over have the right to vote for the works council. Since the Works Constitution Reform Act came into force, temporary workers from manpower agencies can vote in the establishment where they work if they are deployed there for more than three months.

However, employees are not eligible to stand for membership until they have spent at least six months working for the same establishment, or elsewhere in the same company or group.

TASKS OF THE WORKS COUNCIL

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

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

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

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

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

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

If structural changes to the workplace are proposed (such as cutbacks, or closing down or relocating operations), the works council may in some circumstances be able to enforce a plan, known as a 'social plan,' to compensate for or to alleviate the economic disadvantages to the employees involved.

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

- New appointments
- Gradings
- Regradings
- Transfers

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

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

Furthermore, the works council has the right to contest routine dismissals. If, for example, your employer has given you due notice of dismissal, the works council has contested this on one of a number of legally admissible grounds, and you have filed an action for unfair dismissal, your

employer will initially be forced by the law to keep you on in your job if you so demand. Only the labour court can relieve your employer of this duty to keep you on.

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

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

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

THE LAW

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

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

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

COMPOSITION OF THE WORKS COUNCIL

The size of the works council depends on the size of the workforce at a particular establishment:

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

Larger workplaces have correspondingly larger works councils.

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

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

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

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

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

Codetermination

Hubert B. got actively involved on his colleagues' behalf early on in his life: the supermarket manager was just 24 years old when he first stood for election to the works council, and was elected to chair it only ten years later. Mr B. likes to have things talked out openly, so his colleagues later voted him on to the supervisory board of the company, which employs around 27,000 people at more than 1,200 outlets. Now 53 years old, Hubert B. has held his seat on the board for seven years.

Four times a year, he goes away to company headquarters, where supervisory board meetings are usually held. There are nine other employee representatives alongside him on the board, three of whom have been appointed by trade unions. Another ten members are appointed to represent shareholder interests. The meetings always have a long agenda: top executives deliver comprehensive reports on the company's performance and development, and they put proposals such as capital spending plans, the establishment of new outlets or property acquisitions to the vote of the supervisory board. Hubert B. enjoys his work on the board very much: "We employees pick up a lot of valuable information here, and we are allowed to share in the decisions on how our company should develop," he explains.

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

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

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

YOUR RIGHTS

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

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

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

- Appoint or dispense with the services of top executive managers (who sit on the lower-tier, executive board). This does not apply in a partnership limited by shares (KGaA).
- Gather comprehensive information on all of the company's business affairs

- Impose a requirement that important corporate decisions, on matters such as large capital projects or rationalization measures, must have the supervisory board's approval.

CODETERMINATION IN LARGE COMPANIES

Incorporated firms not in the coal, iron and steel industries (which have their own codetermination rules) and employing more than 2,000 people, either directly or in subsidiary companies under their control, are subject to the Codetermination Act of 1976. The Act provides that a company's supervisory board must be made up of employee and shareholder representatives in equal measure. Despite this, the company's owners do have slightly more say, since the chairperson—who in practice is invariably a shareholder representative—has an additional casting vote to ensure that a majority is obtained whenever the board has come to a tied voting decision at the second attempt. Moreover, one of the employee seats on the board is always occupied by a management representative. In companies outside the coal, iron and steel industries, the employee representatives on the supervisory board do not have a right of veto when the labour relations director (who sits on the executive board) is appointed.

How Employee Board Representatives are Chosen

All 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.

In companies with up to 8,000 employees, the law provides for direct election unless a majority of employees express a preference for a delegate voting system.

In companies with more than 8,000 employees, the reverse is true: the law provides for a delegate election unless a majority decides that a direct ballot should be preferred.

Election of Shareholder Representatives

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

Election of the Chairperson

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

***Important:** If a candidate does not attain the necessary majority, a second ballot is held under different rules. This time round, the shareholder representatives elect the chairperson, and the employee representatives the vice-chairperson.*

The Executive Board

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

***Important:** Candidates for election to the executive board must also attain a two-thirds majority to be successfully elected. If a candidate fails to attain this, a mediation committee is set up. If an absolute majority still cannot be achieved, the supervisory board's chairperson has an additional casting vote in a further ballot.*

The same procedure is used to elect a labour relations director who is accorded equal status with the other members of the executive board. This director's area of responsibility will primarily cover personnel and employee welfare matters.

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 anywhere else. In these industries, the rules apply to any incorporated firm with more than 1,000 employees.

The Supervisory Board

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 eleven members, but the number may increase to 15 or 21 in larger companies.

In an 11-person supervisory board, the shareholder and employee 'sides' will have five members each. Two of the five members representing employees must themselves work for the company. The other three come from outside, and are recommended to the works council by the executives of the trade unions that operate within the company.

All of the employee representatives are first selected by the works council and then proposed to the shareholders' annual general meeting for election to the supervisory board. This is only a formal procedure, though, as the shareholders' meeting does not have the power to reject the proposal.

The supervisory board then itself proposes its own neutral '11th member' whose casting vote can decide the issue whenever a board decision is tied.

Executive Board and Labour Relations Director

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

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

CODETERMINATION IN SMALLER COMPANIES

Employee representatives have to make up one third of the membership of the supervisory board in incorporated firms with 500 to 2,000 employees.

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

THE LAW

In the coal, iron and steel industries, the key pieces of legislation are the Coal, Iron and Steel Industry Codetermination Act of 1951 and the Supplementary Codetermination Act of 1956. The 1976 Codetermination Act covers large companies with more than 2,000 employees in other industries.

Codetermination in smaller incorporated firms is governed by the Workplace Labour Relations Act of 1952.

Composition of the Supervisory Board

The supervisory board's membership consists of equal numbers of shareholder and employee representatives. The board must include:

- Six representatives from each side in a company with up to 10,000 employees
- Eight representatives from each side in a company with over 10,000 and up to 20,000 employees
- Ten representatives from each side in a company with more than 20,000 employees.

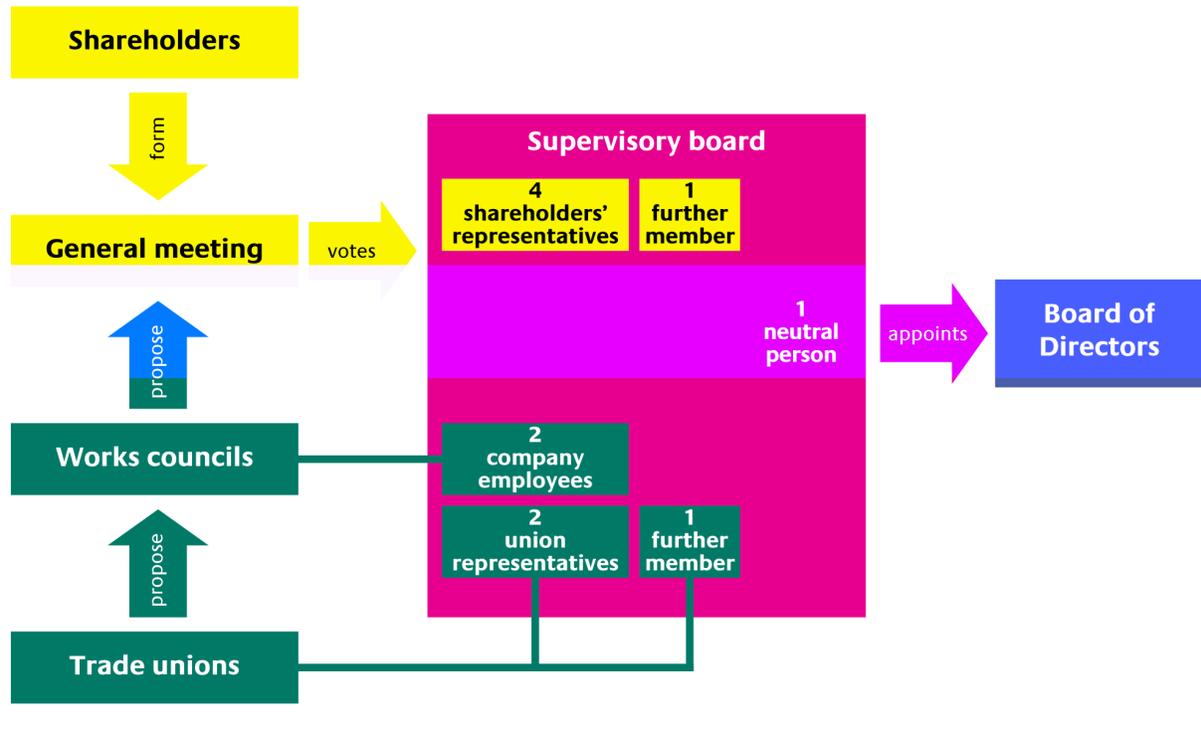
A company may opt for a larger supervisory board than is called for in the Act, writing this into its articles of association. Companies required to have a 12-person supervisory board may thus elect to have a 16 or 20-person board, and those required to have 16 members may raise the number to 20.

The trade unions acting within a company or group are entitled to have their representatives occupy some of the employee seats on the supervisory board. They may claim:

- 2 seats on a 12 or 16-person supervisory board
- 3 seats on a 20-person supervisory board

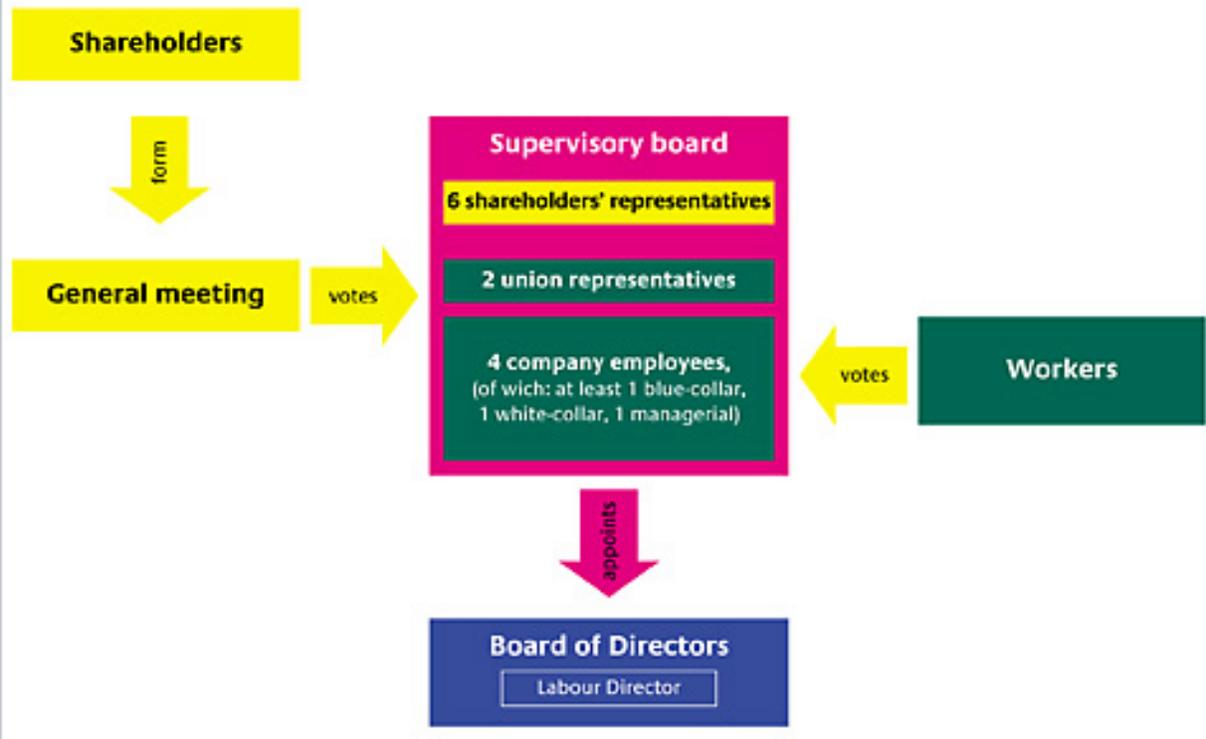
CODETERMINATION IN THE IRON AND STEEL INDUSTRIES

(basic model: 11-person supervisory board)



CODETERMINATION UNDER THE CODETERMINATION ACT 1976

(example: 12-person supervisory board)



Promotion of employee savings

Savings supplement? When Claudia K. first heard this mentioned, it didn't mean anything to her at all. Then her employer told her more about the system: The firm would contribute 26 euros a month as a supplement to her regular salary if she arranged for it to be deposited in any of the investment types listed by the 'Capital Formation Act'.

One of her colleagues advised her to start an equity savings plan, under which her money would be invested in a unit trust. She went to her bank to discuss this, and they recommended a fund that had performed well over the last ten years.

Since then, Claudia's employer has regularly transferred 34 euros a month into her savings plan. On top of the 26 euros contributed directly by the employer, Claudia herself asked for 8 euros a month to be transferred out of her salary. She will use the money she regularly invests in the unit trust to boost her old-age pension.

Claudia has another 40 euros of her monthly salary paid into a home ownership savings plan, to save up for an owner-occupied apartment so that she need not pay rent when she retires.

Because she and her husband do not have a high income, Claudia receives a 130-euro savings bonus from the state on 888 euros contributed by her employer and herself each year. The bonus is 20% on the first 408 euros invested in the unit trust and 10% on the first 480 euros invested in the home ownership savings plan.

Most employees in Germany regularly save a proportion of their incomes to ensure that they have some capital put by for later life. The government supports these endeavours in two ways:

- By paying workers in the low-to-middle income brackets a bonus on employee savings contributions.
- By granting tax and national insurance exemptions to workers whose employers allow them to take a stake in the firm at a discount price or free of charge.

You can naturally also make use of the opportunities to encourage saving that are available to all citizens. These include the home ownership savings bonus (Wohnungsbauprämie), tax concessions for home-owners (Eigenheimzulage) and the tax exemption on capital gains from life assurance policies.

STATE BONUS ON EMPLOYEE SAVINGS

You are entitled to a government savings bonus (Sparzulage) for employees if your employer pays a savings supplement—on your behalf—into one of the investment types qualifying for support, and if your income is below a set limit.

The two main types of investment that qualify for government support when a savings supplement is paid into them are home ownership savings plans and equity investments.

Who is entitled to the savings bonus?

1. The savings bonus is payable to employees, including trainees, and to civil servants, judges and soldiers.

2. Also, your taxable annual income must not exceed EUR 17,900 if you are single or EUR 35,800 if you are married, taking into account all earnings and all tax deductions. For example, you will still qualify:

- with a gross monthly income of around EUR 1,750 if you are single
- with a gross monthly income of around EUR 3,400 if you are married without children and are the sole breadwinner.
- with a gross monthly income of around EUR 4,375 if you are married with two children and are the sole breadwinner.

What you must do to get your savings bonus

To receive the state savings bonus, you have to get your employer to pay a savings supplement on your behalf, and to place the money in one of the investment types qualifying for government support.

You will not receive a bonus if you pay the money in yourself. Instead, you must tell your employer where to transfer it. First of all, decide how much you want to save in each type of investment. Then sign a savings plan with the company of your choice. To receive the maximum bonus you need two savings plans.

***Important:** Obtain advice from your bank, building society or investment company, who will also give you purpose-made forms. Your employer is obliged by law to transfer the money to your chosen investment account.*

What types of employee savings qualify for the savings bonus?

The savings bonus is paid on certain types of employee savings. These can be amounts provided by your employer in addition to or as part of your pay. Your employer invests the money on your behalf rather than paying it out to you directly.

Most employees receive a savings supplement from their employer **in addition to their regular pay**. This has been written into many collective agreements or, failing that, is often part of an in-house agreement or an individual employment contract.

Alternatively, you can have your employer invest **part of your regular pay** in one of the types of investment that qualify under the law. Your employer is legally obliged to do this if you so require.

So you need not miss out on the state savings bonus even if your employer does not pay a savings supplement. And if you do receive a savings supplement from your employer, you can add to it from your salary and claim a higher bonus.

How can the money be invested?

The main qualifying investment types are:

- Home ownership savings plans
- Home mortgage repayments
- Equity investments

What types of equity investment are permitted?

Various types of equity investment are eligible for the state savings bonus:

- Units in unit trusts
- Shares in listed companies
- Employee holdings

The agreements required by law for buying units and shares are available from banks and investment companies.

Employee holdings cover various employee asset participation models, for example employee shares, participation as a dormant partner (one with no say in the company's affairs and no liability for its debts), and loans. So far, only a small number of companies offer asset participation in this way.

Equity investments can be an opportunity, but also involve risks. It all depends on how the value and earnings of the companies you invest in develop over time. The values of shares can fluctuate wildly. This may be to your advantage or to your disadvantage when you sell the shares.

***Important:** Never enter into an investment agreement on the spur of the moment.*

Many people believe that the state's involvement in employee savings schemes guarantees that their investment is free of risk and the investment plans on offer are all equally good. This is not the case, and the state cannot take over your own responsibility for finding out which company or fund to invest in and whether it is a worthwhile investment.

Here is a piece of advice: Be on the look-out for excessive costs, which might not be apparent at first glance. These might, for example, take the form of acquisition fees, agents' commissions, surcharges, management fees, or account charges.

Be wary of investment schemes with other commitments that you do not need for the savings bonus. Cancelling such agreements can be expensive. A comparison with other, simpler forms of investment can be very worthwhile.

If you don't understand the verbal explanations, the brochures or the small print in the investment plan itself, ask questions and talk to your bank or the citizens' advice centre (Verbraucherzentrale or Verbraucherberatungsstelle). It is well worth the trouble, because the wrong investment decision could cost you a lot of money.

What about other types of investment?

Life assurance policies and savings certificates that are not linked to the purchase of shares do not qualify for the state bonus. You can have your employee savings contributions paid into a life assurance policy or savings certificates, but you will not receive the state bonus.

These types of investment make sense when you are above the income limit—or, if you are on a lower income, you may wish to do without the savings bonus so that you can afford to keep up a life assurance policy that comes under the Act, using your employee savings contributions to pay the premiums.

How long is the money tied up?

Regardless of the form of investment you choose for your save-as-you-earn scheme, your capital will stay locked up for a waiting period of quite a few years. If you have opted for some form of equity investment, for example, the waiting period is six or seven years, and if you have a home

ownership savings plan it is seven years. You are not free to use your capital at your own discretion until the waiting period is over.

If you use the money before the end of the waiting period, you lose your claim to the savings bonus. Exceptions are made in the event of marriage, unemployment, incapacity to work and on becoming self-employed.

How much is the bonus?

The savings bonus is 10% on up to EUR 480 in employee savings contributions paid into a home ownership savings plan or used to pay off a mortgage on residential property.

Alternatively or in addition, there is a 20% savings bonus on up to EUR 408 in employee savings contributions invested in equities. For workers whose main place of residence is in eastern Germany, the bonus is 25% for employee savings contributions paid in up to 2004.

In total, then, the savings bonus is paid on up to EUR 888 in employee savings contributions each year. The maximum bonus is EUR 130 in western Germany and EUR 150 in eastern Germany.

How to claim the savings bonus and how it is paid out

You need to claim the savings bonus with your yearly income tax return. The bank or other financial institution which is managing your investment will provide you with a certificate showing the amount of savings supplement (plus your own contribution) qualifying for the bonus which has been paid in during the year, and when the statutory waiting period is due to come to an end. You must send or hand in this certificate along with your application. The tax office assesses your bonus and pays it out at the end of the waiting period.

Employee savings and the savings bonus: example

A single secretary on EUR 1,550 monthly pay before deductions is entitled to EUR 40 a month in savings contributions from her employer. She wants to take this entitlement and claim the maximum possible bonus.

