

Federal Act on Compensation for Victims of National Socialist Persecution (Federal Compensation Act - BEG)

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BEG

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Stand: Last amended by Art. 81 G v. 29.3.2017 I 626

You can find more information about the stand in the menu under Notes

footnote

(+++ text proof validity from: 1.1.1987 +++)

Introduced into Saarland by G No 658 OJ 1959, Saarland, p. 759; for individual derogating provisions see the abovementioned G No 658.

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**First SectionGeneral
Provisions**

**First titleClaims for
compensation**

Recognising that

persons persecuted for reasons of political opposition to National Socialism or for reasons of race, creed or belief under National Socialist tyranny were wrong, that the resistance against the National Socialist tyranny out of conviction or for the sake of faith or conscience was a merit for the good of the German people and state and that also democratic, religious and economic organizations were illegally damaged by the National Socialist tyranny, the

Bundestag passed the following law with the consent of the Bundesrat:

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§ 1

(1) Victims of National Socialist persecution are those who have been persecuted for reasons of political opposition to National Socialism or for reasons of race, faith or ideology by National Socialist violent measures and have thereby suffered loss of life, physical injury, health, freedom, property, property, in their professional or economic advancement (persecuted persons).

(2) Persecuted persons within the meaning of paragraph 1 shall be treated as persons who have been persecuted by National Socialist violent measures,

1.

because, on the basis of his own conscience decision, he has actively campaigned against the disregard of human dignity or against the destruction of human lives, which is morally unjustified, even by war, while endangering his person;

2.

because he represented an artistic or scientific direction rejected by National Socialism;

3.

because he was close to a persecuted man.

(3) Persecuted persons within the meaning of paragraph 1 shall also be deemed to be

1.

the survivor of a persecuted person who has been killed or driven to death or who has died as a result of injury to his body or health;

2.

the aggrieved party who has committed an act accused of him in the fight against National Socialist tyranny or in the defence against persecution, but who was able to conceal the motive for this act;

3.

the injured party who has been affected by Nazi violent measures because he was mistakenly included in a group of persons persecuted for the reasons referred to in paragraphs 1 and 2;

4.

the injured party who, as a close relative of the persecuted person, is also affected by National Socialist violent measures; the spouse of the persecuted person and the children are considered close relatives as long as they can be granted child allowances in accordance with the civil service law in force until 31 December 1974.

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§ 2

(1) National Socialist measures of violence are such measures which, for the reasons of persecution set out in § 1, have been directed against the persecuted person at the instigation of or with the approval of a department or a public official of the Reich, a Land, another corporation, institution or foundation under public law, the NSDAP, its branches or its affiliated associations.

(2) The acceptance of National Socialist measures of violence shall not be precluded by the fact that they were based on statutory provisions or were directed against the persecuted person in the improper application of statutory provisions.

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§ 3

The persecuted person is entitled to compensation under this Act.

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§ 4

(1) The right to compensation exists,

1.

if the person being persecuted

a)

on 31 December 1952 had his residence or permanent abode within the scope of this Act;

b)

died before 31 December 1952 and had his last residence or permanent abode within the scope of this Act;

c)

emigrated, deported or expelled before 31 December 1952 and had his last place of residence or permanent abode in the territory of the Reich as at 31 December 1937 or in the territory of the Free City of Gdansk and did not establish it only after the end of the National Socialist tyranny in the German eastern territories under foreign administration or in the territory of the Free City of Gdansk;

d)

e)

is a displaced person within the meaning of § 1 of the Act on the Affairs of Displaced Persons and Refugees (Federal Displaced Persons Act) and has taken up residence or permanent residence within the scope of this Act until 30 April 1965 or after that date within 6 months after having left the territory of the State from which he was expelled or resettled;

f)

is recognised as a Soviet zone refugee within the meaning of § 3 of the Federal Expellees Act and has taken or takes his residence or permanent residence within the scope of this Act; anyone who has moved from the Soviet occupation zone or from the Soviet-occupied sector of Berlin by way of emergency admission or a comparable procedure and had his residence or permanent residence within the scope of this Act on 31 December 1964 shall be treated equally; § 3 (2) of the Federal Expellees Act shall apply mutatis mutandis;

g)

by way of family reunification, has moved or is moving his residence or permanent abode from the territory of the Soviet occupation zone or from the Soviet-occupied sector of Berlin to the scope of this Act because, as a result of his physical or mental infirmity, he requires constant maintenance or care or is at least 65 years old; § 3 (2) of the Federal Expellees Act shall apply mutatis mutandis;

2.

if on 1 January 1947 the persecuted person was in a DP camp within the area of application of this Act and either died during his stay in the DP camp after 31 December 1946 or emigrated from the area of application of this Act or, as a homeless foreigner, passed into the jurisdiction of the German authorities or acquired German nationality.

(2) Emigration within the meaning of this Act shall also be deemed to have taken place if the persecuted person before 8 May 1945 has transferred his residence or permanent abode out of the territory of the Reich in accordance with the status of 31 December 1937 or the territory of the Free City of Gdansk for the reasons of persecution set forth in § 1.

(3) The right to compensation shall not lapse if the deported persecuted person (paragraph 1 no. 1 letter c) has been forcibly returned to the territory of the Reich as of 31 December 1937 or to the territory of the Free City of Danzig.

(4) The persecuted person who has been expelled (paragraph 1 No. 1 letter e) shall also be entitled to compensation if his membership of the German people is based on the fact that he belonged to the German linguistic and cultural group; an express commitment to German folklore is not a prerequisite for membership of the German linguistic and cultural group.

5. Family reunification (paragraph 1(1)(g)) shall mean admission by the spouse, by relatives of the straight line or the lateral line to the second degree or by stepchildren, foster children, children adopted or children in law. Admission by stepchildren or foster children or in place of children Accepted is only possible if they had lived in domestic community with the newcomer before reaching the age of 18 or for at least three years.

(6) Forced residence by deprivation of liberty and residence in a DP camp shall not be deemed to be residence or permanent abode within the meaning of this Act.

(7) In the case of damage to real estate, the claim for compensation shall exist irrespective of the domicile or permanent residence of the persecuted person if the real estate is situated within the scope of this Act.

footnote

§ 4 para. 1 no. 1 letter e: According to the decision formula compatible with GG, BVerfGE v. 29.10.1969 I 2186 - 1 BvL 19/69 -

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(1) If a persecuted person died before 31 December 1952 and if he had his last residence or permanent abode outside the area of application of this Act, but in the territory of the Reich in accordance with the situation on 31 December 1937 or in the territory of the Free City of Gdansk, the widow who is not remarried and who was affected by the persecution shall be entitled to compensation, provided that she fulfils the conditions of § 4. This shall not apply if the persecuted person did not establish his residence or permanent abode in the territory described in sentence 1 until after the end of the National Socialist tyranny.

(2) The claim under subsection (1) shall exist only to the extent that the claim of the persecuted person would have passed to the widow by inheritance if the persecuted person had fulfilled the conditions of section 4. The claim is neither transferable nor heritable.

(3) Paragraphs 1 and 2 shall apply mutatis mutandis in favour of the widower of a persecuted person.

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§ 5

(1) There shall be no right to compensation to the extent that the right to compensation for the damage falls, by its legal nature, within the scope of special legal provisions on compensation for National Socialist injustice applicable within the scope of this Act. Legal provisions within the meaning of sentence 1 are in particular the legal provisions governing the restitution of ascertainable assets and the regulation of the monetary liabilities of the German Reich and equivalent legal entities under restitution law, legislation on the transfer of organisational assets, legislation regulating the reparation of National Socialist injustice for members of the public service, legislation to make good National Socialist injustice in social security and in the provision of war victims.

2. The right to compensation shall not exist even if the right to compensation for the damage is not subject to special legislation within the meaning of paragraph 1 solely because that legislation is limited in scope or because the person pursued is no longer entitled to it under special legislation within the meaning of paragraph 1 by reason of failure to observe a time limit.

(3)

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§ 6

(1) is excluded from the compensation,

1.

Anyone who has been a member of the NSDAP or one of its branches or who has abetted National Socialist tyranny; nominal membership in the NSDAP or in one of its branches does not exclude the right to compensation if the persecuted person has fought National Socialism using freedom, body or life for reasons corresponding to the reasons for persecution in § 1 and has therefore been persecuted;

2.

anyone who after 23 May 1949 fought against the free democratic basic order in the sense of the Basic Law;

3.

anyone who, after 8 May 1945, has been convicted of a crime and sentenced to more than three years' imprisonment by a court of law.

(2) Paragraph 1 No. 3 shall not apply if the conviction is pronounced outside the scope of this Act and if the offence is not punishable within the scope of this Act or if the conviction is not justified according to the principles of the rule of law.

(3) The right to compensation shall be forfeited if one of the grounds for exclusion set out in paragraph 1, nos. 2 and 3, arises after its determination or after a final court decision. The services provided after the occurrence of a forfeiture reason can be reclaimed.

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§ 7

(1) The claim for compensation may be denied in whole or in part if the beneficiary, in order to obtain compensation, makes use of unfair means or intentionally or grossly negligently makes, causes to be made or permits incorrect or misleading statements about the cause or amount of the damage.

2. The right to compensation may be wholly or partially withdrawn if, after it has been established, it is established that one of the grounds for refusal referred to in paragraph 1 exists or that the decision is based on incorrect information given by the person entitled concerning the actual circumstances.

(3) Services already rendered may be reclaimed.

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§ 8

(1) Claims against the German Reich, the Federal Republic of Germany and the German Länder may only be asserted in accordance with this Act, notwithstanding the provisions referred to in § 5 and the provisions maintained by § 228 (2), if they are based on the fact that damage has been caused by measures taken for the reasons for persecution in § 1.

(2) Claims against other corporations, institutions or foundations under public law or against persons under private law shall not be affected by this Act. To the extent that compensation has been paid in accordance with this Act, they shall be transferred to the providing country. The transfer cannot be asserted to the detriment of the beneficiary.

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§ 9

1. The principles of civil law concerning the taking into account of contributory negligence and the imputation of an advantage obtained in connection with the damage shall apply mutatis mutandis.

2. The persecuted person's consent to the injurious measure in connection with the persecution shall not preclude the right to compensation.

(3) If the damage was caused by the persecuted person performing or refraining from performing an act under the pressure of persecution, this shall not preclude the right to compensation.

(4) Benefits which a third party has provided or is providing to the persecuted person in fulfilment of a legal or moral maintenance obligation shall not preclude the right to compensation even if the damage is compensated for by such benefits.

(5) No compensation shall be paid for damage which, with a probability bordering on certainty, would have occurred even without the persecution.

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§ 10

(1) Benefits granted from German public funds in the course of compensation for victims of National Socialist persecution shall be credited against the compensation. Benefits which have been provided or will be provided for a specified period or for a specified cause of loss shall be credited only against the compensation for that period or cause of loss.

(2) Benefits which have been effected in accordance with the Act on the General Settlement of Damages Resulting from the War and the Collapse of the German Reich (Allgemeines Kriegsfolgengesetz) for a specific event and a specific period of time shall be set off against the compensation for this event and this period of time.

(3) If the entitled person is entitled to several claims which are satisfied at different times, the crediting of benefits which are necessary for current subsistence or to build up a sufficient livelihood shall be waived to the extent that the crediting of later benefits is guaranteed.

(4) Welfare and social assistance benefits shall not be taken into account.

(5) To the extent that the persecuted person received unemployment benefits for the period before 1 November 1953, the transfer of the claim to compensation to the Federation shall be excluded.

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§ 11

(1) Monetary claims for the period prior to 1 July 1948 shall be calculated in Reichsmarks and converted into German Marks at a ratio of 10:2.

(2) The conversion ratio 10:2 shall also apply to the benefits to be credited in accordance with § 10 if they were effected in Reichsmark and to Reichsmark amounts to be credited against the compensation in accordance with other provisions of this Act.

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§ 12

Pensions shall not be paid until 1 November 1953 at the earliest in monthly prepayable amounts.

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§ 12a

If there is an increase in recurrent benefits under the Federal Pension Insurance Act or under the Federal Pension Act, the pensions under this Act shall be reduced by no more than the monthly amount by which the recurrent benefits have increased or are increasing each month. This shall apply mutatis mutandis in the case of the first determination of a pension under this Act.

Transfer of the second title and transfer of the right to compensation

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§ 13

- (1) The right to compensation shall be hereditary.
- (2) The claim expires with the death of the persecuted person if the tax authorities are the legal heir. It shall also expire if the person persecuted has died before the claim was established or before a final court decision on the claim was taken and is inherited exclusively by a person who would be excluded from compensation under section 6. The claim shall not expire if the person persecuted has turned it over as a legacy to a person who would not be excluded from compensation. The legacy is invalid if the legatee would be excluded.
3. Where the person persecuted is heir to more than one heir and only some of the heirs would be excluded, the right to compensation shall be due in advance to the other heirs. The advance shall be subject to the rules applicable to bequests.
4. Paragraphs 2 and 3 shall apply mutatis mutandis to the heir.
- (5) (omitted)

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§ 14

The right to compensation may be assigned, pledged or attached. Assignment, pledge or garnishment is only permitted with the approval of the compensation authority.

Second section Claims situation

First title Damage to life

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§ 15

- (1) There shall be a right to compensation for loss of life if the persecuted person has been killed or driven to death and his death occurred during the persecution or within eight months after the end of the persecution which caused his death. It is sufficient that the causal connection between death and persecution is probable.
- (2) If the person persecuted dies during deportation or during deprivation of liberty within the meaning of this Act or within eight months after the end of deportation or deprivation of liberty, it shall be presumed that the conditions specified in paragraph 1 sentence 1 for the claim have been fulfilled.

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§ 16

The following compensation shall be paid

1. Pension,
2. Compensation in case of remarriage,
3. Capital compensation.

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§ 17

- (1) The pension is due to the following survivors:
 1. of the widow until her remarriage or death;
 - 2.

the widower until his remarriage or until his death, if the person persecuted died after 31 December 1985. If the persecuted person died before 1 January 1986, the widower shall be entitled to the pension only if the persecuted person maintained him or her at the time of the beginning of the persecution which led to death or, if she was still alive, would maintain him or her;

3. children for the period during which they may be entitled to child allowances under the law on civil servants in force until 31 December 1974;
 4. the parentless grandchildren, under the conditions laid down in paragraph 3, if the persecuted person had them at the time of the beginning of the persecution which led to their death or, if he was still alive, would have them;
 5. the relatives of the ascending line for the duration of neediness;
 6. the adoptive parents under the conditions set out in point 5.
- (2) The widow or the widower shall be treated in the same way under the conditions of subs. 1 No. 1 or 2
1. the blamelessly divorced spouse;
 2. a former spouse who is treated as a divorced spouse without fault and whose marriage has been annulled or declared null and void;
 3. Persons whose relationship with the persecuted person has been recognised on the basis of the Federal Act on the Recognition of Free Marriages of Persecuted Persons by Racial or Political Persecution or on the basis of the legal provisions of the Länder as having the legal effects of a legal marriage;
 4. the woman whose marriage was subsequently entered into with the persecuted person by order of the Federal Act on the Legal Effects of a Subsequent Marriage.

(3) Paragraph 2 Nos. 1 and 2 shall not apply to a spouse who has turned away from the persecuted spouse for reasons corresponding to the grounds for persecution under section 1.

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§ 18

(1) The pension shall be determined on the basis of the pension which would be paid to the survivors of a federal official of a grade with ascending salaries who is comparable in economic status to the person persecuted in the event of his death as a result of an accident at work in accordance with the provisions governing the accident insurance of federal civil servants. The economic position must be assessed on the basis of the average income of the persecuted person in the three years preceding his death; a reduction in his income due to previous persecution is not taken into account. In addition to economic status, account must also be taken of the social status of the person persecuted where this leads to a more favourable classification of the person persecuted in a comparable category of officials.

2. The pension shall be fixed at a percentage of less than 100 % of the pension referred to in paragraph 1 if the economic situation of the survivor so warrants. In the assessment of the economic circumstances, account must also be taken of the amounts which the survivor fails to acquire although the acquisition can be reasonably expected of him.

3. The pension shall be calculated on the basis of the respective amounts of the statutory pensions of comparable categories of officials within the meaning of paragraph 1.

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§ 19

Reference of the original text: Federal Law Gazette I 1965, 1317

The monthly minimum amount of the pension is for

until 31 March 1957	from 1 April 1957 to 31 May 1960	from 1 June 1960 to 31 December 1960	from 1 January 1961 to 30 June 1962	from 1 July 1962 to 30 September 1964	as of 1 October 1964
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	until 31 March 1957	from 1 April 1957 to 31 May 1960	from 1 June 1960 to 31 December 1960	from 1 January 1961 to 30 June 1962	from 1 July 1962 to 30 September 1964	as of 1 October 1964
the widow	200 DM	220 DM	236 DM	255 DM	270 DM	292 DM
the widower	200 DM	220 DM	236 DM	255 DM	270 DM	292 DM
the orphan	100 DM	110 DM	118 DM	128 DM	136 DM	147 DM
the first and second half orphans,						
if no pension is paid for the widow or widower, each	75 DM	83 DM	89 DM	97 DM	103 DM	111 DM
if a pension is paid for the widow or widower, per	55 DM	61 DM	66 DM	72 DM	76 DM	82 DM
the third and each subsequent half- orphan, respectively	50 DM	55 DM	59 DM	64 DM	68 DM	73 DM
the parentless grandson	100 DM	110 DM	118 DM	128 DM	136 DM	147 DM
the parents or adoptive parents together	150 DM	165 DM	177 DM	192 DM	204 DM	220 DM
a surviving parent or adoptive parent	100 DM	110 DM	118 DM	128 DM	136 DM	147 DM.

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§ 20

(1) The pensions pursuant to section 18 may not together exceed the accident pension of the comparable federal civil servant. If the aggregation of the pensions of several survivors results in a higher amount than the accident pension, the individual pensions shall be reduced in proportion to the ratio between them. § 19 remains unaffected.

2. If the pension of a survivor is not reduced by virtue of the provision of the third sentence of paragraph 1, the pension of another survivor may not be reduced in excess of the amount calculated in accordance with the second sentence of paragraph 1.

(3) If the conditions of several pension entitlements under section 17 are fulfilled in the person of one survivor, only one pension shall be paid in the case of pensions of the same amount and the highest pension shall be paid in the case of pensions of different amounts.

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§ 21

(1) If the circumstances on which the calculation of the pension was based have subsequently changed in such a way that the pension recalculated on the basis of the changed circumstances differs in total by at least 10 per cent from the fixed pension, the pension shall be reassessed.

(2) If the surviving dependant has reached the age of 68, his pension shall only be revised if the pension calculated on the basis of the changed circumstances differs from the fixed pension by at least 30 per cent in each case.

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§ 22

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§ 23

In the event of remarriage, the widow or widower receives a settlement equal to twenty-four times the amount of the pension received for the last calendar month prior to remarriage. If the new marriage is dissolved or annulled, the pension shall be revived with effect from the first day of the month following that in which the marriage was dissolved or annulled, but not earlier than two years after remarriage. Benefits to which the widow or widower is entitled on the basis of a new pension or maintenance claim acquired as a result of the dissolution or annulment of the marriage shall be credited against the pension.

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§ 24

For the period prior to 1 November 1953, the surviving dependants (§ 17) are entitled to capital compensation from the death of the persecuted person.

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§ 25

- (1) The calculation of the capital compensation shall be based on the amount of the annuity calculated in accordance with sections 18 to 20 which is attributable to the month of November 1953.
2. Where no pension is payable in respect of November 1953, paragraph 1 shall apply, provided that the calculation of the capital compensation shall be based on the amount relating to the last calendar month in which the conditions for entitlement to the pension were fulfilled.
- (3) For the period before 1 July 1948, the monthly amount to be taken as a basis pursuant to subsections (1) and (2) shall bear two tenths of the monthly amount calculated in German marks.

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§ 26

- (1) Entitlement to the current pension is neither transferable nor heritable; this also applies to the widow's or widower's entitlement to severance pay in the event of remarriage.
2. Entitlement to the sum of the arrears of pensions and to the lump-sum payment shall be heritable before being fixed or before a final judicial decision is taken only if the survivor is inherited by his or her spouse or by his or her children, grandchildren or parents who are persecuted. § Section 13 (3) shall apply mutatis mutandis.

