

Act on the provision of care for victims of war (Federal Pensions Act - BVG)

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BVG

Date of issue: 27.06.1960

Full quote:

"Bundesversorgungsgesetz (Federal Pensions Act) in the version promulgated on 22 January 1982 (BGBl. I p. 21), last amended by Article 2 of the Ordinance of 8 June 2020 (BGBl. I p. 1222)".

Booth: Adapted by the Act referred to in the Bek. v. 22.1.1982 I 21

Directive as last amended by Article 2 G v 12.12.2019 I 2652

Hint: Amendment by Art. 7 G v. 27.3.2020 I 575 (No. 14) documented in text, not yet finalised in terms of documentation

Amendment by Art. 12 G v. 20.5.2020 I 1055 mWv 29.5.2020 (No. 24) Textual evidence, documentation not yet finalised

Amendment by Art. 1 V v. 8.6.2020 I 1222 (No. 27) Textual evidence, documentation not yet finalised

Amendment by Art. 2 V v. 8.6.2020 I 1222 (No. 27) Textual evidence, documentation not yet finalised

G superseded by Art. 58 No. 2 G v. 12.12.2019 I 2652 mWv 1.1.2024

You can find more details on the stand information in the menu under Notes

Footnote

(+++ Proof of wording Applicable from: 1.1.1982 +++)
(+++ Provisions based on the Unification Treaty see BVG Annex EV;
provisions no longer applicable pursuant to Art. 1 No. 6 letter
g DBuchst. aa
G v. 21.1.2013 I 91 mWv 29.1.2013 +++)

With regard to the conversion from German marks to the euro, cf. § 66a para. 6 in conjunction with the Official Gazette of 15 October 2001, Federal Gazette No. 215 of 17 November 2001, p. 23573 (Supplement)

pension rights

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§ 1

(1) Anyone who has suffered damage to his health as a result of military or militarylike service or as a result of an accident while performing military or militarylike service or as a result of circumstances peculiar to such service shall, on application, receive care on account of the health and economic consequences of the damage.

2. Injury within the meaning of paragraph 1 shall be deemed to be injury caused by

a) an immediate exposure to war,

b) a prisoner of war,

- c) an internment abroad or in the German territories not under German administration because of German citizenship or German ethnicity,
- d) a criminal or coercive measure connected with military or military service or with the general phenomena of disintegration, if, in the circumstances, it is to be regarded as a manifest wrong
- e) an accident suffered by the injured person on a outward or return journey which is necessary in order to carry out a measure of curative treatment, a spa treatment, physical exercises as group treatment or benefits for participation in working life in accordance with § 26 or in order to appear in person at the request of a competent service provider or a court on account of the injury,
- f) an accident suffered by the injured party while carrying out any of the measures listed in point (e).

(3) For the recognition of a health disorder as a consequence of an injury, the probability of the causal link is sufficient. If the probability required for recognition of a health disorder as the result of an injury is not given solely because there is uncertainty in medical science as to the cause of the identified suffering, the health disorder as the result of an injury may be recognised with the consent of the Federal Ministry of Labour and Social Affairs; consent may be granted in general.

(4) Injury deliberately caused by the injured party shall not be deemed to be injury within the meaning of this Act.

5. If the injured person dies as a result of the injury, his survivors shall receive a pension on application. Paragraph 3 shall apply mutatis mutandis.

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§ 1a

(1) Benefits shall be refused if the beneficiary or the person from whom the entitlement derives violated the principles of humanity or the rule of law during the reign of National Socialism and if he or she submitted an application for benefits after 13 November 1997. Indications which require a particularly intensive examination of whether a person entitled to benefits has violated principles of humanity or the rule of law through his or her individual conduct may arise in particular from voluntary membership of the person entitled in the SS.

(2) Benefits shall be wholly or partly withdrawn with effect for the future if there is a reason for refusal within the meaning of paragraph 1 and the beneficiary's confidence in the continued granting of benefits is not predominantly in need of protection in the individual case, even in view of the seriousness of the infringements committed.

(3) Insofar as in the cases of paragraph 2 the immediate withdrawal or reduction of the benefits leads to unreasonable hardship, the withdrawal or reduction shall take place after an appropriate transitional period.

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§ 2

(1) Military service within the meaning of Section 1(1) is

- a) any service performed under German military law as a soldier or Wehrmacht official,
- b) the service in the German Volkssturm,
- c) the service in the field gendarmerie,
- d) the service in the home flak batteries.

(2) In the case of displaced persons within the meaning of Section 1 of the Federal Displaced Persons Act who are Germans or German nationals, fulfilment of the statutory military service obligation in accordance with the regulations of the country of origin before 9 May 1945 shall be equivalent to service in the German armed forces. Sentence 1 also applies to Spätaussiedler within the meaning of § 4 of the Federal Expellees Act.

(3) In the case of German nationals, service in the armed forces of a state which was allied to the German Reich during one of the two World Wars or in the Czechoslovakian or Austrian armed forces shall be equivalent to service under German military law if the person entitled to it had his residence or permanent abode in the territory of the German Reich before 9 May 1945 according to the status as at 31 December 1937.