She has the employer's share, totalling EUR 480 a year, paid into a home ownership savings plan. Additionally, she saves just under EUR 34 a month from her salary to pay EUR 408 a year into a unit trust. Her employer deducts this amount from her salary and transfers it to her investment account. Each year, the secretary earns a savings bonus of EUR 48 for the home ownership savings plan and EUR 82 for her payments into the unit trust.

Result: Seven years at EUR 480 a year on the home ownership savings plan and six years at EUR 408 a year in the unit trust give a total saved amount of EUR 5,808. Savings bonuses totalling EUR 828 and a capital gain of approximately EUR 1,000 yield an available sum after seven years of just under EUR 7,650.

A note on these calculations: The capital gain on a unit trust is made up of dividends and growth in value. We have assumed annual growth of 6% after deduction of all costs. This can vary considerably depending on the unit trust and the stock market. The dividends are reinvested. A 6% net rate of interest is assumed for the home ownership savings plan. This rate also varies according to the bank and savings plan.

TAX CONCESSIONS ON ASSET PARTICIPATION GRANTED TO EMPLOYEES

Your own employer may be among those offering a stake in the company to their employees at discount prices or free of charge. If so, you too will have the opportunity to benefit from special concessions on this form of investment. Note that offering employees a stake in the company is a voluntary action on the part of the employer, who is under no legal obligation to do so.

SPECIAL CONCESSION: If you acquire a stake in your employer at a discount or free of charge, this counts as a monetary gain and as part of your pay. However, you will not be taxed on this gain provided that it is no more than half of the total value of the holding, and does not come to more than EUR 154 in any one year. The tax-free benefit is also free of social insurance and other deductions. There is a six year waiting period before you can sell or otherwise dispose of your holding.

You can combine these tax breaks with the savings bonus. If you use employee savings contributions to acquire an employee holding at a reduced rate, you can claim the savings bonus. Note that your employer is not under an obligation to use employee savings contributions to pay for shares in the company.

THE LAW

Employee savings schemes are promoted under:

- The Fifth Capital Formation Act
- The Income Tax Act (Section 19a).

INFORMATION

Before entering into any investment agreement, you ought to seek advice from your bank, building society or employer. They should be able to help you decide what to do: the possibilities for saving as you earn with government support today are not only very varied, but sometimes also quite complex.

Health and safety at work

Stefan K., an employee at a firm of boiler manufacturers, had been waiting long enough for the new machine when it finally came. It promised to make things much easier for him, since it was able to drill and tap eight holes in a cast iron furnace door at a time. But what 52-year-old Stefan had not reckoned with was the deafening noise it produced. It also made a high-pitched screeching noise when drilling. Stefan did have ear protectors to wear, but these caused yet other problems: they made him perspire heavily around the ears, and he could barely make himself understood with his workmates at neighbouring machines. Plus, he still found the noise a nuisance despite the earphones.

Stefan complained to the works management. The liability insurance inspector took some readings which confirmed that the noise could impair Stefan's health, with the danger of hearing loss as an occupational injury. The liability fund demanded that his employer reduce the noise level. The company did this by building an acoustic enclosure round the machine. Stefan now raises a wide door, inserts the workpiece, closes the door and starts the machine. This works just as fast as before but is much less noisy—and better for Stefan's well-being.

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

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

Health and safety at work affects the following interrelated areas:

- The workplace, including workplace hygiene
- Tools, machinery, plant and equipment
- Hazardous substances
- Prescribed working hours
- Protection of specific groups
- Organization of workplace health and safety
- Preventive occupational health care
- Load handling
- Biological agents

YOUR RIGHTS

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

Children and young people enjoy special protection under the Protection of Minors at Work Act. By law, only young people aged 16 or over can go to work.

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

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

LEGAL FOUNDATIONS

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

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

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

INFORMATION

Do you have a question about health and safety or accident prevention? If so, you can contact several places for advice:

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

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

Some typical health and safety laws

WORKING HOURS ACT

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

PROTECTION OF MINORS AT WORK ACT

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

PROTECTION OF WORKING MOTHERS ACT

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

HEALTH AND SAFETY AT WORK ACT

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

PERSONAL SAFETY EQUIPMENT REGULATIONS

The personal safety equipment regulations (PSA-Verordnung) now provide uniform rules for the selection, provision and use of personal safety equipment in all sectors. Employers must also ensure that employees are instructed in the proper use of such equipment.

LOAD HANDLING REGULATIONS

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

CONSTRUCTION SITE HEALTH AND SAFETY REGULATIONS

The construction site health and safety regulations (Baustellenverordnung) came into force on 1 July 1998. Their provisions aim to reduce the enhanced accident and health risks inherent in construction work relative to other industries and to improve the safety and health of construction workers. The main elements of the regulations include communication of prior notice in a specified manner, the drawing up of a safety and health plan, and the appointment of a coordinator. These elements are calculated to improve the planning and coordination of construction projects so that dangers to workers can be identified and eliminated at an early stage.

YOUR DUTIES

Not all dangers can be completely removed or prevented by technical and organizational means. Some workplace hazards will always remain. It is your duty as an employee to be safety-conscious and to help your employer with protective measures. This is laid down in the Health and Safety at Work Act.

The accident prevention codes also lay down rules of conduct for all employees who deal with tools, plant, machinery and equipment. As an employee, you must also observe the rules of conduct that your employer has drawn up for your specific place of work. If there are health hazards at your workplace, you can claim preventive occupational health care.

VIDEO DISPLAY WORKSTATION REGULATIONS

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

WORK EQUIPMENT REGULATIONS

The Workplace Safety Regulations (Betriebssicherheitsverordnung), which entered into force in October 2002, combine all workplace safety regulations on the use and operation of tools and machinery that require supervision.

The regulation incorporates all provisions from earlier work equipment regulations (Arbeitsmittelbenutzungsverordnung) and thus contains protection objectives and provisions to ensure that the use of tools and machinery does not endanger employees' health and safety.

The Workplace Safety Regulations also contain provisions adopted from eight separate regulations on the operation of equipment that requires supervision. It lays down rules on the bringing into operation and use of steam boilers, pressurised containers, elevators and other equipment. This involves regular employee safety checks to ensure they are not endangered by the equipment they work with.

WORKPLACES REGULATIONS

The workplaces regulations (Arbeitsstättenverordnung) specify how factories, workshops, offices, warehouses and shops must be laid out and equipped with regard to dimensions, ventilation, lighting and temperatures—to name but a few factors.

EQUIPMENT SAFETY ACT

The Equipment Safety Act (Gerätesicherheitsgesetz) covers the marketing and display for promotional purposes of tools, equipment, machinery and numerous consumer products. It allows such items to be marketed and displayed only if they meet various safety and other requirements.

Technical equipment, when used for its designated purpose, must not be a danger to the health or safety of users or others. The responsibility lies with all who market technical equipment, including manufacturers and importers.

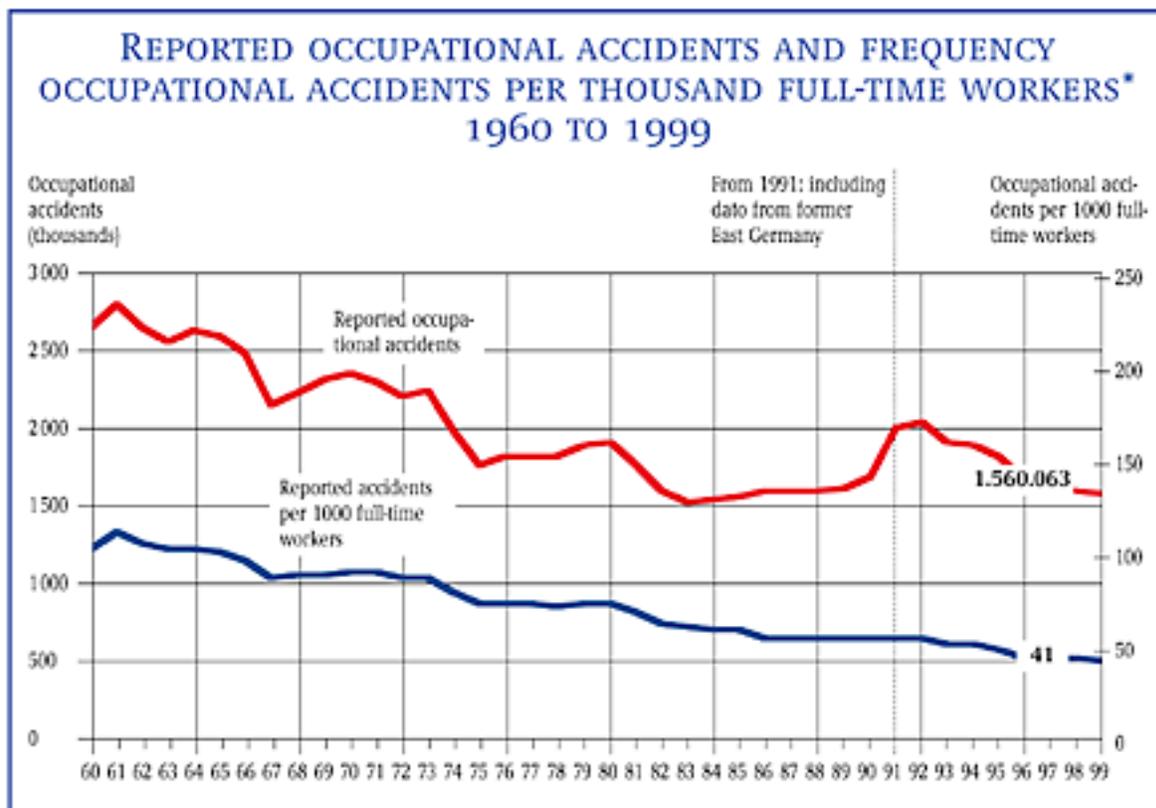
The Equipment Safety Act provides for testing of technical equipment by an independent testing body. Equipment found to be safe may carry the GS mark (for 'geprüfte Sicherheit' or 'safety tested').

The Equipment Safety Act also contains provisions on the installation and operation of equipment that requires special supervision due to the degree of danger involved in its use. It authorised the Federal government to issue regulations on the installation and operation of such equipment to ensure employee safety, which it has since done in the form of the Workplace Safety Regulations (Betriebssicherheitsverordnung).

HAZARDOUS SUBSTANCES REGULATIONS

The hazardous substances regulations (Gefahrstoffverordnung) contain stipulations on the classification, labelling and packaging of certain hazardous substances when these are brought into circulation and lay down protective measures for employees using such substances. These include substances, preparations and products with specific physical or chemical properties, the most dangerous categories being flammable, toxic, corrosive and carcinogenic substances.

Employers must implement graded safety measures based on the degree of harmfulness, taking account of substance characteristics and the working conditions in which they are used.



* *Full-time workers: For the purposes of this chart, a full-time worker is a notional unit used for calculating accident frequencies. Different working hours (part-time, overtime, etc.) were prorated to arrive at the full-time figure. This figure also includes voluntary workers, blood donors, unemployed workers etc. who are covered by occupational accident insurance.*

BIOLOGICAL AGENTS REGULATIONS

The biological agents regulations (Biostoffverordnung) entered into force in Spring 1999 and protect the five million workers who come into contact with biological agents (pathogens) in their work in the biotechnical product research, food, agriculture, waste disposal, waste water and health care sectors. To cover this wide area, the regulations take the form of uniform and flexible

basic rules so that employers can define and implement protective measures to deal with the specific hazards that apply in each case.

This flexibility is essential, not only due to the broad range of areas covered by the regulations, but also because biological agents present special challenges in terms of health and safety. New or modified pathogens must be expected to appear – or known ones to make a reappearance – at any time. The reasons for this include spontaneous mutation, the spread of resistant strains, and also new industrial processes, the rapid pace of development in bioengineering and genetics, and increased travel in the general population. All this is bound to affect and alter the range of biological agents arising in the workplace – as demonstrated especially by the identification of BSE-positive cattle in Germany and the threat of bioterrorist attacks after 11 September 2001. In both these cases, the prevention system of the German biological agents regulations came into its own since the regulations provide the framework for immediate, specific protective action to be identified, decided and published in the form of resolutions of the Biological Agents Committee (ABAS).

COMPANY DOCTORS, SAFETY ENGINEERS AND OTHER OCCUPATIONAL SAFETY OFFICERS ACT (SAFETY AT WORK ACT)

The Arbeitssicherheitsgesetz places employers under a duty to appoint appropriately qualified officers to support them in occupational health and safety matters, including ergonomic workplace design. The duties of the occupational health and safety experts include advising employers in the entire range of health and safety factors in the working environment. This begins with the planning of operating facilities and the purchasing of equipment, and extends to advising employers in the assessment of working conditions. Among other things, company doctors perform medicals and advise employees in work-related health matters.

MINISTRY OF LABOUR AND SOCIAL AFFAIRS PROGRAMME OF MODEL PROJECTS FOR THE COMBAT OF OCCUPATIONAL DISEASES

Since 1993, the Federal Ministry of Labour and Social Affairs has funded model projects for the combat of occupational diseases within the framework of a special programme. Modern occupational health and safety focuses on systematic prevention and on humane working conditions. Its aims are early detection and systematic combating of all occupational health hazards. The focus of the programme is on supporting preventive occupational health and safety in practice.

As part of a funding programme to improve working conditions in call centres, two projects have been funded which show what health hazards can arise in call centres and how call centre working conditions can be designed to take health and safety considerations into account. The outcomes of the projects are presented in a form to which practitioners can relate at www.ccall.de (private sector) and www.ver-t-icall.de (public sector). A model project to promote occupational health and safety among business startups aims to make business startups more aware of occupational health and safety issues and to persuade them to consider such issues early on when planning and establishing their business. Additionally, various projects are currently being funded on health and safety in the construction and nursing care industries.

SEVENTH BOOK OF THE SOCIAL CODE

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

Protection of working mothers

Petra W. had always enjoyed her work in the solicitor's office. But 29-year-old Petra was pleased to leave it all the same, six weeks before her first child was due. Her boss, himself a father of two, had spared her the worst of her usually heavy workload while she was pregnant. But she was glad of the six weeks' maternity leave, especially since she continued to receive her normal take-home pay. It gave her plenty of time to prepare for the happy event. In the days and weeks that followed, life revolved around the young family. Petra was not allowed to work during the first eight weeks after the birth, even if she had wanted to. But she continued to receive her usual pay throughout, partly from the statutory health insurance fund and partly from her employer. Today, Janina is six months old, and Petra has taken parental leave. In a year's time, she plans to go back to work on a part-time basis during her parental leave.

During pregnancy, working women and their children need extra protection against dangers, overwork and workplace health hazards. This protection is provided by the Protection of Working Mothers Act, which forms an essential part of the law on health and safety. Together with child-raising allowance and parental leave, the protection of working mothers is also an important part of family and social policy.

OVERVIEW

The law provides expectant mothers with special protection against workplace hazards. If you are employed, you are also protected against dismissal from the beginning of pregnancy to four months after the birth of your child. The statutory six weeks of maternity leave before and eight weeks after confinement mean you can dedicate yourself to your family, and recover without the additional burden of employment. The statutory period of maternity leave is extended to 12 weeks after a multiple birth and longer after a premature birth (e.g. birth weight under 2,500 g) (the portion of leave that is 'lost' through premature birth is now appended to the 12 week extension period). The eight-week statutory leave period is now also extended by the portion of leave lost through an early delivery that is not a premature birth in the strict medical sense. During this period you receive maternity benefit. Afterwards, you and the child's father can claim a child-raising allowance and parental leave. For more information on this topic, please see the first chapter, Child Benefit, Child-Raising Allowance, Parental Leave and Maintenance Advance. With the exception of maternity benefit, the statutory benefits are provided as of the birth of the child. If you find yourself in need while pregnant, visit your nearest pregnancy advice centre, where you can apply for help from the national foundation 'Mother and Child—Protection for Unborn Children' (such help is conditional on a visit to the advice centre *before* the birth).

WHAT ARE THE BENEFITS?

Protection against Dismissal

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

Dismissal is only possible in exceptional cases, subject to prior approval of the relevant supervisory body (usually the labour inspectorate).

Full protection against dismissal was introduced for home helps in 1997.

You yourself can hand in your notice, however (either with the usual period of notice or to the end of the statutory leave period).

You are given further protection from dismissal if you take parental leave at the end of the statutory leave period. This protection begins eight weeks before parental leave starts – or on the date of notification if the employer is notified less than eight weeks in advance – and ends when your parental leave terminates. Exceptions may be allowed in special circumstances. You yourself can terminate your employment in one of two ways:

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

Workplace Facilities

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

For example, if you are an expectant or nursing mother and your job requires that you stand all the time, under the Protection of Working Mothers Act your employer must provide you with a place for you to sit down from time to time. If, on the other hand, you are required to sit all the time, your employer must allow you to take brief pauses.

Protection has Priority

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

The Act lists a number of generally prohibited activities. Expectant and nursing mothers may not:

- Perform heavy physical work
- Perform tasks that expose them to health risks through noxious substances, radiation, dust, gases, vapours, heat, cold, dampness, vibration or noise
- Do piecework
- Do any other work where pay is linked to working speed
- Do assembly-line work involving a set working speed
- Perform tasks that involve
 - regularly moving or transporting loads over 5 kg, or occasionally moving or transporting loads over 10 kg, without mechanical aid
 - frequent and considerable stretching or bending
 - continual squatting or stooping
 - enhanced risks of accident through slipping, tripping or falling
 - exposure to risks of occupational disease
- Work on machinery or equipment (such as foot-operated machines) whose operation places heavy strain on the feet
- Work more than 8 hours a day or 90 hours in any two consecutive weeks
- Work at night (between 8 p.m. and 6 a.m.)

- Work on Sundays or public holidays—though again there are exceptions to the general ban on night and Sunday working (see under Special Provisions, below)

Regular work driving transport vehicles is not allowed after the third month of pregnancy. For example, you cannot then drive a bus, lorry or taxi. This also applies to sales representatives who spend more than half their working hours on the road. After the fifth month of pregnancy you may not do work that requires you to stand for more than four hours a day unless broken up by periods of sitting or walking.

You may also be personally banned from performing certain tasks on medical grounds. Besides the prohibited activities listed above, you cannot continue to perform your usual work without making any changes if a medical examination shows that doing so would endanger your health or that of your child. Your employer might then assign you other work on the same pay. In certain cases, a reduction in working time may suffice.

A ban on medical grounds is different from a sick note. You will not lose any pay, because you are entitled to maternity pay (not to be confused with maternity benefit during the statutory period of maternity leave) at the same rate as your average take-home pay.

Special Provisions

Expectant and nursing mothers under 18 enjoy special protection: They may not work more than eight hours a day or a total of 80 hours in any two consecutive weeks.

There are limited exceptions to the ban on night work and Sunday working for expectant or nursing mothers who:

- Work in certain industries, such as catering
- Work in a hospital or home
- Work as performing artists up to 11 p.m.

Where work on Sundays or public holidays is permitted under one of the above exceptions, the expectant or nursing mother must be allowed a rest period each week of at least 24 hours immediately following a night's rest.

Statutory Maternity Leave

The period of statutory maternity leave begins six weeks before the child is due. You may only be employed during this period if you expressly wish to work.

Important: *You can retract your decision to work at any time during the six weeks before your child is due.*

However, you may not work at all during the statutory period of leave following childbirth (except in the tragic event of the infant's death, in which case the mother may work if she expressly wishes to do so). The statutory leave period is eight weeks from the day your child is born, or twelve weeks after a premature or multiple birth (now longer for premature births and early deliveries that are not premature births in the strict medical sense; see 'Overview').

WHO IS ENTITLED TO PROTECTION?

The Protection of Working Mothers Act covers all working women:

- Full-time workers
- Part-time workers

- Home helps (fully protected since 1997)
- Home workers
- Public service employees
- Trainees

Your nationality is irrelevant. The only requirement is that your place of work is in Germany.