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§ 27

- (1) The Federal Government shall be authorised to issue ordinances to implement §§ 15 to 26. In so doing, it may draw up, as a basis for calculating pensions and lump-sum compensation and for classifying the person persecuted in a comparable group of civil servants, salary tables showing the average pensionable remuneration (basic salary and housing allowance) of civil servants in the lower, middle, upper and higher civil service. For the purpose of determining the percentage of the retirement pension to be paid as a pension, flat-rate rates may be established.
- (2) The Federal Government shall also be authorised to increase the minimum monthly pension amounts (§ 19) appropriately by statutory order if the remuneration and pensions of federal civil servants increase as a result of statutory provisions.

Second title **Damage to body or health**

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§ 28

- (1) The persecuted person shall be entitled to compensation if he/she has been seriously harmed to his/her body or health. It is sufficient that the causal link between harm to body or health and persecution is probable.
- (2) Section 15 (2) shall apply mutatis mutandis.
- (3) Insignificant damage shall be deemed to be damage that has lastingly impaired neither the mental nor the physical capacity of the person being persecuted and is not expected to impair it.

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§ 29

The following compensation shall be paid

1. Therapy,
2. Pension,
3. Capital compensation,
4. House money,
5. Retraining allowance,
6. Provision for the bereaved.

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§ 30

(1) The scope and fulfilment of the entitlement to treatment shall be governed by the provisions on accident insurance for federal civil servants. Articles 33, 34 (1) and 51 of the Civil Servants Pension Act and the Ordinance on the Implementation of Article 33 of the Civil Servants Pension Act (Heilverfahrensverordnung) shall apply mutatis mutandis.

(2) The claim shall not be excluded by the fact that the therapeutic procedure was carried out before the entry into force of this Act.

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§ 31

(1) The persecuted person shall be entitled to a pension of at least 25 per cent in the event of and for the duration of an impairment of earning capacity.

(2) If the persecuted person was detained in a concentration camp for at least one year and if his earning capacity is reduced by 25 per cent or more, it shall be presumed for the purpose of entitlement to a pension in his favour that the persecution-related reduction in earning capacity is 25 per cent.

(3) The pension shall be fixed as a percentage of the income (basic salary and housing allowance) of a federal official of a grade with ascending salaries who is comparable in economic status to the person being persecuted. The economic position shall be assessed on the basis of the average income of the persecuted person during the last three years before the start of the persecution directed against him; a reduction in his income due to previous persecution shall not be taken into account. In addition to economic status, account must also be taken of the social status of the person persecuted where this leads to a more favourable classification of the person persecuted in a comparable category of officials.

(4) When calculating the hundred percentage, due account shall be taken of the personal and economic circumstances of the persecuted person, in particular his or her sustainable income, including pensions, benefits under the Act on the Care of Victims of War (Federal Pensions Act), benefits from the statutory pension insurance and amounts which he or she fails to acquire although the acquisition is reasonable, as well as the degree of reduction in his or her earning capacity and his or her burden of caring for dependants.

5. The pension shall be calculated on the basis of the respective income of comparable categories of officials within the meaning of paragraph 3.

(6) In the event of an impairment of earning capacity, the pension shall amount to

from 25 to 39 per cent. not less than 15 % and not more than 40 %.

from 40 to 49%. not less than 20 % and not more than 45 %.

from 50 to 59 per cent. 25 % minimum and 50 % maximum

from 60 to 69%. not less than 30 % and not more than 55 %.

from 70 to 79 per cent. not less than 35 % and not more than 60 %.

of 80 per cent and more 40 % minimum and 70 % maximum

the income which the persecuted person would have received if he had been classified in a comparable group of civil servants according to his age on 1 May 1949.

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§ 32

Reference of the original text: Federal Law Gazette I 1965, 1318

(1) The monthly minimum amount of the pension in the event of impairment of earning capacity shall be as follows

	until 31 March 1957	from 1 April 1957 to 31 May 1960	from 1 June 1960 to 31 December 1960	from 1 January 1961 to 30 June 1962	from 1 July 1962 to 30 September 1964	as of 1 October 1964
from 25 to 39 per cent.	100 DM	110 DM	118 DM	128 DM	136 DM	147 DM
from 40 to 49%.	125 DM	138 DM	148 DM	160 DM	170 DM	184 DM
from 50 to 59 per cent.	150 DM	165 DM	177 DM	192 DM	204 DM	220 DM
from 60 to 69%.	175 DM	193 DM	207 DM	224 DM	DM 237	256 DM
from 70 to 79 per cent.	200 DM	220 DM	236 DM	255 DM	270 DM	292 DM
of 80 per cent and more	250 DM	275 DM	295 DM	319 DM	338 DM	365 DM.

(2) The monthly minimum amount of the pension of a persecuted person whose earning capacity has been reduced by at least 50 per cent and who has reached the age of 65 or has reached the age of 65 shall be 250 German Marks, 300 German Marks from 1 January 1961, 315 German Marks from 1 July 1962 and 340 German Marks from 1 October 1964; in the case of women, the age of 65 shall be replaced by the age of 60. Sentence 1 shall apply only if the persecuted person was born before 1 January 1905. Entitlement to the monthly minimum does not require that the 50 per cent reduction in earning capacity is exclusively due to persecution.

Unofficial table of contents

§ 33

(1) The degree of reduction and impairment of earning capacity shall be assessed on the basis of the extent to which the victim is mentally and physically capable in general working life. The occupation pursued before the start of the persecution or a vocational training already begun or demonstrably intended before that date shall be taken into account.

(2) If the persecuted person was not yet in gainful employment due to his age before the start of the persecution, the reduction and impairment of earning capacity shall be measured according to the degree of physical or health impairment which would result in adults with the same degree of injury.

Unofficial table of contents

§ 34

If the earning capacity of the persecuted person is reduced by other causes in addition to the impairment caused by the injury caused by the persecution, only the impairment of earning capacity caused by the injury caused by the persecution shall be taken as the basis for calculating the amount of the pension. § 33 (1) sentence 2 shall apply mutatis mutandis.

Unofficial table of contents

§ 35

(1) If the circumstances on which the calculation of the pension was based have subsequently changed in such a way that the pension recalculated on the basis of the changed circumstances differs in total by at least 10 per cent from the fixed pension, the pension shall be reassessed.

(2) If the persecuted person has reached the age of 68, the pension shall only be redetermined if the pension calculated on the basis of the changed circumstances differs from the fixed pension by at least 30 per cent in each case.

(3) Section 32 (2) shall remain unaffected.

Unofficial table of contents

§ 36

For the period prior to 1 November 1953, the persecuted person is entitled to a capital compensation of at least 25 per cent from the beginning of the impairment of earning capacity.

Unofficial table of contents

§ 37

(1) The calculation of the capital compensation shall be based on the amount of the annuity calculated in accordance with sections 31 to 34 which is attributable to the month of November 1953. § 141e remains unaffected.

2. Where no pension is payable in respect of November 1953, paragraph 1 shall apply, provided that the calculation of the capital compensation shall be based on the amount relating to the last calendar month in which the conditions for entitlement to the pension were fulfilled.

(3) For the period before 1 July 1948, the monthly amount to be taken as a basis pursuant to subsections (1) and (2) shall be two tenths of the monthly amount calculated in German marks.

(4) Section 32 (2) shall not apply.

footnote

§ 37 para. 1: According to BVerfGE v. 27.6.1961 I 1346, § 37 para. 1 is also compatible with the GG to the extent that it concerns compensation claims filed before 29.6.1956.

Unofficial table of contents

§ 38

The persecuted person is entitled to a house allowance if he suffers a loss of earnings as a result of the treatment and his remaining income amounts to less than the pension which would have been payable to him if his earning capacity had been impaired by 80 per cent or more; here it is to be assumed that 55 per cent of the service income which the persecuted person would be entitled to if he were classified in a comparable group of civil servants according to his age on 1 May 1949 is to be assumed (§ 31.6). The house fee is to be paid in the amount of the difference between the remaining income of the persecuted person and the pension to be calculated according to sentence 1, but not exceeding the amount of the loss of earnings.

Unofficial table of contents

§ 39

(1) Entitlement to the current pension is neither transferable nor heritable.

(2) Entitlement to the sum of the pension amounts in arrears, to the capital compensation and to the household allowance shall be heritable before being determined or before a legally binding court decision only if the persecuted person is inherited by his spouse, his children, his grandchildren or his parents. § Section 13 (3) shall apply mutatis mutandis.

Unofficial table of contents

§ 40

Aid towards the costs incurred may be granted to the person persecuted who is prepared to retrain for another occupation if it is likely that the retraining will restore or improve his performance.

Unofficial table of contents

§ 41

(1) If the persecuted person has died more than eight months after the end of the persecution which caused his death as a result of injury to his body or health, his survivors shall be entitled to benefits in accordance with sections 16 to 26. The classification of the deceased persecuted person into a comparable group of civil servants is determined in accordance with section 31(3).

(2) It is sufficient that the causal link between bodily harm or damage to health resulting from persecution and death is probable. § Section 31 (2) shall not apply.

3. For the first three months after the end of the month in which the person persecuted dies, his survivors shall be entitled, instead of the pension referred to in paragraph 1, to the pension last paid to him for personal injury or damage to health, if this is more favourable to the survivors.

Unofficial table of contents

§ 41a

(1) If a persecuted person who received a pension due to an impairment of earning capacity of at least 70 per cent up to death has not died as a result of injury to his body or health, the widow shall receive aid for the duration of her neediness until remarriage and the children of the persecuted person shall receive aid under the conditions of section 17 subs. 1 no. 3.

(2) The allowance shall be paid in the amount of two thirds of the pension which the widow and children would be entitled to in the event of § 41.

(3) Paragraphs 1 and 2 shall apply mutatis mutandis to the widower under the conditions of § 17 (1) no. 2.

Unofficial table of contents

§ 42

(1) The Federal Government shall be authorised to issue ordinances to implement sections 28 to 41a. It may draw up, as a basis for calculating pensions and lump-sum payments, a salary statement showing the average income (basic salary and housing allowance) of federal civil servants in the lower, middle, upper and higher grades of the civil service, broken down by age. On the basis of this overview, the person persecuted is to be classified in a comparable group of officials.

(2) The Federal Government shall be authorised by statutory order to determine which detention sites are to be regarded as concentration camps within the meaning of section 31(2). In particular, the places of detention that were under the control of the SS Economic Administration Main Office, Official Group D, must be taken into account.

(3) The Federal Government shall also be authorised to increase the monthly minimum pension amounts (§ 32) appropriately by statutory order if the remuneration and pensions of federal civil servants increase as a result of statutory provisions.

Third title **Damage** **to freedom**

I. **deprivation of liberty**

Unofficial table of contents

§ 43

(1) The persecuted person shall be entitled to compensation if his liberty was revoked in the period from 30 January 1933 to 8 May 1945. This shall also apply if a foreign state has deprived itself of its liberty in disregard of constitutional principles and

1.

the deprivation of liberty has been made possible by the fact that the persecuted person has lost German citizenship or the protection of the German Reich, or

2.

the government of the foreign state has been induced by the National Socialist German government to deprive it of its liberty;

in the case of deprivations of liberty on racial grounds by the Governments of Bulgaria, Romania and Hungary, the date of 6 April 1941 shall be taken as the date of commencement of the German inducement.

(2) Deprivations of liberty are in particular police or military detention, detention by the NSDAP, pre-trial detention, penal detention, concentration camp detention and forced detention in a ghetto.

(3) The deprivation of liberty shall be equal to life under conditions similar to those of imprisonment, forced labour under conditions similar to those of imprisonment and membership of a criminal or probation unit of the Wehrmacht.

Unofficial table of contents

§ 44

1. If freedom has been deprived in connection with a criminal conviction, compensation may, in cases of doubt, be made conditional on the conviction having been quashed or altered in the course of a retrial or in

accordance with the provisions of legislation restoring National Socialist injustice in the administration of justice.

(2) The revocation or modification of a criminal conviction shall be proved by the judicial decision by which the conviction was revoked or modified. In the event of repeal or amendment by operation of law, a certificate from the courts or authorities competent under the legislation referred to in paragraph 1 shall be submitted.

Unofficial table of contents

§ 45

The compensation pursuant to § 43 shall be paid as capital compensation. It amounts to 150 German marks for each full month of imprisonment. The calendar months during which deprivation of liberty occurred and 30 days of each month during which deprivation of liberty was only temporary shall be taken as a basis; several periods of deprivation of liberty shall be added together.

Unofficial table of contents

§ 46

1. The right to compensation for deprivation of liberty shall not be transferable before a final judicial decision has been taken.

2. The claim shall be heritable before its determination or before a final judicial decision only if the person pursued is inherited by his spouse, his children, his grandchildren or his parents. § Section 13 (3) shall apply mutatis mutandis.

(3) The claim shall be exempt from inheritance tax in the event of transfer by inheritance to the spouse, children, grandchildren or parents of the persecuted person.

II. **restriction of freedom**

Unofficial table of contents

§ 47

(1) The persecuted person shall be entitled to compensation if he or she wore the Jewish Star or lived illegally under inhumane conditions in the period from 30 January 1933 to 8 May 1945.

(2) If the persecuted person has lived under a false name, it shall be presumed that he has lived in illegality under inhumane conditions.

Unofficial table of contents

§ 48

The compensation pursuant to § 47 shall be paid as capital compensation. It amounts to 150 German marks for each full month of restriction of freedom. § Section 45 sentence 3 shall apply mutatis mutandis.

Unofficial table of contents

§ 49

If the persecuted person is entitled to compensation for deprivation of liberty pursuant to § 43 for the period in which he wore the Jewish Star or lived illegally under inhumane conditions, the claim for compensation for restriction of liberty shall lapse to this extent.

Unofficial table of contents

§ 50

The claim to compensation for restriction of liberty is transferable and heritable in accordance with § 46. Section 46 (3) shall apply mutatis mutandis to the exemption from inheritance tax.

Fourth title **Damage to property**

Unofficial table of contents

§ 51

(1) The persecuted person shall be entitled to compensation for damage to property if a property belonging to him at the time of the damage was destroyed, defaced or abandoned to plunder in the Reich territory in accordance with the state on 31 December 1937 or in the territory of the Free City of Gdansk.

(2) It shall in particular be regarded as abandonment for plundering if property belonging to the persecuted person has been embezzled or distributed to a crowd by persons who exercised official powers or presumed to have done so.

(3) The persecuted person shall also be entitled to compensation if he has had to abandon property belonging to him in the territory of the Reich as of 31 December 1937 or in the territory of the Free City of Gdansk without supervision safeguarding his interests, because

1. he has been deprived of his liberty or has lived illegally,

2. he emigrated or fled to escape National Socialist violence,

3. he has been expelled or deported for the reasons of persecution set out in § 1.

(4) If the persecuted person belongs to a group of persons whom the National Socialist German Government or the NSDAP intended to exclude in its entirety from the cultural or economic life of Germany, it shall be presumed that the damage to property was caused by National Socialist violent measures.

Unofficial table of contents

§ 52

(1) The compensation pursuant to § 51 shall be calculated in German Marks.

(2) The amount of compensation shall be based on the replacement value of the destroyed or lost item within the scope of this Act. The replacement value at the time of the decision shall be decisive, taking into account the value of the item at the time of the damage.

(3) In the event of the defacement of an object, the amount of the compensation shall be determined on the basis of the costs which would have to be incurred within the scope of this Act at the time of the decision to restore the object. The same shall apply in the event of the destruction of an object if its restoration is possible.

Unofficial table of contents

§ 53

If a successor organisation set up on the basis of provisions of restitution law is entitled to restitution or transfer of an object in accordance with the legal provisions on the restitution of identifiable assets or the legal provisions on the transfer of organisational assets, that successor organisation shall also be entitled to compensation in respect of that object in accordance with § 51. If the person persecuted or his heirs assert the same claim for compensation before the claim is determined in accordance with section 51 or before a final court decision on this claim is made, the claim for compensation of the successor organisation shall pass to the person persecuted or his heirs at the time of the assertion.

Unofficial table of contents

§ 54

(1) If the persecuted person has lost household effects through destruction, defacement, abandonment for plundering or through abandonment, he may demand a lump-sum settlement in lieu of compensation in accordance with § 51 before determining the claim pursuant to § 51 or before a legally binding court decision on this claim. Converted 1:1 into German marks, this amounts to one and a half times the net income of the persecuted person in 1932, but not more than 5,000 German marks.

(2) If persecuted spouses have lost household effects, they shall be jointly entitled to the lump-sum settlement regardless of which of them has been the owner of the household effects. If one spouse has died, the surviving spouse shall be entitled to the lump-sum settlement. If the spouses are separated or divorced at the time of the decision, each spouse may claim half of the lump-sum settlement.

Unofficial table of contents

§ 55

(1) The compensation pursuant to §§ 51, 54 may not exceed a total of 75,000 Deutsche Marks for each person persecuted. This shall also apply if the persecuted person is entitled to compensation claims partly on his own, partly on the basis of his membership of a community of joint owners or a community of fractional owners which is neither an association with no legal capacity nor a partnership with no legal capacity under civil or commercial law.

(2) If claims for compensation are asserted by the successor organisations referred to in section 53, the maximum amount of paragraph 1 shall apply to the compensation to which the successor organisation is entitled instead of the individual person persecuted.

Fifth title **Damage to assets**

Unofficial table of contents

§ 56

(1) The persecuted person shall be entitled to compensation if he has suffered damage to his property situated in the territory of the Reich in accordance with the state of affairs of 31 December 1937 or in the territory of the Free City of Gdansk. Damage to property shall also be deemed to have occurred if the persecuted person has been adversely affected in the use of his property or assets. The claim also exists if the damage was caused by boycott. No compensation will be paid for damages up to a total amount of 500 Reichsmark.

(2) If the person persecuted has not only been adversely affected in the use of his property or property but has also been injured in the existence of such property or property, the loss of use shall be compensated by adding five per cent to the compensation for the loss in the existence of his property or property.

(3) The persecuted person shall be entitled to compensation even if emigration or its preparation has led to a transfer loss. The prerequisite is that the persecuted person was compelled to emigrate for the reasons for persecution of § 1 and received less than 80 per cent of the amount which he would have received for the amount spent on the transfer had he been able to transfer free Reichsmark at the official rate applicable at the time. The compensation is calculated in such a way that the Reichsmark amount for which the persecuted person has received no equivalent is converted into Deutsche Mark in a ratio of 10:2. Damages due to use will not be compensated.

(4) If the persecuted person belongs to a group of persons whom the National Socialist German Government or the NSDAP intended in its entirety to exclude from the cultural or economic life of Germany, it shall be presumed that the damage to property was caused by National Socialist violent measures.

Unofficial table of contents

§ 57

(1) The persecuted person who emigrated or was expelled from the territory of the Reich as of 31 December 1937 or from the territory of the Free City of Gdansk for the reasons for persecution in § 1 in the period from 30 January 1933 to 8 May 1945 shall be entitled to reimbursement of the necessary expenses incurred as a result of the emigration or expulsion; the same shall apply to the necessary expenses incurred as a result of the emigration. § Section 56 (1) sentence 4 and (2) shall apply mutatis mutandis.

(2) Paragraph 1 shall apply mutatis mutandis if the persecuted person, after having completed his or her emigration, continues to migrate as a result of the threat of National Socialist violence.

(3) If the necessary expenses have been incurred in a foreign currency, the compensation shall be calculated according to the exchange rate of this currency at the time of the decision.

(4) The compensation pursuant to paragraphs 1 to 3 may not exceed a total of 5,000 Deutsche Marks for each person persecuted.

Unofficial table of contents

§ 58

The compensation pursuant to §§ 56, 57 may not exceed a total of 75,000 Deutsche Marks for each person persecuted. Otherwise, § 55 shall apply mutatis mutandis.

Sixth title **Damage caused by payment of special levies, financial penalties, fines and costs**

Unofficial table of contents

§ 59

(1) The persecuted person shall be entitled to compensation for special charges paid which have been imposed on him for the reasons for persecution under section 1. Damages due to use will not be compensated.