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§ 3

(1) The following shall be deemed to be military service within the meaning of Section 1(1)

- a) the appearance ordered by a Wehrmacht office for the purpose of determining fitness for military service, aptitude testing or military supervision
- b) voluntary or involuntary service performed for the purposes of the Wehrmacht on the basis of call-up by a military unit or on the initiative of a military commander,
- c) a scheduled or unscheduled embarkation of civilians on ships or auxiliary ships of the Wehrmacht
- d) the service of Reichsbahn employees seconded to the Wehrmacht and the service of civil administration officials who, on the orders of their superiors, were used to support military measures and were thus subordinated to a military commander, as well as the service of military administration officials
- e) the service of the Wehrmacht helpers,
- f) the service of volunteer nursing staff with the Wehrmacht during the war,
- g) the service of the members of horse procurement commissions of the military district commandos,
- h) the service of the young gunners, young sailors and NCO students of the Air Force,
- i) the Reich Labor Service,
- k) the service on the basis of the Third Ordinance to Ensure the Need for Staff for Tasks of Special State Political Importance (Emergency Service Ordinance) of 15 October 1938 (RGBl. I p. 1441)
- l) the service in military training camps,
- m) the service in the Todt organisation for the purposes of the Wehrmacht,
- n) the service in the construction staff spear/eastern deployment for purposes of the Wehrmacht,
- o) the service in air-raid protection on the basis of the First Implementing Ordinance to the Air Protection Act in the version in force since 1 September 1939 at the time of the injury, following a call for air-raid protection

(2) Military service is not deemed to be civilian service performed on the basis of a service obligation or an employment contract with the Wehrmacht, unless the deployment was associated with special, warlike risks to health.

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§ 4

(1) Military or similar service includes

- a) the journey of the person called up to the place of recruitment and the return journey after termination of service,
- b) Missions, duty travel and activities at destination,
- c) travel to and from the service in connection with the service, and
- d) participation in official events.

If the injured party had accommodation at or near the place of employment because of the distance of his permanent family home from the place of employment, the first sentence of sub-paragraph c shall also apply to the journey to and from the family home.

(2) Paragraph 1 shall apply mutatis mutandis to prisoners of war, internees and displaced persons.

(3) For dismissed persons who do not have a place to live within the current borders of the Federal territory, the dismissal procedure shall be deemed to have ended upon arrival at the provisionally assigned place of residence.

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§ 5

(1) Direct effects of war within the meaning of § 1 para. 2 letter a are deemed to exist if they are connected with one of the two world wars,

- a) combat operations and directly related military measures, in particular the use of explosive ordnance,
- b) administrative measures directly related to combat operations or their preparation, with the exception of general blackout measures,
- c) effects to which the damaged party was exposed due to the special circumstances of fleeing from a danger to life or limb directly threatening from warlike events,
- d) damaging events which have occurred as a result of a special danger connected with the military occupation of German or formerly German occupied territory or with the forced resettlement or deportation,
- e) subsequent effects of warlike events which have left a warlike danger zone.

(2) The ex post effects of acts of war (paragraph 1(e)) shall include damage caused in connection with

- a) were caused by relatives or other employees of the occupying powers or by means of transport (including aircraft) of the occupying powers before the date from which benefits are granted under other regulations,
- b) with the First World War were caused by the events described in § 1 no. 1 of the Law on Compensation for Personal Injury Caused by the Occupation of German Reich Territory (Occupation Damage Act) in the version of the announcement of 12 April 1927 (RGBl. I p. 103) and had led to the award of benefits

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§ 6

In cases other than those referred to in §§ 2, 3 and 5, which are specially justified, the existence of military or similar military service or direct exposure to war may be recognised with the consent of the Federal Ministry of Labour and Social Affairs.

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§ 7

(1) This Act shall apply to

1. German and German nationals and their survivors,
2. other victims of war, if the injury is causally connected with service in the German armed forces or with military service for a German organisation, and their survivors,
3. other victims of war who suffered damage in Germany or in a territory occupied by the German Wehrmacht at the time of the damage as a result of direct action of war, and their survivors, provided that they have their domicile or habitual residence within the area of application of this Act.

(2) The law shall not be applied to victims of war who are entitled to care from another State for the same cause, unless otherwise provided for by intergovernmental agreements.

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§ 8

Benefits shall be provided to beneficiaries resident abroad in accordance with §§ 64 to 64f.

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§ 8a

(1) An injury within the meaning of Section 1(1) shall be deemed equivalent to an injury suffered by a beneficiary or recipient of benefits under Section 10(4) or (5) as a result of an accident while performing an inpatient procedure under Section 12(1) or (4) or Section 26 or while travelling on the necessary outward and return journey. This shall apply mutatis mutandis if the entitled person or beneficiary follows the request of a competent service provider or a court to appear in person for the provision of care and suffers an accident in the process.

(2) Subsection 1 shall apply mutatis mutandis if a caregiver suffers an accident during a spa treatment pursuant to § 12 subsection (3).

(3) An injury within the meaning of § 1 para. 1 shall be deemed equivalent to an injury suffered by an accompanying person not insured under § 2 para. 1 No. 1 or 9 of Book Seven of the Social Security Code as a result of an accident when accompanying the injured person on a route within the meaning of § 1 para. 2 letter e, which is necessary due to the consequences of the injury, or when accompanying the injured person while carrying out a measure listed therein. This applies accordingly if the injured person follows the request of a service provider, another authority or a court to appear in person.

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§ 8b

Damage to an aid worn on the body, glasses, contact lenses or dentures is equivalent to damage to health within the meaning of § 1 para. 1.