Housewives and self-employed women are not entitled to protection under the Act (though they can claim maternity benefit at the same rate as sickness benefit if they have paid sufficient voluntary contributions into a statutory health insurance fund). Housewives and self-employed women can, however, claim child-raising allowance (see the chapter on Child Benefit, Child-Raising Allowance, Parental Leave and Maintenance Advance). Special provisions apply for public servants (Beamte).

Maternity Pay

You will receive maternity pay (Mutterschutzlohn) at the same rate as your normal take-home pay if you are told, on grounds relating to your pregnancy or maternity, to work less or to stop work altogether before or after the statutory period of maternity leave.

Maternity Benefit

You may be able to claim maternity benefit (Mutterschaftsgeld) during the statutory periods of maternity leave. Maternity benefit is paid subject to certain requirements (see under Conditions for Receiving Maternity Benefit, below).

Medical Care

Besides the benefits described earlier, you are entitled to various other benefits and services if you are insured with a statutory health insurance scheme:

- Regular preventive check-ups
- Services of a doctor and a midwife
- Drugs, dressings and remedies
- In-patient delivery and care in hospital or a maternity clinic
- Home care and home help

Birth allowance

You will receive a EUR 77 birth allowance (Entbindungsgeld) if you are insured with a statutory health insurance scheme and are not entitled to maternity benefit.

CONDITIONS FOR RECEIVING MATERNITY BENEFIT

You can claim maternity benefit from the state health insurance fund if you satisfy any of these requirements:

- You are insured with a statutory health insurance scheme and are in work.
- You are not an employee but are insured as a member of a statutory health insurance scheme and are entitled to sickness benefit—for example as a self-employed person.
- If you are unemployed, are insured with a statutory health insurance scheme, are entitled to unemployment benefit, unemployment assistance or a cost-of-living allowance under Book III of the Social Code.

AMOUNT OF BENEFIT

The amount of maternity benefit paid by your statutory health insurance depends on your average take-home pay in the last three calendar months, or thirteen weeks, before the statutory period of maternity leave (before the birth). The maximum amount is EUR 13 a day.

***Important:** In most cases, your average take-home pay in this period will have been higher. You can then claim a top-up amount from your employer. This is the difference between the basic rate of EUR 13 and the applicable take-home pay figure.*

If you are not an employee but are in a statutory health insurance scheme and are entitled to sickness benefit—for example as a self-employed person—you will be paid maternity benefit at the same rate as sickness benefit.

If you are unemployed and entitled to unemployment benefit, unemployment assistance or a cost-of-living allowance under Book Three of the Social Code, you will be paid maternity benefit at the same rate as the benefit, assistance or allowance you were receiving before the statutory period of maternity leave (before the birth).

If you have private health insurance, or are insured with a statutory health scheme through another member of your family or have no health insurance at all, and are employed at the beginning of the statutory period of maternity leave, you will receive maternity benefit from the state, up to a maximum of EUR 210. Benefit is paid in such cases by the Bundesversicherungsamt (Federal Insurance Office) in Bonn (tel. 0228 619-1888). You will not attain your accustomed net income in this case; the employer's contribution itself is the same amount as above.

***Important:** Maternity benefit is free of tax and social security deductions.*

While you receive maternity benefit you remain insured without paying statutory pension or health insurance contributions—as long as you were already insured and paid compulsory contributions, and have no other earnings that are subject to contributions. If you are a voluntarily member of a statutory health insurance scheme, however, you must continue to pay contributions.

THE LAW

The law on the protection of working mothers is set out in the Reich Insurance Code. The Farmers Health Insurance Act also has provisions on maternity benefit. These laws are implemented by state supervisory authorities.

INFORMATION

Your health insurance fund will be pleased to answer any questions about maternity benefit. A German language pamphlet on the protection of working mothers (Leitfaden zum Mutterschutz) is available free of charge from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, 53107 Bonn, Germany.

If you are not insured, please contact the Bundesversicherungsamt (Federal Insurance Office), Villemombler Strasse 76, 53123 Bonn; tel. 0228 619-1888.

Advice and information for unemployed people is available from local employment offices. Depending on your income, you may be able to claim help under the legal aid system from the local court (Amtsgericht).

Pension insurance

Willi S. has never been the flighty sort. Quite the contrary: when he was chief accountant in the old firm, Willi, now 73, more than once had to dissuade his boss from an over-ambitious expansion plan. There was no time for flights of fancy back then. So it will come as no surprise that he is still careful with his money now he has retired. Willi and his 70-year-old wife Anneliese have no financial worries: They long ago paid off their mortgage on the detached house they have lived in for the last forty years, and Willi and Anneliese S. have been saving all their lives. But mostly they live off their pension. "We can get by comfortably on it," says the 73-year-old. "I used to earn a good salary, and my wife went back to her job as a sales clerk once the children were out of the house."

Willi S. is enjoying his retirement. His biggest hobby is flying model aeroplanes. He has several small planes and gliders, all of which he built himself. He is off to the airfield with two fellow pensioners "whenever my wife lets me," as he says with a smile. When he's there, Willi does allow himself the occasional flight of fancy, too.

Welfare and pension insurance go hand in hand. For decades now, pension insurance has provided people with the financial security they need in old age.

WHO IS INSURED?

With some exceptions, all white-collar and blue-collar **employees** pay compulsory contributions to the state pension fund—as do trainees, disabled people employed at sheltered work-shops, and people on military or civilian service.

The contribution assessment limit for 2003 is EUR 5,100 a month in western Germany and EUR 4,250 in eastern Germany. This is not the limit for compulsory membership of the state pension fund; that is, even if you earn more, you must still pay contributions. The contribution assessment limit is the maximum amount from which your contributions to the state insurance fund are calculated, even if you earn more.

Not all **self-employed people** have to pay compulsory contributions. Those who must include **self-employed tradespeople**, though these may opt out after 18 years. **Self-employed artists and members of the publishing professions** have to pay contributions under the Artists Social Welfare Act if their annual income exceeds a set minimum, and until they have been five years in the profession—though they pay only half the contributions themselves. Contributions are subject to a certain minimum annual income which those new to the respective professions may not attain. The Artists' Social Welfare Fund (Künstlersozialkasse) in Wilhelmshaven decides who must pay contributions and also sets the rate.

As of 1 January 1999, you must also pay contributions if you are **self-employed** and in your self-employed capacity do not have any employees who must pay contributions themselves, and you primarily work on a long term basis for a single client or employer. You are considered to work primarily for a single client or employer not only if you are primarily under contract to one client or employer, but also if you are economically dependent upon such a client or employer.

People starting a new business can be exempted from paying contributions for up to three years. An exemption can also be claimed by people who are already near retirement age.

Under a transitional arrangement for those who have already made other provisions for old age, certain self-employed people can gain an exemption from contribution payments. To qualify for

the exemption, the person concerned must (a) have been aged 50 or older on 1 January 1999 or (b) have life assurance or a personal or company pension plan that dates from before 10 December 1998 and whose benefits and premiums were rendered equivalent to those of statutory pension insurance by 30 June 2000 or are so rendered within one year of the person becoming subject to compulsory pension insurance; the benefits are equivalent if the policy or plan pays out to the policyholder or to surviving dependants in the event of invalidity, survival beyond age 60 or higher, and death, while the premiums are equivalent if they equal or exceed the statutory contributions that the policyholder would otherwise have to pay. The exemption criteria can also be met with other equivalent forms of pension provision. The exemption must be applied for within one year of the person becoming subject to compulsory pension insurance. The earliest cut-off date for exemption applications was 30 June 2000. Exemptions apply retrospectively to 1 January 1999.

As of 1.1.2003, people who received benefits in lieu of pay from the Federal Employment Agency or who participated in a work promotion scheme receive a start-up grant upon entering into self-employment. Those founding what is known as an *Ich-AG* (a one-person enterprise: see page 12), are automatically insured under the statutory health insurance scheme for as long as they receive the grant.

Farmers are not insured with the state, but with a separate farmers' pension fund. This special system provides farmers with partial cover, which they supplement in other ways—often by selling the farm on retirement or claiming *Altenteil*, the right of German farmers to live on the farm after making it over to their children.

Self-employed people who are not required to pay compulsory contributions can apply to start doing so within five years of becoming self-employed. They then have the same rights and obligations as compulsory contributors.

Child-raising periods: Mothers and fathers are automatically insured during the initial child-raising period. Up to three years are credited for children born since 1 January 1992, and up to one year for children born earlier. These contributions are paid by the federal state.

Carers: You are automatically insured without paying contributions if you are in paid work for 30 hours a week or less and spend at least 14 hours a week looking after someone (say, a relative) who qualifies as being in considerable need of care. This improvement came in with the first stage of the new long-term care insurance system on 1 April 1996.

Claimants of income-replacement benefits continue to be compulsorily insured if they were so insured in the year before they began drawing benefit. If not, they can usually apply for compulsory membership of the pension fund. Income-replacement benefits include sickness benefit, injury benefit, transitional allowances, pre-retirement benefit, and early retirement pay. The contributions are paid by the agency awarding the benefit.

WHO IS EXEMPT FROM INSURANCE?

1. **Marginal employment:** You are exempt from insurance if you are in marginal employment, regularly working less than 15 hours a week and regularly earning not more than EUR 325 a month.

If you are employed under a EUR 325 contract only or earn less than EUR 325 a month and do not have a primary occupation for which you must pay contributions, your employer pays a 12 per cent lump-sum pension insurance contribution. If you are not already on a full old-age pension, the extra contributions will boost your pension and the period over which you pay them will go towards your pension qualifying period.

If you are in marginal employment and agree in writing with your employer to waive the exemption, you must pay contributions from then on until your employment is terminated. Anyone—except people on a full pension—can use this option provided that they do not have any other employment that is subject to contributions. You must top up the 12% lump-sum employer's share with a further 7.5% to make up the full contribution (of 19.5% from 1 January 2003). This gains you entitlement to all pension benefits, including rehabilitation, pension on account of reduced earning capacity, and credit months for an early-retirement pension. Employees on less than EUR 155 a month pay a minimum contribution based on EUR 155, on which the employee's share is credited. Employers have a duty to inform employees that they have the option to top up their pension contributions.

2. Short-term employment: Regardless of how much you earn, you are exempt from insurance if your employment commenced no more than one year ago (not just within the same calendar year) and is limited by nature or prior contractual agreement to a maximum of two months or fifty working days, unless it is your regular employment and you earn more than EUR 325 a month.

3. Multiple occupations: If you have a marginal occupation that is not short-term as well as a primary occupation for which you pay contributions, your earnings are totalled. You must pay pension, health and long-term care insurance contributions on your earnings from the marginal occupation, but not unemployment insurance.

If you have two or more marginal or short-term occupations, you must pay contributions for all types of social insurance if you exceed the above limits for either marginal or short-term employment in total.

4. Exceptions: There are special rules for certain groups, for example trainees and apprentices or disabled people. Contributions are still levied on these groups even if the criteria for marginal employment are fulfilled.

Note: Any decisions regarding your social insurance obligations under the law are made by the statutory health insurance fund responsible for your area. The health insurance funds also provide information and advice.

WHO CAN PAY VOLUNTARY CONTRIBUTIONS?

If you do not pay compulsory contributions, as a rule you can pay voluntary contributions to the employee pension funds. This option is primarily for self-employed people and housewives. Public servants, judges and regular soldiers are subject to certain restrictions.

REHABILITATION

German pensions law expressly prefers rehabilitation to pensions where possible. The pension insurance funds examine all pension applications submitted on account of reduced earning capacity, to see if rehabilitation is a viable alternative and would eliminate the need for a pension.

WHO CAN CLAIM A PENSION?

Like any other insurance, to claim a pension you must have paid contributions and satisfy various conditions laid down by the law.

Old-age pensions

Only an insured person can claim an old-age pension. You must have reached a set age, have paid contributions for a minimum period (known as the qualifying period) and have applied for a pension. For some types of pension you have to satisfy other legal and personal conditions before you can claim.

The Pensions Reform Act 1992, passed as early as 1989, raised the early retirement age thresholds of 60 and 63 to the standard retirement age of 65. Then in 1996 and 1997, it was decided to bring forward the start date for raising the age thresholds and to shorten the steps that would effect the rise. This meant that the rise in age thresholds would begin and be completed earlier than provided for under the Pensions Reform Act 1992. For contributors severely affected by this change, and to maintain confidence in the pensions system, the steps prescribed in the Pensions Reform Act 1992 continued to apply (these resulted in a lesser increase in the age threshold).

The rise in pension ages is linked to a flexible retirement start date. This means that both early retirement or delayed retirement are still possible even with the phased increase in retirement age thresholds. If you delay your retirement beyond the age of 65, you are entitled to a bonus that increases your monthly pension by 0.5%. If you retire early, before your 65th birthday (with the exception of old-age pensions for severely disabled people: before your 63rd birthday), you will encounter deductions from your pension. During the interim period in which the age threshold is raised in monthly steps, a separate age threshold applies for each year and month of birth to provide non-deductible pensions. Each month of early retirement results in a deduction of 0.3% of the payable pension for the entire pension period. The bonuses and deductions serve to ensure that the same amount of pension is paid out over the entire pension period irrespective of the date of retirement. This avoids that delayed retirement results in a lesser pension or that early retirement results in a more generous one.

You can offset or avoid the reduction in your monthly pension by paying higher contributions. You may pay these before your 60th birthday, but not after your 65th.

1. Standard Old-age Pension

Old-age pension may be claimed upon reaching your 65th birthday. It is not subject to any deductions. The only condition is that you must have completed the qualifying period (minimum contribution period) of five years.

2. Long Service Pensions

Long service pension is an early retirement pension that may be claimed by contributors born before 1 January 1948 upon reaching their 63rd birthday provided that they have completed a qualifying period of 35 years, i.e. have paid compulsory contributions over that period. For contributors born in 1948 and 1949, the pension age threshold for long service pensions is to be reduced in monthly steps so that from the end of 2011 (for contributors born in November 1949 and after) they may claim long service pension upon reaching their 62nd birthday. The pension age threshold for long service pensions rose from 63 to 65 in monthly steps between 2000 and 2001. This means that from the beginning of 2002, long service pensions for contributors who retire at the beginning of 2002 will be subject to deductions. To maintain confidence in the pensions system, the Pensions Reform Act 1992 stipulates a lesser increase in the age threshold for certain groups:

- Contributors born before 1 January 1942 who have paid compulsory contributions for 45 years in an insured occupation, excluding any periods during which they have claimed unemployment benefit or unemployment assistance.
- Contributors born on or before 14 February 1941 who were receiving early retirement pay or transitional benefit from the seamen's fund on 14 February 1996.

3. Old-age pension after unemployment or partial retirement

If you were born before 1 January 1952, you may claim this pension after a qualifying period of 15 years, have paid compulsory contributions for at least eight of the ten years before payments are due to begin, are unemployed when payments are due to begin or have been in partial retirement and have been unemployed or receiving miners' redundancy compensation (Anpassungsgeld) for at least 52 weeks since attaining the age of 58 years and 6 months. If you have been in partial retirement for at least 24 months (see the Employment Promotion chapter), you can claim this pension regardless of whether your partial retirement was funded by the employment office.

The pension age threshold for unemployed and partially retired people is now 65. As a result, those who retire at 60 are subject to an 18 per cent reduction.

To maintain confidence in the pensions system, the Pensions Reform Act 1992 stipulates a lesser increase in the age threshold for certain groups:

- Contributors aged 55 by 14 February 1996 whose employment was terminated on or after this date by prior dismissal or voluntary redundancy, and who received miners' redundancy compensation or were unemployed from then on. An agreement restricting the term of employment made before 14 February 1996 or the approval of a fixed-term employment or training scheme counts as voluntary redundancy.
- Contributors in the coal or steel industry aged 52 by 14 February 1996 and made redundant before or after this date in a scheme already approved under Article 56(2)(b) of the Treaty Establishing the European Coal and Steel Community (ECSC Treaty).
- Contributors born before 1 January 1942 who have paid compulsory contributions for 45 years in an insured occupation, excluding any periods during which they have claimed unemployment benefit or unemployment assistance.

4. Old-age pension for women

This is paid from your 60th birthday onwards after a qualifying period of 25 years if you were born before 1 January 1952 (women born after 1 January 1952 are no longer be entitled to this form of old-age pension). You need to have paid contributions for more than 10 years since your 40th birthday.

The pension age threshold for women will rise from 60 to 65 in monthly steps between 2000 and 2004. The same exclusions on compassionate grounds apply as for unemployed and partially retired people, though the cut-off date in this case is 7 May 1996.

5. Severe disability pension

This is paid from your 60th birthday onwards after a qualifying period of 35 years if you are registered as severely disabled (or as occupationally disabled or as an invalid under the law as it stood at the end of 2000) when pension payments are due to begin. In recognition of the special needs of severely disabled people, this pension is paid out at age 63 and not at age 65, the age for standard old-age pension.

To maintain confidence in the pensions system, the age threshold for this pension will not rise for contributors born before 1 January 1951 and who were registered as severely disabled or as an invalid under the law as it applied on 31 December 2000. Between January 2001 and December 2003, the pension age will increase from 60 to 63 (this affects contributors born after 31 December 1940). The increase in pension age does not apply to contributors born on or before 16 December 1950 and are severely disabled, occupationally disabled or invalidated as of 16 November 2000. Contributors born before 1942 who have paid compulsory contributions for at least 45 years in an insured occupation (excluding any periods during which they have claimed unemployment benefit or unemployment assistance) are likewise exempt.

6. Miners' long service pension

This is paid from your 60th birthday onwards after a qualifying period of 25 years (made up of all contribution periods when you were employed full time underground).

Partial Pension

Partial retirement on a partial pension

Under the Pensions Reform Act, you now have the option of drawing a full pension or of working shorter hours and drawing a partial pension. This allows you to move gradually from working life into retirement. The amount you can earn while drawing a partial pension is much higher than the amount you are allowed to earn in addition to a full pension.

Of course, for people to take advantage of the partial pension option, there must be an adequate supply of part-time jobs. With this in mind, the law provides that employers must give due consideration to the possibility of providing part-time work for any employees who wish to cut down their hours and draw a partial pension. If an employee proposes this as an option for the part of the company or organization he or she works in, the employer must give a reasoned response. This approach is intended as an incentive to create part-time jobs.

Who can choose to draw a partial pension?

Anyone can choose to draw the pension they are entitled to as a partial pension.

What are the partial pension rates?

When applying to draw a partial pension you can choose one of three rates:

- 1/3 pension
- 1/2 pension
- 2/3 pension

How much may you earn on top of a partial pension?

Up to the age of 65, the limit on additional earnings for an old-age pension drawn as a partial pension depends on the pension rate you choose and is calculated in two stages. First, the current pension value (the national average pension) is multiplied by a factor as follows:

- 1/3 pension: 23.3 times the current pension value
- 1/2 pension: 17.5 times the current pension value
- 2/3 pension: 11.7 times the current pension value

This figure is then multiplied by your total earnings points from the last three calendar years before you started drawing your old-age pension—or by 1.5, if you gained 1.5 earnings points or less in that time.

In effect, then, there are two earnings limits: A general one, which is a minimum limit for all, and a personal one that depends on the last year's income you paid contributions on.

The general earnings limit applies if, on average, you earned less than 50 per cent of the national average income in the last three calendar years before your pension payments started—that is, if you earned less than 0.5 earnings points in that time. See the table on page 47 for the individual amounts.