(2) The following shall also be regarded as special levies

1. the loss incurred by the persecuted person as a result of the imposition of a home purchase contract;
2. the levies paid to the Deutsche Golddiskontbank to obtain an export licence;
3. the payment of Reich Flight Tax;
4. the payment of late payment surcharges, interest on arrears, bank charges and enforcement costs arising from the payment of special levies.

Charges to the Deutsche Golddiskontbank and payment of Reich Flight Tax shall only be regarded as special charges if the persecuted person was compelled to emigrate for the reasons for persecution in § 1.

Unofficial table of contents

§ 60

(1) The persecuted person shall also be entitled under section 59 if the special levy has been paid in whole or in part by means of property which as such is subject to restitution. The claims for restitution to which the persecuted person is entitled shall be transferred to the supplying country up to the amount of the compensation to be paid in accordance with section 59 for the value of the individual confiscated assets. A waiver by the persecuted person of the right to reimbursement has no effect on the supplying country. If the person persecuted has received benefits by way of reimbursement, the value of those benefits shall be deducted from the compensation. Also to be taken into account are advance payments and loans which have been granted with the proviso of offsetting in accordance with the regulation of the monetary liabilities of the German Reich and equivalent legal entities under reimbursement law.

(2) If the persecuted person has paid the special levy in whole or in part from the proceeds of an asset subject to restitution and is obliged under the legal provisions on the restitution of ascertainable assets to return the purchase price or to assign the claim for compensation on account of the purchase price not received or not freely disposed of, the claim shall be converted into German Marks in accordance with § 59 in a ratio of 10:1. The claim pursuant to § 59 shall not exist if the person pursued has received back or is receiving back the property subject to restitution but has neither returned the purchase price nor assigned the claim for compensation on account of the purchase price not received or not freely disposed of.

Unofficial table of contents

§ 61

(1) The persecuted person shall be entitled to compensation for fines and penalties paid, insofar as these have been imposed on him for the reasons for persecution under section 1. The claim exists only if, at the time of the imposition of the fine or penalty, the persecuted person had his residence or permanent abode in the territory of the Reich in accordance with the state of affairs on 31 December 1937 or in the territory of the Free City of Gdansk or if the fine or penalty was paid or recovered in these territories. If the persecuted person is an expellee within the meaning of § 1 of the Federal Expellees Act, he shall be entitled even if the fine or penalty has been paid or recovered in the area of expulsion. § 44 shall apply mutatis mutandis.

(2) § 60 shall apply mutatis mutandis.

Unofficial table of contents

§ 62

The persecuted person shall be entitled to compensation for judicial and necessary extrajudicial costs to the extent that the costs were incurred by him as a result of criminal proceedings or disciplinary proceedings having been instituted against him for the reasons for persecution under § 1. The claim exists only if, at the time of the conclusion of the proceedings, the persecuted person had his domicile or permanent residence in the territory of the Reich as of 31 December 1937 or in the territory of the Free City of Gdansk or if the proceedings were pending in these territories. If the persecuted person is an expellee within the meaning of § 1 of the Federal Expellees Act, the claim also exists if the proceedings were pending in the expulsion area. § 44 shall apply mutatis mutandis.

Unofficial table of contents

§ 63

If the person being persecuted belongs to a group of persons whom the National Socialist German Government or the NSDAP as a whole intended to exclude from the cultural or economic life of Germany, it is presumed that the damage was caused by the payment of special taxes, fines, fines and costs as a result of National Socialist violent measures.

Seventh titleDamage
in professional and economic advancement

I.
principle

Unofficial table of contents

§ 64

(1) The persecuted person shall be entitled to compensation for damage in professional and economic progress if, in the course of a persecution begun in the territory of the Reich in accordance with the state of affairs of 31 December 1937 or in the territory of the Free City of Gdansk, he was not only marginally disadvantaged in his professional or economic progress. If the persecuted person is an expellee within the meaning of § 1 of the Federal Expellees Act, he/she shall also be entitled to the benefit if the persecution has begun in the expulsion territory.

(2) If the persecuted person belongs to a group of persons whom the National Socialist German Government or the NSDAP intended in its entirety to exclude from the cultural or economic life of Germany, it shall be presumed that the damage in professional and economic progress was caused by National Socialist violent measures.

II.
damage to professional advancement

1st
term

Unofficial table of contents

§ 65

A damage in professional advancement exists if the persecuted person has been injured in the use of his labour.

2.
self-employed professions

Unofficial table of contents

§ 66

(1) The persecuted person shall be entitled to compensation if he has been ousted from self-employment, including agricultural, forestry or commercial activity, or if the exercise of such activity has been substantially restricted.

(2) The management of the active partner of a corporation under commercial law which held more than 50 per cent of the capital of the corporation shall be deemed equivalent to self-employment.

(3) As a rule, the restriction of self-employment is essential if the restriction has led to a reduction in income of more than 25 per cent during the entire period of the injury.

Unofficial table of contents

§ 67

(1) The persecuted person shall have the right to be enabled to resume his former self-employed activity or to take up an equivalent self-employed activity by granting the necessary permits, approvals and entitlements. The question of public need must not be examined here. If the granting of permits, approvals and entitlements is subject to special conditions, these shall be deemed to be fulfilled by the person persecuted if he does not fulfil the conditions simply because he has been subjected to Nazi acts of violence.

(2) Persecuted persons who were admitted to the health insurance practice as doctors, dentists or dental surgeons before 4 September 1939 in accordance with German regulations and who have not yet been re-admitted shall continue to be regarded as admitted to the health insurance practice. It shall be deemed to be registered at the place where it is established.

3. Paragraph 1 shall be without prejudice to the provisions relating to the personal and professional conditions on which access to certain professions depends.

4. Persecuted persons shall have the right to be exempted from an examination which has since been introduced or from a certificate of competence which has now been introduced. The entitlement shall not exist if the examination or the certificate of competence is compulsory for all persons previously employed in that occupation.

Unofficial table of contents

§ 68

(1) Persecuted persons shall be given preferential treatment when awarding public contracts, without prejudice to the rules applicable to areas in need. This also applies to companies in which persecuted persons have a significant stake.

2. Preferential treatment in the award of public contracts shall not apply where the person pursued is integrated into economic and social life to an extent commensurate with his or her past economic and social circumstances.

Unofficial table of contents

§ 69

(1) The persecuted person shall be entitled to interest-free or interest-reduced loans insofar as funds are required for the resumption of his former self-employed activity or the taking up of an equivalent self-employed activity which he cannot obtain elsewhere.

2. The persecuted person shall be entitled under paragraph 1 even if he has already taken up one of the self-employed activities referred to therein and the loan is necessary to consolidate the basis of that activity. The same applies to the person persecuted, who is substantially restricted in the exercise of his self-employed activity, if he needs the loan for the full development of his former gainful activity.

(3) The maximum amount of the loan is 30,000 Deutsche Mark.

Unofficial table of contents

§ 70

(1) If the persecuted person has exercised several self-employed economic activities at the beginning of the persecution, he shall be entitled to a loan for the resumption of any previous economic activity.

(2) The total amount of several loans may not exceed the maximum amount specified in section 69(3).

Unofficial table of contents

§ 71

The loan agreement shall be concluded in accordance with the following conditions:

1. As a rule, the loan bears interest at a rate of three per cent per annum;
2. the loan must be repaid after two years of grace, at the latest over a further ten years;
3. the loan is to be secured as far as possible, in particular by assignment by way of security of items procured from the loan;
4. the borrower is obliged to provide information on the use of the loan on an annual basis; on request he must permit inspection of his business conduct, in particular his books of account; he must immediately report any deterioration in his professional and financial circumstances which could jeopardise repayment of the loan;
5. the loan agreement can be terminated without notice for an important reason within the person or in the circumstances of the borrower.

Unofficial table of contents

§ 72

(1) If the persecuted person has to take up his previous or an equivalent gainful activity under particularly aggravating conditions and if for this reason income-free initial expenses including reasonable cost of living cannot be sufficiently compensated by the loan, he shall be entitled to an additional loan, the repayment of which may be waived if it can be proved that it has been properly used.

(2) Particularly aggravating conditions within the meaning of paragraph 1 may exist if the persecuted person had had to interrupt his gainful activity for more than five years, if he has to take it up at a different place than the previous one, if he has lost his business assets and cannot recover them sufficiently even by way of restitution, if the persecution has particularly greatly reduced the circle of his business friends or if the age reached in the meantime makes it unusually difficult for him to take up his gainful activity.

(3) The maximum amount of the additional loan is 20,000 Deutsche Mark.

(4) § 71 shall apply mutatis mutandis with the proviso that the additional loan shall always be granted without interest.

Unofficial table of contents

§ 73

(1) § 69 paras. 1 and 2, §§ 70, 71, 72 paras. 1, 2 and 4 shall apply mutatis mutandis to the surviving spouse and children of a deceased persecuted person if they have resumed or intend to resume the former gainful activity of the persecuted person.

(2) The total amount of several loans in the case of paragraph 1 may not exceed the maximum amounts specified in § 69 paragraph 3, § 72 paragraph 3.

Unofficial table of contents

§ 74

The persecuted person shall be entitled to compensation for the period during which he or she is excluded from or substantially restricted in his or her self-employed activity. The compensation consists of a capital compensation or a pension.

Unofficial table of contents

§ 75

(1) The capital compensation shall not be paid beyond the time at which the persecuted person has fully resumed his previous or an equivalent gainful activity. The same shall apply if the persecuted person has taken up gainful employment which provides him with sufficient means of subsistence; it shall be presumed that this was not the case until 1 January 1947, when the persecuted person was domiciled or permanently resident within the scope of this Act.

(2) A livelihood shall be sufficient if the person displaced from his self-employed activity or persecuted to a significantly limited extent in the exercise of such activity has achieved or achieves sustainable income corresponding to the average income of persons with the same or similar vocational training; the person persecuted shall be classified in the comparable group of civil servants which is decisive for the calculation of the capital compensation in accordance with section 76 subs. 1.

(3) If the persecuted person has no claim or no entitlement to lifelong pension in accordance with civil servant law or principles or to a pension or survivor's pension, an amount of 20 per cent shall be added to the average income in accordance with subsection (2). From the date on which the persecuted person reaches the age of 65, the amount shall be increased to 30 per cent; in the case of women, the age of 60 shall take the place of 65.

(4) If the person persecuted has already received compensation for the loss of income caused by the displacement or restriction in accordance with the legal provisions referred to in § 5 or in accordance with § 56, or if such a claim has been granted to him by an unappealable decision, legally binding court decision or settlement, the claim to capital compensation shall lapse to this extent.

Unofficial table of contents

§ 76

(1) If the persecuted person has been expelled from his gainful employment, the capital compensation shall be calculated on the basis of three quarters of the remuneration which a comparable civil servant would have been entitled to at the time of his dismissal. The age of the victim of persecution at the beginning of the injury shall be assumed instead of the age at pay of the civil servant at the time of dismissal. The classification of the persecuted person in a comparable group of officials is based on his vocational training and his economic position before the start of the persecution. The economic position must be assessed on the basis of the average income of the persecuted person in the three years preceding the start of the persecution. Career development opportunities of the persecuted person, who was only at the beginning of the exercise of his profession, must be adequately taken into account.

(2) If the persecuted person has been substantially restricted in the exercise of his gainful employment, paragraph 1 shall apply with the proviso that the capital compensation shall be fixed at the amount resulting from the ratio of the reduction in income caused by the restriction to the attainable remuneration of a comparable federal official. Achievable salaries are the salaries that a comparable federal civil servant would have received at the end of the compensation period. Where the average income of the person persecuted in the three years preceding the commencement of the restriction was higher than the attainable remuneration of a comparable federal official, paragraph 1 shall apply, subject to the proviso that the capital compensation

shall be fixed at the level resulting from the ratio of the reduction in income caused by the restriction to that average income.

(3) If the persecuted person has no claim or no entitlement to lifelong pension under civil service law or principles or to a pension or survivor's pension, an amount of 20 per cent shall be added to the sum of the emoluments calculated in accordance with subsections (1) or (2).

4. The total period during which the persecuted person was excluded from gainful employment or significantly restricted in the exercise thereof shall be treated as a single period of loss. The same applies to individual periods during which the persecuted person was forced out of gainful employment or significantly restricted in the exercise of his or her profession.

Unofficial table of contents

§ 77

The amount calculated in accordance with section 76(1), (3) and (4) shall be reduced by the income earned during the entire compensation period from the alternative utilisation of the labour, to the extent that, together with the amount calculated in accordance with section 76(1), it exceeds the attainable remuneration of a comparable federal official. § Section 76 (2) sentence 2 shall apply. Income earned before 1 July 1948 shall not be taken into account.

Unofficial table of contents

§ 78

The capital compensation is calculated after full months. The calendar months during which the persecuted person was expelled from gainful employment or substantially restricted in the exercise of his activity shall be taken as a basis, as shall the 30 days of each month during which the persecuted person was only temporarily expelled from gainful employment or substantially restricted in the exercise thereof.

Unofficial table of contents

§ 79

(1) The period for which the capital compensation is paid shall end at the latest on the date on which the persecuted person is actually no longer fit for work. It is presumed that this is the case when the persecuted person has reached the age of 70.

(2) Paragraph 1 shall not apply if the incapacity for work of at least 50 per cent is due to persecution.

Unofficial table of contents

§ 80

If the conditions for the payment of a capital compensation continue to exist after determination or after a legally binding court decision, the annual amount on which the calculation of the capital compensation pursuant to § 76 is based shall continue to be paid in monthly installments until the maximum amount of the capital compensation (§ 123) has been reached.

Unofficial table of contents

§ 81

The persecuted person can choose a pension instead of capital compensation. The pension is paid for life regardless of the amount of the capital compensation.

Unofficial table of contents

§ 82

(1) A precondition for the right of option under § 81 is that the persecuted person does not, at the time of the decision, engage in gainful employment which provides him with a sufficient basis for his life and that he cannot be expected to take up such gainful employment either. The persecuted person cannot be expected to take up such gainful employment, in particular, if he or she has reached the age of 65 at the time of the decision; in the case of women, the age of 60 replaces the age of 65.

(2) Section 75 (1) to (3) shall apply mutatis mutandis.

3. The pursuit of a gainful activity which provides the person pursued with a sufficient means of subsistence shall be treated in the same way as the pursuit of a pension resulting from a previous gainful activity.

Unofficial table of contents

§ 83

(1) The pension shall be calculated on the basis of two thirds of the pension of a comparable federal official. The respective amount of the statutory pension benefits must be taken as a basis. § Section 76 (1) sentences 2 to 5 shall apply with the proviso that the age of the persecuted person at the time of the entry into force of this Act is to be assumed.

2. The maximum monthly amount of the pension shall not exceed

until 31 March 1957 = 600 DM

from 1 April 1957 to 31 May 1960 = 630 DM

from 1 June 1960 to 31 December 1960 = 660 DM

from 1 January 1961 to 30 June 1962 = 700 DM

from 1 July 1962 to 30 September 1964 = 735 DM

from 1 October 1964 to 31 December 1965 = 785 DM

as of 1 January 1966 = 1,000 DM.

(3) If the person persecuted has chosen the pension, he shall receive compensation for the period before 1 November 1953 equal to the amount of the pension for one year.

Unofficial table of contents

§ 84

The option under section 81 shall be exercised until the expiry of a period of three months or, if the persecuted person resides outside Europe, until the expiry of a period of six months by declaration to the competent compensation authority. The period begins on the day on which the decision of the compensation authority is final or the court decision has become final. The election is final.

Unofficial table of contents

§ 84a

If benefits have already been paid against the claim of the persecuted person for loss of professional advancement before the right to vote was exercised or before the pension was determined or awarded by a final court decision, these benefits shall be fully set off against the compensation for the period before 1 November 1953 and against the pension; they may also be set off against other claims or reclaimed.

Unofficial table of contents

§ 85

1. If the person persecuted dies after the pension has been determined or has been finally and definitely awarded by a court and after exercising his right to vote, the widow shall be entitled to a pension until he remarries and the children as long as the law on civil servants in force up to 31 December 1974 provides that children's allowances may be granted to him. The entitlement shall not exist if the marriage was contracted after 29 June 1956.

(2) The widow's pension shall be 60 per cent and the pension for each child shall be 30 per cent of the pension which the persecuted person was or would have been entitled to in accordance with section 83. Other pensions paid out of German public funds on account of the death of the persecuted person shall be set off against the pension, provided that the pension exceeds the amount of 150 Deutsche Marks, the amount of 200 Deutsche Marks from 1 January 1961 and the amount of 230 Deutsche Marks per month from 1 October 1964.

3. The pensions referred to in paragraph 2 may not, taken together, exceed the pension of the person persecuted. If the sum of the pensions is higher than the pension of the person persecuted, the individual pensions shall be reduced in proportion to the ratio between them.

(4) Paragraphs 1 to 3 shall apply mutatis mutandis to the widower under the conditions of § 17 (1) no. 2.

Unofficial table of contents

§ 85a

(1) If the persecuted person has died after exercising the right to vote but before the pension was determined or legally awarded by a court, and if the conditions for the right to vote in accordance with section 82 were fulfilled before his death, the widow shall be entitled to a pension until she remarries and the children are remarried as long as child allowances may be granted for them under the civil service law in force until 31 December 1974. The claim exists only if the widow herself is a persecuted person or was also affected by the persecution; it does not exist if the marriage was entered into after 29 June 1956.

(2) Section 85 (2) to (4) shall apply mutatis mutandis.

(3) If benefits have already been paid in respect of the claim of the persecuted person for damage to professional advancement, these shall be fully set off against the pension. This shall also apply if these

services have been rendered to a third party. When imputing to the current pension, the amount to be imputed is to be distributed in such a way that three quarters of the monthly amount of the pension remains for the beneficiary.

Unofficial table of contents

§ 86

(1) If the persecuted person has died within the term of § 84 without having exercised the right to vote to which he is entitled under § 81, the widow may exercise the right to vote. The period for exercising the right to vote pursuant to § 84 shall begin on the day on which the person persecuted dies.

(2) If the persecuted person died before the beginning of the period under section 84 without having exercised the right to vote and if the prerequisites for the right to vote under section 82 existed before his death, the widow may exercise the right to vote if she herself is the persecuted person or was also affected by the persecution. Section 84 shall apply mutatis mutandis to the exercise of the widow's right to vote.

(3) If the widow chooses the pension, § 85 paras. 1 to 3 shall apply mutatis mutandis. For the period before the death of the persecuted person, the widow and the children receive compensation in the amount of the pension payments for one year which the persecuted person would have been entitled to in accordance with § 83 (3). The compensation is divided between the widow and the children in accordance with § 85 (2) sentence 1 and (3).

(4) In the cases referred to in paragraph 2 in which the person persecuted died before the entry into force of this Act, the pension shall be paid from 1 January 1960 when the widow exercises her right to choose her pension. § Section 83 (1) sentence 3 shall apply with the proviso that the age of the persecuted person at the time of the entry into force of this Act shall be replaced by his age at the time of death. For the period before the death of the persecuted person, compensation amounting to one year's pension will not be granted.

(5) If benefits have already been provided for the claim of the persecuted person in respect of professional advancement, these shall be fully set off against the pension and the compensation in accordance with paragraph 3 sentence 2. This shall also apply if these services have been rendered to a third party. When imputing to the current pension, the amount to be imputed is to be distributed in such a way that three quarters of the monthly amount of the pension remains for the beneficiary.

(6) Paragraph 4 shall apply mutatis mutandis in the cases referred to in § 4a.

(7) Paragraphs 1 to 6 shall apply mutatis mutandis to the widower under the conditions of § 17 (1) no. 2.

3. **dependent professions**

A. **Private Service**

Unofficial table of contents

§ 87

1. Persecuted persons shall be entitled to compensation if they have been harmed in their private service by dismissal, early departure or transfer to employment for which remuneration is substantially lower.

(2) As a rule, a transfer to employment with considerably lower wages shall be deemed to have taken place if the transfer has led to a reduction in income of more than 25 per cent during the entire period of the injury.