Scope of supply

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§ 9

(1) The supply includes

1. Medical treatment, physical exercises and treatment of the sick (§§ 10 to 24a),
2. Benefits for the care of war victims (sections 25 to 27I),
3. Damage pension (§§ 29 to 34) and care allowance (§ 35),
4. Funeral allowance (§ 36) and death grant (§ 37),
5. survivor's pension (Articles 38 to 52),
6. funeral allowance in the event of the death of a survivor (Article 53).

(2) Upon application, the following services under this Act shall be provided through a personal budget in accordance with § 29 of Book Nine of the Social Code:

1. medical and health care services,
2. Benefits for participation in working life under sections 26 and 26a,
3. Benefits for participation in accordance with § 27d paragraph 1 number 3,
4. benefits of assistance for care in accordance with § 26c including assistance for the continuation of the household in accordance with § 26d and
5. the care allowance under section 35.

-healing treatment , physical exercises and medical treatment

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§ 10

(1) Curative treatment shall be granted to injured persons for health disorders which are recognised as the result of an injury or which are caused by a recognised consequence of an injury, in order to eliminate or improve the health disorders or the impairment of occupational or earning capacity caused by them, to prevent an increase in suffering, to avoid, overcome or reduce the need for care or to prevent its aggravation, to remedy physical complaints, to alleviate the consequences of the injury or to provide the injured person with medical care in accordance with the requirements of § 4 para. 1 of Book Nine of the Social Code to enable the disabled to participate as fully as possible in life in society. If a health disorder is only recognised as a consequence of an injury in the sense of aggravation, therapeutic treatment shall be granted for the entire health disorder, notwithstanding sentence 1, unless the health disorder recognised as a consequence of an injury has no influence on the condition requiring therapeutic treatment.

(2) Severely disabled persons shall also be granted curative treatment for health disorders that are not recognised as the result of an injury.

(3) Physical exercise for the disabled is granted to the injured for the purpose of restoring and maintaining physical fitness.

(4) Medical treatment is

a) the severely disabled person for the spouse or life partner and for the children (§ 33b paras. 1 to 4) as well as for other relatives who live with him/her in domestic community and are mainly maintained by him/her,

b) the recipient of a care allowance for persons who have taken over his or her free care and maintenance not only temporarily,

c) widows and surviving life partners (§§ 38, 42 to 44 and 48), orphans (§§ 45 and 48) and parents entitled to benefits (§§ 49 to 51)

in order to eliminate or improve health problems or the impairment of occupational or working capacity caused by them, to prevent an increase in suffering, to prevent, overcome or reduce the need for care or to prevent its deterioration, to remedy physical complaints or to alleviate the consequences of the disability. The persons entitled under letter c shall also receive sickness treatment for the purpose of enabling them to participate as fully as possible in society in accordance with the objectives specified in § 4 para. 1 of Book 9 of the Social Code. Previous recipients of benefits (sentence 1 letters a and b) who, following the death of the seriously disabled person, do not belong to the group of persons referred to in sentence 1 letter c, may continue to receive sickness treatment if they cannot achieve effective sickness insurance cover under reasonable conditions.

(5) Sickness treatment shall also be granted,

a) injured persons with a degree of injury of less than 50 for themselves and for the dependants referred to in paragraph 4(a)

b) widows and surviving life partners (sections 38, 42 to 44 and 48) for the dependants referred to in paragraph 4(a)

provided that the beneficiary participates in a benefit for participation in working life. The same applies in the event of a temporary interruption of participation for health reasons or other reasons for which the beneficiary is not responsible.

6. Beneficiaries who satisfy the conditions laid down in paragraphs 2, 4 or 5 shall be granted, for themselves and for the beneficiaries, benefits for the prevention and early diagnosis of illness and benefits in respect of pregnancy and maternity. In addition, benefits for health promotion, prevention and self-help shall be provided in accordance with the provisions of Book Five of the Social Code. For these benefits, the provisions on curative and medical treatment shall apply accordingly, with the exception of paragraph 1; for curative services, § 11 paragraph 2 and § 12 paragraphs 3 and 4 shall apply.

(7) The claims under paragraphs 2, 4, 5 and 6 are excluded,

a) if the beneficiary has an income which exceeds the annual income limit of the statutory sickness insurance scheme, unless the beneficiary is entitled to a care allowance or is unable to secure medical treatment through sickness insurance on account of the disorder of health recognised as being the result of an injury, or

- b) if the beneficiary or the person for whom sickness treatment is sought (beneficiary) has been exempted from compulsory insurance under the statutory sickness insurance scheme on request after 31 December 1982, or
- c) if the recipient of benefits has an income which exceeds the annual income limit of the statutory sickness insurance scheme, unless the beneficiary is entitled to a care allowance, or
- d) if a social security institution is obliged to provide a corresponding benefit, or
- e) if there is an entitlement to corresponding benefits under a contract, with the exception of claims under a private health or accident insurance policy, or
- f) if and to the extent that the treatment of the sick or suffering is ensured by another law.

Corresponding services within the meaning of this paragraph are services which are identical in terms of their purpose and the way in which they are provided. Benefits in kind provided by other institutions which serve the same purpose as cost absorption, cash benefits or grants under this Act shall be regarded as corresponding benefits in proportion to such benefits. The rights which a person entitled to benefits in kind under paragraphs 2, 4, 5 and 6 may have for himself shall not be excluded by the fact that he is insured under Section 10 of Book 5 of the Social Code.