The personal earnings limit applies if, on average, you earned more than 50 per cent of the national average income in the last three calendar years before your pension started. For example, your monthly earnings limit would be as follows if you earned the national average income:

- 1/3 pension:
 - EUR 1,807.61 (west)
 - EUR 1,586.73 (east)
- 1/2 pension:
 - EUR 1,357.65 (west)
 - EUR 1,191.75 (east)
- 2/3 pension:
 - EUR 907.69 (west)
 - EUR 796.77 (east)

You may exceed the monthly earnings limit and earn up to double the limit twice in any calendar year (for example as a result of payments such as Christmas or holiday bonuses).

Changing to a Different Rate of Partial Pension

Even if you overstep the earnings limit for the rate of partial pension you are currently drawing, you will not necessarily lose your pension entitlement. Your earnings are checked to see if you are below the limit for the next lower rate of partial pension. You only lose your full pension entitlement when your earnings exceed the limit for the lowest rate of partial pension (1/3 pension).

Pension Contributions while Drawing a Partial Pension

As a recipient of a partial pension, you need to pay pension contributions on any earnings that would be subject to compulsory contributions if you were not drawing the pension. The contributions you pay will count later towards your full pension, but do not increase the partial pension you are already receiving. Your partial pension is based solely on contributions made before you first started receiving an old-age pension.

Drawing a partial pension allows you to offset deductions made on pensions drawn early. If you draw your full pension upon reaching your 65th birthday, the contributions you pay during partial retirement are not subject to deduction. If you don't draw your full pension until after you have reached the standard pension age, you will be entitled to a bonus on those contributions due to your delayed pension claim.

Pensions on account of reduced earning capacity

These pensions make up for lost earnings if your earning capacity is reduced or you can no longer work at all. To claim, you need to have paid compulsory contributions for at least three of the preceding five years (including child-raising and other credited periods), and to have completed a five-year qualifying period before your loss of earning capacity—unless your reduced earning capacity results from circumstances, such as an accident at work, that exempt you from the qualifying period.

You also qualify if you completed the five-year qualifying period before 1984 and satisfied the pension credit requirements for each month from then until the time you began to suffer loss of earnings.

A reduced-earning-capacity pension is paid up to your 65th birthday. You can then claim the standard old-age pension in at least the same amount.

Under the Pensions Reform Act which entered into force on 1 January 2001, the earlier division of pensions on account of reduced earning capacity into occupational disability pensions and invalidity pensions was replaced with a two-level reduced-earning-capacity pension:

- Full-rate reduced-earning-capacity pension for contributors with a residual working capacity of less than three hours a day on the general labour market.
- Half-rate reduced-earning-capacity pension for contributors with a residual working capacity of between three and not more than six hours a day on the general labour market.

The policy of taking labour market conditions into account when assessing claims to pensions on account of reduced earning capacity were retained. Contributors who are capable of working at least three but not more than six hours a day receive the full-rate reduced-earning-capacity pension if they are unable to use their free capacity for gainful employment because no job is available.

Contributors aged 40 or over when the reform came into force can still claim a partial pension on account of invalidity. They can still claim the half-rate reduced-earning-capacity pension if they are unable to work more than six hours a day in their existing occupation or in other work they can reasonably be expected to accept.

The maximum 10.8% actuarial reduction that already applied to reduced-earning-capacity pensions after the 1999 pensions reform was retained. Its effects were lessened, however, by extending added periods to age 60.

The reform provisions apply to reduced-earning-capacity pensions whose date of commencement is on or after 1 January 2001, when the reform entered into force. Contributors who were already receiving a pension on account of reduced earnings capacity on 31 December 2000 remain subject to the prior law.

The individual pension benefits are as follows:

1. Pension on account of partial reduced earning capacity: Contributors who are prevented indefinitely by illness or disability from doing at least three hours of paid work a day under the conditions usual on the general labour market are considered to have partial reduced earning capacity. Such contributors receive a pension on account of partial reduced earning capacity, at half the rate of an old-age pension or pension on account of full reduced earning capacity.
2. Pension on account of full reduced earning capacity: Contributors who are prevented indefinitely by illness or disability 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. A pension on account of full reduced earning capacity is paid in the amount of an old-age pension.

3. Pension on account of partial reduced earning capacity with occupational disability: This is paid out in the same amount as for partial reduced earning capacity to contributors who have an occupational disability and were born before 2 January 1961. Contributors are considered to have an occupational disability if they are unable to work six hours or more a day in their existing occupation or in other work they can reasonably be expected to accept.

4. Pension on account of full reduced earning capacity for disabled persons: Contributors who were classed as having full reduced earning capacity before completing the five-year qualifying period and have remained so since can claim a pension on account of full reduced earning capacity after a qualifying period of 20 years. Alternatively, this pension entitlement can be made up with voluntary contributions.

Fixed-term pension:

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 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.

5. Miner's Pension: You can claim a miner's pension if you are a miner and:

- can no longer perform your previous work or a comparable job in the mining industry due to illness or a disability;
- have completed the five-year qualifying period in the mining industry;
- and have paid compulsory contributions as a miner for at least three of the last five years, or completed the five-year qualifying period before 1984 and have satisfied the pension credit requirements for each month from then until the time you began to suffer loss of earning capacity.

You cannot claim a miner's pension if you are able to do work outside the mining industry that is comparable to your past employment.

Alternatively, you can claim a miner's pension if you:

- have reached your 50th birthday;
- are unable to do work comparable to your past employment in the mining industry;
- and have been employed underground and paying contributions for a qualifying period of 25 years.

Pensions on account of the insured person's death

1. Widow's or Widower's Pension

These pensions are paid out to surviving spouses of contributors, provided they have not remarried and the deceased spouse completed a generally applicable qualifying period of five years. Widow's or widower's pensions amount to at least 25 per cent of the deceased spouse's full pension (minimum widow's/widower's pension). If the surviving spouse has reached the age of 45 or is rearing a child under 18 or cares for a dependent child who for reasons of physical, mental or psychological disability is unable to fend for itself or has reduced earning capacity then the widow's or widower's pension amounts to 60 per cent of the deceased spouse's full pension (maximum widow's/widower's pension). The widow's or widower's income is offset against these pensions.

The general rules remain valid for couples who married before 1 January 2002 and where one of the spouses was older than 40 on that date. For newly weds and younger married couples, the following changes apply:

Women today usually earn their own income and make their own contributions to the state pensions system. As a result, they are becoming increasingly less dependent on receiving part of their deceased husband's pension. For this reason, the rate for the maximum widow's or widower's pension has been slightly reduced from 60 per cent to 55 per cent. At the same time, people in this group who have reared a child receive additional consideration in that the pension is supplemented by the addition of two earnings points for the first child and one earnings point for each additional child. This rule means that young surviving spouses who receive an average widow's or widower's pension and who have reared a child are slightly better off than they were under the old rule.

For those to whom this new rule applies, the minimum widow's or widower's pension is limited to 24 months.

2. Orphan's Pension

This pension is paid out to the dependent children of a deceased contributor up to the age of 18. Children still in vocational training or who are severely disabled may claim orphan's pension up to the age of 27. Claims made by older children will only be considered in cases where education or vocational training was disrupted by military or civilian service. Orphans who have lost both parents receive one fifth and orphans who have lost one parent receive one tenth of the full pension plus a supplement. Orphan's pension is subject to income-related deductions.

3. Child-raising Pension

This is another type of pension that is paid out in the event of the insured person's death. It is an independent source of income for people who are divorced and are raising children, and aims to replace the child maintenance lost as a result of the divorced spouse's death.

You can claim 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 completed the five-year qualifying period before the death of your divorced partner
- You were legally divorced (for former eastern Germany: only for divorces after 30 June 1977).

The child-raising pension is calculated in the same way as old-age pension. It is not paid out of the deceased person's insurance, but out of a combination of the claimant's insurance contributions and the transferred entitlements after pension splitting. Child-raising pension is also subject to income-related deductions.

4. Offsetting of Income

40 per cent of any income you earn above the exemption limit (as for widows' and widowers' pensions) is deducted from your child-raising pension. The current exemption limits for widow's/widower's pensions and child-raising pensions are as follows:

| | |
|-----------------|------------|
| Western Germany | EUR 682.70 |
| Eastern Germany | EUR 599.28 |

The pension is supplemented for each child that is entitled to an orphan's pension as follows:

| | |
|-----------------|------------|
| Western Germany | EUR 144.82 |
| Eastern Germany | EUR 127.12 |

The exemption limits for orphan's pensions for orphan's over the age of 18 are:

| | |
|-----------------|------------|
| Western Germany | EUR 455.14 |
| Eastern Germany | EUR 399.52 |

The exemption limits are adjusted each year in line with income developments.

5. Splitting pensions between spouses

Couples now have the option to split their pensions. In recognition of the changes in the way people perceive partnerships, married couples who have paid insurance contributions for 25 years may jointly declare that the pension entitlements accrued during their marriage be split between them (pension splitting). This rule applies for all marriages entered into after 31 December 2001. Additionally, couples who married before 1 January 2002 may opt to have their pensions split if they are both under the age of 40 on that date. The right to opt for pension splitting may only be exercised once both spouses are entitled to claim old-age pension. If one of the spouses dies before an opportunity to apply for pension splitting arises, the surviving spouse may make the declaration.

Once the decision on pension splitting comes into effect, any entitlement to widow's/widower's pension ceases. Whether or not pension splitting turns out to be more advantageous than the outcome under the new widow's/widower's pension rulings depends on individual circumstances. Thus, the spouse's income in particular must be taken into account because income – in future all income, including that from capital assets – will be partially offset against the widow's/widower's pension, whereas the split portion of a pension is exempt from income-related deductions and is not forfeited in the event of remarriage.

QUALIFYING PERIODS

You can only claim a pension if you have been insured for a set length of time. The general five-year qualifying period can be made up with contribution periods and substitute qualifying periods (see below). The 15-year qualifying period on old-age pensions for unemployed people, after partial retirement, and for women over 60 can be made up in the same way. The 35-year qualifying period on long-service pensions and old-age pensions for severely disabled persons or persons with full reduced earning capacity can additionally be made up with exempt periods. Exempt periods include certain periods of education and training, and periods of illness or unemployment.

Early Qualification

As a rule, you must complete the five-year qualifying period to claim an invalidity pension or a pension on account of the insured person's death, but earlier qualification is allowed for in certain cases—in particular on invalidity or death following an occupational accident or an accident on military or civilian service. Contributors can also claim a pension on account of full reduced earning capacity, or surviving dependants on the insured person's death, within six years of completing education or training if compulsory contributions were paid for at least one of the two years before claiming.

HOW PENSIONS ARE CALCULATED

Contribution Periods

The value of your pension mainly depends on the earnings for which you pay insurance contributions. Periods you spend raising children or providing unpaid home nursing care count as contribution periods.

How much each contribution period counts towards your pension depends on how your annual income before deductions compares with the average income of all insured persons. Of course,

there are times in life when your income and hence your contributions are lower. Special rules apply, for example for periods in vocational training, raising children, providing home nursing care or on military or civilian service.

Substitute Periods

These are periods when special circumstances such as military service prevent you from paying contributions.

Child-raising Periods

For births on or before 31 December 1991, the child-raising period was the first year following the birth of the child. For children born on or since 1 January 1992 the child-raising period lasts until the child's third birthday.

Child-raising periods are credited to whichever parent raises the child. In pension terms, such periods are treated as if the child-raising parent earned approximately the average income of all insured persons.

If the child-raising parent is gainfully employed while during the child-raising period, the pension entitlement gained by virtue of the employment is supplemented by the entitlement gained at the same time through child-rearing, up to a maximum corresponding to the pension entitlement at an income level equal to the contribution assessment limit.

Periods Providing Home Nursing Care

A new system of long-term care insurance has improved the pensions situation of people who provide unpaid home nursing care. Periods spent providing unpaid home nursing care (for at least 14 hours a week) can be credited on application as contribution periods. The person providing the care may not be in employment for more than 30 hours a week.

Credit for Child-raising Periods

Periods you spend raising children up to the age of ten secure your pension entitlement if you do not pay pension contributions during this time. This makes it easier for you to gain entitlement for certain benefits, including invalidity pensions, early retirement pensions and minimum income pensions.

The impact on pensions as a result of lower earnings during child-raising periods is to be buffered. Credit periods from 1992 onwards, will be upgraded for people who work during the first ten years of their child's life but are forced to work part-time due to child-care commitments and thus earn below average income, and for people who are often unable to work because they must provide home nursing care for their child.

Other Credited Periods

These primarily include periods when incapacitated, unemployed or in full-time education from the 17th birthday onwards up to a maximum of eight years. From 2002 under the pensions reform, full-time education is credited from the 18th birthday up to a maximum of eight years.

Any time in full-time education during the fourth to the eighth year does not directly increase the pension; instead, it is taken into consideration in order to maintain the pension entitlement.

Added Periods to Age 60

These apply to pensions on account of either reduced earning capacity or the death of the insured person to provide that person or his/her surviving dependents with adequate security despite a low pension entitlement. The younger the insured person was at the time of reduced earning capacity or death, the fewer the years of contributions and the lower the pension entitlement. Thus, pensions are calculated as though the claim was first made in later life and after a relatively long insurance period had been accrued. In other words, the missing years are added to the years that contributions were actually paid.

For pensions that begin in December 2003, the number of years between the year you ceased to be able to work and your 60th birthday are added. If you receive your first pension between January 2001 and November 2003, the missing years will be added in steps from the age of 56 years and eight months, which was the qualifying age at the end of 2000, to age 60.

Minimum Income Pension

In the case of people with low compulsory contributions, all contributions made in the full amount in the period before 1992 are adjusted up to the lesser of 1.5 times their paid value or a maximum 75 per cent of the value of contributions levied on the average level of income. For your contributions to be revalued in this way, you must have completed the qualifying period of 35 years.

Upgrading of Contributions Paid in Certain Periods

First three years of contributions:

The first 36 months' compulsory contributions you pay before your 25th birthday are adjusted up to the lesser of 75 per cent of your total entitlement or 75 per cent of your average pay.

Vocational training periods completed at other times are treated in the same way.

Child-rearing periods with children aged 4-10:

Pension entitlements acquired since 1991 after the three-year child-raising period and up to the child's tenth year can be adjusted upwards in value. For people in employment, this applies from the child's third year onwards. The adjustment takes place by adding up to 50% to the child-raising parent's personal earnings figure, to a maximum of 100% of the average income of all insured persons.

If two or more qualifying child-rearing periods coincide, pensions are calculated as if parents had earned at least 33% of the average income of all insured persons during those child-rearing periods.

Finally, for such an adjustment to be granted, pension entitlements must have been earned for at least 25 years (including qualifying child-rearing periods) before commencement of the pension.

Reduced Compulsory Contributions for Disabled Persons

The minimum contribution assessment ceiling for contributions paid by disabled persons working in state-approved workshops and similar institutions is 80 per cent of the fixed reference figure. The reference figure is revised on an annual basis. For 2003, it is EUR 2,380 in western Germany and EUR 1,995 in eastern Germany.

Compulsory Contributions for Persons in Military and Civilian Service

These are usually 60 per cent of the annual reference figure.

THE PENSION FORMULA

The guiding principle behind income-based, or rather contribution-based, pensions is that the amount of your pension mainly depends on the amount of earned income you insure through contributions over your working life. The earned income that you insure through contributions each year is converted into earnings points. You are also credited with earnings points during exempt periods—at a rate that depends on the income you paid contributions on at other times. Next, a pension type factor determines the insured amount of the respective pension in comparison with the standard old-age pension.

If you claim an old-age pension early or have not started claiming it by your 65th birthday, any loss or gain resulting from the longer or shorter pay-out period is compensated by an age factor.

Supplementary Earnings Limits: 2nd Quarter 2003

| Type of pension | Monthly Earnings Limit (Euros) | |
|---|--------------------------------|-----------------|
| | Western Germany | Eastern Germany |
| Old-age pensions | | |
| Standard old age pension from age 65 | no limit | |
| Up to age 65 (pensions commencing from 2000)* | | |
| – Full pension | 340.00 | 340.00 |
| – 2/3 pension | 453.84 | 398.39 |
| – 1/2 pension | 678.83 | 595.88 |
| – 1/3 pension | 903.81 | 793.37 |
| Pensions on account of reduced earning capacity (commencing before 1 January 2001) | | |
| Invalidity pensions | | |
| – Full pension | 340.00 | 340.00 |
| – 2/3 pension | 605.12 | 531.18 |
| – 1/2 pension | 802.95 | 704.84 |
| – 1/3 pension | 1,000.78 | 879.49 |
| Occupational disability pensions | | |
| – Full pension | 802.95 | 704.84 |
| – 1/2 pension | 1,000.78 | 879.49 |
| Pensions on account of reduced earning capacity (commencing from 1 January 2001) | | |
| Invalidity pensions | 340.00 | 340.00 |
| Occupational disability pensions | | |
| – Full pension | 678.83 | 598.88 |
| – 2/3 pension | 905.10 | 794.50 |
| – 1/3 pension | 1,131.38 | 993.13 |
| With the exception of the EUR 340 additional earnings limits, all stated amounts are general limits that are the minimum that may be earned in addition to a pension. Higher, personal limits apply if pre-pension earnings exceeded half the national average income, and are based on the last year's income on which contributions were paid. | | |

* Marginally different supplementary earnings limits apply for pensions commencing before 2000

The current pension value is an average figure that is adjusted each year. It ensures that pensions remain index-linked. It is the monthly pension that an average earner would receive after paying contributions for one year. It is also part of the pensions formula (see the box entitled The New Pension Formula.)

The formula used to calculate the monthly amount of a pension is as follows: Multiply your total earnings points (P) by the age factor times the pension type factor (T) and the current pension value (C).

$$P \times T \times C = \text{Monthly Pension}$$

Total Entitlement

The amount of your pension does not only depend on how much you earned while working. You can also be credited for exempt periods and periods of reduced contributions (exempt periods include periods that are credited in full, plus added and substitute periods, as explained

earlier under Contribution Periods). Your total entitlement is calculated as the average of all (compulsory and voluntary) contribution periods. Although gaps in your contribution history reduce your total entitlement, exempt periods or periods of reduced contributions do not. Credited child-raising periods increase the value of exempt periods and periods of reduced contributions.

PENSION ADJUSTMENT

Pensions are adjusted on 1 July each year. Wage-indexed adjustment ensures that pensioners share in economic growth as reflected in rising wages.

PENSION INFORMATION

The obligations for health insurance carriers to provide information on projected pension entitlements will be expanded from 2004. People who have reached the age of 27 will receive an annual pension statement. The pension statements, which were tested in a pilot scheme introduced in June 2002, allow for greater transparency in personal pension entitlements and provide people with a solid base on which to plan for their old age. The pension statements are created in the form of an insurance account containing details of pension contributions and projected pension entitlements upon reaching the age of 65 (based on fictitious pension adjustments rather than actual adjustments). Upon reaching the age of 54, people will receive pension statements once every three years rather than annually. These will contain more detailed information on the individual's insurance history.

PENSION CREDITS OBTAINED ABROAD

Under the law on pension credits obtained abroad, repatriated ethnic Germans are integrated into the statutory pensions system. Under this legislation, repatriated ethnic Germans from eastern Europe are treated as if they had spent their working lives in structurally weak areas of Germany. The pension entitlement gained abroad by ethnic Germans repatriated since 6 May 1996 is limited to the current rate of integration assistance in the case of single people or 1.6 times that rate in the case of married couples.

ORGANIZATION

There are various statutory pension funds in Germany:

1. For wage-earners
 - Regional insurance funds (these are also responsible for tradespeople)
 - The railways insurance fund
 - The maritime insurance fund
 2. For salaried employees
 - The federal insurance fund for salaried employees in Berlin
 3. For workers in the mining industry
 - The federal insurance fund for miners
 4. For farmers
 - The agricultural pension funds incorporated in the agricultural employers' liability funds
- The pension funds are supervised by the state.