Unofficial table of contents

§ 88

§ 87 shall apply mutatis mutandis if

1. the persecuted person has been dismissed by his employer in compliance with the statutory, contractual or collective provisions, provided that the employment relationship would have been continued in accordance with customary usage or the circumstances of the individual case, if none of the reasons for persecution under § 1 had existed;
2. a fixed-term employment relationship has not been renewed if the renewal would have been to be expected according to current usage or the circumstances of the individual case if none of the reasons for persecution under § 1 had existed;
3. the persecuted person has lost his or her job as a result of deprivation of liberty, professional ban or because he or she emigrated, fled or lived illegally in order to escape National Socialist measures of violence or was expelled or deported for the reasons of persecution set out in § 1;

4. the persecuted unemployed person has not obtained a job for the reasons stated in No. 3 or has remained excluded from placement in employment for the reasons stated in No. 1;
5. the worker has lost his job as a result of the employer having had to cease his activities as a result of persecution and the worker has not found equivalent employment with that employer because of his service;
6. the tasks of the employer association have been transferred to another association in the course of National Socialist organisational measures and the employee has remained excluded from general transfer to the service of this association for the reasons of persecution set out in § 1.

Unofficial table of contents

§ 89

1. The persecuted person shall be entitled to have his previous job or an equivalent job, unless he is 65 years of age or incapacitated for work. Disability to work must be assessed on the basis of the mental and physical capacity of the person being persecuted in general working life.

(2) The obligation to provide the previous job or an equivalent job shall be incumbent on any employer from whose service the persecuted person has been dismissed or prematurely retired or his legal successor.

(3) The employer claimed or his legal successor may refuse to fulfil the entitlement to the former or an equivalent job if

1. he is not in a position to fulfil this claim for compelling economic or operational reasons;

2. where there are several obligors, another employer, taking into account all the circumstances, is to be regarded, at its reasonable discretion, as being primarily obligated to satisfy the claim.

(4) If the obligation to grant the former or an equivalent job has been established by an unappealable decision or by a legally binding court decision, the employment relationship shall be deemed to have been restored.

Unofficial table of contents

§ 89a

Persecuted persons who, through no fault of their own, have not yet taken up permanent employment in their previous or intended profession should be given preferential placement by the employment agencies in vacant positions.

Unofficial table of contents

§ 90

If the persecuted person has commenced self-employment or proves that he fulfils the conditions for successful commencement of such employment, §§ 69, 71 shall apply mutatis mutandis. § 72 shall apply mutatis mutandis.

Unofficial table of contents

§ 90a

If the persecuted person has taken up self-employment, § 68 shall apply mutatis mutandis.

Unofficial table of contents

§ 91

The persecuted person shall be entitled to compensation for any loss suffered as a result of dismissal, early departure or transfer to employment with a significantly lower salary. The compensation consists of a capital compensation or a pension.

Unofficial table of contents

§ 92

(1) Sections 75, 76 (1), (2) and (4) and Sections 78 to 80 shall apply mutatis mutandis to the capital compensation.

(2) If the persecuted person has no claim or no entitlement to a lifelong pension in accordance with civil servant law or principles or to a pension or survivor's pension, an amount of 20 per cent shall be added to the sum of the emoluments calculated in accordance with subsection (1). The surcharge of 20 per cent shall not apply if the persecuted person is entitled to compensation in accordance with sections 134 to 137.

(3) Section 77 shall apply subject to the proviso that, in addition to the income earned from the use of the labour elsewhere, compensation, benefits, maintenance contributions or similar benefits shall be credited which the persecuted person has received or receives from a former employer or his legal successor from a private service activity carried out before the persecution.

Unofficial table of contents

§ 93

The persecuted person can choose a pension instead of capital compensation. When calculating the pension, the age of the persecuted person and the capital compensation to which he or she is entitled pursuant to § 92 must be taken into account appropriately.

Unofficial table of contents

§ 94

The precondition for the right to vote under § 93 is that the persecuted person has reached the age of 65 at the time of the decision or is not capable of working in his profession for more than 50 per cent; in the case of women, the age of 60 takes the place of 65.

Unofficial table of contents

§ 95

1. The maximum monthly amount of the pension shall not exceed

until 31 March 1957	= 600 DM
from 1 April 1957 to 31 May 1960	= 630 DM
from 1 June 1960 to 31 December 1960	= 660 DM
from 1 January 1961 to 30 June 1962	= 700 DM
from 1 July 1962 to 30 September 1964	= 735 DM
from 1 October 1964 to 31 December 1965	= 785 DM
as of 1 January 1966	= 1,000 DM.

(2) The monthly minimum amount of the pension is 100 Deutsche Mark.

(3) The monthly minimum amount of the pension shall be reduced to the extent that, together with pension payments or recurrent benefits from German public funds, it exceeds the amount of DM 300 per month. The amount of 300 German marks is increased by 60 German marks per month for married persecuted persons and by 20 German marks per month for each child for which child allowances may be granted under the civil service law in force until 31 December 1974. From 1 January 1961, the amount of 300 German marks will increase to 350 German marks, the amount of 60 German marks to 80 German marks and the amount of 20 German marks to 30 German marks per month. From 1 October 1964, the amount of 350 Deutsche Marks to 400 Deutsche Marks, the amount of 80 Deutsche Marks to 100 Deutsche Marks and the amount of 30 Deutsche Marks to 40 Deutsche Marks increased. However, the person persecuted shall receive at least the amount of the pension calculated in accordance with § 93.

Unofficial table of contents

§ 96

(1) The right of option under section 93 shall be exercised until the expiry of a period of three months or, if the persecuted person resides outside Europe, until the expiry of a period of six months by declaration to the competent compensation authority. The period begins on the day on which the decision of the compensation authority is final or the court decision has become final. The election is final.

(2) Section 84a shall apply mutatis mutandis.

Unofficial table of contents

§ 97

(1) If the person persecuted has died after the pension has been determined or legally awarded and after exercising the right to vote, § 85 shall apply mutatis mutandis. The pension shall be calculated on the basis of

the pension which the persecuted person was or would have been entitled to in accordance with sections 93 and 95.

(2) The monthly minimum amount of the pension for the widow or widower shall be 60 German Marks and 30 German Marks for each child; § 95 (3) shall apply mutatis mutandis. If the aggregation of the minimum amounts of the pensions referred to in the first sentence results in a higher amount than the minimum amount of the pension of the person persecuted, the individual minimum amounts of the pensions shall be reduced in proportion to the ratio between them.

Unofficial table of contents

§ 97a

If the person persecuted dies after exercising the right of option but before the pension is determined or awarded by a court of law, § 85a shall apply mutatis mutandis. The pension shall be calculated in accordance with § 97.

Unofficial table of contents

§ 98

If the person persecuted dies before exercising the right to vote, § 86 shall apply mutatis mutandis. The pension shall be calculated in accordance with § 97.

B. **Public service**

(a) **Common rules**

Unofficial table of contents

§ 99

(1) The persecuted public servant (§§ 1, 2, 2a of the Act to Settle the Restitution of National Socialist Injustice for Members of the Public Service) shall be entitled to compensation for the period prior to 1 April 1950 if, as a result of one of the following measures, he or she has lost remuneration:

1.

for civil servants and professional soldiers

a)
Termination of employment due to criminal conviction,

b)
Distance from duty,

c)
Discharge without care or with reduced care,

d)
early retirement,

e)
Transfer to waiting status,

f)
Transfer to an office or post with a lower final basic salary;

2.

for pension recipients

a)
withholding pension benefits,

b)
Reduction of pensions;

3.

for employees and workers

a)
Dismissed,

- b) premature termination of the employment relationship,
- c) Use in an activity with lower remuneration or lower wage;

4.

non-official associate professors and private lecturers at scientific universities
Withdrawal of the right to teach (venia legendi).

It is presumed that the service or employment relationship would have continued beyond 8 May 1945 if it had still existed without the persecution at that time.

(2) Measures which have had the same consequence by operation of law shall also be deemed dismissal, early retirement, withholding of pension benefits or withdrawal of the right to teach within the meaning of subsection (1). Dismissal shall also be deemed to mean the refusal of further use in the case of persecuted civil servants in the areas mentioned in § 1 (2) of the Act on the Regulation of Restitution of National Socialist Injustice for Civil Servants and the non-assumption as an extraordinary civil servant in the case of persecuted civil servants whose employment relationship ended with the passing of the examination completing the preparatory service.

(3) §§ 1 to 14, 64 shall apply.

Unofficial table of contents

§ 100

There is no entitlement to compensation if the same measure would have been justified according to today's legal interpretation for reasons of civil servant law or collective bargaining law that are not connected with National Socialist violent measures. The marriage of a persecuted civil servant is not a civil servant or collective bargaining reason within the meaning of sentence 1.

Unofficial table of contents

§ 101

If a measure pursuant to section 99 subs. 1 nos. 1 and 2 has been pronounced by a criminal judgment or by an administrative penal judgment or if it is the legal consequence of such a judgment, section 44 shall apply mutatis mutandis. The annulment of the judgement is equivalent to the removal of the consequences of the judgement under civil service or pension law by grace.

(b) **Officials**

Unofficial table of contents

§ 102

(1) A civil servant who has lost his remuneration as a result of one of the measures referred to in section 99(1)(1) shall be entitled to capital compensation if he

1.

has not received any pension, amounting to three quarters of the last salary received;

2.

in so far as he or she has received pension or maintenance payments or has had a lower income from employment in so far as such payments have fallen short of three-quarters of the remuneration to which he or she was entitled up to that date.

(2) Salary cuts on the basis of the Ordinance of the Reich President on Securing the Economy and Finances of 1 December 1930 (Reichsgesetzblatt I p. 517, 522), the Second Ordinance of the Reich President on Securing the Economy and Finances of 5 June 1931 (Reichsgesetzbl. I p. 517, 522), and the Ordinance of the Reich President on Securing the Economy and Finances of 5 June 1931 (Reichsgesetzbl. I p. 517, 522). 279, 282) and the Fourth Decree of the Reich President on Securing Economic and Financial Security for the Protection of Internal Peace of 8 December 1931 (Reichsgesetzbl. I p. 699, 738) are only taken into account for the period in which they applied to the Reich and federal civil servants.

3. If the official was on hold (provisional retirement) at the time of the injury, paragraphs 1 and 2 shall apply, provided that a capital allowance of three quarters of the last remuneration shall be replaced by a capital allowance of three quarters of the last remuneration.

4. If, at the time of the injury, the official had taken a prescribed or normal career examination but had not yet obtained scheduled employment, paragraphs 1 and 2 shall apply, provided that a capital allowance equal to three quarters of the last salary shall be replaced by a capital allowance equal to three quarters of the salary

at the starting stage of his career. This shall also apply in the event of non-admission as an unscheduled civil servant (§ 99 para. 2 sentence 2).

(5) Section 75 (1) and (2) shall apply mutatis mutandis.

Unofficial table of contents

§ 103

Retired civil servants, widows and orphans who have been deprived of all or part of their pension benefits (section 99(1) no. 2) are entitled to a capital compensation in the amount of the lost pension benefits.

Unofficial table of contents

§ 104

(1) A surviving dependant entitled to a pension of a persecuted civil servant or pension recipient who, as a result of a measure directed against the persecuted civil servant or pension recipient (section 99 subs. 1 nos. 1 and 2), has received no or only reduced pension benefits shall be entitled to a capital compensation in the amount of the surviving dependant's benefits resulting under the general provisions of civil service law on the basis of the capital compensation which the persecuted civil servant would have received under sections 102 and 103.

(2) It shall be sufficient that the surviving dependant entitled to a pension fulfils the requirements of section 4. Otherwise Sections 5 to 14 shall apply mutatis mutandis.

Unofficial table of contents

§ 105

In the case of a civil servant or pension recipient who has been injured as a result of several consecutive measures (§ 99 (1) Nos. 1 and 2), the capital compensation shall be determined in accordance with the legal relationship at the time of the first injury. If, at the time of a subsequent operation, the official was reinstated in accordance with his previous legal status, the capital allowance for the subsequent period shall be calculated on the basis of his last employment.

Unofficial table of contents

§ 106

The provisions of the remuneration and pension law applicable to federal civil servants on 1 April 1951 shall apply to the assessment of compensation in accordance with sections 102 to 105. This shall be based on remuneration, to the extent that it would be pensionable, and child allowances.

Unofficial table of contents

§ 107

(1) Pension payments, capital settlements, maintenance contributions, benefits and similar benefits from German public funds granted for the same period, with the exception of benefits from unemployment insurance and unemployment welfare, shall be fully counted towards the capital compensation pursuant to sections 102 to 106. Remuneration that has already been taken into account in calculating the capital compensation (§ 102 (1) no. 2, §§ 103, 104) shall not be taken into account in the calculation.

(2) A beneficiary who has earned an income through the alternative use of his labour shall receive the capital compensation to the extent that it, together with the income and benefits referred to in paragraph 1

1. in the case of an official who has been dismissed, retired early or on hold, the income which the official would have received had he remained in regular service,

2. for a civil servant in the event of retirement or waiting, the amount of the pensionable remuneration on which the retirement pension or waiting allowance is based,

3. for a widow, 75 % of the remuneration referred to in paragraph 2,

4. 40 per cent of the remuneration referred to in paragraph 2 for an orphan

does not exceed. Income earned before 1 July 1948 shall not be taken into account.

c)

Professional soldiers

Unofficial table of contents

§ 108

(1) Sections 102 to 107 shall apply mutatis mutandis to professional soldiers of the former Wehrmacht and their surviving dependants.

(2) For the purposes of calculating pensionable remuneration under Grade A and B, the table annexed to Section 20(1) of the Act for the Settlement of National Socialist Injustice for Members of the Public Sector shall apply. The determination of the age at which officials are to be paid in the grades in Grade A of Grade A shall be determined, in particular with regard to the question of the remuneration to be regarded as a pensionable salary, in accordance with the provisions of the Reichsbesoldungsgesetz applicable to civil servants pursuant to the Verordnung zur Durchführung des § 20 des Gesetz zur Regelung der Wiedergutmachung Nationalsozialistischen Unrechts für Angehörige des öffentlichen Dienstes (Regulation implementing Paragraph 20 of the Gesetz zur Regelung der gewerblichen gewerblichen gewerblichen öffentlichen Dienstes Regelung).

(3) The former Wehrmacht includes the Wehrmacht within the meaning of the Wehrgesetz of 21 May 1935 (Reichsgesetzbl. I p. 609), the Reichswehr and the old Wehrmacht (army, navy, Schutztruppe).

d)

Employees and manual workers

Unofficial table of contents

§ 109

§§ Sections 102 to 107 shall apply mutatis mutandis to employees and workers (Section 99 (1) no. 3) who, at the time of the injury, had a contractual entitlement to pension benefits in accordance with the principles of civil service law or to retirement pay or who would have acquired such an entitlement without the injury, as well as to their surviving dependants.

Unofficial table of contents

§ 110

(1) Sections 87, 88, 90 to 98 shall apply mutatis mutandis to employees and workers (Section 99 (1) no. 3) who, at the time of the injury, had no contractual entitlement to pension benefits under civil service law or to a retirement wage and who would not have acquired such an entitlement even without the injury, and to their surviving dependants.

(2) By way of derogation from section 99 subs. 1, the employees and workers referred to in subs. 1 and their survivors shall also be entitled to compensation for the period after 1 April 1950, but at the latest up to the point in time from which they receive current remuneration in accordance with section 21a of the Act for the Settlement of National Socialist Injustice for Members of the Public Service.

(e)

Non-official associate professors and assistant professors at scientific universities

Unofficial table of contents

§ 111

(1) Non-official extraordinary professors and private lecturers at scientific universities (§ 99 para. 1 no. 4) shall be entitled to a capital compensation in the amount of three quarters of the remuneration which they would have been entitled to if they had been assigned a dietary lecturing position at the time of the injury and the Act on the Remuneration of University Teachers of 17 February 1939 (Reich Law Gazette I p. 252) had already been in force at that time.

(2) Sections 104 to 107 shall apply mutatis mutandis.

C.

Service in religious communities

Unofficial table of contents

§ 112

§§ 109, 110, 88 shall apply mutatis mutandis to persecuted persons who have been in the service of religious communities or Jewish public institutions and have been harmed in this service, as well as to their survivors. The right to compensation also exists for the period after 1 April 1950, but at the latest until the date on which current remuneration is paid to members of the public service on the basis of the law regulating reparation for National Socialist injustice.

4. **damage in self-employed and employed gainful activity**

Unofficial table of contents

§ 113

- (1) If the persecuted person has been self-employed and employed and if he has been injured in only one of the two gainful activities, only the provisions governing such injury shall apply for compensation.
- (2) If the persecuted person has been injured both in his self-employed and in his dependent gainful employment, the decisive factor for the claim to capital compensation or pension shall be the gainful employment from which he has received the higher income not only temporarily.
- (3) If the income of the persecuted person from self-employment and employment has been approximately equal, his claim to capital compensation or pension shall be treated as that of a self-employed person only.

5. **not taking up gainful employment despite having completed vocational training**

Unofficial table of contents

§ 114

- (1) The persecuted person who, despite having completed vocational training, has not been able to take up any gainful employment corresponding to this training for the reasons of persecution under section 1 and his survivors shall be entitled to compensation in accordance with sections 66 to 86.
- (2) Vocational training shall also be deemed to have been completed if the person pursued has passed all the state examinations prescribed for the occupation in question, but has not, for the reasons for pursuing the occupation referred to in § 1, obtained a state licence prescribed for admission to that occupation. In this case, the compensation shall be paid at the earliest from the time at which the persecuted person could have taken up the desired occupation.
- (3) If it can be assumed under the circumstances that the persecuted person did not wish to take up self-employment, the persecuted person and his survivors shall be entitled to compensation in accordance with sections 87, 90 to 98.
- (4) The classification of the persecuted person into a comparable group of officials shall be determined by his professional training and his presumed income.
- (5) Paragraphs 1 to 3 shall not apply if the persecuted person or his survivors receive compensation in accordance with section 102 subs. 4 second sentence, sections 104 to 107.

Unofficial table of contents

§ 114a

- (1) Section 114 subs. 1 shall apply mutatis mutandis if the persecuted person who aspired to the profession of teacher at an academic institution of higher education has passed the prescribed or customary state or academic examinations and has been offered the prospect of admission to a post-doctoral lecturing qualification (Habilitation) has been denied the right to teach on the grounds of the persecution referred to in Section 1.
- (2) Pursuant to §§ 87, 90 to 98, the compensation shall be paid at the earliest from the time at which the persecuted person could have taken up the desired occupation.
- (3) Section 114 (4) and (5) shall apply mutatis mutandis.

6. **damage in training**

Unofficial table of contents

§ 115

(1) Damage to professional advancement within the meaning of § 65 shall also include damage suffered by the persecuted person in his vocational training or in his pre-vocational training as a result of exclusion from the desired training or forced interruption thereof.

(2) Section 67 (1), (3) and (4) shall apply mutatis mutandis.

Unofficial table of contents

§ 116

The persecuted person is entitled to a capital compensation of 10,000 Deutsche Mark.

Unofficial table of contents

§ 117

(1) The persecuted person shall be entitled to a loan after successfully completing his training. § 69 (1) and (2) shall apply mutatis mutandis.

(2) The maximum amount of the loan is 10,000 Deutsche Mark. § Section 71 shall apply mutatis mutandis.

Unofficial table of contents

§ 118

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Unofficial table of contents

§ 119

1. Children who, because of persecution of their parents, have been unable to commence or complete the vocational training or pre-vocational training which they have sought shall be entitled, for as long as child allowances may be granted to them under the law on civil servants in force up to 31 December 1974, to an allowance towards the necessary expenses incurred in catching up on their training. The claim exists only if the parents are not able to pay the costs of the training from their own resources because of the persecution.

(2) It shall be sufficient for the children to fulfil the requirements of § 4. Otherwise Sections 5 to 14 shall apply mutatis mutandis.

3. The aid shall be paid in instalments corresponding to the needs during the period of training. The aid for each child may not exceed a total of 10,000 German marks.

(4) Benefits received by the child from German public funds in accordance with other laws in respect of damage suffered for his education shall be credited against the allowance. § 10 remains unaffected.