(8) Medical treatment or sickness may also be granted before recognition of entitlement to benefits.

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§ 11

(1) The medical treatment includes

1. outpatient medical and dental treatment,
2. Supply of medicines and bandages,
3. provision of therapeutic appliances including physiotherapy, exercise therapy, speech therapy and occupational therapy, as well as spectacle lenses and contact lenses
4. Supply of dentures,
5. treatment in a hospital (hospital treatment),
6. Treatment in a rehabilitation facility,
7. home health care,
8. Supply of aids,
9. Exercise testing and occupational therapy,
10. non-physician socio-pediatric services,
11. Psychotherapy as medical and psychotherapeutic treatment and sociotherapy.

The provisions governing the benefits to which the health insurance fund (§ 18c para. 2 sentence 1) is obliged to provide its members shall apply mutatis mutandis to the benefits pursuant to sentence 1, unless this Act provides otherwise.

(2) In-patient treatment in a health resort (spa treatment) may be granted to injured persons under the conditions of § 10 paras. 1, 2, 7 and 8 if it is necessary to ensure the success of the treatment or to prevent a deterioration of the state of health, a need for nursing care or incapacity to work which is to be expected in the foreseeable future. Notwithstanding § 10 para. 7 letter d, the benefit is not excluded by the fact that a health insurance fund is obliged to provide a corresponding benefit. A spa treatment shall not be granted before three years have elapsed since the implementation of such a measure or a spa treatment the costs of which have been borne or subsidized on the basis of public law provisions, unless early granting is necessary for urgent

health reasons. If the spa treatment is granted under the conditions of § 10 Para. 1, health disorders which may impair the success of the spa treatment shall also be treated.

(3) In order to supplement the supply of aids, injured persons may receive grants as a replacement under the conditions of § 10 paras. 1, 2, 7 and 8

1. for the purchase, maintenance and modification of motor vehicles or bicycles instead of certain aids and their repair
2. for parking facilities for wheelchairs and motor vehicles for the acquisition of which the injured party has received or could have received a subsidy,
3. for the accommodation of guide dogs for the blind,
4. for the acquisition and modification of certain equipment, and
5. the cost of certain services and works.

For individual services, the full costs can also be covered. Recipients of a nursing allowance at least according to level III can also receive a subsidy according to sentence 1 no. 1 if it is not applied for instead of an aid.

(4) Under the conditions of § 10 paras. 1, 2, 7 and 8, injured persons shall receive domestic help as well as a subsidy for inpatient or semi-inpatient care in hospices in corresponding application of the regulations that apply to the health insurance fund (§ 18c para. 2 sentence 1).

(5) Curative treatment also includes supplementary rehabilitation benefits which are not among the benefits under §§ 11a, 26 and 27d; the regulations for the corresponding benefits of the health insurance fund apply to these supplementary benefits (§ 18c Para. 2 Sentence 1).

(6) Medical and health care includes the provision of spectacle lenses and contact lenses; in cases of § 10 paras. 2, 4 and 5, however, only if there is no insurance relationship with a statutory health insurance company. The entitlement to spectacle lenses shall also include the provision of the necessary spectacle frame if the spectacles are required for the treatment of a health disorder in accordance with § 10, para. 1 or if, in the case of spectacles not required due to damage, more complex care is required due to recognised damage consequences.

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§ 11a

(1) Physical exercise for the disabled shall be carried out in exercise groups under medical supervision and expert guidance in the context of regular local exercise events of suitable sports communities.

(2) The suitability of a sports community requires that its size, medical care, sports management and training facilities guarantee the proper conduct of the training events.

(3) The administrative authority shall make use of a sports organisation in the provision of services, which is able to ensure a sufficient range of services throughout the entire national territory through suitable sports communities. It shall only make use of several sports organisations if each organisation is responsible for providing services in a specific area and if this covers the entire national territory. Instead of one sports organization, the administrative authority may make direct use of suitable sports communities.

(4) Insofar as the administrative authority uses suitable sports organisations or sports communities to provide the services, the organisational bodies shall be reimbursed for the administrative costs incurred to a reasonable extent.

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§ 12

(1) Section 11(1), with the exception of sentence 1 no. 4, shall apply accordingly to medical treatment. Sickness treatment shall also include medical rehabilitation benefits and supplementary benefits; the provisions for the corresponding benefits of the sickness insurance fund shall apply to these benefits (Section 18c (2), first sentence).

(2) Grants towards the costs of procuring dental prostheses may be granted to the entitled persons under the conditions of § 10 paras. 4, 5, 7 and 8 up to 80 percent of the necessary costs. § Section 10 subsection (7) shall apply subject to the proviso that benefits under statutory health insurance for the provision of dental prostheses shall exclude the benefit under sentence 1; insofar as such benefits are granted to voluntarily insured persons who pay more than half of the contributions from their own resources, these benefits shall be offset against the total expenses with their value or amount.

3. Spouses or life partners and parents of care allowance recipients and persons who have assumed the free care and maintenance of a care allowance recipient may be granted a spa treatment if they have been caring for the injured person continuously for at least two years and the spa treatment is necessary to maintain their ability to care for the injured person. Such persons may also be granted a spa treatment for a period of five years after the end of their care activities if it is necessary in order to ensure the success of their recovery or to

prevent a deterioration in their state of health, need for care or incapacity for work which is to be expected in the foreseeable future. Bathing cures can be granted up to ten years after the end of the nursing activity, if the nursing activity has lasted longer than ten years. § Section 10 subsection (7) and section 11 subsection (2) sentences 2 and 3 shall apply accordingly. Persons entitled under sentences 1 and 2 shall receive domestic help in accordance with section 11(4).