FUNDING

Pension payments are mainly funded out of contributions. Employers and employees each pay half of the current contribution rate (19.5 per cent of the employee's gross monthly pay as of 1 January 2003), up to a contribution assessment limit of EUR 5,100 a month in western Germany or EUR 4,250 in eastern Germany. Pension payments are also partially subsidized by the state.

INFORMATION

Information on the new pensions legislation is provided in a German language pamphlet, *Die Rente*, published by the Federal Ministry of Labour and Social Affairs, Referat Information, Publikation, Redaktion, Postfach 500, 53107 Bonn, Germany.

PENSIONS IN FORMER EAST GERMANY

The merging of Germany's pensions systems on 1 January 1992 reestablished a cohesive system of pension provision throughout Germany, securing the rights, claims—and of course ongoing pension payments—of former East German citizens in a system that has proved itself over more than 100 years. Various special features apply in eastern Germany:

- The contribution assessment limit for 2003 is EUR 4,250 a month.

The new pension formula

Three factors determine the amount of a pension:

- | | |
|---|--|
| P | Personal earnings points Insured income (up to the contribution assessment limit) for each calendar year, divided by the average income of all insured persons, then totalled over all years during which contributions have been paid, and multiplied by the age factor. |
| T | Pension type factor A factor depending on the intended purpose of the pension. |
| C | Current pension value The monthly pension that an average earner would receive after paying contributions for one calendar year (currently EUR 25.31406 in western Germany and EUR 22.06224 in eastern Germany). |

$$P \times T \times C = \text{Monthly Pension}$$

Since 1 January 1995, most self-employed farmers have been subject to compulsory insurance in the farmers' old-age pension fund. The established agricultural sector insurance system of western Germany was introduced in eastern Germany as part of the 1995 agricultural sector welfare reform. Under a transitional ruling, farmers above a certain age who meet specific requirements may choose to remain in the general old-age pension scheme instead of joining the new agricultural sector scheme.

Health insurance

Stefanie K. 's life changed completely from one moment to the next. Crossing the road on the way home from the shops, she overlooked an oncoming car. Its driver attempted an emergency stop, but was unable to avoid hitting the 33-year-old mother of two small daughters. Stefanie suffered serious leg injuries in the accident. In hospital, the doctors told her she would not be able to walk for at least six months.

Stefanie K. 's world collapsed around her. Who would look after the children and do the housework? Her husband was afraid he would lose his job if he took special leave, and they didn't have anyone else. Stefanie's health insurance finally solved the problem: The insurance fund was prepared to pay for a home help who would take Stefanie's place during her stay in hospital and her subsequent convalescent care. The home help looked after the children and did the housework each day until their father came home in the evening. Stefanie can now walk again, and only a few scars remain to remind her of the accident. But sometimes she still wonders how she and her family would have coped without her health insurance.

The statutory health insurance schemes (Krankenversicherung) safeguard you and your family in case of illness:

- They pay for necessary medical treatment. The only exceptions are items that you claim after an occupational accident or because of an occupational illness. In these cases you are covered by statutory accident insurance.
- They pay sickness benefit if your employer does not continue to pay your wage or salary while you are unable to work.

Until the end of 1995, which health insurance scheme you were in depended on your profession or who you worked for. As of 1 January 1996, anyone in a local, company, guild or other statutory health insurance fund is free to choose which fund they wish to be insured with (company and guild funds can only be chosen if they have changed their statutes to accept outsiders). It often pays to compare their rates.

WHAT DOES STATUTORY HEALTH INSURANCE COVER?

As an insured person you can claim the following:

- Measures for the prevention and early detection of certain diseases (children in the first six years of their life and—new—at the beginning of puberty; adults every two years from the age of 35). Women from the age of 20 and men from the age of 45 are entitled to annual cancer screening).
- Preventive dentistry and in particular individual and group prophylactic measures to prevent dental disease
- Preventive inoculations, excluding innoculations for non-work-related foreign travel, as provided for in the articles of the relevant health insurance fund.
- Orthodontic treatment, as a rule up to the age of 18.
- Medical and dental treatment, with free choice among panel doctors and dentists.
- Drugs, dressings, complementary treatment, and aids such as hearing aids and wheelchairs.
- Medically necessary provision of dentures and crowns.
- Hospital treatment.
- Some or all the cost of necessary preventive treatment and rehabilitation
- 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 per cent of your regular wage or salary before deductions up to the contribution assessment ceiling, though not more than 90 per cent of your take-home pay. You can claim sickness benefit for a maximum of 78 weeks in a given three-year period. If you are a farmer, you will receive an upkeep allowance instead of sickness benefit, though agricultural health insurance funds also pay sickness benefit to seasonal workers who are insured with them.

- Sickness benefit for up to ten days a year for each insured child under twelve who you have to care for—subject to presentation of a doctor’s note and provided that no other person living in your household is able to supervise, care for or look after the child. If you are a single parent, your entitlement doubles to a maximum of 20 days. If you have several children, your entitlement is limited to a total of 25 working days, or as a single parent 50 working days a year. The entitlement extends beyond the age of twelve for sick children who are disabled and in need of help.
- An additional unrestricted entitlement to sick pay if your child is terminally ill and has a life expectancy of only weeks or months.
- Home help if you have to go into hospital or undergo in-patient treatment or rehabilitation, are unable to look after your home as a result, and have a child living in your household which has not reached the age of 12 when home help begins or which is disabled and in need of help.
- Home nursing care if this helps avoid or shorten a stay in hospital or aids your medical treatment.
- Home nursing care for women when needed because of pregnancy or childbirth.
- Social therapy for insured persons who have a severe psychic affliction that prevents them from accepting or taking medical treatment.
- Maternity benefit (Mutterschaftsgeld) and maternity allowance (Mutterschaftshilfe) during pregnancy and after childbirth. As a member of a health insurance fund you usually receive child benefit for six weeks before and six weeks after the birth (the statutory period of maternity leave), extended to twelve weeks after the birth in the case of multiple or premature births. The amount depends on your average wage over the last three months, or the last 13 weeks before the benefit period. Your health insurance pays a maximum of EUR 13 a day. Your employer pays the difference between this and your average take-home pay for the duration of the benefit period.
- A funeral allowance, if your membership of the insurance scheme dates back before 1 January 1989.

WHO IS INSURED?

As an employee you are automatically and compulsorily insured if your regular income before deductions remains below a set annual limit. This limit is 75 per cent of the contribution assessment limit for pension insurance and rises annually in line with the wage level. The annual income limit up to which employed people are automatically and compulsorily insured was officially detached from pension insurance on 1 January 2003 and transformed into a general annual income limit, with a separate annual income limit for privately insured workers. The general annual income limit for 2003 is EUR 45,900 and thus remains at 75 per cent of the contribution assessment limit (west) for blue and white-collar workers. To maintain confidence in the pensions system, the new law provides for a reduced annual income limit of EUR 41,400 for workers who were exempt from compulsory insurance because they exceeded the contribution assessment limit on 31 December 2002 and switched to an alternative private health insurance fund. The separate annual income limit is based on the previous annual income limit.

The income limit for compulsory membership of a state health insurance scheme in 2002 is EUR 40,500 (equivalent to EUR 3,375 a month) in all German states.

The following are also compulsory members of the state health insurance schemes:

- Students at state and state-approved universities
- People on work experience or in second-chance education
- Old-age pensioners who have been in a statutory health insurance scheme for a substantial length of time in the past
- Disabled people employed at an approved workshop or on employment promotion schemes
- Unemployed people receiving benefits from Federal Employment Services
- 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 (Altenteiler)
- You can join a state health insurance scheme voluntarily:
- If you have been a compulsory member, your membership is terminated and you have certain qualifying insurance periods.
- If you have been a compulsory member as an employee for a minimum length of time in the past and your membership was terminated because your income exceeded the limit.
- If you are an employee and your income in your first job exceeds the limit, as long as you apply for membership within three months of starting work.
- If you are severely disabled (subject to certain other requirements).
- If you have been insured through a parent for a specific minimum period and this insurance has expired.

Family Insurance

The state health insurance schemes also insure your family at no extra charge. Your spouse or partner and, up to a certain age, your children are covered by your insurance—provided that their collective income does not exceed EUR 335 a month and they do not have their own insurance (figures for 2002). Other factors may also be taken into account.

PATIENTS' CONTRIBUTIONS

Health insurance has to be paid for in one way or another. This is why we cannot expect it to help with every minor complaint; otherwise, it would soon become unaffordable.

Health insurance members take a share in the responsibility for their own health. For this reason they are required to contribute towards the cost of certain items. This is laid down in the law on health insurance, which encourages people to be cost-conscious and responsible in its use.

You are required to pay the following:

- EUR 4, EUR 4.50 or EUR 5 towards the cost of prescription drugs depending on the package size, though not more than the price of the medication.
- EUR 4 per prescription towards the cost of wound dressings and bandages, though not more than the cost of the item.
- 15 per cent towards the cost of other aids, treatments and remedies.
- 20 per cent towards the refundable cost of supports, insoles and compression accessories.

- A share in the cost of in-patient preventive treatment and rehabilitation, out-patient rehabilitation, and in-patient hospital care (EUR 9 a day)—in the case of in-patient hospital care and follow-up rehabilitation for the first 14 days treatment in a given year.
- The cost of dentures (you pay 50 per cent of the medically necessary treatment, or only 35 or 40 per cent in the case of regular preventive treatment).
- EUR 13 towards the cost of travel for necessary medical treatment.

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

Exemptions from patients' contributions (for children and welfare claimants):

- Children and young people under 18 (except for dentures and travel)
- Recipients of these benefits:
 - Assistance towards living expenses (social assistance) under the Federal Social Assistance Act
 - Benefits paid to war victims under the Federal War Victims Relief Act
 - Unemployment allowance under Volume III of the Social Code
 - Education assistance (BAföG) under the Federal Education Assistance Act
 - Benefits dispensed by Federal Employment Services to promote individual vocational training or the employment and career opportunities of disabled people
- People in homes whose residence fees are paid by the social assistance or war victims' relief agencies
- Insured people whose monthly family income before deductions does not exceed the limits set out below

The income limits for 2002 are EUR 952 a month for single people and EUR 1,309 for married people. EUR 238 is added for each dependant living in the household (for example, children).

The income limits change each year in line with wage increases.

In the case of families, the husband's, wife's and children's incomes are added together (as a rule, children's incomes are only included until they have completed their 18th year). The incomes of any other people who live with the family are treated separately and have no effect on the family income.

Note: Adults cannot be exempted from contributions towards the cost of in-patient hospital care.

Partial exemptions (in case of hardship):

If the exemptions for welfare claimants do not apply to you, you may still be partially exempt from patients' contributions to protect you from unreasonable financial burdens. Partial exemptions are available for:

- Contributions towards the cost of prescription drugs, bandages and dressings, and other aids, treatments and remedies
- Contributions towards costs of travel

If you exceed the income limits for full exemption, you will be expected to contribute up to 2 per cent of your gross income.

Chronically ill people are exempt from contributions towards the cost of travel, drugs, dressings and complementary treatment if they have had to spend 1 per cent of their income on treatment of the same illness over the last year.

The limits refer to your family income. That is, the contributions depend on how many people live on the stated income. An exempt amount is deducted from the family income for each

member of your family. For the first dependant this is EUR 4,221 a year (in 2002). The exempt amount for each additional dependant is EUR 2,814 a year.

If you pay more in contributions towards the cost of treatment than can be reasonably expected of you, your health insurance will refund the difference. If you frequently have to pay towards the cost of treatment—as when chronically ill—your health insurance may refund your share at shorter intervals, for example each month, or issue you with an exemption note.

Special hardship rule for dentures:

For dentures, there is a sliding scale in case of hardship. Please ask your health insurance fund for details.

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

The state health insurance schemes are funded from contributions.

You pay half of the insurance contributions as an employee, and your employer pays the other half. If you are a salaried employee and are voluntarily insured because you exceed the income limit, your employer will pay a supplement towards your contributions.

The amount of your insurance contributions depends on your income. As of 1 July 2002, the average general health insurance contribution rate is 13.99 per cent of the non-exempt part of employees' income. Employers and employees each pay half of the contributions.

Note that your contributions are subject to a contribution assessment limit. In 2003 this is EUR 3,450 a month. It is the maximum amount from which your statutory health insurance contributions are calculated, even if your income is higher. The limits for compulsory membership of a state health insurance scheme are the same: Up to this level of income, employees must be in a state health insurance scheme.

THE LAW

State health insurance is the oldest part of the social insurance system.

The relevant law is set out in various acts. For example:

- Volume V of the Social Code
- The Farmers Health Insurance Act
- The Reich Insurance Code

INCOME LIMITS FOR THE HARDSHIP CLAUSE
(MONTHLY INCOME)

Singles: 952,- EUR per month

First dependant: 357,- EUR, e.g. wife or husband

Each additional dependant: 238 EUR, e.g. children

Long-term care insurance

Beate S. didn't have to think twice when her diabetic mother began to need nursing care. There was no question about it, her 82-year-old mother would move in with her, and Beate would care for her. Beate and her husband have never regretted this decision, even when her mother began to need more and more help with personal hygiene, dressing and eating. Beate's mother received 410 euros a month in cash benefit from her long-term care insurance, which she gave to Beate for taking care of her.

A year after her mother moved in, Beate's former employer called to ask if the 48-year-old banking clerk would come back to work for three hours a day. It was a tempting offer, but who would take care of her mother while she was gone? Help came in the form of a nursing service that sent a nurse to spend weekday mornings with Beate's mother. The long-term care insurance fund then changed its assistance to a combination of cash and non-cash benefits.

Beate's mother had a stroke some time ago and now the nurse from the nursing service comes twice a day. Since the 82-year-old is now classed as being in extreme need of care, her long-term care insurance fund provides non-cash benefits in the amount of 1,432 euros a month. It will also cover the costs when Beate's mother stays in a short-term nursing home for two weeks when Beate and her husband soon go on their first holiday in years.

PROVIDING HELP WHERE IT IS NEEDED MOST

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

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

A few numbers to illustrate the magnitude of the problems related to long-term care: Today, some 1.95 million people in Germany require long-term care. This figure represents a city the size of Hamburg. About 0,61 million of these people live in nursing homes. The remaining 1.34 million are cared for at home by relatives, neighbours, volunteers or professional carers who are often self-sacrificing and deserve great praise for their efforts to care for people who cannot take care of themselves.

WHAT YOU HAVE TO DO

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

COVERAGE FOR ALL

The only major gap left in Germany's social welfare system was closed on 1 January 1995 when long-term care insurance (Pflegeversicherung) was established as an independent branch, or 'fifth pillar' of the social insurance system and made compulsory. As a result, some 81 million people in Germany now have a wholly new kind of safety net. Today, if you are covered by statutory health insurance you automatically have long-term care insurance too. If you have private health insurance and are entitled to general hospital care, you must now have private long-term care insurance as well.

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

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

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

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

BENEFITS AND CONDITIONS

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

Who is eligible for long-term care?

According to the law, you are eligible if you require frequent or substantial help with normal day-to-day activities on a long-term basis (that is, for an estimated six months or longer). Four different areas—personal hygiene, eating, mobility and housekeeping—are taken into account when determining whether you need assistance.

Assistance consists of someone helping you to carry out routine activities of daily life, helping you to perform these tasks at least partly on your own, or supervising and guiding you when doing them. Assistance is aimed at helping you regain your ability to do these tasks by yourself. The normal, routine day-to-day activities that are covered include the following:

1. Personal hygiene: washing, showering, bathing, dental hygiene, combing your hair, shaving, going to the bathroom
2. Eating: eating, and preparing food so that it is bite-sized and ready to eat
3. Mobility: getting out of and going to bed, getting dressed and undressed, walking, standing, climbing stairs, leaving and getting back to your home without assistance
4. Housekeeping: grocery shopping, cooking, cleaning, dishwashing, changing and washing linen and clothing, heating your home.

If you require long-term care you will be assigned one of three care levels in order to determine the benefits you are to receive:

1. Care Level I is classed as considerable need of care. You need help at least once a day with personal hygiene, eating, or with a minimum of two activities from one or more types of activity (see above list). You also need help several times a week with household chores.
2. Care Level II is classed as severe need of care. You need help at least three times a day with personal hygiene, eating or getting around. In addition, you need help several times a week with household chores.
3. Care Level III is classed as extreme need of care. You need round-the-clock help every day. You need help with personal hygiene, eating or getting around, as well as help several times a week with household chores.

If you are classed as needing Level I care, you require an average of at least 90 minutes every day of the week for basic care and help with household chores. Your carer must spend more than 45 minutes of this time providing basic care. If you require Level II care, you need help for an average of at least three hours a day, with at least two of these hours being devoted to basic care. Care requirements at Level III add up to at least five hours a day, with at least four of these hours being spent on basic care.

If you have a child who needs care, your child's care level will reflect how much additional help he or she requires compared to a healthy child of the same age.

Your health insurance's medical service department will examine you in your home to determine whether and to what extent you need long-term care.

Home care and institutional care

Long-term care benefits are granted on the basis of your care requirement level and whether you need care at home or institutional care. Regardless of the level of care you receive, prevention and rehabilitation (measures to overcome, reduce or prevent an increase in your need for long-term care) are given priority over care. Home care is also given priority over institutional care. Long-term care insurance has granted benefits for home care since 1 April 1995 and benefits for long-term institutional care since 1 July 1996.

HOME CARE

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

Home care benefits are scaled according to the care level (see the table below). If you are covered by statutory long-term care insurance, you can choose between non-cash benefits (care provided by an agency under contract to your long-term care insurance scheme, such as a social services agency or home care service) and cash benefits (which you would use to ensure that you receive appropriate care, for example with the help of relatives). It is also possible to receive a combination of non-cash and cash benefits. As a result, your care can be tailored to your individual needs.

The following benefits are also provided:

- Nursing aids that facilitate long-term care, such as a special bed.
- Allowances to pay the cost of modifying your home to accommodate your nursing care needs. A maximum of EUR 2,557 can be granted for each project if there are no other means of financing it. You will have to meet a reasonable portion of the cost yourself.
- Free nursing care courses for relatives and volunteer carers.

Compulsory private long-term care insurance offers only cash benefits. Instead of non-cash benefits, it reimburses your expenses.

If you are covered by statutory long-term care insurance and are entitled to reimbursement of part of your costs under rules and regulations applicable to tenured public servants when you are ill or require nursing care, you will be paid benefits at only half the regular rate. In return, you pay only half the regular contribution rate. The benefits paid to public servants with compulsory private long-term care insurance are linked to the amount they are reimbursed.

Arrangements for holiday stand-ins

If the person who provides your care at home goes on holiday or is otherwise unable to care for you, you are entitled to a stand-in for a maximum of four weeks a year. However, your normal carer must have cared for you in your home for at least twelve months prior to the date of his or her absence. If the stand-in is a professional carer or works for a home care service, your long-term care insurance fund will cover the cost up to a maximum of EUR 1,432 a year. Up to EUR 1,432 can likewise be claimed if the stand-in is your neighbour or a distant relative (that is, not a first or second-degree relative or in-law). If the stand-in is a close relative who is not employed for the purpose, your long-term care insurance will pay EUR 205, EUR 410 or EUR 665 depending upon the level of care you require. This can be increased up to EUR 1,432 to cover any documented necessary costs incurred by your stand-in.

Supplementary Care for People With Significantly Reduced Abilities and In Need of Long-Term Care

As of 1 April 2002, people in need of long-term care and for whom the health insurance carrier's medical service has determined a significant need for care and supervision beyond that already covered by care insurance provisions (Sections 14 and 15 of Social Code Volume XI) are entitled to an additional care allowance of EUR 460 a year. This group includes people suffering from senile dementia and those with psychiatric illnesses or mental disabilities. The care allowance is to be used solely for the purpose of hiring day or night-nurses, short-term care, special services of general supervision and care from recognised care providers, and for services from low-level care providers.