7.

coincidence of claims for compensation for professional advancement with claims for compensation for loss of life, physical injury or damage to health

Unofficial table of contents

§§ 120 - 122 (no longer applicable)

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7.

maximum amount of capital compensation

Unofficial table of contents

§ 123

(1) The capital compensation for damage in professional advancement may not exceed a total of 40,000 German Marks for the individual persecuted person.

(2) The allowance and the compensation for damage in training as well as the compensation pursuant to section 19 of the Act to Settle the Restitution of National Socialist Injustice for Members of the Public Service shall be included in the maximum amount.

Unofficial table of contents

§ 124

To the extent that a surviving dependant entitled to a pension is entitled to compensation under sections 99 to 109 and 111, the maximum amount under section 123 shall be reduced in proportion to the survivor's pension under the provisions of the pension legislation in relation to the pension or retirement pay of the deceased public servant.

Unofficial table of contents

§ 125

The maximum amount of § 123 shall also apply if capital compensation pursuant to §§ 99 to 109, 111 is to be paid from an employment relationship in favour of several beneficiaries.

8. **coincidence with claims under the legislation regulating the reparation of National Socialist injustice to public servants**

Unofficial table of contents

§ 125a

If the person pursued is entitled to a pension for professional advancement for the same cause of damage and the same compensation period, and to reparation under the legislation regulating reparation of Nazi injustice against members of the public service, he shall be entitled to a pension for professional advancement only to the extent that it exceeds the right to reparation under that legislation.

9. **authorisation of the Federal Government to enact statutory orders**

Unofficial table of contents

§ 126

(1) The Federal Government shall be authorised to issue ordinances to implement sections 65 to 98 and sections 110 to 125a. In so doing, it may lay down, as a basis for the calculation of capital compensation and pensions, provisions relating to the classification of the persecuted person in a group of civil servants with ascending salaries comparable to that of his vocational training and economic status during the three years preceding the injury, and may draw up tables showing the average income and pensions of civil servants in the ordinary, middle, upper and higher civil service, broken down by age. For the implementation of sections 75, 82 and 92, tables may be drawn up showing the average income of persons with the same or similar vocational training. Furthermore, the Federal Government may lay down more detailed provisions for the calculation of the pensions referred to in sections 93 to 98.

(2) The Federal Government shall also be authorised by statutory order to

1. the maximum monthly pension amounts pursuant to § 83 (2), § 95 (1),
2. the pension amounts according to § 93,
3. the allowances in accordance with § 85 (2), § 95 (3) and § 97 (1)

to be increased appropriately if the salaries and pensions of federal civil servants increase as a result of statutory provisions.

III. **damage in economic progress**

1. **damage to an insurance outside the social security system**

Unofficial table of contents

§ 127

(1) The persecuted person shall be entitled to compensation if he, as policyholder or beneficiary, has lost the protection of a life insurance policy (endowment or annuity insurance) taken out with a private or public-law insurance institution outside the social insurance system, in whole or in part, as a result of an impairment of an existing claim to insurance benefits or risk bearing in accordance with the articles of association or conditions.

(2) An unaccompanied beneficiary shall be entitled to compensation if the policyholder is a persecuted person and the beneficiary is the spouse of the persecuted person or, in the case of legal succession, would be one of the heirs of the first or second order. It is sufficient that the beneficiary fulfils the requirements of § 4. Otherwise Sections 5 to 14 shall apply mutatis mutandis.

Unofficial table of contents

§ 128

(1) Compensation for damage to a life insurance policy which is the subject of a lump-sum payment shall be paid in such a way that the beneficiary receives as lump-sum compensation the benefits including any compensation for old-age savings and any benefit in accordance with the laws on the improvement of benefits from pension and pension insurance as well as from compulsory lump-sum insurance to which he would have been or would be entitled in accordance with the insurance relationship without the damage. Benefits due to liabilities denominated in Reichsmark or which would have had to be paid in Reichsmark according to the regulations in force before the currency changeover shall be calculated by applying the laws and ordinances enacted on the occasion of the reorganization of the monetary system.

(2) Premiums not paid as well as refunds and other benefits paid by the insurer to the policyholder, the beneficiary or any other person entitled to receive the insurance benefit shall be offset against the capital compensation with the proviso that Reichsmark amounts shall be converted into Deutsche Marks at a ratio of 10:1. A person entitled to receive the insurance benefit within the meaning of sentence 1 is not the German Reich or a German country if they have received the insurance benefit in the course of National Socialist violent measures. Interest will not be charged.

(3) If the claims from the premium reserve have also been lost, the entitled party shall receive as capital compensation, instead of the capital compensation pursuant to paragraph 1, the reimbursement which would have resulted at the time of the beginning of the damaging effect of National Socialist violent measures on the insurance relationship in accordance with the insurance conditions, if this is more favourable for the entitled party. The Reichsmark amount of the rebate is to be converted into Deutsche Mark at a ratio of 10:2. Benefits paid by the insurer are offset against the capital compensation with the proviso that Reichsmark amounts are converted into Deutsche Mark at a ratio of 10:1.

Unofficial table of contents

§ 129

(1) Compensation for damage to a life insurance policy which has as its object a pension benefit shall be paid in such a way that the entitled person receives as a pension the benefits including any old savings compensation or a benefit under the pension improvement laws which he would have been or would be entitled to without the damage under the insurance relationship. Benefits due to liabilities denominated in Reichsmark or which would have had to be paid in Reichsmark according to the regulations in force before the currency changeover shall be calculated by applying the laws and ordinances enacted on the occasion of the reorganization of the monetary system.

(2) Premiums not paid and refunds or other benefits paid by the insurer to the policyholder, the beneficiary or any other person entitled to receive the insurance benefit shall be credited against the annuity with the proviso that Reichsmark amounts shall be converted into Deutsche Marks at a ratio of 10:1. A person entitled to receive the insurance benefit within the meaning of sentence 1 is not the German Reich or a German country if they have received the insurance benefit in the course of National Socialist violent measures. Interest will not be charged. The sum of the amounts to be credited is to be pensioned according to the insurance relationship. The pension referred to in paragraph 1 shall be reduced by the amounts thus determined.

3. Instead of the pension referred to in paragraph 1, the person entitled shall receive, as compensation, the benefits which he would have received if the insurance had been converted into non-contributory insurance at the time when the harmful effect of Nazi violence on the insurance relationship had commenced, provided that this is more favourable to the person entitled. Benefits paid by the insurer shall be deducted from this pension in accordance with paragraph 2.

(4) Pensions up to a monthly amount of ten Deutsche Marks shall be capitalised in accordance with the Valuation Act; they shall be settled with the capitalised amount.

(5) Pension payments which were to be effected in accordance with the insurance relationship and are in arrears since the occurrence of the insured event shall be paid in one sum without interest.

Unofficial table of contents

§ 130

(1) If the person entitled is entitled to claims against the German Reich or a German country in accordance with the legal provisions governing the restitution of ascertainable assets and the legal provisions governing the monetary liabilities of the German Reich under the law on restitution and of equivalent legal entities, he may demand compensation in accordance with Sections 128 and 129 only against assignment of these claims up to the amount of the compensation to the providing country. A waiver by the beneficiary of the claim for reimbursement has no effect vis-à-vis the supplying country.

(2) If the beneficiary has received benefits by way of reimbursement, the value of such benefits shall be fully credited against the capital compensation in the case of § 128 and against the overdue pension benefits and the current pension in the case of § 129. Also to be taken into account are advance payments and loans which have been granted with the proviso of offsetting in accordance with the regulation of the monetary liabilities of the German Reich and equivalent legal entities under reimbursement law.

Unofficial table of contents

§ 131

If the insurer has not fulfilled due claims in the course of persecution, the claims of the beneficiary shall be determined exclusively in accordance with the general legal provisions. However, the person entitled may claim compensation in accordance with sections 127 to 130 if the persecution has led to the fact that he can no longer obtain fulfilment of a claim to a lump-sum payment or a pension payment by the insurer.

Unofficial table of contents

§ 132

No compensation shall be paid under this Act for damage to insurance policies other than those dealt with in §§ 127 to 129.

Unofficial table of contents

§ 133

(1) The compensation pursuant to §§ 127 to 130 may not exceed a total of 25,000 Deutsche Marks for the individual policyholder or the beneficiaries. This also applies if a policyholder or a beneficiary has been injured in several insurance policies.

(2) The capital value of the annuity shall be calculated in accordance with the Valuation Act.

2. **supply damage**

Unofficial table of contents

§ 134

1. The person pursued shall be entitled to compensation if, as an employed person in private employment, he was entitled to or was promised pension benefits in the event of old age or incapacity for work or the survivors of such an employed person, and if he was injured in such pension benefits.

(2) The surviving dependant of a persecuted person shall also be entitled to compensation if, as a result of a National Socialist violent measure directed against him, he has not received or receives only a reduced pension, or any pension at all. It is sufficient that the survivor fulfils the conditions of § 4. Otherwise Sections 5 to 14 shall apply mutatis mutandis.

Unofficial table of contents

§ 135

(1) The right to compensation shall lapse,

1. to the extent that the person entitled receives pension benefits again from the pension obligor or his legal successor;

2. to the extent that it has been determined by a legally binding court decision or by a settlement that the pension obligor or his legal successor is obliged to provide pension benefits to the beneficiary;

3. if, after 8 May 1945, the person entitled has waived his right to pension benefits in respect of the person obliged to pay the pension or his legal successor, or if he has been compensated for such benefits;

4.

if the beneficiary receives pension benefits on the basis of a service or employment relationship based on the injury.

(2) The claim shall also lapse if the persecuted person has been injured in his self-employed and employed activity but is compensated as a self-employed person; the same shall apply to the surviving dependants of such a persecuted person.

Unofficial table of contents

§ 136

(1) As compensation, the beneficiary shall receive the benefits which he would have been entitled to or would be entitled to if the insured event had occurred without the damage.

2. If the pension was payable before 1 November 1952 and the pension was a pension, the person entitled shall receive, for the period before 1 November 1953, compensation equal to one year's pension.

(3) Pensions up to a monthly amount of ten Deutsche Marks shall be capitalised in accordance with the Valuation Act; they shall be settled with the capitalised amount.

Unofficial table of contents

§ 137

(1) The compensation pursuant to sections 134 to 136 may not exceed 25,000 German Marks for the individual persecuted person and his surviving dependants.

(2) The capital value of the annuity shall be calculated in accordance with the Valuation Act.

3.

social security damage

Unofficial table of contents

§ 138

Compensation for damage suffered by the persecuted person or his survivors under the social security scheme shall be governed by the relevant special legislation, in particular the *Law on the Treatment of Persecuted Persons of National Socialism under the Social Security Scheme, which provides that temporary applications may be submitted under that legislation until 30 September 1966.*

footnote

§ 138 Italics: See now G v. 22.12.1970 826-9

4.

damage to the provision of war victims

Unofficial table of contents

§ 139

Compensation for damage suffered by the persecuted person or his surviving dependants as a result of the provision of war victims is governed by the Federal Act on Compensation for National Socialist Injustice in the Provision of War Victims and by the Act on Compensation for National Socialist Injustice in the Provision of War Victims Abroad.

IV.

Common rules on heritability and transferability

Unofficial table of contents

§ 140

- (1) If the persecuted person has died before the entry into force of this Act, the right to the capital compensation to which he is entitled shall be heritable only if the heir is the spouse of the persecuted person or, in the case of legal succession, would be one of the heirs of the first or second order. Sentence 1 shall apply mutatis mutandis in the cases of §§ 104, 127 (2) and § 134 (2).
2. Entitlement to the current pension shall be neither transferable nor heritable.
- (3) Entitlement to the sum of the arrears of pensions shall be heritable before being fixed or before a final judicial decision is taken only if the heir is the spouse of the person persecuted or, in the case of legal succession, would be one of the heirs of the first or second order.
- (4) In the cases referred to in paragraphs 1 and 3, § 13 (3) shall apply mutatis mutandis.
5. Entitlement to loans and aid for damage in training shall be neither transferable nor heritable.

Eighth titleEmergency aid for returnees

Unofficial table of contents

§ 141

- (1) The persecuted person of German nationality or ethnicity who emigrated, was deported or expelled in the period from 30 January 1933 to 8 May 1945 on the grounds of persecution in accordance with § 1 and whose last place of residence or permanent abode in the territory of the Reich was on 31 January 1933 or on 8 May 1945, shall be deported or expelled from the territory of the Federal Republic of Germany. The person who had his residence or permanent residence in the territory of the Free City of Gdansk on 31 December 1937 or in the territory of the Free City of Gdansk shall be entitled to immediate assistance amounting to 6,000 German Marks if, after the end of the National Socialist tyranny, he has taken or takes his residence or permanent residence within the scope of this Act; § 4 (3) shall apply mutatis mutandis. The spouse and descendants of the persecuted person shall be entitled to immediate assistance under the conditions of sentence 1 even if they themselves were not persecuted but were also affected by the persecution.
- (2) In the case of persecuted persons who had their last domicile or permanent residence in the territory of the Reich as of 31 December 1937, deportation within the meaning of this provision shall also mean transfer to a concentration camp outside this territory. In the case of persecuted persons who had their last domicile or permanent residence in the territory of the Free City of Gdansk, deportation shall also be deemed to include transfer to a concentration camp situated outside the territory of the Reich in accordance with the conditions of 31 December 1937 and outside the territory of the Free City of Gdansk.
- (3) The persecuted person of German nationality who emigrated or was expelled in the period from 30 September 1938 to 8 May 1945 on the grounds of persecution in accordance with § 1 and who had his last residence or permanent abode in a territory affiliated to the German Reich after 30 September 1938, including the former protectorate of Bohemia and Moravia, shall also be entitled under subsection (1) if, after the end of National Socialist tyranny, he has taken or is taking his residence or permanent abode in the area of application of this Act. The claim exists only if the persecuted person possesses German nationality at the time of the decision. The second sentence of paragraph 1 shall apply mutatis mutandis.
- (4) The right to emergency assistance shall cease if the persecuted person has relinquished his residence or permanent stay within the scope of this Act prior to the decision on the right to emergency assistance. This shall apply mutatis mutandis to the cases referred to in paragraph 1 sentence 2.
- (5) Half of the emergency aid shall be set off against the compensation for damage to property and half against the compensation for damage to property.
- (6) The persecuted person who has been deprived of his liberty for at least three years and who possessed German nationality at the time of deprivation of liberty shall be entitled to immediate aid amounting to 3,000 German Marks. Paragraph 4 shall apply mutatis mutandis. The right shall not exist if the persecuted person is entitled to emergency aid in accordance with paragraphs 1 or 3.
7. Entitlement to emergency aid shall not be transferable or heritable before it has been established or determined by a final judicial decision.

Ninth titleHealth care

Unofficial table of contents

§ 141a

- (1) The persecuted person whose entitlement to a pension for loss of life, physical injury or damage to health or to emergency aid has been established by decision, settlement or final judicial decision shall be entitled to sickness care for non-punitive suffering. The claim exists only as long as the persecuted person has his residence or permanent residence within the scope of this Act.
2. Persecuted persons (paragraph 1) shall also be entitled to sickness benefits for their spouses and children, for as long as, under the law applicable to civil servants until 31 December 1974, they may be entitled to

supplements for children if they live with them in the same household or are mainly dependent on them. Paragraph 1 sentence 2 shall apply mutatis mutandis.

3. Entitlement under paragraphs 1 and 2 shall be excluded,

1. to the extent that a corresponding claim exists against a social insurance institution,
2. if a corresponding claim exists from a contract (except claims from a private health or accident insurance),
3. if the income of the person persecuted exceeds the annual earnings limit applicable to the statutory sickness insurance obligation; in the case referred to in paragraph 2, entitlement shall also be excluded if the income of the spouse or child exceeds that annual earnings limit.

4. The right referred to in paragraphs 1 and 2 shall be neither transferable nor heritable.

Unofficial table of contents

§ 141b

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Unofficial table of contents

§ 141c

1. Sickness care shall include

1. Measures for the early detection of diseases,
2. medical and dental treatment,
3. Hospital care,
4. Provision of medicines, bandages, remedies and spectacles,
5. body parts, orthopaedic and other aids,
6. Subsidies for the costs of dental prostheses and crowns or the assumption of all costs,
7. home nursing,
8. Travel expenses.

2. The person persecuted shall be released from the obligation to pay a specified amount when accepting medicines, dressings and medical products and when receiving hospital care.

(3) In addition, the provisions of statutory health insurance shall apply to health care.

4. If, before the entitlement to a pension for loss of life, bodily injury or damage to health or the entitlement to emergency aid was determined, the person persecuted has incurred expenditure on medical care in accordance with paragraph 1, the costs of the necessary treatment shall be reimbursed to that person to an appropriate extent. The same shall apply if the persecuted person, who is entitled in accordance with § 29 No. 1, has incurred expenses for medical care and it subsequently emerges that medical care was not necessary for the persecution-related suffering. § Section 141a (4) shall apply mutatis mutandis.

Tenth titleConcurrence of claims for compensation for loss of life, physical injury or damage to health and professional advancement

1. two claims coincide

Unofficial table of contents

§ 141d

(1) If, in addition to the right to compensation for loss of life, the survivor of a persecuted person is entitled to compensation for bodily injury or damage to health, the monthly amount of such compensation shall be taken into account in determining the percentage of the pension for loss of life in accordance with section 18(2). This shall apply mutatis mutandis to the calculation of the capital compensation pursuant to § 25.

2. If the survivor of a persecuted person is entitled to a pension for professional advancement in addition to compensation for loss of life, the first sentence of paragraph 1 shall apply mutatis mutandis, unless otherwise provided in paragraphs 3 and 4.

(3) If, in the cases referred to in subsection (2), a claim exists for the monthly minimum amount of the pension pursuant to section 95 subsections (2) and (3), only the amount of the pension calculated pursuant to section 93 shall be taken into account when calculating the percentage of the pension for loss of life pursuant to section 18 subsection (2). The monthly amount of the life annuity thus calculated shall be credited in accordance with § 95 (3).

(4) If, in addition to the right to compensation for loss of life, the surviving dependant of a persecuted person is entitled to a pension for loss of career pursuant to sections 85, 85a, 86 or sections 97, 97a, 98, he shall receive the higher pension in full and 25 per cent of the lower pension.

Unofficial table of contents

§ 141e

(1) If, for the same compensation period, the person pursued is entitled to a pension and to capital compensation for personal injury or damage to health and to capital compensation or to a pension for professional advancement, he shall receive full compensation for the damage on which the higher claim is based and 25 per cent of the compensation for the damage on which the lower claim is based. In this respect, § 31 (3), (4) and § 95 (3) shall be disregarded.

(2) For the purpose of assessing the claim for professional advancement, it shall be disregarded that the person persecuted was or is not fully able to perform due to physical or health damage.

(3) If the persecuted person is entitled to compensation under section 83(3) for the period prior to 1 November 1953, this compensation shall only be set off against the capital compensation for bodily injury or damage to health for the period from 1 November 1952 to 31 October 1953.

(4) Paragraphs 1 to 3 shall not apply in the cases of §§ 115 to 119.

(5) Paragraph 1 shall apply mutatis mutandis if the persecuted person is entitled for the same compensation period to a pension and to capital compensation for bodily injury or damage to health and to a pension for professional advancement pursuant to sections 85, 85a, 86 or sections 97, 97a and 98. If the persecuted person is entitled to compensation in the amount of the pension payments for one year pursuant to § 86 (3) or § 98, this compensation shall only be set off against the capital compensation or pension for physical injury or damage to health attributable to the year preceding the commencement of the pension payment pursuant to § 86 or § 98.

Unofficial table of contents

§ 141f

If the persecuted person is entitled to a pension for damage in professional advancement pursuant to § 81 or § 93 and is entitled to a pension for damage in professional advancement pursuant to §§ 85, 85a, 86 or §§ 97, 97a, 98, the pension pursuant to § 81 or § 93 shall be set off against these in accordance with § 85 (2) sentence 2. In this respect, § 95 (3) and § 97 (2) shall not be taken into account; this shall also apply if the application of § 85 (2) does not result in a reduction of the pension.