(4) Beneficiaries and beneficiaries shall receive health care benefits in the form of a cure under the conditions of § 10 paras. 4, 5, 7 and 8, applying mutatis mutandis the provisions applicable to the health insurance fund (§ 18c para. 2 sentence 1).

(5) Section 11(4) shall apply mutatis mutandis to entitled persons or beneficiaries within the meaning of Section 10(4) and (5).

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§ 13

(1) The supply of aids and appliances shall include the provision of body replacements, orthopaedic and other aids and appliances, guide dogs for the blind and the accessories of the aids and appliances, the maintenance and replacement of the aids and appliances and the training in the use of aids and appliances.

(2) The necessary number of aids shall be granted on the basis of a medical specialist's prescription in a technically and scientifically recognised, durable design and equipment; they shall be adapted to the personal and professional needs of the beneficiary or recipient of benefits and shall correspond to the generally recognised state of medical knowledge and technical development. As a rule, aids whose replacement value exceeds EUR 300 are not to be transferred.

(3) The granting of the aids may be made conditional on the beneficiary or recipient having them adapted or undergoing training to become familiar with their use. The replacement of an aid which has become unserviceable may be refused if it is not returned.

(4) The rightful claimant shall be entitled to repair and replacement of the aids if their unusability or loss is not due to abuse, intent or gross negligence on the part of the rightful claimant or recipient of services.

(5) The Federal Ministry of Labour and Social Affairs may conclude agreements with service providers or their associations for the supply of body parts, in which the remuneration to be paid and special conditions of supply are regulated.

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§ 14

Damaged persons who have been recognised as blind as a result of an injury receive 183 euros per month for the maintenance of a guide dog and as an allowance for expenses incurred for guiding by others.

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§ 15

If the acknowledged consequences of the damage cause extraordinary wear and tear on clothing or linen, the costs incurred as a result shall be reimbursed at a monthly flat rate of 23 to 151 euros. The lump sum results from the multiplication of 2.317 Euro by the valuation figure determined for the respective wear and tear on the basis of a statutory instrument pursuant to § 24a letter d. The resulting amounts are to be rounded down to full euros up to EUR 0.49 and rounded up from EUR 0.50 to full euros. If in special cases the actual expenses exceed the highest level of the lump sum, they are reimbursable.

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§ 16

1. Sickness benefit shall be granted in accordance with the following rules

a)

The insured person shall be deemed to have suffered damage if they become incapable of work within the meaning of the provisions of the statutory health insurance because of a health disorder which is recognised as a consequence of an injury or is caused by a recognised consequence of an injury; in the case of health disorders which are only recognised as a consequence of an injury in the sense of aggravation, the entire health disorder shall take its place unless the health disorder recognised as a consequence of an injury has no influence on the incapacity to work,

b)

injured persons if they become incapable of work due to other health disorders, provided that they are to be granted curative or sickness treatment due to these health disorders (Section 10 (2), (5) (a) and (7)),

c)

widows and surviving life partners (sections 38, 42 to 44 and 48), orphans (sections 45 and 48) and parents entitled to benefits (sections 49 to 51), if they become incapable of work, provided that they are to be granted sickness treatment (section 10(4)(c) and (7))

(2) The person entitled to benefits shall also be regarded as incapable of work within the meaning of sections 16 to 16f if

- a) because of the execution of an inpatient treatment measure of curative or medical treatment, a bath cure or
- b) without being unfit for work, for any other therapeutic or sickness treatment, except the adaptation and repair of aids
- c) (dropped out)

cannot work full-time.

(3) Entitlement to sickness benefit shall also exist if curative or medical treatment is granted or a spa treatment is carried out prior to recognition of the entitlement to benefits under Section 10(8). A child entitled to a care allowance is entitled to a care sickness benefit in corresponding application of § 45 of Book 5 of the Social Security Code in the event of an illness caused by damage and the resulting need for supervision, care or nursing for the caring parent.

4. Entitlement to sickness benefit shall be suspended for as long as the beneficiary is receiving unemployment benefit, maintenance allowance, maternity allowance or short-time working allowance. This shall not apply for the duration of an in-patient treatment measure of curative or sick treatment or a spa treatment. There is no entitlement to care sickness benefit if unemployment benefit II was received immediately before the inability to work.

(5) Entitlement to sickness benefit is suspended during parental leave in accordance with the Federal Parental Benefits and Parental Leave Act. This does not apply if the inability to work occurred before the start of parental leave or if the sickness benefit is to be calculated from the remuneration earned through gainful employment during parental leave.

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§ 16a

(1) The sickness benefit shall amount to 80 per cent of the regular pay received (standard pay) and may not exceed the regular net remuneration lost. The regular pay shall be calculated in accordance with paragraphs 2 and 3. The sickness benefit is paid for calendar days. If it is to be paid for a whole calendar month, it shall be calculated on the basis of 30 days.