Social security insurance for carers

Home care places heavy burdens on carers, most of whom are women. Carers often have to give up their normal job or cut back on the number of hours they work in order to meet these demands. In response to this situation, new legislation has improved the treatment of carers in social security matters.

If you provide nursing care for another person and are not employed or work no more than 30 hours a week, you are now covered by statutory pension insurance and your contributions are

paid by the long-term care insurance fund. Your contribution rate depends upon the level of care you provide and the amount of time you must consequently spend providing care.

Important: *A carer is anyone who provides unpaid home nursing care for at least 14 hours a week.*

INSTITUTIONAL CARE

If you require institutional care, your long-term care insurance will pay expenses for basic care, social services and treatment according to the level of care you require: EUR 1,023 for Class I, EUR 1,279 for Class II, or EUR 1,432 for Class III care. To avert hardship, up to EUR 1,688 in expenses will be covered if you require Class III care. As with home nursing care, you are responsible for paying your costs for food and board.

These benefit rates EUR 1,023, EUR 1,279 or EUR 1,432 are not paid in full if either of the following two conditions applies: First, long-term care insurance funds are not allowed to approve more than an average EUR 1,279 a month (excluding hardship cases). Second, the insured person must bear at least 25 per cent of the nursing home charges. The latter condition only comes into play with relatively low-cost nursing homes. For example, the EUR 1,023 monthly rate cannot be granted in full if a nursing home charges less than EUR 1,360 a month.

Facilities for disabled persons

If you are a young disabled person and require nursing care, all the benefits described here are available to you in full. Long-term care insurance will also provide a flat-rate allowance to help cover your treatment costs at facilities that primarily focus on helping disabled people integrate into society, as opposed to providing nursing care.

Funding

Statutory 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: EUR 3,375 a month in both western and eastern Germany in 2001.

A 1 per cent contribution rate went into effect for the entire country on 1 January 1995. This rate was raised to 1.7 per cent of income that is liable to assessment when home nursing care benefits were added six months later.

Contributions are paid following the same method used for statutory health insurance payments: Your employer deducts your contributions directly from your wages and transfers them to your health insurance fund. To compensate employers for the additional costs arising from long-term care insurance, the Buss- und Betttag holiday (the Wednesday eleven days before Advent) was eliminated except in the state of Saxony. German employers bear half the contributions to long-term care insurance in return for this additional working day. In other words, employers and employees both pay a rate of 0.85 per cent (half of 1.7 per cent). In Saxony, which kept Buss- und Betttag, employees pay 1.35 per cent and employers 0.35 per cent.

Pension insurance funds bear half the cost of pensioners' contributions. If you are a pensioner and have private health insurance, you will receive a contribution allowance (Beitragszuschuss) based on the amount of your pension.

If you are employed and are voluntarily insured with a statutory health insurance scheme, your employer will pay half your contribution for statutory long-term care insurance. If you have compulsory private long-term care insurance, your employer will pay the lesser of this amount or half your actual contribution.

Dependant children and spouses are covered free as family members if their total monthly income does not exceed EUR 325.

Federal Employment Services cover the contributions for persons who receive unemployment benefit, unemployment assistance or a cost-of-living allowance. Funds responsible for rehabilitation benefits assume the contributions for people undergoing rehabilitation. The contributions of disabled persons who are receiving institutional treatment are covered by the funds that finance the respective institution. The relevant social assistance agency pays contributions for people who receive other assistance towards living expenses.

Compulsory private long-term care insurance

Rather than being calculated on the basis of your income, premiums for compulsory private long-term care insurance are graded according to your age when you sign the policy. By law, premiums cannot exceed the maximum contribution for statutory long-term care insurance. If you took out private health insurance after 1 January 1995, this ceiling will apply after a five-year period during which you have been covered by private health or long-term care insurance. Public servants whose medical costs are reimbursed in part by the government if they ever need long-term care do not have to pay more than half the maximum amount.

The private long-term care insurance rate for married couples where only one spouse works, or who both work but one of their incomes is low enough to qualify as marginal employment, may not be more than 150 per cent of the maximum rate for statutory long-term care insurance.

| Home care benefits | Category I | Category II | Category III |
|--|-------------------|--------------------|---------------------|
| Monthly long-term care allowance | EUR 205 | EUR 410 | EUR 665 |
| Maximum monthly total for non-cash long-term care benefits | EUR 384 | EUR 921 | EUR 1,432 |
| - Maximum for hardship cases | - | - | EUR 1,918 |
| Outside care for up to four weeks/year when carer takes holiday or cannot work (requirement: at least 12 months' prior care) | | | |
| a) Maximum payment for professional substitute | EUR 1,432 | EUR 1,432 | EUR 1,432 |
| b) Maximum payment for relative not employed for the purpose | EUR 205 | EUR 410 | EUR 665 |
| Maximum for documented expenses incurred by carer | EUR 1,432 | EUR 1,432 | EUR 1,432 |
| Maximum monthly benefits for day and night care in authorized part-time care institution | EUR 384 | EUR 921 | EUR 1,432 |
| Maximum monthly benefits up to four weeks/year in a long-term full-service care home | EUR 1,432 | EUR 1,432 | EUR 1,432 |
| Supplementary benefits for those with considerable home-care needs | EUR 460 | EUR 460 | EUR 460 |

INFORMATION

Each of Germany's statutory health insurance schemes has a long-term care insurance fund that offers statutory long-term care insurance. For further information or advice, please contact your long-term care insurance fund.

If you are required to have compulsory long-term care insurance and are privately insured, you can direct your questions either to your insurance company itself or to the association of private health insurance companies: Verband der privaten Krankenversicherung e.V., Bayen-thalgürtel 26, 50968 Cologne.

Three German-language brochures—Pflegeversicherung (on long-term care insurance) Pflegen zuhause (on providing care at home), and Wenn das Gedächtnis nachlässt (on memory loss)—are available free of charge from the mail-order service of the Federal Ministry for Health. Address: Deutsche Vertriebsgesellschaft, Birkenmaar Str. 8, 53340 Meckenheim, Germany.

The Federal Ministry of Health has set up a free advice line for citizens. The line is available to answer questions on long-term care insurance on Mondays to Thursdays between 8 a.m. and 8 p.m. Telephone number: 0800 19 19 19 0

Occupational accident insurance

Werner M. can't tell you exactly how it happened. It was winter and the temperature had dropped below freezing the night before. He left his house that morning to go to the office, but Werner, the manager of a roofing firm, didn't even make it to his car. He slipped and fell on the icy steps in front of his house. It turned out to be an accident with far-reaching consequences: The fall broke his eighth thoracic vertebra. It was six months before he was able to work again. And it was clear even then that Werner would never be able to move freely again, let alone climb around on roofs. He therefore applied to his statutory occupational accident insurance for benefits. On the basis of a medical report, the employers' liability fund ascertained that the accident had reduced Werner's earning capacity by 30 per cent. Subsequent examinations have confirmed this assessment.

It's been ten years since Werner had his accident. And for ten years now, the statutory occupational accident insurance has paid 67-year-old Werner an injury pension, currently 608 euros a month. Werner retired two years ago, so he now receives his injury pension as well as an old-age pension. The injury pension is partially deducted from his old-age pension. The fact that Werner is retired doesn't affect his injury pension—he is entitled to this pension whether he is employed or retired.

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

WHO IS INSURED?

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

Statutory occupational accident insurance also covers

- Farmers
- Children who attend nursery school
- Children in school
- Students
- People who help at the scene of an accident
- Civil defence and emergency rescue workers
- Blood and organ donors.

If you are a businessperson, self-employed or a freelancer, and are not already required to carry insurance by law or under the rules of the employers' liability insurance funds, you can obtain insurance coverage on a voluntary basis for yourself as well as your spouse if he or she works with you.

Special occupational accident insurance provisions apply to public servants (Beamte).

BENEFITS AND CONDITIONS

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

In addition, it works to prevent occupational accidents, occupational illnesses and job-related health hazards.

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

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

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

Your insurance covers you as long as you are carrying out an insured activity or are travelling to or from work.

If you are insured, you can claim:

Medical treatment

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

Injury benefit

You receive injury benefit as long as you are unable to work and your employer is not paying you. Injury benefit is 80 per cent of the gross pay you have lost as a result of your accident, up to a maximum of your net wages. Injury benefit is granted for a maximum of 78 weeks.

Occupational integration assistance

If you are unable to return to your present employment because of an accident at work or occupational illness, you can claim occupational assistance. This primarily comprises help allowing you to retain your present employment or to obtain new employment. If this does not succeed, you can undergo retraining. You will receive a transitional allowance while you undergo training, provided you do not receive wages.

Social integration assistance and supplementary assistance

These benefits include financial assistance to modify your car or home to meet your needs, domestic help, psychosocial counselling and rehabilitative sport. They are granted in addition to

medical treatment and occupational integration assistance if the nature and severity of your injury or illness makes them necessary.

Pension for insured persons

You will receive a pension if an accident at work or an occupational illness reduces your earning capacity by at least 20 per cent for 26 weeks. The amount of this pension depends on the extent to which your earning capacity has been reduced and on the amount you earned during the 12 full calendar months prior to your occupational accident or illness.

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

Nursing care allowance

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

Funeral allowance

If you die from an accident at work or an occupational illness, your surviving dependants will receive a funeral allowance which is equal to one seventh of your gross annual earnings at the time of your death.

Surviving dependant's pension

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

- You are 45 or older
- You have reduced earning capacity, are occupationally disabled or are an invalid
- You have at least one child who is entitled to an orphan's pension

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

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

Orphan's pension

If you die as the result of an accident at work or an occupational illness, any children you have who are under 18 years of age will receive an orphan's pension. Occupational accident insurance will pay a pension equal to 20 per cent of your annual gross income to your children when they still have one parent, and 30 per cent when they have lost both parents. Orphans' pensions are paid even beyond the age of 18 (the usual cut-off age). Such pensions are paid up to the age of 27 for orphans who are:

- Attending school or undergoing vocational training
- Doing a volunteer year in the social or environmental sector
- Unable to provide for themselves because of a physical, mental or psychological disability

If you are an orphan aged 18 or older, 40 per cent of any income you may have will be set off against your orphan's pension, following deduction of an index-related allowance.

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

Lump-sum settlement

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

You can still receive a lump-sum settlement even if your earning capacity hasn't been reduced by 40 per cent. In such cases however, your claim is settled with a single lump-sum payment. No further pension is paid, unless your health deteriorates so much as a result of your accident or occupational illness that you would be entitled to a larger pension.

FUNDING

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

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

THE LAW

The most important legislation regarding these matters can be found in a number of laws and regulations, such as the

- Social Code, Volume VII
- Social Code, Volume IX
- The Act on Pensions Payable Abroad and the Act on Pension Credits Gained Abroad

➤ Occupational Illnesses Regulations

INFORMATION

Further information is available from the employers' liability insurance funds (Berufsgenossenschaften) and public-sector occupational accident insurance funds (such as municipal accident insurance associations). The employers' liability funds offer a nationwide information line on industrial accidents, work-related accidents while travelling and occupational illnesses, available Mondays to Thursdays 8 am to 6 pm and Fridays 8 am to 5 pm on 01805 188088 (EUR 0.12 per minute within Germany).

Information is also available from various sources on the Internet, including:

- www.hvbg.de
- www.unfallkassen.de

WHAT YOU HAVE TO DO

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

Rehabilitation and integration of disabled persons

Martin L. has been confined to a wheelchair for the last 15 years. Although the 43-year-old has been diagnosed as paraplegic, his doctors are still not certain what caused his condition, which has left him severely disabled. Despite a hectic job manning a customer hotline, his disability seldom used to get in the way at work. "The only thing that was inconvenient was having to ask someone whenever I wanted something from a shelf," he explains. And someone always had to accompany him to the car park after work because Martin couldn't lift his wheelchair into his car by himself. These problems are now a thing of the past. The Integration Office became aware of Martin's situation when he applied for a new desk that was tailored to his disability. It arranged to have Martin's job environment equipped to accommodate his needs as a disabled person and provided generous subsidies to cover the costs. For example, several doors at Martin's office can now be opened simply by pushing a button. Martin also received a second wheelchair that stays in the office. "I had no idea that I was entitled to these kinds of benefits," Martin says in retrospect. Of course, he is very pleased about these changes. "The Integration Office has made life much easier for me and the people I work with," he reports.

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

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

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

BENEFITS AND CONDITIONS

If you suffer a physical, mental or psychological disability or are at risk of developing one, you are entitled to assistance, regardless of the cause of your disability. In such cases, you may need assistance in order to

- Avert, eliminate or reduce your disability
- Prevent your condition from deteriorating or alleviate its effects

This assistance is provided to help you find a place in society, and particularly in employment, that suits your interests and abilities.

INTEGRATION ASSISTANCE

The following benefits can be provided:

Medical rehabilitation assistance

Medical rehabilitation assistance includes:

- Medical and dental treatment
- Pharmaceuticals and dressing materials
- Remedies, including physiotherapy, kinesitherapy, 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 through hospitals, sanatoriums or special facilities. The benefits cover any food and accommodation in this event.

Occupational integration assistance

Occupational integration assistance includes:

- Assistance to help you keep your job or obtain a job. This includes benefits to encourage employment such as integration grants paid to employers who employ disabled persons
- Pre-training measures including any basic training that is necessary as a result of your disability (such as in the case of blindness)
- Refresher courses, vocational training, further training, or any education required for admission to such courses
- Other forms of employment and vocational promotion assistance aimed at making it possible for you to find adequate and suitable work on the job market or in a sheltered workshop

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

Social integration assistance

This includes:

- Special education for pre-school children
- Measures to assist integration in everyday life
- Measures to promote independent living in sheltered accommodation

➤ Recreational facilities

Financial benefits

Depending upon which fund is responsible, you will generally receive either sickness benefit, sickness benefit for war victims, injury benefit or a transitional allowance to ensure that you have enough income to cover your living expenses while receiving medical rehabilitation assistance. Sickness benefit may not exceed 80 per cent of the net income you forego during your treatment. If the pension insurance fund is responsible, you will be paid a transitional allowance equivalent to 68 per cent of your last net earnings instead of sickness benefit. This amount rises to 75 per cent of your last net earnings when you have dependants.

If you are provided with occupational integration assistance, you will generally receive a transitional allowance in the same amount. If Federal Employment Services are responsible for bearing the cost of your rehabilitation and you have been covered by unemployment insurance for a designated period of time, you will receive either a subsistence or a transitional allowance. Federal Employment Services will also pay a training allowance for young disabled persons who are undergoing their first vocational training, provided that certain requirements are met.

FACILITIES

Vocational youth training centres

These work in conjunction with firms in their respective region to provide initial vocational training for young disabled persons who require medical, psychological or educational assistance as a result of their disability and are therefore unable to receive in-plant training. Germany has built up a network of 48 vocational youth training centres with a total capacity for some 12,300 trainees. Eight of these centres with an admission capacity of approximately 2,300 trainees are located in former East Germany.

Vocational retraining centres

These also work together with firms in the region and provide retraining and further training for disabled adults who require medical, psychological and similar assistance. Germany's network of 28 vocational retraining centres has capacity for 15,000 trainees. Seven of these centres with capacity for some 3,000 trainees are located in eastern Germany.

Vocational training centres

Vocational training centres are special occupational integration centres for people with psychological disabilities. They aim to help people realistically assess their job perspectives so that they can rejoin the mainstream jobs market or go on to a course of training or retraining. They enable psychologically disabled people to integrate with the world of work and to find the right balance between work and private life. There are currently eight vocational training centres with a total of 457 places.

Vocational rehabilitation clinics

These are special rehabilitation centres which cater for specific types of condition or disability and which take a fully integrated approach to providing medical rehabilitation and occupational integration assistance. There are currently 16 such clinics in western Germany and 2 new clinics in eastern Germany, with a total of 4,385 places/beds.

Sheltered workshops

These special workshops offer suitable vocational training and jobs for persons who are permanently or temporarily unable to find employment on the open job market due to the nature or severity of their disability. These workshops provide disabled persons with an opportunity to develop, increase or regain their ability to work productively and to earn money while doing so. Germany has 669 state-approved workshops which offer some 202,000 jobs; of these, 174 workshops offering approximately 37,000 jobs are located in eastern Germany.

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

SPECIAL PROVISIONS FOR SEVERELY DISABLED PERSONS

If your level of disability is at least 50 per cent (your disability level is generally determined by the Versorgungsamt—the war pensions office), special employment protection provisions apply to you.

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

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

- EUR 105 a month for compliance rates of 3 per cent or greater but less than 5 per cent
- EUR 180 a month for compliance rates of 2 per cent or greater but less than 3 per cent
- EUR 260 a month for compliance rates of less than 2 per cent.

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

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

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

- Tax concessions (in particular, the standard allowance for disabled persons)
- Free public transport

- Reduced vehicle taxes
- Special parking facilities
- Exemption from radio and television licence fees

Severely disabled person's pass

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

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

Free public transport

If your disability significantly reduces your mobility in road traffic or if you are incapacitated or deaf, you are entitled to free public transport on production of a pass that is marked accordingly. This applies to trams, buses, suburban trains and (second class) railway travel when they are part of an integrated regional transport system and honour this system's tickets. Free transport within the Deutsche Bahn AG system or its subsidiary systems is limited to second class travel on local trains within 50 km of your home. You are however required to pay any surcharges that may apply to local trains.

Deutsche Bahn AG and its subsidiaries will allow you to use local trains free of charge when your pass contains a special stamp and there is a mileage table for your area. These stamps are issued by the war pensions office and cost EUR 60 for one year or EUR 30 for six months. The 12-month stamps are issued free of charge to persons who are blind or otherwise incapacitated and whose income does not exceed certain limits. This exemption also applies to certain categories of war victims. If you require a constant escort in order to travel, this person will also be allowed to travel free of charge (this also applies to long-distance travel).

EQUAL OPPORTUNITIES FOR DISABLED AND SEVERELY DISABLED PEOPLE

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

WHAT HELP IS AVAILABLE AND WHO GRANTS IT?

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

- Health insurance provides medical rehabilitation assistance for persons who are insured. The cost of medical rehabilitation is covered by the following:
 - Local health insurance funds
 - Company health insurance funds
 - Guild health insurance funds
 - The maritime insurance fund
 - Alternative statutory funds for wage and salary earners
 - The federal insurance fund for miners
 - Agricultural workers' health insurance funds
- Germany's pension insurance schemes are responsible for providing medical rehabilitation and occupational integration assistance for their members. These costs are covered by the following:
 - The national insurance fund for salaried employees
 - Regional insurance funds for wage earners
 - The federal insurance fund for miners
 - Agricultural workers' pension funds
 - The railways insurance fund
 - The maritime insurance fund
- The occupational accident insurance funds are responsible for providing medical rehabilitation, occupational integration and social integrational assistance following an accident on the job or an occupational disease. These costs are covered by the following:
 - Industrial employers' liability insurance funds
 - Maritime employers' liability insurance funds
 - Agricultural employers' liability insurance funds
 - Occupational accident insurance funds of the federal, state and local governments
- The funds responsible for compensation benefits for disabilities suffered for example by war victims or persons during the course of military service provide entitled persons with medical rehabilitation, occupational integration and social integration assistance. These costs are covered by the following:
 - Regional war pensions offices
 - Local war pensions offices
 - Integration offices

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

- Federal Employment Services and their state and local employment offices provide occupational integration assistance if no other fund is responsible.
- Social assistance and youth welfare agencies come into play in all areas of rehabilitation and integration, though only when no other body is responsible. In such cases, the local social services office and youth welfare office are the main points of contact.