2. **meeting of three claims**

Unofficial table of contents

§ 141g

If, in addition to the right to compensation for loss of life, the survivor of a persecuted person is entitled to compensation for bodily injury, damage to health and damage to professional advancement, the latter claims shall be calculated in accordance with § 141e (1) to (3). The monthly amount of the higher of the two claims shall be taken into account when calculating the percentage of the annuity for loss of life pursuant to section 18 subs. 2. This shall apply mutatis mutandis to the calculation of the capital compensation pursuant to § 25.

Unofficial table of contents

§ 141h

(1) If the persecuted person is entitled to a pension for damage in professional advancement pursuant to sections 85, 85a, 86 or sections 97, 97a, 98 and claims for compensation for loss of life, physical injury or damage to health, the latter claims shall be calculated in accordance with section 141d subs. 1 and the former claim shall be fixed at 25 per cent.

(2) If the persecuted person is entitled to a pension for damage in professional advancement pursuant to §§ 85, 85a, 86 or §§ 97, 97a, 98 and claims for compensation for damage in professional advancement as well as for damage to life, the first-mentioned claims shall be calculated pursuant to § 141f. The resulting total monthly amount of both claims shall be taken into account when calculating the hundred percentage of the annuity for loss of life in accordance with section 18(2).

(3) If the persecuted person is entitled to a pension for damage in professional advancement pursuant to §§ 85, 85a, 86 or §§ 97, 97a, 98 and claims for compensation for damage in professional advancement as well as for damage to body or health, the first-mentioned claims shall be calculated pursuant to § 141f. Of the resulting total monthly amount of both claims and the monthly amount of the claim for personal injury or damage to health, he shall receive the higher amount in full and 25 per cent of the lower amount. In this respect, § 31 (3), (4) shall be disregarded. § Section 141e (3), (5) sentence 2 shall apply mutatis mutandis.

(4) In the cases referred to in subsection (1), § 85 subsection (2) second sentence shall not be taken into account in this respect.

3. **four claims coincide**

Unofficial table of contents

§ 141i

If, in addition to claims for compensation for loss of life, physical injury or damage to health and damage to professional advancement, the persecuted person is also entitled to a pension for damage to professional advancement pursuant to §§ 85, 85a, 86 or §§ 97, 97a, 98, this claim shall lapse. The first mentioned claims are to be calculated according to § 141g.

4. **applicability in cases of §§ 41, 41a, 110, 112, 114 and 114a**

Unofficial table of contents

§ 141k

In the cases of §§ 41, 41a, 110, 112, 114 and 114a, §§ 141d to 141i shall apply mutatis mutandis.

Third SectionSpecial **provisions for legal persons, institutions or associations of persons**

Unofficial table of contents

§ 142

(1) A legal person, institution or association of persons (non-legally capable association, non-legally capable commercial company) shall be entitled to compensation if it has been damaged by National Socialist violent measures.

2. If a legal person, establishment or group of persons referred to in paragraph 1 ceases to exist and does not have a successor in title, the right to compensation may be exercised by any legal person, establishment or group of persons which, by virtue of its constitution, purpose, composition or organisational status and actual activities, is to be regarded as the successor in title. Successor in title within the meaning of sentence 1 for claims according to § 51 shall also be a successor organisation established on the basis of reimbursement regulations.

Unofficial table of contents

§ 143

(1) The right to compensation exists only if the legal person, establishment or association of persons
1.

on 31 December 1952 had its seat within the scope of this Act or the place of its administration was situated there,

2.

before 31 December 1952, for the reasons of persecution under § 1, had transferred its seat or its administration from the territory of the Reich to a foreign country in accordance with the state of 31 December 1937 or the territory of the Free City of Gdansk.

(2) If a legal person, institution or association of persons no longer exists, the claim for compensation shall only exist if it had its registered office or the place of its administration in the territory of the Reich in accordance with the status on 31 December 1937 or in the territory of the Free City of Gdansk and if the registered office or the place of administration of a legal successor or successor to a purpose was in the area of application of this Act on 31 December 1952.

Unofficial table of contents

§ 144

There shall be no right to compensation if it is probable that the legal person, institution or association of persons or its successors in title or in purpose would not have been pursued in accordance with the present constitution, purpose, composition, organisational position or actual activity.

Unofficial table of contents

§ 145

1. A legal person, institution or association of persons shall be excluded from compensation if, in accordance with its constitution, purpose, composition, organisational status or actual activities, it

1.

of the National Socialist tyranny;

2.

after 23 May 1949 fought against the free democratic constitutional order in the sense of the Basic Law.

(2) The claim for compensation shall be forfeited if the ground for exclusion set out in paragraph 1 No. 2 arises after the determination or final court decision. The benefits provided after the forfeiture reason has occurred can be reclaimed.

3. Paragraphs 1 and 2 shall apply to the successor to a legal person, institution or group of persons, whether in law or in business.

Unofficial table of contents

§ 146

(1) The right to compensation exists only for damage to property and for damage to property and only to the extent that the damage occurred within the scope of this Act. In the case of non-legally capable commercial companies whose all partners were natural persons at the time of the persecution, the claim for compensation also exists if the damage to property or assets in the Reich territory occurred as of 31 December 1937 or in the territory of the Free City of Gdansk.

2. Communities which are institutions of or recognised by religious communities and whose members have undertaken to acquire through their work not for themselves but for the community may also claim as damage to property the damage caused to the community by the loss of the working activities of their members. A Community national shall not be entitled to compensation for loss of professional progress in respect of any work carried out by him on behalf of the Community if the Community has received compensation in accordance with the first sentence.

(3) No compensation shall be paid for losses of contributions, donations and similar income.

Unofficial table of contents

§ 147

Where a legal person, institution or group of persons, or their successors or assigns, has received benefits under the legislation governing the transfer of organisational assets, the right to compensation shall be limited to the extent that such benefits do not compensate for the damage suffered.

Unofficial table of contents

§ 148

(1) The maximum amounts set out in section 55(1) and section 58 shall also apply to the claims of a legal person, institution or association of persons or their legal successors or successors.

(2) For the benefit of persecuted religious communities and their institutions or their legal successors or successors in title, the maximum amounts of § 55 (1) and § 58 shall apply to each individual asset for which

there is a claim for compensation for damage to property or for damage to property. In the case of § 146 para. 2, the maximum amount of § 58 shall apply to the total loss incurred by the individual legal entity.

(3) The maximum amount may be exceeded to the extent necessary to perform the functions of the religious communities or their institutions or their successors in title or in purpose within the scope of this Act. The religious communities or their institutions or their successors in title or in purpose shall assert that the conditions for exceeding the maximum amount have been met; the amount exceeding the maximum amount shall be paid to the religious communities or their institutions or their successors in title or in purpose. § Section 142 (2) sentence 2 shall not apply.

(4) Section 55 (2) shall apply mutatis mutandis.

Unofficial table of contents

§ 148a

(1) If a legal person, institution or association of persons or their legal successors or successors in a position of public benefit within the meaning of the Ordinance on Public Benefit is a legal person, institution or association of persons or their legal successors or successors in a position of public benefit damaged by National Socialist measures of violence against their property or assets, it may, upon application, be granted a hardship compensation to mitigate a hardship resulting from Sections 142 to 148 insofar as this is necessary for the fulfilment of its duties.

2. Applications for hardship compensation under paragraph 1 shall be submitted by 31 December 1965.

(3) A special fund in the amount of 10 million German Marks shall be set up for the granting of the hardship compensation, which shall be administered by the State of Baden-Württemberg.

Section Four Special Groups of Persecuted Persons

First Title Principle

Unofficial table of contents

§ 149

If persecuted persons from the expulsion areas as well as persecuted stateless persons and refugees within the meaning of the Geneva Convention and the surviving dependants of such persecuted persons do not fulfil the conditions of § 4, they shall have a claim to compensation limited in nature and scope.

Second title Trafficked from the distribution areas

Unofficial table of contents

§ 150

(1) The persecuted person from the expulsion areas who belonged to the German linguistic and cultural group shall be entitled to compensation for damage to body or health, for damage to freedom, for damage caused by the payment of special taxes and for damage to professional advancement.

(2) A claim under subsection (1) shall exist if the persecuted person has definitively left the territories specified in § 1 subsection (2) No. 3 of the Federal Displaced Persons Act (Bundesvertriebenengesetz) when this Act enters into force.

3. Paragraphs 1 and 2 shall apply mutatis mutandis to the spouse of the persecuted person, provided that the marriage was contracted before leaving the territories referred to in paragraph 2.

4. The survivor of a persecuted person belonging to the category of persons referred to in paragraphs 1 and 2 shall be entitled to compensation for loss of life. The claim shall also exist if the survivor is one of the persons referred to in paragraphs 1 and 2.

footnote

§ 150 par. 2: Incompatible with and null and void in accordance with the decision formula in Art. 20 GG pursuant to BVerfGE of 23.3.1971 I 827 - 2 BvL 2/66 and others -

Unofficial table of contents

§ 151

Compensation for damage to body or health shall be paid in accordance with §§ 28 to 40.

Unofficial table of contents

§ 152

Compensation for damage to liberty shall be paid in accordance with §§ 43 to 50.

Unofficial table of contents

§ 153

(1) Compensation for damage caused by the payment of special charges shall be paid in accordance with §§ 59, 60. The prerequisite is that the persecuted person has finally left the territories mentioned in § 1 para. 2 no. 3 of the Federal Expellees Act before 1 August 1945.

(2) The amounts paid for special levies shall be taken into account up to a maximum total of 150,000 Reichsmarks. The determined Reichsmark amount is converted into German Marks in a ratio of 100:6.5.

(3) The claim shall be inheritable before its determination or before a final judicial decision only if the heir is the spouse of the persecuted person or, in the case of legal succession, would be one of the heirs of the first or second order. § Section 13 (3) shall apply mutatis mutandis.

Unofficial table of contents

§ 154

(1) Compensation for damage in professional advancement shall be paid in accordance with §§ 64 to 66, 87, 88, 110, 112, 114, 114a. In the case of § 110, compensation shall be paid if the persecuted person is not entitled to regular remuneration in accordance with § 21a of the Act on the Regulation of Restitution of National Socialist Injustice for Members of the Public Service.

(2) The prerequisite for the claim under subsection (1) above is that the persecuted person has definitively left the territories specified in § 1 subsection (2) no. 3 of the Federal Expellees Act before 1 August 1945.

(3) The compensation shall consist of a capital compensation or a pension.

Unofficial table of contents

§ 155

The capital compensation amounts to 10,000 Deutsche Mark.

Unofficial table of contents

§ 156

(1) The persecuted person may choose a pension instead of capital compensation. The precondition for the right to vote is that the persecuted person has reached the age of 65 at the time of the decision or is not capable of working in his profession for more than 50 per cent; in the case of women, the age of 60 shall take the place of 65.

(2) Sections 84 and 84a shall apply mutatis mutandis.

(3) The monthly amount of the pension shall be 200 German marks, from 1 January 1961 250 German marks.

Unofficial table of contents

§ 157

(1) If the person persecuted has died after the pension has been determined or has been legally awarded and after exercising the right to vote, the widow shall be entitled to a pension. In the event of remarriage or death of the widow, children shall be entitled to a pension as long as they are eligible for child allowances under the law on civil servants in force until 31 December 1974.

(2) The monthly amount of the pension for the widow or, in the case of paragraph 1, sentence 2, for the children shall amount to a total of 150 German Marks, from 1 January 1961 190 German Marks. If there is only one child, the monthly amount of the pension is 75 Deutsche Mark, from 1 January 1961 95 Deutsche Mark.

3. The right referred to in paragraphs 1 and 2 shall not apply if the marriage was contracted after 29 June 1956.

(4) Paragraphs 1 to 3 shall apply mutatis mutandis to the widower under the conditions of § 17 (1) no. 2.

Unofficial table of contents

§ 157a

(1) If the person persecuted has died after exercising the right to vote but before the pension has been determined or legally awarded by a court, and if the conditions for the right to vote for the pension under section 156 subs. 1 were met before his death, the widow, if she herself is a persecuted person or was also affected by the persecution, shall be entitled to a pension until her remarriage and the children, as long as children's supplements may be granted for her under the civil service law in force until 31 December 1974. The entitlement shall not exist if the marriage was contracted after 29 June 1956.

(2) Section 157 (2) to (4) shall apply mutatis mutandis.

(3) If benefits have already been paid in respect of the claim of the persecuted person for damage to professional advancement, these shall be fully set off against the pension. This shall also apply if these services have been rendered to a third party.

Unofficial table of contents

§ 158

Section 140 (1) to (4) shall apply mutatis mutandis to the inheritability and transferability of the claim to compensation pursuant to sections 154 to 157a.

Unofficial table of contents

§ 159

Compensation for loss of life shall be paid in accordance with §§ 15 to 26, 41. The entitlement to capital compensation exists only for the period from January 1, 1949.

Unofficial table of contents

§ 159a

The claim to compensation under sections 150 to 159 shall be inheritable if the persecuted person died after 1 January 1945 and after finally leaving the territories specified in section 1 subs. 2 No. 3 of the Federal Expellees Act.

Third Title Stateless persons and refugees within the meaning of the Geneva Convention

Unofficial table of contents

§ 160

(1) Persecuted persons who are stateless persons or refugees within the meaning of the Geneva Convention of 28 July 1951 at the time of the entry into force of this Act and who are not receiving ongoing care or capital compensation from any State or intergovernmental organization for the damage suffered as a result of their contributions shall be entitled to compensation for bodily injury, damage to health and damage to liberty.

2. Persecuted persons who, as stateless persons or refugees within the meaning of the Geneva Convention, have acquired a new nationality after termination of persecution shall also be entitled to the right referred to in paragraph 1.

3. The survivor of a persecuted person belonging to the category of persons referred to in paragraphs 1 and 2 shall be entitled to compensation for loss of life. The right shall also exist if the survivor is one of the persons referred to in paragraphs 1 and 2.

(4) Insofar as claims exist pursuant to §§ 150 to 159a, this provision shall apply.

Unofficial table of contents

§ 161

Compensation for damage to body or health shall be paid in accordance with §§ 28, 29 nos. 1 to 3, §§ 30 to 37, 39. The entitlement to capital compensation exists only for the period from January 1, 1949.

Unofficial table of contents

§ 162

Compensation for damage to liberty shall be paid in accordance with §§ 43 to 50.

Unofficial table of contents

§ 163

(1) Compensation for loss of life shall be paid in accordance with §§ 15, 16 No. 1 and 3, §§ 17 to 21, 24, 25. The entitlement to capital compensation exists only for the period from January 1, 1949.
2. Entitlement to the current pension shall be neither transferable nor heritable. The claim to the sum of the pension amounts in arrears and to the capital compensation is neither transferable nor heritable prior to determination or final court decision.

Unofficial table of contents

§ 164

(1) The persecuted person who belongs to the group of persons referred to in section 160 subs. 1 and 2 and is a national of a state which receives compensation for integration costs from the Federal Republic of Germany when this Act enters into force shall only be entitled to compensation for damage to liberty.

(2) The surviving dependant who belongs to the group of persons referred to in section 160 subs. 3 and who is a national of a State which receives compensation for integration costs from the Federal Republic of Germany when this Act enters into force shall be entitled to compensation for loss of life in accordance with section 163.

Unofficial table of contents

§ 165

(1) If the compensation granted to the persecuted person in connection with his property and other income is not sufficient to support himself, he shall be granted an appropriate hardship compensation.

(2) Paragraph 1 shall also apply if the persecuted person belongs to a group of persons for whom special-purpose funds are provided elsewhere.

Unofficial table of contents

§ 166

§§ Sections 160 to 165 shall not apply to stateless persons who would be excluded from recognition as refugees under Article 1F of the Geneva Convention.

Fourth titleCommon provisions

Unofficial table of contents

§ 166a

If claims for compensation for loss of life, physical injury or damage to health and damage to professional advancement coincide, §§ 141d to 141k shall apply mutatis mutandis.

Unofficial table of contents

§ 166b

The Federal Government shall be authorised to increase the pension amounts pursuant to § 156 (3) and § 157 (2) appropriately by statutory order if the salaries and pensions of federal civil servants increase as a result of statutory provisions.

Unofficial table of contents

§ 166c

The provisions of sections 149 to 166 shall not apply to persecuted persons who are or were nationals of a State to whose financial expenditure for victims of National Socialist persecution the Federal Republic of Germany contributes on the basis of a special treaty in the form of an express participation, unless the persecuted person acquired that nationality only after the end of the persecution.

Fifth section

Unofficial table of contents

§§ 167 and 168 (no longer applicable)

Sixth Section Satisfaction of claims for compensation

Unofficial table of contents

§ 169

(1) The claims to be met by cash benefits shall be determined at the latest by the end of the 1969 accounting year. The claims are due immediately.

2. Capital compensation which has not been fixed by the end of the 1969 accounting year and the sum of the pension amounts accrued up to that date but not yet fixed shall bear interest from 1 January 1970 until the date on which entitlement is granted. For claims asserted after 1 January 1969, an interest claim only exists after the expiry of one year. The period of one year begins at the end of the calendar quarter in which the claim is asserted. Sentences 2 and 3 shall apply mutatis mutandis to the exercise of the choice of pension in the event of damage to professional advancement.

(3) The interest rate premium in accordance with subsection (2) shall be 1 per cent for each quarter commenced. The assertion of damage caused by default is excluded.

(4) The interest claim may be refused in whole or in part if the applicant or his authorised representative is manifestly responsible for the late award of the claim.

Unofficial table of contents

§ 169a

In the cases referred to in section 13(3), the compensation authority may pay the compensation to the heirs not excluded with discharging effect. The same shall apply mutatis mutandis in the cases referred to in section 26(2), section 39(2), section 46(2), sections 50, 140(1) and (3), section 153(3) and sections 158, 161 and 162.

Unofficial table of contents

§ 170

1. Advances may be granted only if a claim relating to a specific loss or damage can be substantiated and an advance is necessary to remedy an emergency. Advances may also be granted for other important reasons which make an advance appear cheap. The advance may take the form of a one-off payment or temporary current aid.

(2) The advance shall be credited against the advance claim. If this is not possible, the advance can also be set off against other claims or reclaimed.

Seventh section Hardness compensation

Unofficial table of contents

§ 171

(1) In order to mitigate hardship, compensation for hardship may be granted to persons who meet the requirements of §§ 4 or 150 and whose injury is attributable to the grounds for persecution set out in § 1, unless special-purpose funds are provided for them elsewhere. Benefits that can be considered are allowances for subsistence, for the implementation of a medical procedure, for the procurement of household goods, for the development of a livelihood and for vocational training. Loans may also be granted to procure housing within the scope of this Act and to build up a livelihood. As a general rule, benefits shall not exceed the maximum amounts provided for in this Act. The maximum amount of the loan for the acquisition of housing is 5,000 Deutsche Mark.

(2) Hardness compensation in accordance with paragraph 1 may also be granted,

a)

if the probability of the causal link between harm to the body or health and persecution cannot be established simply because there is uncertainty about the cause of the suffering in medical science;

b)

for the benefit of persecuted persons who are not entitled to a claim because of damage to their professional advancement which occurred outside the territory of the Reich as of 31 December 1937, or the territory of the Free City of Gdansk, provided that they

aa)

have German nationality at the time of the decision, or

bb)
meet the requirements of § 4 and have had their residence or permanent abode within the scope of this Act on 1 January 1963;

c)
for the benefit of persecuted persons who fulfil the requirements of §§ 150, 154 and who had their last residence or permanent abode in an area affiliated to the German Reich after 30 September 1938, including the former Protectorate of Bohemia and Moravia, on account of damage in their education.

(3) Hardship compensation in accordance with paragraph 1 may also be granted to persons who have suffered damage as a result of their pension institution being dissolved by National Socialist violent measures if they find themselves in an emergency as a result of this damage. The Federal Government is empowered to determine by statutory order which care institutions are to be regarded as being dissolved by National Socialist violent measures.