(2) In the case of entitled persons who were employed for remuneration up to the beginning of the incapacity for work, for the purpose of calculating the standard pay, the pay received by the entitled person in the last payroll period settled before the beginning of the incapacity for work, at least during the last four weeks settled (assessment period) and reduced by one-off pay, shall be divided by the number of hours for which it was paid. The result must be multiplied by the number of regular weekly working hours resulting from the content of the employment relationship and divided by seven. Where remuneration is calculated on a monthly basis, or where it is not possible to calculate the standard remuneration in accordance with the first and second sentences, the 30th part of the remuneration obtained in the last calendar month before the start of the measure, reduced by the one-off payment, shall be regarded as standard remuneration. If a work performance results in remuneration which is due for periods of leave before or after this work performance (value credit pursuant to § 7b of Book 4 of the Social Code), the remuneration on which the calculation of contributions is based in the assessment period of the contribution calculation and reduced by one-time paid remuneration shall be decisive for the calculation of the standard remuneration; value credit which is not used in accordance with an agreement on flexible working time arrangements (§ 23b para. 2 of Book 4 of the Social Code) shall not be taken into account. For the application of sentence 1, the regular weekly working time shall be deemed to be the working time corresponding to the remuneration paid.

(3) The standard charge shall be taken into account up to the level of the respective applicable limit for the assessment of output. The assessment ceiling is the 360th part of the contribution ceiling of the general pension insurance for annual payments.

(4) The special features of the transitional area pursuant to Section 20(2) of Book IV of the Social Code shall not be taken into account when calculating the standard wage and net remuneration.

(5) For the calculation of the standard wage, Section 9a sentence 1 number 1 letter a of the Income Tax Act in the version applicable on 5 November 2011 shall apply to the wage accounting periods in 2011.

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§ 16b

(1) If, immediately before the onset of the incapacity for work, the person entitled has earned income from agriculture and forestry (sections 13 to 14 of the Income Tax Act), from trade and commerce (sections 15 to 17 of the Income Tax Act) or from self-employment (section 18 of the Income Tax Act), section 16a shall apply mutatis mutandis.

(2) The assessment period is the last calendar year for which an income tax assessment notice is available. The care sickness benefit is payable for calendar days. The profits on which the assessment for income tax is based are deemed to be the standard remuneration. There is no loss compensation between individual types

of income. Increased deductions pursuant to §§ 7b to 7d and 7h to 7k of the Income Tax Act, pursuant to §§ 82a, 82g and 82i of the Income Tax Implementation Regulation, pursuant to §§ 14 to 15 of the Berlin Promotion Act and pursuant to §§ 7 and 12 of the Protective Structure Act are to be added to the profits to the extent that they exceed the deductions for wear and tear permissible pursuant to § 7 para. 1 or 4 of the Income Tax Act. Furthermore, special depreciation in accordance with §§ 7f and 7g of the Income Tax Act and §§ 81 and 82f of the Income Tax Implementation Regulation must be added. Tax allowances for capital gains pursuant to §§ 14, 14a, 16 para. 4, § 17 para. 3 and § 18 para. 3 of the German Income Tax Act and tax allowances pursuant to § 13 para. 3 of the German Income Tax Act shall not be taken into account.

(3) If no assessment for income tax is made, the assessment period shall be the last calendar year prior to the beginning of the incapacity for work for which the person entitled to benefits can prove the profits; the proven profits shall be deemed to be regular remuneration.

(4) If a standard charge cannot be determined in accordance with paragraph 2 or 3 or if a standard charge determined in accordance with paragraph 2 or 3 does not provide an appropriate measure of the loss of income due to substantial changes after the end of the assessment period or for other reasons, the standard charge shall be determined taking into account the overall circumstances.

(5) The following shall also be deemed a standard charge within the meaning of § 16a(1)

a)

in the case of entitled persons who fulfil the requirements of § 30 subsection 12, an amount equal to ten-eighths of the additional expenditure on household management necessitated by the incapacity for work,

b)

in the case of persons entitled to benefits who are not gainfully employed and who are prevented by incapacity for work from taking up a specific occupation or profession, the gross income which they are deprived of on average or, where such income cannot be determined, the average income of the occupational or economic group to which the person entitled was affiliated without the incapacity for work

c)

in the case of recipients of unemployment benefit or maintenance allowance, an amount equal to ten-eighths of such benefit, unless the conditions laid down in point (b) are satisfied.

(6) If sickness benefit is to be calculated in accordance with Section 16a and subsections 1 to 5, a uniform daily sickness benefit shall be determined.

Unofficial table of contents

§ 16c

(dropped out)

Unofficial table of contents

§ 16d

If the beneficiary has received sickness benefit, injury benefit or transitional allowance from another rehabilitation institution and is subsequently to be granted sickness benefit under §§ 16 to 16f, the calculation of the sickness benefit shall be based on the previous remuneration.

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§ 16e

If, after the completion of treatment or a spa treatment, benefits are necessary for participation in working life and cannot be provided immediately afterwards for reasons beyond the control of the beneficiary, the sickness benefit shall continue to be paid for that period if the beneficiary is incapable of work and is not entitled to sickness benefit or if he cannot be found reasonable employment.

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§ 16f

(1) If, while receiving sickness benefit, the person entitled to it receives remuneration, the sickness benefit shall be reduced by the amount of the remuneration reduced by the statutory deductions; remuneration paid once and benefits paid by the employer in respect of the sickness benefit shall not be taken into account, provided that, together with the sickness benefit, they do not exceed the amount of the remuneration obtained before the incapacity for work, reduced by the statutory deductions. If, while receiving sickness benefit, the person entitled to it receives income from agriculture, forestry, trade or self-employment, the sickness benefit shall be reduced by 80 per cent of the amounts deemed to be standard pay.