It is not always easy to know who is responsible for what. All these funds are required to work closely with one another and forward applications to their proper offices so that disabled persons do not suffer any disadvantages arising from their lack of familiarity with the complex hierarchy between funds.

Important: *If you require vocational rehabilitation and it is not yet certain which fund will bear the costs, Federal Employment Services will pay your benefits on a provisional basis—whichever*

fund is competent, ultimately pays. A similar arrangement applies to medical rehabilitation: Pension insurance will initially provide your benefits until the competent authority has been ascertained.

WAR PENSION OFFICES, EMPLOYMENT OFFICES AND INTEGRATION OFFICES

Germany's war pension offices, employment services and integration offices are among the agencies that carry out the tasks arising from Book IX of the Social Code. War pensions offices are responsible for determining a person's disability, the degree of disability and any further health conditions that are a requirement for claiming handicap benefits. These offices also issue the severely disabled person's pass. Federal Employment Services provide incentives for hiring severely disabled persons and monitor compliance with the statutory obligation to employ severely disabled people. Special protection against dismissal and supportive assistance in employment come under the purview of integration offices.

THE LAW

The most important legislation regarding these matters can be found in the following:

- The Social Code
- Federal War Victims Relief Act
- Federal Social Assistance Act

INFORMATION

A key feature of Book IX of the Social Code is the obligation on rehabilitation funding bodies to establish joint service centres.

The joint service centres act as points of contact in each administrative district and offer comprehensive help and advice independent of any specific fund or provider. Their services include:

- Providing information about the assistance available from the various rehabilitation funds and the conditions that must be satisfied to receive it.
- Supporting those affected in the identification of rehabilitation needs.
- Identifying which rehabilitation fund is responsible.
- Help with making applications.
- Accepting applications and forwarding them to the appropriate fund.
- Support in claiming assistance.
- Preparing each 'case' to the point that a decision can be made.
- Ongoing support until a decision is made, and coordinating and mediating between the various funds and parties involved.

Important: *Any fund that is responsible for rehabilitation measures is obliged to accept your application for rehabilitation—a specific form is not required—even when it is not the proper authority for the form of rehabilitation at issue. In such cases it is required to forward your application to the proper authority.*

Compensation and assistance for war victims

When you think about it, Michael S. was actually lucky under the circumstances. But that was little consolation to him right after his accident: While in basic military training, 19-year-old Michael tripped during field exercises and fell into the path of an oncoming military vehicle. It ran over his right hand and crushed it so badly that the middle and index fingers had to be amputated. It was immediately clear to Michael that he would never be able to work as a goldsmith again.

But because his accident happened while he was on duty, Michael S. received benefits which are part of the pensions and other related benefits provided for war victims. As a result, the State not only paid the entire cost of his treatment but covered the cost of retraining him as an industrial clerk as well. While undergoing retraining, Michael received a transitional allowance; today he receives an injury pension. He's now able to write with his left hand and has found a job as a clerk. And he knows that no one is to blame for his accident. But once it had happened, everything possible was done financially to reduce the effects it would have on his life.

In the German social welfare system, if you suffer damage to your health in circumstances for which the state takes responsibility, you are entitled to victim's compensation. Victims' surviving dependants may also claim compensation subject to certain requirements being met.

Compensation benefits are provided for:

- War victims (who currently make up the largest group of persons to receive benefits under the Federal War Victims Relief Act)
- Victims of violent crime
- Persons injured in the course of military or civilian service
- Persons whose health has been damaged through inoculation-related complications
- Persons imprisoned on political grounds after 8 May 1945 in the Soviet occupational zone, the Soviet sector of Berlin or in any area specified in Article 1, Para. 2 (3) of the Federal Displaced Persons Act and whose health was impaired as a result
- Persons who were imprisoned on the basis of an unlawful sentence passed by the SED (the Socialist Unity Party of the former German Democratic Republic) and who suffer lasting disability as a result of their imprisonment

THE LAW

The most important legislation regarding compensation benefits can be found in the following:

- Federal War Victims Relief Act
- Soldiers Pensions Act
- Civilian Service Act
- Released Prisoners Assistance Act
- Crime Victims Compensation Act
- Protection against Infection Act
- Rehabilitation (Criminal Law) Act
- Rehabilitation (Administrative Law) Act

The following two sections deal with pensions and related benefits for war victims and victims of violent crime.

Pensions and related benefits for war victims

BENEFITS AND CONDITIONS

Upon application you will receive benefits to compensate for damage to your health and economic loss arising from an injury suffered as a result of:

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

You are entitled to various benefits as an injured person covered by compensation law:

1. Medical treatment for recognized conditions arising from your injury:

- Out-patient medical and dental treatment
- Treatment in hospital
- Provision of drugs, dressing materials and remedies
- Provision of aids
- Provision of dentures
- Benefits to supplement the provision of aids (such as subsidies for buying and/or modifying a car)
- Balneological treatment at a health resort
- Domestic help and benefits
- Special gymnastic exercises for disabled persons

Important: *If your earning capacity has been reduced by 50 per cent or more as the result of an injury covered by compensation law, you will also receive medical treatment for any further illnesses, provided that it is not already covered by another fund. You are not however entitled to treatment of subsequent illnesses when your earnings exceed the income limit for statutory health insurance (EUR 3,450 a month in both western and eastern Germany in 2003).*

2. Sickness benefits should you be unfit for work as a result of injury.

3. Medical treatment including rehabilitation benefits and preventive health care when not provided by other funds.

You are entitled to these benefits

- For your spouse, children and other dependants when you are severely disabled
- For persons who care for you without pay, when you receive a nursing care allowance
- When you are a surviving dependent of an injured person

4. Occupational integration. In other words, you are entitled to occupational integration assistance to help you enter, re-enter or continue working in a suitable occupation.

You will receive a transitional allowance or maintenance allowance for the duration of your occupational integration assistance.

5. Pensions paid to injured persons, widows, orphans and parents:

The amount of the injury pension (Beschädigtenrente) you receive is scaled according to the degree by which your earning capacity has been reduced. Your invalidity must be at least 25 per cent for you to qualify for an injury pension. Benefits include:

- A basic pension which is scaled according to your loss in earning capacity. The basic pension paid to severely injured persons increases after the age of 65.
- A supplementary allowance which is broken down into six grades for extremely severe injuries.
- A nursing care allowance for helpless persons, scaled in six grades.
- An allowance to replace clothing and underwear that is subject to additional wear and tear.
- An allowance for blind persons to help cover the cost of a guide.
- Compensation for loss of income arising from a partial or total inability to pursue your former or intended occupation as a result of your injury.
- Compensatory pension and a married dependant's supplement for severely injured persons to ensure that they can cover their living expenses. The injured person's income—minus certain deductions—is taken into account when setting the amount of the pension and supplement.
- Widows and orphans of a person who died as a result of injury receive a basic pension. A compensatory pension is also paid 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 will receive compensation for lost income if her income, including basic and compensatory pensions and any compensatory nursing care allowances, is less than half the income that her late husband would have earned had he not been injured.

In the event that the injured person's death was not caused by his or her injury, the dependents may claim widow's, widower's or orphans' assistance provided they fulfil certain requirements.

- The parents of an injured person who died as a result of his or her injury will receive a parents' pension, provided that they are in need and over 60 years of age, or are invalids. This also applies to adoptive, step and foster parents and, under certain circumstances, grandparents. Any income the parents may have—less certain deductions—is taken into account when setting the amount of the parents' pension.

6. Supplementary benefits provided under the war victims welfare scheme, such as the following:

- Nursing care assistance
- Domestic help
- Help for the elderly
- Convalescence assistance
- Assistance such as integration assistance for disabled persons (financial assistance to buy or modify a car, for example) that is granted under special circumstances
- Occupational integration assistance for injured persons
- Supplementary assistance towards living expenses

Certain benefits are provided under war victims' welfare schemes and are secondary to benefits falling under the Federal War Victims Relief Act. They constitute special assistance and are granted on an individual basis to supplement primary benefits. The amount is calculated taking existing income and assets into account, except in cases where the applicant's need is due exclusively to his or her injury.

THE LAW

The law on war victims' compensation is set out in the Federal War Victims Relief Act.

INFORMATION

You may apply for the above benefits at your local war pensions office (which is responsible for processing applications and granting benefits), any social security office or, if you live abroad, a diplomatic mission of the Federal Republic of Germany in another country. You may also appeal against a decision at no cost in the social court (Sozialgericht).

The welfare offices for war victims at municipal and district social services offices or central welfare offices are responsible for granting these benefits. If your injury is particularly severe and entitles you to special welfare benefits (for example, if you have lost your sight or your hands, have suffered brain damage, or receive a nursing care allowance), you should apply directly to the competent central welfare office. Decisions may be appealed against at administrative court level.

Victims of violent crime

BENEFITS AND CONDITIONS

If your health has been damaged as a result of a violent crime that was committed in the Federal Republic of Germany or aboard a German ship or aircraft, you are entitled to the same benefits as a victim of war. This also applies to nationals of any other country that provides similar compensation to Germans who fall victim to violence within its borders. This reciprocal treatment does not, however, apply to citizens from other European Union member states. The Second Act Amending the Crime Victims Compensation Act (1993) has extended these benefits to provide adequate coverage of other foreigners who have been legally resident in the Federal Republic for a longer period. Compensation is determined in part by how long the applicant has lived here—in other words, by the level of his or her integration into German society. Compensation will also be granted to foreigners whose presence in the Federal Republic is deemed lawful on humanitarian or significant public interest grounds. There is a hardship clause for tourists and visitors.

THE LAW

The Crime Victims Compensation Act came into force on 16 May 1976. In most cases, it applies only to injuries arising from acts of violent crime committed after that date. If you suffered an injury through violent crime between 23 May 1949 and 15 May 1976, compensation will be granted in the form of a hardship allowance only under certain conditions.

Foreigners, who have been protected under the Act since the Second Act Amending the Crime Victims Compensation Act came into force, receive compensation for crimes committed after 30 June 1990. Compensation can also be paid on compassionate grounds for injuries suffered by foreigners as a result of crimes committed before this date.

INFORMATION

You may apply for the above benefits at your local war pensions office (which is responsible for processing applications and granting benefits), any social security office or, if you live abroad, a diplomatic mission of the Federal Republic of Germany in another country.

Important: Decisions taken by administrative authorities may be appealed against free of charge in a social court (responsible for social security and related matters). In the event that the benefits correspond to those granted under the war victims welfare scheme, appeals must be made to an administrative court.

Note: Compensation for thalidomide victims is not governed by compensation benefit law. Such cases fall under the Act on the Establishment of an 'Assistance for Disabled Children' Foundation. Further information is available from the Federal Ministry for Family Affairs and Senior Citizens, Rochusstr. 8-10, 53123 Bonn, Germany.

**FINANCIAL BENEFITS FOR WAR VICTIMS
(AS OF 1 JULY 2002)**

| | | Former West Germany (per month) | Former East Germany (per month) |
|--|-----------------|---------------------------------------|---------------------------------------|
| Recipients | LOD* (%) | EUR | EUR |
| Blind (travel supplement) | | 140 | 123 |
| Basic pension for injured persons** | 30 | 117 | 103 |
| | 40 | 159 | 140 |
| | 50 | 216 | 190 |
| | 60 | 272 | 239 |
| | 70 | 377 | 331 |
| | 80 | 456 | 400 |
| | 90 | 547 | 480 |
| | 100 | 615 | 540 |
| Age supplement on basic pension | 50, 60 | 24 | 21 |
| | 70, 80 | 30 | 26 |
| | 90, 100 | 37 | 32 |
| Severe disability supplement | Class I | 70 | 61 |
| | Class II | 145 | 127 |
| | Class III | 219 | 192 |
| | Class IV | 291 | 255 |
| | Class V | 363 | 319 |
| | Class VI | 437 | 384 |
| Compensatory pension for injured persons | 50, 60 | 377 | 331 |
| | 70, 80 | 456 | 400 |
| | 90 | 547 | 480 |
| | 100 | 615 | 540 |
| Married dependants' supplement | | 67 | 59 |
| Care allowance | Class I | 259 | 227 |
| | Class II | 443 | 389 |
| | Class III | 628 | 551 |
| | Class IV | 808 | 709 |
| | Class V | 1,049 | 921 |
| | Class VI | 1,291 | 1,133 |
| Basic pension for widows | | 368 | 323 |
| Compensatory pension for widows | | 408 | 358 |
| Basic pension for orphans | | | |
| - having lost one parent | | 104 | 91 |
| - having lost both parents | | 194 | 170 |
| Compensatory pension for | | | |
| - having lost one parent | | 182 | 160 |
| - having lost both parents | | 253 | 222 |
| Parental pension for | | | |
| - 2 parents | | 499 | 438 |
| - 1 parent | | 347 | 305 |
| Supplement under BVG 51(2) for | | | |
| - 2 parents | | 91 | 80 |
| - 1 parent | | 67 | 59 |
| Supplement under BVG 51(3) for | | | |
| - 2 parents | | 282 | 248 |
| - 1 parent | | 205 | 180 |
| Funeral allowance: full | | 1,483 | 1,302 |
| Funeral allowance: half | | 743 | 652 |
| Clothing grant | | 18 to 114 | 15 to 100 |

* Level of Disability

** Following a ruling of the Federal Constitutional Court of 14 March 2000, the basic pension for injured persons in former East Germany is 100 per cent of the level paid in the West. The Second Act Amending the Crime Victims Compensation Act has extended this provision to basic pensions for injury victims of the former East German regime.

BVG: Federal War Victims Relief Act

Housing benefit

Being independent has always been important to Maria H. Which is why she decided not to accept her daughter's offer to move in with her family. "I'll stay in my flat as long as I can take care of myself," the 80-year-old explains in a friendly but resolute tone. Mrs. H. can also manage alone from a financial point of view—with the help of housing benefit. She receives a pension of some 563 euros. She took care of her elderly parents for years after the war and did not have a regular job as a result. In those days, you did not receive credit toward your pension for time spent providing nursing care for relatives. Mrs. H. had been a teacher but later was unable to find a position when she wanted to go back to teaching. As a result, she worked in the canteen at a large company until her retirement 17 years ago.

It was then that she was suddenly faced with financial problems: How was she to pay the 250 euros' rent for her two-room flat? Friends suggested that she apply for housing benefit from the city council. Mrs. H. took her friends' advice and has received rent support ever since. Although she has to make an application every year, this doesn't present a problem because her son-in-law helps her fill out the necessary form.

Good housing is expensive—too expensive for some people. Which is why there is housing benefit (Wohngeld), an allowance that the state grants to help cover the cost of housing. Tenants as well as homeowners can receive housing benefit if their rent or mortgage payments exceed their financial means. It is granted to both Germans and foreigners who live in the Federal Republic, and does not differentiate between types of housing. In other words, it does not matter whether your home is old or new, or whether it was built with the help of government subsidies or tax concessions or was entirely privately financed.

Housing benefit is called a rent support (Mietzuschuss) when it is granted to tenants, and mortgage and home upkeep support (Lastenzuschuss) when granted to homeowners.

BENEFITS AND CONDITIONS

Rent support is available to people who:

- Rent a flat or a room
- Own a flat in a co-operative or a housing trust
- Live in a home
- Have been granted a right of use or a permanent dwelling right equivalent to a tenancy
- Own a multi-unit dwelling (with three or more flats), commercial building or business establishment, provided they also live in it
- Own a one or two-family house which they live in but is used primarily as a place of business
- Own a full-time farming operation where the living quarters are not separate from the farm

Mortgage and home upkeep support is available to people who possess one of the following:

- An owner-occupied house or flat
- A small housing estate
- A part-time farming operation
- A permanent dwelling right equivalent to ownership
- A heritable right to build, or a claim to be transferred title in a building or dwelling, or a claim to be transferred or granted a heritable right to build

Housing benefit reform with effect from 1 January 2001

Ten years after the last housing-benefit reform, it was a core housing and social policy concern of the Federal Government to bring housing benefit into line with changing rent and income levels. The **housing-benefit reform** in force since 1 January 2001 has introduced **significant improvements** in benefits. From 1 January 2002, a nation-wide rent level classification applies for all German municipalities with more than 10,000 inhabitants and for the remaining administrative districts.

Legal entitlement

Housing benefit is not a form of government charity. Anyone who is able to claim housing benefit is also legally entitled to it.

Eligibility criteria

Several factors play a role in determining whether you receive housing benefit and the amount you receive. They include:

- The number of family members in your household (head of the household, spouse, parents, children—including adopted and foster children—siblings, uncles, aunts, in-laws and other relatives listed in the applicable legislation)
- Total family income
- 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. If you live in a residential home or old people's home, the amount of rent is assumed from 1 January 2001 to be the amount listed in the official table of maximum rents.

Important: *Family members who are temporarily not living at home such as when they are in hospital, undergoing military or civil service or studying away from home are still considered members of your household.*

From 1 January 2001, the assessment of incomes for the processing of housing benefit applications has been brought in line with income assessment for income-tax purposes. The basis of assessment is the applicant's taxable positive income as defined in section 2 paragraphs 1, 2 and 5a of the Income Tax Act (Einkommensteuergesetz), though various tax-free sources of income are additionally allowed for.

The concept of total income has now replaced family income as the basis of assessment. Total monthly income must not exceed a specific maximum amount. The maximum amount depends on the number of people belonging to the household. The table entitled Income Limits for Housing Benefits shows the maximum amounts for each size of household in 2002.

Calculation of total income

The new total income figure is the sum total annual income of all family members belonging to the household, minus certain deductions and exempt amounts. Applicants must provide proof of the income figures they state.

The annual income figure used is the annual income, as anticipated at the time the application is made, during the period for which housing benefit is to be granted. The income earned in the twelve months preceding the application can be assumed as the anticipated figure.

WHAT YOU HAVE TO DO

Make an application

To receive housing benefit, you have to submit an application to the competent housing benefit office at your city or district (Kreisverwaltung) government and produce proof of eligibility.

As a rule, the application must be made by the head of household. As a rule, people on training or serving an apprenticeship are not eligible to apply.

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 housing benefit is paid beginning with the month your application is received.

Should 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.

Special rent support

If you receive social assistance payments or benefits under the war victims' relief scheme, you have been exempt from having to submit an application since 1 April 1991. Instead, from 1 January 2001, the agency that pays your social assistance or any benefits you receive under the war victims' relief scheme automatically includes special rent support together with the other benefits it pays to you. Your benefits are recalculated so that this arrangement has no effect on the total amount of benefits to which you are entitled.

***Important:** If you receive social assistance payments, you must apply to the competent housing benefit office to receive housing benefit; it will be paid out from the month in which the application is made.*

THE LAW

The underlying legislation can be found in the amended Housing Benefits Act and the Housing Benefits Ordinance, which came into force on 1 January 2002.

INFORMATION

Your local housing benefit office is required to inform you about your rights and obligations under the Housing Benefits Act.