(4) Hardship compensation may also be granted in the following cases

1.
Injured parties who have been sterilised without prior proceedings in accordance with the Law of 14 July 1933 on the Prevention of Young Hereditary Diseases (Reichsgesetzbl. I p. 529);

2.
dependent survivors of persons who fell victim to euthanasia under the National Socialist tyranny, if it can be assumed that the survivors would currently receive maintenance from him without the killing of the debtor.

(5) In special cases, benefits may also be granted to recognised charitable organisations or charitable organisations if this appears necessary for the establishment or maintenance of charitable organisations for the benefit of victims of persecution. This shall not apply to organisations or charities for which special purpose funds are otherwise provided.

Section 8 Distribution of the burden of compensation

Unofficial table of contents

§ 172

(1) From 1 April 1956, the compensation expenses payable under this Act by the Länder of Baden-Württemberg, Bavaria, Bremen, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Saarland and Schleswig-Holstein shall be borne equally by the Federal Government and by all of these Länder. From 1 April 1956, 60 per cent of the compensation expenses to be paid by the Land Berlin shall be borne by the Federation, 25 per cent by the totality of the Länder designated in sentence 1 and 15 per cent by the Land Berlin.

(2) The countries referred to in subsection (1), first sentence, shall pay their total share of the compensation expenses to be borne in accordance with subsection (1) in proportion to their number of inhabitants. Insofar as the compensation expenses of individual Länder exceed the share attributable to them under this provision, the Federal Government shall reimburse the differential amount to these Länder; insofar as the compensation expenses of individual Länder do not reach the share attributable to them, these Länder shall transfer the differential amount to the Federal Government.

(3) Compensation expenses are the compensation expenses after deduction of the related revenues.

(4) In accordance with the provisions of paragraphs 1 and 2, the Federal Ministry of Finance shall determine the amount of provisional transfers on the basis of estimates and the amount of final transfers and the transfer procedure on the basis of accounting results by statutory order. § *Section 7 (1) sentence 1 of the Länder Financial Equalisation Act of 27 April 1955 (Federal Law Gazette I p. 199)* and Section 6 of the Fourth Transition Act of 27 April 1955 (Federal Law Gazette I p. 189) shall apply mutatis mutandis.

footnote

§ 172 para. 4 sentence 2 italics: See now § 9 para. 1 G v. 28.8.1969 603-9

Ninth section Compensation bodies and procedures

First Title Compensatory Bodies

Unofficial table of contents

§ 173

Compensatory bodies are

1. the compensation authorities of the Länder,
2. the compensation courts.

Unofficial table of contents

§ 174

The compensation procedure is structured as follows

1. the procedure with the compensation authorities,
2. the proceedings before the compensation courts, insofar as the proceedings have not been settled by the compensation authorities.

Second title**Common rules of procedure**

Unofficial table of contents

§ 175

- (1) Decisions to be taken under this Act shall be the responsibility of the compensation bodies.
- (2) The competent supreme authority shall decide on the granting of licences, approvals, subscription rights and exemptions in accordance with Sections 67 and 115 (2).
3. In the case referred to in paragraph 2, the compensation organs shall decide only on the conditions of the claim under this Act. This decision shall be binding on the technically competent supreme authority and the administrative courts. If there is a dispute as to whether the conditions for the claim under this Act are met and the decision of the competent supreme authority or the administrative courts depends thereon, the proceedings shall be suspended until the decision of the compensation bodies.
- (4) The statutory sickness insurance institutions shall decide whether the prerequisites for entitlement to sickness benefits under section 141a and reimbursement claims under section 141c(4) are met. Otherwise, the procedure shall be governed by sections 227a to 227d.

Unofficial table of contents

§ 175a

If an authority having jurisdiction over claims under section 5(1) or a court having jurisdiction over claims under section 5(1) has, in a decision which is no longer subject to appeal, declared one of the special legal provisions listed in section 5(1) applicable or inapplicable by reason of the legal nature of the claim, the compensation bodies shall be bound by that assessment. If the claim for compensation was rejected by an unappealable decision or by a final judicial decision, the compensation authority shall, at the request of the applicant, issue a new decision on the claim for compensation. The legal force of a court decision does not stand in the way of this.

Unofficial table of contents

§ 176

1. The compensation bodies shall, of their own motion, investigate all facts relevant to the decision and collect all necessary evidence.
2. If evidence of a fact resulting from the situation in which the applicant finds himself as a result of Nazi violent measures cannot be furnished in full, the compensation organs may consider that fact to be established in favour of the applicant, taking into account all the circumstances. The same shall apply where documents have been lost, witnesses have died or cannot be found, or where the hearing of the applicant or a witness involves difficulties disproportionate to the importance of the testimony.

Unofficial table of contents

§ 177

Comparisons are permitted.
Unofficial table of contents

§ 177a

A retention of benefits is permissible if the existence or amount of a claim for compensation is dependent on circumstances whose occurrence is still uncertain or which may change in the future.

Unofficial table of contents

§ 178

For entitlement to claim under this Act or under more extensive Land law within the meaning of § 228 (2), recognition as a persecuted person based on Land law is not required. The decision of the authorities responsible for recognition shall not be binding on the compensation bodies.

Unofficial table of contents

§ 179

(1) The compensation procedure shall be conducted with particular speed.

(2) Claims of applicants who are over 60 years of age or in need or who are reduced in their earning capacity by at least 50 per cent due to illness or infirmity shall be treated with priority over all other claims.

Unofficial table of contents

§ 180

(1) If the persecuted person has had his last known residence in the territory of the Reich in accordance with the state of affairs of 31 December 1937, in the territory of the Free City of Gdansk or in a territory controlled or occupied by the German Reich or its allies, and if his residence has been unknown since 8 May 1945, it shall be presumed that he died on 8 May 1945, unless another time of death has already been determined in accordance with the Law on Missing Persons or other legal provisions.

(2) Under the conditions of paragraph 1, a date other than that of 8 May 1945 may be determined in the compensation proceedings if, according to the circumstances of the individual case, another date of death is probable without further investigation being required.

Unofficial table of contents

§ 181

(1) In compensation proceedings, the submission of a certificate of inheritance shall be waived if the right of inheritance can be proven even without the submission of a certificate of inheritance.

(2) If the compensation organs demand the submission of a certificate of inheritance, the probate court shall, at the request of the heir, issue a certificate of inheritance for the claim to compensation; in this connection the probate court shall not examine whether the heir is entitled to compensation under this Act. The certificate of inheritance must state whether the heir was the spouse of the persecuted person or whether and how he or she was related to him or her. For the granting of such a certificate of inheritance, the presumption of death pursuant to § 180 (1) or, if another time of death has been determined in the compensation proceedings pursuant to § 180 (2), this determination shall be decisive.

3. The grant of the certificate of inheritance in respect of the claim for compensation, including the preceding proceedings, shall be free of charge and out of expenses. This shall not apply to the acceptance of the affidavit in lieu of an oath pursuant to Section 352 (3) sentence 3 of the Act on Procedure in Family Matters and in Matters of Voluntary Jurisdiction.

Unofficial table of contents

§ 182

1. The insurance bodies concerned shall, at the request of the compensation organs, cooperate in the settlement of claims for compensation for damage to insurance other than social security; they shall, in particular, make the necessary calculations and supply information from books or files.

(2) The compensation organs shall consult the competent insurance supervisory authority on the calculations and information of the insurance institutions involved when deciding on the claim for compensation.

(3) The insurance institutions shall be reimbursed for the necessary costs incurred by them as a result of their participation pursuant to subsection (1) above in accordance with lump-sum rates determined by the Federal Ministry of Economics and Technology by statutory order; the Federal Ministry of Economics and Technology may further transfer this authorisation.

Unofficial table of contents

§ 183

Persons who are resident or permanently resident abroad, who were previously admitted as a lawyer to a German court and whose admission has expired for the reasons for persecution set out in § 1, shall be entitled in legal matters governed by this Act to counsel and represent them in proceedings before the compensation authorities and before the compensation courts of first instance. § Section 157 (2) of the Code of Civil Procedure shall not apply.

Third title Compensation authorities

Unofficial table of contents

§ 184

1. The governments of the Laender shall lay down the rules governing the establishment of compensation authorities and the administrative procedure to be followed by such authorities. The provisions of national law governing the structure of the compensation authorities and the administrative procedure with these authorities should be brought into line with the provisions of this Act.

(2) The compensation authorities shall be subject to the instructions of a supreme state authority.

Unofficial table of contents

§ 185

(1) The compensation authorities shall be responsible for filing applications and, without prejudice to section 175 subs. 2 and 4, for deciding on claims under this Act.

(2) Locally responsible are

1.

the compensation authorities of the country in which the persecuted person had his domicile or permanent residence on 31 December 1952 (§ 4 par. 1 no. 1 letter a);

2.

alternatively:

if the persecuted person died before 31 December 1952, the compensation authorities of the country in which he or she had his or her last residence or permanent abode (§ 4 par. 1 no. 1 letter b);

3.

alternatively:

if the persecuted person emigrated, was deported or expelled before 31 December 1952 (Article 4(1)(1)(c)) and had his last place of residence or permanent abode

a)

in a country within the scope of this Act,
the compensation authorities in this country,

b)

in the territory of the Soviet-occupied zone of Germany,
the compensation authorities of the Land of Lower Saxony,

c)

in the Soviet-occupied sector of Berlin,
the compensation authorities of the State of Berlin,

d)

in areas of expulsion within the borders of the German Reich as of 31 December 1937 and in the territory of the Free City of Gdansk for persecuted persons residing or permanently residing in European countries,
the compensation authorities of the State of North Rhine-Westphalia,

for persecuted persons residing or staying permanently in non-European countries,
the compensation authorities of the State of Rhineland-Palatinate;

4.

alternatively:

for the persecuted persons referred to in § 4 (1) no. 1 letters d to g, the compensation authorities of the country in which the persecuted person first took up residence or permanent abode after 31 December 1952;

5.

alternatively:

the compensation authorities of the country in which the persecuted person resided on 1 January 1947 for the persecuted persons named in § 4 (1) no. 2, whereby the stay in a transit camp for emigrants is not taken into consideration.

3. Where the residence or permanent residence or, in the case referred to in paragraph 2(5), the residence of the deceased persecuted person does not give rise to jurisdiction under paragraph 2, the rights of a survivor shall be determined by the residence or permanent residence or, in the case referred to in paragraph 2(5), by the residence of the survivor. This shall apply mutatis mutandis in the cases covered by sections 104, 119, 127(2) and 134(2).

(4) If in the case of section 4 subs. 7 there is no jurisdiction under the above provisions, the compensation authorities of the Land in which the land plot is situated shall have jurisdiction.

(5) In the cases of sections 149 to 166a the compensation authorities shall be competent

1.

of the State of North Rhine-Westphalia for applicants residing or staying permanently in European countries,

2.

of the State of Rhineland-Palatinate for applicants with residence or permanent stay in non-European countries.

(6) If no jurisdiction exists under the above provisions, the compensation authorities of the Land of North Rhine-Westphalia shall have jurisdiction.

(7) For inherited claims, the domicile or permanent residence or, in the case of paragraph 2 No. 5, the residence of the deceased persecuted person in whose person the claim for compensation arose shall be decisive. In the cases referred to in the second sentence of paragraph 3, the deceased entitled person shall take the place of the deceased persecuted person.

8. Permanent residence shall confer territorial jurisdiction only in the absence of residence.

Unofficial table of contents

§ 186

§ 185 shall apply to legal persons, institutions or associations of persons or their successors in title or in purpose, provided that the place of residence shall be replaced by the seat and the place of permanent residence by the place of administration.

Unofficial table of contents

§ 187

(1) The supreme compensation authorities of the Länder shall be responsible for authorising hardship compensation.

(2) Local jurisdiction shall lie with the supreme compensation authority of the Land whose compensation authorities are or would be competent to decide on claims under this Act pursuant to sections 185 and 186.

(3)

Unofficial table of contents

§ 188

The claim for compensation shall be directed against the Land whose compensation authorities are competent pursuant to §§ 185, 186 and, in the case of § 89, also against the employer.

Unofficial table of contents

§ 189

1. Compensation shall be granted only on application. The application shall be submitted to the competent compensation authority by 1 April 1958. This period does not apply in the cases of §§ 141 and 171.

(2) The time limit for filing an application shall also be deemed to have been observed if the application was filed in due time with an authority which is not competent for claims under this Act or if the claim was asserted before a court.

(3) If the applicant was unable, through no fault of his own, to comply with the application deadline, he shall, upon application, be granted restitutio in integrum. Where the compensation authority has expressly or implicitly granted restitutio in integrum, the compensation courts shall be bound by that decision.

Unofficial table of contents

§ 189a

- (1) If an application for compensation pursuant to section 189 has been validly filed, claims which have not been filed may still be filed up to 31 December 1965.
2. From 1 January 1966, a further claim may be lodged only in so far as the claim is based on facts which occurred after 31 December 1964. In this case, the claim must be filed within one year of the occurrence of these facts. § Section 189 (3) shall apply mutatis mutandis.

Unofficial table of contents

§ 189b

(1) If an application for compensation has been validly filed as a survivor pursuant to section 189, this application shall observe the time limit for filing the inherited claims after the deceased persecuted person, provided that the survivor is also the heir. The same shall apply if the survivor, in accordance with section 189, has validly filed an application in respect of the inherited rights after the deceased persecuted person for his claim to compensation as a survivor.

(2) Paragraph 1 shall apply mutatis mutandis in the case of section 189a(1).

Unofficial table of contents

§ 190

The application shall contain

1. personal details and economic circumstances,
2. a description of the facts on which the claim is based,
3. Indication of evidence,
4. Information on the nature and extent of the claim,
5. a statement as to whether and where the applicant has previously filed an application or a claim,
6. a declaration on benefits which have been provided in the course of compensation for victims of National Socialist persecution from German public funds or by a person liable to pay compensation under civil law,
7. a statement as to whether, and with what success, restitution proceedings have been instituted against an asset belonging to the applicant or his legal predecessor prior to the seizure.

Unofficial table of contents

§ 190a

(1) If an application for compensation pursuant to section 189 has been filed with legal effect but without a statement of the facts giving rise to the individual claim for compensation, the information specified in section 190 nos. 1 to 4 must be provided by 31 March 1967 if the exclusion is avoided. § Section 189 (3) shall not apply.

(2) Paragraph 1 shall apply mutatis mutandis in the cases covered by sections 189a and 189b.

Unofficial table of contents

§ 191

(1) Unless otherwise provided in this Act or in the Land law provisions enacted pursuant to section 184 subs. 1, sections 355 et seq. of the Code of Civil Procedure shall apply mutatis mutandis to the taking of evidence by the compensation authority. There will be no swearing-in by the compensation authorities.

(2) The compensation authority shall have the right to estimate the amount of damage by applying Article 287 of the Code of Civil Procedure mutatis mutandis.

3. Legal and administrative assistance shall be provided to the compensation authority. Fees and expenses shall not be reimbursed if legal and administrative assistance is provided in Germany.

4. The compensation authority may in particular

1. request the public prosecutor's office or directly the police authority to investigate a case of persecution;

2. the district court in whose district the applicant, witness or expert is staying shall request the hearing of the applicant, witness or expert, specifying the facts and processes which are to be the subject of the hearing;
3. an embassy or consulate of the Federal Republic of Germany in whose district the applicant, a witness or an expert is staying requests the examination of the applicant, the witness or the expert, specifying the facts and processes which are to be the subject of the examination;
4. the criminal records authorities request unrestricted information, including information on penalties erased.

5. In the case referred to in paragraph 4, point 2, the provisions of the Code of Civil Procedure concerning evidence by hearing of a party, evidence by witnesses, evidence by experts and the procedure for taking oaths shall apply mutatis mutandis.

Unofficial table of contents

§ 192

(1) With the consent of the applicant, the compensation authority of public, independent, non-profit and private hospitals as well as hospitals of public corporations and social insurance institutions may consult medical documents, records, medical records, section and examination findings as well as x-rays for inspection. The compensation authority shall ensure that professional medical secrecy is respected.

2. Under the conditions laid down in paragraph 1, the compensation authority may obtain information from private doctors who have treated or are treating the person being persecuted and consult investigation documents for inspection.

Unofficial table of contents

§ 193

1. The applicant and his authorised representative may inspect the files of the compensation authority. You may produce extracts and transcripts from them yourself or have them issued against reimbursement of the costs.

(2) For special reasons, the applicant may be denied access to the files or parts thereof and may be denied the production or issue of extracts and copies.

3. Only lawyers shall have a right to delivery of the files. There shall be no dispatch of files or parts of files to territories outside the scope of this Act.

Unofficial table of contents

§ 194

The compensation authority shall deliver a certified copy of the application to the employer claimed under section 89 and shall hear the employer before deciding on the claim, the applicant's details and the outcome of the investigation.

Unofficial table of contents

§ 195

(1) The compensation authority shall decide by decision. Partial decisions are permissible.

(2) The decision shall contain the following information

1. the name of the compensation agency,
2. the decision formula, including any performance reservations,
3. an indication that an action may be brought in so far as the claim has been rejected and an indication of the form in which it is to be brought, the time limit within which it is to be brought and the court or tribunal before which it is to be brought,
4. the date and signature or rendition of the name of the Head of Administration, his representative or his delegate.

(3) The decision shall contain the following information

- 1.

the personal data of the applicant,

2.

the establishment of the facts,

3.

the reasons for the decision.

Unofficial table of contents

§ 196

(1) The notice shall be served on the applicant. If an authorised representative has been appointed, the notice shall be served on him.

(2) In the cases of sections 85a, 86 subs. 2, sections 97a, 98 and 157a, the decision shall be served on the widow or widower even if they are not heirs.

Unofficial table of contents

§ 197

(1) Service shall be effected in accordance with the provisions of the Administrative Service Act.

(2) If the recipient of service does not live within the scope of this Act, §§ 184 of the Code of Civil Procedure shall also apply mutatis mutandis. Delivery can also be made with a return receipt.

Unofficial table of contents

§ 197a

For the purposes of this Act, the date of notification of the decision or of the conclusion of the settlement in which the right to compensation was conferred shall be deemed to be the date of such determination.

Unofficial table of contents

§ 198

(1) The employer's obligation to grant the former or an equivalent job shall be decided by special decision.

(2) The notice shall also be served on the employer. § Section 197 (1) shall apply.

Unofficial table of contents

§ 199

(1) If, in the case of claims for professional advancement, there is an option, the compensation authority shall also determine in the decision the amount of the claim which may be chosen. In this case, only the amount of the capital compensation corresponding to the sum of the outstanding pension amounts at the time of the determination and the compensation pursuant to § 83 (3), § 86 (3) or § 98 shall be paid out; the remaining amount of the capital compensation shall be paid out if the beneficiary has waived the right to choose or the period for exercising the right has expired without the beneficiary having exercised it.

(2) If an option does not exist, the compensation authority shall determine the capital compensation and at the same time state in the notice that an option does not exist. This also applies if the beneficiary has not yet chosen the pension. In this case, the capital compensation is not paid out until the notice has become incontestable or it has been established by a final and absolute judgement that there is no right to choose a pension.

3. Paragraph 1 shall not apply if the option has already been exercised before the decision on the claim is taken.

Unofficial table of contents

§ 200

(1) The compensation authority shall revoke a decision issued in favour of the applicant if, after the decision has been issued, it emerges that there is a ground for forfeiture pursuant to section 6 subs. 3 and section 145 subs. 2.

2. Paragraph 1 shall apply mutatis mutandis to settlements reached in the proceedings before the compensation authorities.

Unofficial table of contents

§ 201

(1) The compensation authority may revoke a decision issued in favour of the applicant if, after the decision has been issued, it emerges that there is a reason for withdrawal pursuant to section 7 subs. 2.
2. Paragraph 1 shall apply mutatis mutandis to settlements reached in the proceedings before the compensation authorities.

Unofficial table of contents

§ 202

A performance reservation contained in a decision issued in favour of the applicant may also be asserted if the requirements of §§ 200, 201 are not met. The reservation of performance shall be asserted by revocation.

Unofficial table of contents

§ 203

(1) The revocation shall be pronounced by notice.
(2) The revocation period shall be six months. It shall begin on the day on which the compensation authority becomes aware of the reason for revocation.