2. If the person entitled to sickness benefit receives income from work while receiving sickness benefit, the sickness benefit shall be reduced by 80 % of the income received.

(3) The sickness benefit shall also be reduced by the amount, reduced by statutory deductions, of

1.

Cash benefits granted by a public body in connection with medical treatment, health care or spa treatment,

2.

pensions, if the sickness benefit is based on remuneration or income from work earned before the pension is granted,

3.

pensions granted on the same occasion as rehabilitation measures, if the crediting avoids undue duplication of benefits.

(4) If the person entitled does not assert claims to benefits from a public law body, the amount lost by him/her as a result shall be offset; this shall not apply if the claims cannot be realised or have not been or are not asserted due to ignorance or for a reasonable reason.

(5) Section 71b shall apply accordingly.

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§ 16g

(1) Where an employee is entitled to a pension on the day after termination of an employment relationship based on compulsory service under the Civil Service Act or the Federal Border Guard Act of 18 August 1972 (Federal Law Gazette I p. 1834), last amended by Article 3 of the Act of 19 October 1994 (Federal Law Gazette I p. 2978), the private employer who is obliged to continue to pay wages in the event of sickness on the basis of an employment relationship which existed before the commencement of the employment relationship shall be entitled to the continued payment of wages and salaries in the event of sickness, reimbursed by the employer for contributions to social insurance and employment promotion schemes as well as to supplementary old-age and survivors' pension schemes, if the health problem is caused by an injury within the meaning of Sections 47 and 47a of the Civilian Service Act or Section 59 of the Federal Border Guard Act of 18 January 2006. August 1972 (BGBl. I p. 1834), last amended by Article 3 of the Act of 19 October 1994 (BGBl. I p. 2978).

The reimbursement referred to in paragraph 1 shall be limited to the period for which the employer is obliged to continue to pay wages in the event of illness. The reimbursement period shall end earlier if the incapacity for work existing on the day after the termination of employment ceases to exist or is no longer caused by the consequences of the injury.

(3) If the employee has a right to claim compensation from an injuring party on the basis of statutory provisions for the loss of earnings resulting from the incapacity for work, the employer may claim reimbursement under subsection 1 only against assignment of this right to the extent of the obligation to provide benefits established under subsection 1.

(4) Employers' expenses shall be reimbursed on application. Reimbursement shall be made only after the decision on entitlement to a pension has been taken. Entitlement to the reimbursement shall become time-barred four years after the end of the year in which the employment relationship is terminated.

Unofficial table of contents

§ 16h

If the employer does not fulfil the entitlement to continued payment of remuneration during the period of the beneficiary's incapacity for work, the beneficiary's claim against the employer shall be transferred to the payer of the war victim's care up to the amount of the sickness benefit paid. To the extent to which the employer can demand reimbursement under Section 16g(1), this claim shall not be asserted.

Unofficial table of contents

§ 17

If a necessary measure of treatment of a recognised damage consequence (§ 10 par. 1, § 11 par. 1 and 2) leads to a considerable impairment of the basis of income of the injured party, an appropriate amount of aid may be granted; it should generally not exceed EUR 36 per day. The assistance may also be granted if the income, including the sickness benefit, is not sufficient to cover the necessary living expenses due to existing, unavoidable financial obligations. However, the allowance is not to be granted if the financial burdens are based on an obligation that violates the principles of economic life.

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§ 18

(1) The benefits in accordance with sections 10 to 24a shall be provided as benefits in kind, unless otherwise provided for by this Act or the Book of Nine of the Social Code. Benefits in kind shall be granted to entitled

persons and beneficiaries without participation in the costs. The same shall apply to the reimbursement by health insurance companies of travel costs incurred in the course of medical treatment.

(2) In the case of the provision of dental prostheses (Section 11(1), first sentence, No 4) or of aids (Section 11(1), first sentence, No 8, Section 12(1), first sentence), benefits in kind may, upon application, be provided in excess of the extent, material or design required, provided that the purpose of the benefit is achieved and the beneficiary or recipient assumes the additional costs. The same applies to dental fillings. If an additional benefit in accordance with sentence 1 or 2 leads to additional costs in the case of subsequent benefits, the beneficiary or recipient of benefits must assume these costs.

(3) If the person entitled has carried out medical treatment, sickness treatment or a spa treatment himself before recognition, the costs of the necessary treatment shall be reimbursed to a reasonable extent. This shall also apply if recognition is not possible because no health disorder has remained after the end of the medical treatment, or if an injured person has carried out the medical treatment in the period for which injured persons can be granted care before the claim for care was registered, or if an injured person was prevented from registering before the start of the treatment by circumstances beyond his control.

(4) If the entitled person has himself/herself carried out medical treatment or sickness treatment after recognition, the costs shall be reimbursed to a reasonable extent if unavoidable circumstances made it impossible to make use of the health insurance fund (§ 18c para. 2 sentence 1) or the administrative authority (§ 18c para. 1 sentence 2). This applies to beneficiaries who are members of a health insurance fund, but only if the fund is not obliged to provide benefits, and with regard to the benefits to be granted by the administrative authority under § 18c Para. 1 Sentence 2. If the beneficiary or recipient of benefits has taken out health insurance or joined a health insurance fund after the entitlement to curative or medical treatment has ceased to exist, the expenses for the insurance shall be reimbursed to a reasonable extent if the entitlement to curative or medical treatment has been retroactively recognised in a legally binding manner in preliminary proceedings or in court proceedings. Expenses for a self-administered spa treatment will not be reimbursed.