For more information on the new Housing Benefits Act as of 1 January 2002 please visit the Ministry of Transport, Building and Housing web site at www.bmwbw.de

INCOME LIMITS FOR HOUSING BENEFITS AS OF 1 JANUARY 2002

| Number of family members in household | Western and Eastern Germany | | | | | |
|--|--|-------|-------|-------|-------|-------|
| | Monthly total income limits in euros in accordance with the housing benefit formula in communities with rent level I-VI, for housing available for occupancy since 31 December 1991 | | | | | |
| | I | II | III | IV | V | VI |
| 1 | 750 | 760 | 770 | 800 | 810 | 830 |
| 2 | 1 010 | 1 040 | 1 060 | 1 090 | 1 110 | 1 140 |
| 3 | 1 270 | 1 290 | 1 320 | 1 340 | 1 370 | 1 390 |
| 4 | 1 670 | 1 700 | 1 730 | 1 770 | 1 800 | 1 830 |
| 5 | 1 910 | 1 960 | 1 980 | 2 030 | 2 060 | 2 100 |

Social assistance

Gerda B. was virtually penniless following her divorce. Although she had worked as a doctor's assistant from time to time during her 19 years of marriage, it wasn't long enough to entitle her to unemployment benefit or assistance. To make things worse, her ex-husband didn't pay maintenance, although he was supposed to. At age 42, she gave up all hope of ever finding a job. She had begun to drink while she was still married and had since become an alcoholic. Gerda went to her local social services office, which provided her with regular assistance towards her living expenses. It also paid additional costs for new clothing that Gerda was going to need when she decided to enter a clinic for a six-month withdrawal treatment. The treatment was successful and Gerda hasn't touched a drop of alcohol in years. After her treatment, she began doing charity work with the help of the social services office. She then got a temporary job as a clerk for a welfare service. Her local social services office was able to arrange this job for her as part of its Welfare-to-Work Programme. Today Gerda is still working at the same office, but as a permanent staff member. And she feels she has a future again. 'Without the social assistance payments I might not have made it,' she says.

Social assistance (Sozialhilfe) is there to ensure that anyone in need in the Federal Republic can still live a decent life. It is not some kind of charity. People who find themselves in situations such that they cannot manage without help are eligible under German law for social assistance payments. Social assistance is also a means of helping recipients regain their independence — a task that demands their full cooperation.

BENEFITS AND CONDITIONS

You can claim social assistance if you are in need, or in danger of becoming destitute, and are unable to overcome your difficulties on your own or with the help of other people. Under such circumstances, social assistance will be granted to you regardless of whether you are responsible for your current situation. You have a legal right to nearly all social assistance benefits.

When deciding which forms of assistance you need, your welfare office will take your personal and financial situation into consideration. It will also take into account your family's situation and any claims you have to benefits from other welfare funds or from a person obliged to pay maintenance.

Social assistance comes in various case-specific forms—personal assistance, cash benefit payments and payments in kind—and is provided as:

- Assistance towards living expenses
- Assistance for special circumstances such as disablement, illness or old age.

ASSISTANCE TOWARDS LIVING EXPENSES

Assistance towards living expenses primarily covers these items:

- Food
- Housing
- Clothing
- Toiletries

- Household goods
- Heating
- Everyday personal necessities, including—within reasonable limits—expenses for socializing and participating in cultural events.

Besides regular, ongoing benefits, non-recurring benefits are provided for larger, reasonable purchases such as clothing, household goods or heating in winter.

If you claim social assistance and your circumstances dictate that you live in a special home, you must personally bear your housing costs to the extent that the use of income and assets cannot reasonably be required under the special provisions of social assistance law. You may receive a monthly cash allowance (formerly called ‘pocket money’) for your personal use.

If you claim social assistance but do not live in a home, you will receive regular benefits according to standard payment tables.

ASSISTANCE FOR SPECIAL CIRCUMSTANCES

These benefits cover:

- Assistance during illness, preventive and other assistance. This includes family planning, sterilisation, maternity and ante-natal care. This assistance corresponds to the benefits provided by statutory health insurance and is only granted if other welfare funds are not responsible and where the applicant cannot reasonably be expected to pay due to insufficient personal income and assets.
- Integration assistance for people with disabilities if it is highly probable that their physical, mental or psychological condition will differ for a period of more than six months from that which is typical of people of the same age in such a way that their participation in society is impaired or significantly influenced by their disability. Integration assistance takes the form of medical rehabilitation assistance, occupational integration assistance and social integration assistance, provided that no other insurance provider is responsible for the required rehabilitation assistance.
- Assistance for persons in need of nursing care at home or in a nursing home. When the claimant receives care at home, various benefits (compensation for expenses, supplementary allowances, monthly nursing care allowance) are granted depending on the amount of care needed. If necessary, this assistance will even cover the cost of a special carer. Under certain circumstances, it also bears the costs of providing adequate pension insurance for the carer
- Household help during, for example, a mother’s illness or convalescence at a health resort
- Assistance to overcome special social hardship
- Additional assistance to meet the special needs of the elderly, such as assistance to obtain and/or keep a flat that is ‘senior-citizen friendly’

You must, however, draw upon any assets you may have before you can claim social assistance.

There are exceptions to this rule, such as when your assets consist of smaller savings deposits or the house you live in, provided it is not excessive in terms of your actual needs.

In certain circumstances, your relatives must pay your social assistance. Under family law, direct relatives are liable to provide maintenance for one another. Social assistance does not release them from this obligation. For this reason, the social services office checks whether and to what extent social assistance can be recovered from any of your first-degree relatives (parents and children) or your spouse. Your grandparents, grandchildren and other distant relatives are not liable for your social assistance.

In order to prevent possible hardship, Germany’s welfare offices are permitted to exercise discretion when determining the amount to be recovered from relatives.

Certain types of integration assistance for disabled people are provided without the need for means testing (neither the disabled person nor the person required to provide maintenance must use their personal income and assets to cover disability-related needs).

Important: You will not have to repay any social assistance you receive, even if you become prosperous later on in life.

Exceptions: The rule that social assistance is non-repayable does not apply if it is granted as an outright loan, or if you have brought about the situation leading to your eligibility for social assistance wilfully or through gross negligence.

Important: If you die while still receiving social assistance and leave a considerable estate, your heirs must, under certain circumstances, repay the social assistance you received. Your heirs will not however be called upon to repay anything if doing so would cause hardship.

STANDARD BENEFIT RATES

Standard rates for regular assistance towards living expenses were adjusted in line with the development of pension contributions on 1 July 2002.

The amount paid to a needy family is determined by the number of its members and their respective ages. Any income the family has will also be taken into account.

From 1 July 2002, the standard payment for the head of a household in western Germany averages EUR 292; the standard payment for his or her spouse is 80 per cent of this amount. Depending upon their age, children will receive between 50 and 90 per cent of the payment made to the head of household.

Certain groups of people who have additional needs can receive supplementary payments (Mehrbedarfszuschlag) ranging from 20 to 60 per cent of the respective standard payments.

Important: Social assistance will also cover housing costs (particularly rent and heating), as long as they are reasonable. The standard rates of social assistance do not take housing and heating costs into account, but this does not include the costs of electricity consumption.

Social assistance will pay your rent arrears if you are in default and face eviction. Any move to different accommodation must first be discussed with and approved by your local social services office. Under certain circumstances, this will also bear incidental costs involved in renting a new flat and any deposit you must make.

Non-recurring benefits are granted to cover needs that arise on a more or less regular basis but are not of an ongoing nature, such as clothing, household goods, and Christmas allowances.

THE LAW

The most important legislation governing social assistance can be found in Book IX of the Social Code, the Federal Social Assistance Act and associated regulations, and implementing acts at federal state level.

Special provisions for eastern Germany are stipulated in the treaty on German unification.

The Federal Republic of Germany gives humanitarian assistance to those seeking refuge from political persecution and civil war. The state assumes its social responsibility by providing asylum seekers with the necessary means for survival. Rather than receiving income support, since 1.11.1993 asylum seekers and other stateless persons receive assistance under the Act on Benefits for Asylum Seekers.

The law on ensuring minimum income in old age and in cases of reduced earning capacity (Minimum Income Act (GisG)) aims to ensure the independence of people age 65 and over, and of people aged 18 and over with medically-proven reduced earning capacity.

One of the law's key aims is poverty reduction. It is often the case that particularly older people fail to make use of their entitlement to income support because they fear that their children will be required to contribute from their own incomes. This shame-oriented poverty in old age is to be combated by pension reform provisions contained in the GsiG.

The provision of a minimum income also helps people aged 18 and over who suffered serious illness in younger years or from birth, and who are unable to work and to make use of their entitlements in employment-based income support systems. They are ensured a basic means of survival independent of any subsistence provided by their relatives.

Minimum income support is paid out in an amount equal to that under income support law. In contrast to income support, a monthly lump sum is paid out in the amount of 15% of the standard rate for the head of a household, including once-only payments. The approval of minimum income support is usually granted for a period of one year. This greatly simplifies the process for people entitled to this type of support but who have limited mobility due to their age or reduced earning capacity.

Any income and assets of those entitled are taken account of in the same way as under income support law. In contrast to income support law, subsistence payments made by children or parents are not considered. Minimum income support cannot be claimed if a child's or parents' joint annual income exceeds EUR 100,000.

WHAT YOU MUST DO

Germany's social services offices must take action and provide benefits

- When anyone approaches them for help
- When they learn that someone needs help

If you receive social assistance, you are obliged to accept any reasonable job offered you.

Otherwise you forfeit your entitlement to social assistance and risk loss of benefit. You would not be required to accept a job if, for example, you had to care for a very young, sick or disabled child.

If you receive assistance towards living expenses, your entire income (with some exceptions) must also go toward covering these expenses.

In the case of assistance in special circumstances, any income you have up to a certain level is usually disregarded, and you are required to make use of only a reasonable amount of any income above this level.

INFORMATION

Germany's rural and municipal districts act as local social assistance authorities and, as such, are responsible for carrying out the Federal Social Assistance Act. However, some benefits are

administered by regional social assistance offices such as regional welfare organizations, regional social services offices, and agricultural associations.

Your local social services office (Sozialamt) will answer any questions you may have. Local social services offices must ensure that anyone in need receives all the assistance they are entitled to without delay.

Standard rates for children

As percentages of the standard rate for the head of the family

under 7 years 50 % or 55 %*

7 – 13 years 65 %

14 – 17 years 90 %

from 18 years 80 %

*When living with a single person who has sole responsibility for looking after and raising the children.

SPECIAL PROVISIONS FOR FORMER EAST GERMANY

The provisions set forth in the treaty on German unification ceased to apply to the state of Berlin on 1 August 1996.

The following provisions continue to apply to the rest of eastern Germany:

- The specially increased basic income limit that serves as the basis for granting assistance for special circumstances will be adjusted every year in line with incomes until it matches the amount applicable in western Germany.
- Social assistance agencies are only obliged to fulfil statutory entitlements where the services and facilities that are needed in the individual case exist or where adequate funds are available.

International social security

Manfred M.'s family had looked forward to their first holiday in two years for a long time. Their destination: Italy and two weeks of sun and fun at the beach. But misfortune struck on their third day there: Manfred fell while climbing in the rocks above the beach and broke his right leg. The doctors at the local hospital were insistent: Manfred had to be operated there and then. His leg would be put in a plaster cast and, barring complications, he would be able to return to Germany together with his family.

Of course, Manfred M.'s family didn't expect their holiday to turn out like this. Monika, the mother, and their two children Marcel and Alicia couldn't really enjoy the rest of their stay, either. But at least they didn't have to worry about the financial consequences of Manfred's accident. They had a certificate from their health insurance fund confirming that it would reimburse the Italian hospital for all its costs. Before this, the couple weren't even aware that the German social security system provides benefits in a number of other countries, even for people who live and work abroad. By the way: Manfred M. was able to return to Germany with his family. He is already making plans for next year's holiday—in Italy, of course.

According to German social security law, benefits are to be provided only in 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 necessary for social benefits to be paid across borders or provided in other countries.

Which is why the European Union (Austria, Belgium, Denmark, Germany, Greece, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the UK) already has a legal framework that enables payment of benefits to entitled persons across borders and ensures that they and their families have, for example, necessary health care in other EU member states.

The agreement on the European Economic Area (EEA) extended this legal framework to include Norway, Iceland and Liechtenstein.

The EU agreements additionally apply in Switzerland as of 1 June 2002.

Similar agreements have been concluded with a number of other European nations including:

- Bosnia-Herzegovina
- Bulgaria (pensions only)
- Croatia
- Hungary
- Macedonia
- Poland
- Slovenia
- Switzerland
- Turkey
- Yugoslavia

Germany has also signed social security agreements with these non-European countries:

- Canada (pensions only)
- Chile (pensions only)
- Israel
- Japan (pensions only)
- Morocco

- Tunisia
- USA (pensions only)

The social insurance agreement with China solely covers the avoidance of double contribution payments when an employee from either country works in the other.

In addition, a number of multilateral agreements on social security matters exist:

- International Labour Organization (ILO) agreements
- Council of Europe agreements
- Agreements covering bargemen on the Rhine

None of these agreements is concerned with harmonizing security systems. Their emphasis is on coordination, and their primary goal is to prevent possible disadvantages from arising for migrant workers and tourists.

GENERAL

The European Union provisions and some of the social security agreements are very comprehensive. The most important provisions involve benefits provided in the event of illness, invalidity and old age, and those granted to surviving dependants and to persons who have suffered an industrial accident or occupational illness.

The international agreements are based on two assumptions:

1. That all persons covered by them enjoy the same status regarding their rights in social welfare matters.
2. That residence in one EU country or contracting state can generally be accorded equal status with residence in another EU member country or contracting state.

***Important:** The international agreements cover not only compulsory insurance but voluntary insurance under the applicable terms as well. The EU provisions apply to you as a gainfully employed or self-employed person or as a student if you are or have been insured in accordance with the regulations of one or more EU nations. You must also be a citizen of an EU member state, a third-country national, a stateless person or a refugee, and you must live in an EU member state.*

Bilateral agreements (in other words, agreements with non-EU states) apply primarily to

- German nationals
- Nationals of the other contracting state
- Refugees
- Stateless persons

THE LAW

Council Regulation 71/1408/EEC provides the basis for social security coverage within the European Union.

Germany has entered into bilateral agreements with several European countries that are not members of the EU.

It has also signed social security agreements with various countries outside Europe.

Health insurance

BENEFITS AND CONDITIONS

If you have moved to another EU country or a contracting state to work, you will have health insurance coverage there as well and receive any necessary benefits from the appropriate funds. As a tourist you are also entitled to medical care in any other EU country or a contracting state. This does not however apply to Poland, Chile, China, Israel, Morocco, Canada or the USA. If you are a foreign national and work in Germany while your family is living in, say, Turkey, your family will enjoy full health insurance coverage in Turkey as well, just as if you were employed there.

If you plan to be in Bosnia-Herzegovina or Yugoslavia, you should check with your health insurance fund in Germany to see if it provides coverage there.

WHAT YOU HAVE TO DO

If you plan to travel abroad as a tourist, you should take a claim certificate (Anspruchsbescheinigung) from your health insurance fund with you. This certificate also lists whom you must contact where you are travelling should you require health insurance benefits. If your employer sends you to work in another country, you will continue to be insured in your own country and pay your contributions there. In such cases, you should take a relocation certificate (Entsendebescheinigung) with you. It entitles you to claim benefits in the other country and protects you against having to pay insurance there as well.

Under a decision of the European Court of Justice, long-term care insurance must be paid out to German policyholders and their coinsured family members in all EU and European Economic Area states.

INFORMATION

Advice and information is provided by your health insurance fund and by Deutsche Verbindungsstelle, Krankenversicherung-Ausland (the German liaison office for health insurance abroad), Postfach 200 464, 53134 Bonn.

Occupational accident insurance

BENEFITS AND CONDITIONS

Take the following example: You are a German national and have been working in France for a French company and are now returning to Germany after having suffered an accident at work. Your French insurance fund will pay a disability pension to you in Germany. You will also be entitled to receive the medical treatment you need in either country. And if you were to have a fatal accident while working abroad, the insurance fund in that country would pay a pension to your surviving dependants, even if they live in Germany. They would receive a pension as if they were living in the country where your accident happened.

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.

INFORMATION

Information and advice is provided by the Hauptverband der gewerblichen Berufsgenossenschaften (federation of employer liability funds), Alte Heerstrasse 111, D-53757 Sankt Augustin.

Pension insurance

BENEFITS AND CONDITIONS

If you have worked in various EU member states or contracting states during the course of your working life, the respective periods during which you paid pension insurance will be added together and applied toward your qualifying period. If you qualify for a pension and you have an accident, your pension will be paid to you even if you live in another EU member state or contracting state. 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.

WHAT TO DO

If you want to claim benefits, you have to make an application and provide the necessary documentation. The relevant agencies have leaflets which you can refer to for further details (please see the list of liaison agencies at the end of this chapter).

WHAT YOU HAVE TO DO

If you live abroad and are a member of a German insurance fund, you will continue to pay your contributions as usual. Should you require benefits, you should apply to the insurance fund in the country where you live. You can also receive benefits from abroad by applying to the fund in the respective country or to the German fund.

INFORMATION

Information and advice are provided by the following:

- In matters involving pension insurance for salaried employees, the Bundesversicherungsanstalt für Angestellte in Berlin.
- In miners' pension insurance matters, the Bundesknappschaft in Bochum.
- In other wage-earners' pension insurance matters: Landesversicherungsanstalt (LVA) Baden-Württemberg in Karlsruhe for Switzerland, Liechtenstein and Greece; LVA Berlin for Poland; LVA Braunschweig for Japan; LVA Hamburg for China, Great Britain, Ireland,

Canada and the USA; LVA Nieder-bayern-Oberpfalz in Landshut for Bosnia-Herzegovina, Croatia, Slovenia, Yugoslavia and Macedonia; LVA Oberbayern in Munich for Austria; LVA Oberfranken und Mittelfranken in Bayreuth for Turkey; LVA Rheinprovinz in Düsseldorf for Belgium, Spain, Israel and Chile; LVA Sachsen-Anhalt in Halle for Bulgaria; LVA Schwaben in Augsburg for Italy, Morocco and Tunisia; LVA Schleswig-Holstein in Lübeck for Denmark, Finland, Sweden and Norway; LVA Thüringen for Hungary; LVA Westfalen in Münster for the Netherlands and Iceland; LVA Rheinland-Pfalz in Speyer for France and Luxembourg; LVA Unterfranken in Würzburg for Portugal.

Child benefit

BENEFITS AND CONDITIONS

If you are unconditionally required to pay tax or are gainfully employed in Germany, you can receive child benefit (Kindergeld) for children living in certain other countries. Child benefit is paid in full for children living in other EU states, in Liechtenstein, Switzerland, Norway and Iceland. Agreed rates are paid for children living in other countries, such as Turkey.

If you work in one of these countries but weren't sent there by your German employer, you will normally receive family allowance (child benefit) according to the provisions that apply in the country where you work.

What you have to do

Submit an application for benefits to the family benefits department (Familienkasse) at your local employment office (Arbeitsamt) 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 family benefits department (Familienkasse) of your local employment office.

Unemployment insurance

BENEFITS AND CONDITIONS

If you are unemployed and move to another EU country 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 months. Your payments continue in Germany if you return there within three months. Your entitlement to unemployment benefit lapses if you return after the three-month period. If you are unemployed, were previously employed in Germany and are now in Bosnia-Herzegovina, Slovenia, Yugoslavia or Macedonia, in certain circumstances you can receive benefits from that country's insurance fund.

WHAT YOU HAVE TO DO

You must fulfil the following requirements in order to continue receiving German unemployment benefits after moving to another EU state: Before your departure, you must have been registered with the German employment services as an unemployed person and have been available for work for at least four weeks after becoming unemployed. You are also required to register as a job seeker with the employment services in the EU member state you have moved to within seven days of your arrival.

INFORMATION

Information and advice are provided by your local employment office (Arbeitsamt) and by Federal Employment Services (Bundesanstalt für Arbeit) in Nürnberg.

Free Hotline
(Calls to the hotline are free of charge within Germany)

Call us with your questions

Monday to Thursday, 8 AM to 8 PM (German language only)

- If you have a question about pensions:
0800/151515-0

- If you have a question about jobs for severely disabled persons:
0800/151515-2

- Text telephone and fax for the deaf or hard of hearing:
Monday to Thursday, 8 am to 8 pm
Telephone: 0800/1110005
Fax: 0800/1110001

E-mail: info@bmgs.bund.de

Web site: <http://www.bmgs.bund.de>