Unofficial table of contents

§ 204

(1) If, in the case of section 200, the compensation authority intends to make use of the possibility of reclaiming the benefits provided after the occurrence of a ground for forfeiture, it shall state the obligation to repay these benefits in the notice of revocation.

(2) Paragraph 1 shall apply mutatis mutandis if the compensation authority intends to make use of the possibility of reclaiming benefits already rendered in the cases covered by sections 201 and 202.

Unofficial table of contents

§ 205

(1) The revocation notice shall be provisionally enforceable insofar as the decision formula contains an obligation to repay certain amounts.
2. Enforcement shall be governed by the provisions of the Code of Civil Procedure relating to the enforcement of judgments in civil disputes. The enforceable copy shall be issued by the compensation authority.
(3) For actions by which objections are raised against the claim itself (section 767 of the Code of Civil Procedure), the competent court shall be the Compensation Court of First Instance in whose district the compensation authority has its seat.

Unofficial table of contents

§ 206

(1) If a claim for recurrent benefits has been awarded or rejected and the actual circumstances which were decisive for the award or rejection have changed substantially, the compensation authority shall be entitled and, at the request of the applicant, obliged to issue a new decision on the claim; this shall not prevent a court decision from having the force of res judicata. Sentence 1 shall only apply if the change in the actual circumstances necessitates a new decision to grant, increase, reduce or withdraw a pension.

2. Paragraph 1 shall apply mutatis mutandis to settlements reached in the proceedings before the compensation authorities or in judicial proceedings.

(3) Section 323 of the Code of Civil Procedure shall not apply.

(4) Paragraphs 1 to 3 shall apply mutatis mutandis to the entitlement to health care under section 141a.

Unofficial table of contents

§ 206a

(1) In the cases covered by sections 141d to 141k, the compensation authority may issue a new decision in accordance with these provisions if, after one or more claims have been awarded, further claims are awarded. The legal force of a court decision does not stand in the way of this.

2. Paragraph 1 shall apply mutatis mutandis where one or more of these rights cease to exist, increase or decrease after several rights have been granted.

3. Paragraphs 1 and 2 shall apply mutatis mutandis to settlements reached in the proceedings before the compensation authorities or in judicial proceedings.

Unofficial table of contents

§ 207

1. Proceedings before the compensation authorities shall be free of charges and expenses. In the case of manifestly unfounded applications, the applicant may be ordered to pay the costs. The obligation to pay the costs is apparent from the decision in the main proceedings. Section 205 shall apply mutatis mutandis to enforcement of costs.

(2) Fees and expenses shall not be reimbursed.

3. Civil status documents for submission to the compensation authorities shall be issued free of charge and without incurring expenses.

Fourth Title Compensation Courts

Unofficial table of contents

§ 208

(1) Compensation courts are the Regional Court (Compensation Chamber), the Higher Regional Court (Compensation Senate) and the Federal Court of Justice (Compensation Senate).

(2) The Land governments shall be authorised by statutory order to assign the compensation cases to a Regional Court for the districts of several Regional Courts if the summary is necessary for appropriate promotion and faster settlement of the proceedings. The provincial governments may delegate the authorisation to the provincial judicial administrations. The same applies if several Higher Regional Courts have been established in one country.

3. The composition of the compensation chambers and the compensation panels shall take due account of the nature of reparation. The chairman or one of the assessors of the Compensation Chamber and the Compensation Senates shall belong to the group of persecuted persons.

Unofficial table of contents

§ 209

(1) Notwithstanding sections 175 to 183, the provisions of the Judicature Act, the Code of Civil Procedure and the cost regulations for civil legal disputes shall apply mutatis mutandis to proceedings before the compensation courts and to enforcement.

(2)

(3) Judgments by default shall not be admissible. In the event of default, the compensation court may, of its own motion or at the request of a party, take a decision without an oral hearing; the parties shall be informed of this in the summons.

(4) An application to secure evidence (section 485 of the Code of Civil Procedure) shall also be admissible if proceedings are not yet pending before the compensation courts and the witness or expert is abroad. The application shall be submitted to the Local Court in whose district the competent compensation authority under sections 185 and 186 has its seat.

(5) Service shall be effected ex officio.

(6) Section 227 subs. 3 first sentence of the Code of Civil Procedure shall not apply.

Unofficial table of contents

§ 210

(1) Insofar as the claim asserted was rejected by the decision of the compensation authority, the applicant may, within a period of three months, bring an action against the Land before the regional court competent for the seat of the compensation authority.

(2) If the applicant lives outside Europe, the three-month period shall be replaced by a six-month period.

(3) The periods referred to in paragraphs 1 and 2 are emergency periods; they begin with the notification of the decision.

Unofficial table of contents

§ 211

1. Where the compensation authority is empowered to act at its discretion, the compensation tribunal shall examine only whether the compensation authority has exceeded the legal limits of its discretion or has exercised that discretion in a manner inconsistent with the purpose of the empowerment. The same applies in the case of § 183.

(2) In the case of section 171, the district court in whose district the supreme compensation authority of the Land has its seat shall have jurisdiction.

(3) In the case of section 183, the regional court shall have jurisdiction in the district in which the Land Justice Administration has its seat.

Unofficial table of contents

§ 212

(1) If a notice or a settlement pursuant to sections 200 to 205 is revoked, the applicant may, within a period of three months, bring an action against the Land for revocation or amendment of the notice of revocation before the Regional Court competent for the seat of the compensation authority.

(2) Section 210 (2) and (3) shall apply.

(3) Insofar as the decision contains an obligation to repay benefits already rendered, section 707 of the Code of Civil Procedure shall apply mutatis mutandis.

Unofficial table of contents

§ 213

(1) If a claim for compensation has been established by a legally binding court decision or by a court settlement and if it subsequently emerges that there is a ground for forfeiture under section 6 subs. 3, section 145 subs. 2 or a ground for withdrawal under section 7 subs. 2, the Land may bring an action before the regional court competent for the seat of the compensation authority with the request to reject the claim for compensation by setting aside the court decision or the court settlement.

2. In the case referred to in paragraph 1, the claim for repayment of the benefits provided after the occurrence of a ground for forfeiture or forfeiture shall be made at the same time as the action is brought.

3. The action may be brought only within a period of six months. The period shall begin on the day on which the compensation authority becomes aware of the ground for forfeiture or withdrawal.

Unofficial table of contents

§ 214

(1) If, by decision of the compensation authority, the claim against the employer for the granting of the former job or an equivalent job has been rejected, the applicant may, within a period of three months, bring an action against the employer before the regional court competent for the seat of the compensation authority to establish that the employer is obliged to grant the former job or an equivalent job.

(2) Section 210 (2) and (3) shall apply.

(3) The applicant is obliged to announce the dispute to the country in court.

Unofficial table of contents

§ 215

1. Where the decision of the compensation authority has established the obligation of the employer to grant the former job or an equivalent job, the employer may, within three months, bring an action against the applicant before the regional court having jurisdiction over the seat of the compensation authority to establish that there is no obligation to grant the former job or an equivalent job.

(2) Section 210 (3) shall apply.

(3) The applicant is obliged to announce the dispute to the country in court.

Unofficial table of contents

§ 216

If the compensation authority has not taken a decision on the claim within a period of one year from receipt of the application without due cause, the applicant may bring an action before the regional court competent for the seat of the compensation authority.

Unofficial table of contents

§ 217

The courts of Sections 210 to 216 shall have exclusive jurisdiction.

Unofficial table of contents

§ 218

(1) An appeal against final judgments of the Regional Court shall be lodged with the Higher Regional Court irrespective of the value of the subject-matter of the appeal.

2. An appeal shall be lodged within three months. If the appellant lives outside Europe, the period of three months shall be replaced by a period of six months. The time limit for filing an appeal shall begin to run from the expiry of the time limit for filing the appeal.

Unofficial table of contents

§ 219

(1) An appeal against final rulings of the Higher Regional Court shall be lodged with the Federal Court of Justice if the Higher Regional Court has permitted the appeal.

(2) The revision shall be permitted if

1. a point of law of fundamental importance is to be decided;
2. the judgment departs from a decision of the Federal Court of Justice and is based on that departure;
3. the further training of the law or the safeguarding of a uniform case law requires a decision of the Federal Court of Justice;
4. it is disputed whether the country against which the claim for compensation is directed (§ 188) is rightly asserted as competent.

(3) The admission or non-admission of the appeal shall be the subject of a judgment. Reasons shall be given for the non-admission.

(4) Section 218 subs. 2 shall apply mutatis mutandis to the filing and justification of an appeal.

Unofficial table of contents

§ 220

(1) The non-admission of the appeal may be challenged independently by an immediate appeal. § Section 719 (2) of the Code of Civil Procedure shall apply mutatis mutandis.

(2) The filing of an immediate appeal shall suspend the final nature of the judgment.

(3) The Federal Court of Justice shall decide on the immediate appeal by order which shall be reasoned. If the appeal is not allowed, the judgment on appeal shall become final upon notification of the decision. If the appeal is admitted, it shall be lodged within a period of one month. The period begins with the delivery of the decision authorising the appeal. It's an emergency deadline.

Unofficial table of contents

§ 221

(1) The appeal shall take place without admission if it concerns the inadmissibility of the legal process or the inadmissibility of the appeal.

(2) Section 566 of the Code of Civil Procedure shall not apply.

Unofficial table of contents

§ 222

The revision cannot be based on the fact that the decision is based on the violation of national regulations.

Unofficial table of contents

§ 223

In the case of an immediate appeal, the emergency period of three months shall replace the emergency period of § 569 (1) sentence 1 of the Code of Civil Procedure. If the complainant lives outside Europe, the three-month period shall be replaced by a six-month period. Sentences 1 and 2 shall apply mutatis mutandis to the time limit for lodging the appeal and the time limit for giving reasons for the appeal.

Unofficial table of contents

§ 224

(1) In proceedings before the Regional Courts, there shall be no obligation to use a lawyer.

(2) In proceedings before the Higher Regional Courts, the Land shall not be obliged to employ a lawyer.

(3) In proceedings before the Regional Courts and the Higher Regional Courts, the assignment of a lawyer by way of legal aid shall not depend on his being established in the district of the Tribunal.

(4) In the appeal instance there shall be unrestricted legal compulsion with the proviso that the parties may also be represented by a lawyer who is not admitted to practice before the Federal Court of Justice.

Unofficial table of contents

§ 225

- (1) Proceedings before the compensation courts as well as proceedings to preserve evidence shall be free of charge and out-of-pocket expenses.
- (2) The plaintiff may be ordered to pay the costs of manifestly unfounded actions or appeals. If the prosecution appears to be deliberate, an advance on costs may be charged.
- (3) In the case of recurring services, the amount in dispute shall be calculated in accordance with § 9 of the Code of Civil Procedure.
- (4) Section 207 (3) shall apply mutatis mutandis.

Unofficial table of contents

§ 226

If the action has been brought because the compensation authority has not taken a decision on the claim within a period of one year without sufficient cause to do so, any expenses necessarily incurred by the plaintiff as a result of fulfilling an obligation imposed by the compensation court shall be ordered from the respondent country irrespective of the outcome of the proceedings.

Unofficial table of contents

§ 227

- (1) In proceedings before the compensation courts, the fees and expenses of lawyers shall be reimbursed in accordance with section 91 subs. 2 of the Code of Civil Procedure.
- (2) If the Land has been represented by a lawyer in the proceedings before the Regional Courts and Higher Regional Courts, the fees and expenses incurred by the Land by a lawyer shall not be refunded.
3. The rules applicable to civil disputes shall apply mutatis mutandis to lawyers' fees and expenses.
- (4) Paragraphs 1 and 3 shall apply mutatis mutandis to the fees of the persons referred to in section 183(1).

Fifth Title Rules on the procedure for entitlement to health care

Unofficial table of contents

§ 227a

- (1) Sickness care shall be provided by the local general sickness insurance fund in whose district the persecuted person is domiciled or permanently resident.
- (2) In the event of disputes concerning the provision of health care, social legal recourse shall be available. The provisions of the Social Court Act for disputes in matters of statutory health insurance shall apply mutatis mutandis.

Titles 1 to 4 of this Section shall not apply to that extent.

- (4) If the persecuted person or the members of his family for whom he is entitled to sickness benefit under section 141a are entitled under other statutory provisions to compensation for the damage they have suffered as a result of the illness, this right shall pass to the country competent under section 185 to the extent that sickness benefit is to be granted under this Act. The transfer of the claim cannot be asserted to the detriment of the person persecuted.

Unofficial table of contents

§ 227b

- (1) The expenses incurred by the statutory health insurance institutions on the basis of sections 141a and 141c plus an administrative cost share of 8 per cent of the expenses shall be reimbursed by the country competent in accordance with section 185.
- (2) Claims for compensation pursuant to paragraph 1 shall become statute-barred after two years. The statute of limitations begins at the end of the year in which the health insurance company has paid the costs for health care.
- (3) Paragraph (2) shall apply mutatis mutandis to claims for reimbursement by the Land for unjustly granted reimbursement of costs. The statute of limitations begins at the end of the year in which the expenses were reimbursed to the health insurance fund.

Unofficial table of contents

§ 227c

Medical and dental services shall be remunerated in accordance with the rates applicable to the treatment of injured parties within the meaning of the Federal Supply Act. Pharmacists and other persons providing medical treatment as well as hospitals and establishments shall be entitled only to the remuneration payable to members of the sickness insurance fund.

Unofficial table of contents

§ 227d

The Federal Ministry of Health, in agreement with the Federal Ministry of Finance and with the consent of the Bundesrat, shall issue the necessary administrative regulations on the provision of health care and on the procedure for reimbursement pursuant to § 227b.

**Tenth Section Transitional
and final provisions**

Unofficial table of contents

§ 228

(1) On the date of entry into force of this Act, the Act on Restitution of National Socialist Injustice (Compensation Act), which is uniformly applicable in the Länder of Bavaria, Bremen, Hesse and in the territory of the former Land of Württemberg-Baden, including the ordinances enacted for this purpose, shall cease to apply.

(2) The same shall apply to all other compensation provisions applicable within the scope of this Act which contradict this Act. Insofar as these provisions grant further claims under compensation law, it shall retain the right to make such claims for the benefit of the claimant with the proviso that the procedural treatment and fulfilment of such claims shall be governed by this Act. The expenses incurred by the more extensive compensation claims will be borne by the party obligated under the previous Land law.

(3) Insofar as laws, ordinances, general administrative orders and decrees refer to the repealed provisions, they shall be replaced by the corresponding provisions of this Act.

Unofficial table of contents

§ 229

In the case of claims in accordance with the provisions of the Länder on the recognition and care of victims of persecution, the procedural treatment shall be governed by this Act.

Unofficial table of contents

§ 230

(1) Recurrent benefits based on previous regulations shall continue to be provided until the benefits are provided in accordance with this Act. This shall also apply to recurring advance payments. Continued payment shall be the responsibility of the body responsible to date. Insofar as the recurring services have been performed without recognition of a legal obligation, sentences 1 and 2 shall not establish any legal claim to these services.

(2) Paragraph 1 shall apply mutatis mutandis to claims for the performance of a therapeutic procedure.

Unofficial table of contents

§ 231

(1) A renewed application for compensation in accordance with the provisions of this Act shall not be necessary if the claim for compensation has already been filed on the basis of previously applicable provisions or administrative orders. This shall also apply if the claim already filed is not substantiated in accordance with previously applicable provisions or administrative orders or if the application was not filed in due time.

(2) An application shall, however, be required in cases where a claim has been dismissed under the previously applicable law by an incontestable decision or by a final court decision.

Unofficial table of contents

§ 232

(1) If an application for compensation is pending in a country whose authorities are not competent under sections 185 and 186 when this Act enters into force, the compensation authorities of that country shall remain competent both for claims under previous law and for claims under this Act. This shall not apply in the cases referred to in section 185(5).

(2) If, on the entry into force of this Act, applications for compensation are pending in several Länder whose authorities are competent under sections 185 and 186, the decision on claims under this Act shall be taken by the compensation authorities of the Land which are primarily competent under sections 185 and 186.

Unofficial table of contents

§ 233

The competent authorities are responsible for determining further claims under the previous law, which are based on the compensation provisions of several countries,

1. in the case of various claims, the compensation authorities of the country on whose law the claim is based,
2. in the case of the same cause of damage, the compensation authorities of the country whose law is to be applied in accordance with the applicant's declaration, in which case it shall retain its jurisdiction.

Unofficial table of contents

§ 234

- (1) To the extent that an application for compensation has been rejected by an unappealable decision or by a final and absolute court decision or compensation has been awarded in a lower amount than in accordance with the provisions of this Act prior to the entry into force of this Act, the person entitled may submit a new application for compensation within the application period under section 189 subs. 1.
- (2) Recurrent benefits under this Act shall be determined ex officio.
- (3) If no decision has yet been taken in administrative proceedings pending at the time of entry into force of this Act, the claim shall be determined in accordance with the provisions of this Act.
- (4) In the cases referred to in paragraphs 1 to 3, the competent compensation authority under sections 185 and 186 shall decide; sections 232 and 233 shall apply mutatis mutandis.

Unofficial table of contents

§ 235

- (1) If the compensation has been settled by settlement, waiver or severance payment before this Act enters into force, the person entitled may contest the settlement by making a declaration to the competent compensation authority within the period for filing an application under section 189 subs. 1.
- (2) Section 234 (4) shall apply mutatis mutandis.

Unofficial table of contents

§ 236

(1) If proceedings are pending before a court at the time of the entry into force of this Act, the continuation of the proceedings shall be governed by the following provisions:

1. If the proceedings are pending before a court which also has jurisdiction under this Act, that court shall decide on the basis of the provisions of this Act;
2. where the proceedings are pending before a court which does not have jurisdiction under this Act, the proceedings shall be transferred to the court of first instance having jurisdiction under this Act.

(2) The admissibility of an appeal against decisions taken before the entry into force of this Act shall be governed by the provisions in force to date. If an appeal can still be lodged after the entry into force of this Act, the appeal against a corresponding decision under this Act shall take the place of the appeal permitted under the previous Act.

(3) Insofar as judicial proceedings are settled on the basis of this Act, fees and expenses shall not be taken into account. Extrajudicial costs will be set off against each other.

Unofficial table of contents

§ 237

(1) In the cases of §§ 81, 85, 85a, 86, 93, 97, 97a, 98, the right to vote shall not be excluded by the fact that the persecuted person, on the basis of previous provisions under which such a right to vote did not exist, has received compensation in whole or in part for damage in the course of professional advancement.

2. If the pension is chosen, the compensation received by the person persecuted shall be set off in full against the compensation for the period before 1 November 1953 and against the pension.

Unofficial table of contents

§ 238

A more far-reaching regulation of compensation for persecuted persons who have a local relationship to German territories outside the scope of this law remains reserved until the reunification of Germany.

Unofficial table of contents

§ 238a

(1) Entitlement to compensation under this Act shall only exist if the person entitled is, at the time of the decision, domiciled or permanently resident in states with which the Federal Republic of Germany had diplomatic relations at the time this Act came into force or on 1 January 1963. In the case of legal persons, establishments or associations of persons or their successors in title or in purpose, the place of residence shall be replaced by the seat and the place of administration by permanent residence.

(2) Paragraph 1 shall also apply in the cases of §§ 90, 165 and 171.

(3) The Federal Government may determine which States with which the Federal Republic did not maintain diplomatic relations on the dates mentioned in paragraph 1 shall be treated as if diplomatic relations had been maintained with them.

Unofficial table of contents

§ 239

The Federal Government shall be authorised to make global arrangements for the granting of benefits by way of hardship compensation for groups of persons whose injury is attributable to the grounds for persecution under § 1, but who have no spatial relationship to the scope of this Act and are also not entitled to claims under §§ 149 to 166b. The Eighth and Ninth Sections of this Act shall not apply.

Unofficial table of contents

§ 240

(1) This Act shall also apply in the Land of Berlin pursuant to section 13(1) of the Third Transition Act of 4 January 1952 (Federal Law Gazette I p. 1).

(2) Ordinances issued on the basis of this Act shall apply in the Land of Berlin pursuant to § 14 of the Third Transition Act.

Unofficial table of contents

§ 241

This Act shall enter into force on 1 October 1953.