(5) If the entitled person is granted reimbursement of costs in accordance with paragraph 3 or 4, there is also an entitlement to medical care sickness benefit.

(6) Instead of the benefit pursuant to § 11 para. 1 sentence 1 no. 4, the injured party may be granted a subsidy of an appropriate amount for the procurement of a dental prosthesis due to the consequences of the damage if he has an extended dental prosthesis made due to the loss of further teeth for which there is no entitlement to medical treatment under this Act. The administrative authority may pay the subsidy directly to the dentist.

(7) In special cases, the costs of services which exceed the general hospital services may also be covered in the event of the inpatient treatment of an injured person, if this appears necessary under the circumstances, in particular with regard to the recognised consequences of damage.

(8) If the beneficiary dies, the heirs may be reimbursed the costs of the last illness to a reasonable extent.

Unofficial table of contents

§ 18a

(1) Benefits under sections 10 to 24a shall be granted on application; they may also be granted ex officio. The issuance of an identity card shall be deemed to be an application. If the beneficiary is a member of a health insurance fund, applications for benefits under this Act shall be deemed to be applications for the corresponding benefits from the health insurance fund, and applications for benefits from the health insurance fund shall be deemed to be applications for the corresponding benefits under this Act.

(2) Benefits under sections 10 to 24a shall, unless otherwise provided below, be granted from the 15th day of the second month of the calendar quarter preceding the application, but at the earliest from the day on which their conditions are fulfilled. Benefits shall be granted ex officio from the day on which the facts giving rise to the claim become known to the sickness insurance fund or the administrative authority.

3. Sickness benefit shall be granted from the day on which its conditions are fulfilled if it is claimed within two weeks of the occurrence of the incapacity for work or the commencement of treatment or the loss of entitlement to continued payment of wages or salary, or from the day on which the claim is submitted. The notification of incapacity for work is also deemed to be an application. If the application is not submitted in time, sickness benefit shall be granted for the past period if unavoidable circumstances have made it impossible to meet the deadline. Sickness benefit is granted ex officio from the day on which the facts giving rise to the claim become known to the sickness insurance fund or administrative authority. Sentences 1 to 4 shall also apply to the benefit under section 17.

(4) Section 60 shall apply mutatis mutandis to benefits under sections 10 to 24a which are to be granted in monthly amounts.

(5) Benefits under sections 10 to 24a, which are to be granted in annual amounts, shall be granted from the first January of the year of application, at the earliest from the first of the month in which the requirements are met. Such benefits shall be granted ex officio from the first January of the year in which the facts giving rise to the claim have become known to the health insurance fund or the administrative authority, at the earliest from the first of the month in which the requirements are met. Entitlement to one-off cash benefits shall be subject to an application being submitted before the expiry of twelve months from the date on which the expenditure was incurred.

(6) The benefits under sections 10 to 24a shall be granted until the day on which their conditions cease to apply, unless otherwise provided for below. They shall continue to be granted until the end of the calendar quarter in which their conditions cease to apply if the need for treatment or the irregular body condition persists. If this lapses due to an increase in income, the conditions are deemed to have lapsed at the time when the beneficiary became aware of the increase. If the loss of entitlement is due to the death of the

severely disabled person or the recipient of the care allowance, the benefits shall cease at the end of the sixth month following the month of death.

(7) The sickness benefit and the allowance under section 17 shall cease to be paid when the conditions for granting them cease to apply, when a permanent condition is reached, when an old-age pension is granted under the statutory pension scheme or when early retirement benefit is paid. A permanent condition is deemed to exist if the incapacity for work is unlikely to be eliminated within the next 78 weeks. If the conditions for granting sickness benefit and allowance cease to apply, they will be paid until the day on which these conditions cease to apply. In the event of a permanent condition or the granting of an old-age pension, the sickness benefit and allowance, if granted on an ongoing basis, are paid until two weeks have elapsed since the permanent condition was established, and in the case of an old-age pension, until the day on which the beneficiary became aware of the grant. In the case of payment of early retirement benefit, the sickness benefit and allowance pursuant to § 17 shall end on the day preceding the beginning of early retirement. If the benefits are not granted on a continuous basis, they shall be granted until the day on which the permanent condition is established or the day on which the retirement pension begins. The determination of a permanent condition is excluded as long as the beneficiary is granted inpatient treatment or as long as he has not been unfit for work for at least 78 weeks without interruption; periods of preceding incapacity for work due to the same illness shall be credited against this period, provided that they occurred in the last three years before the occurrence of the incapacity for work. Bathing cures and in-patient treatment in rehabilitation facilities shall end on expiry of the period prescribed for the treatment. Benefits awarded in annual amounts shall end at the end of the calendar year in which the conditions for granting them ceased to exist.

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§ 18b

Entitled persons and beneficiaries who receive benefits only on the basis of this Act, as well as entitled persons who are insured under Section 10 of Book 5 of the Social Security Code, must identify themselves to doctors and other service providers. § 15 of Book Five of the Social Security Code shall apply accordingly.

Footnote

(+++ § 18b: for application see OEGÄndG 2 Art. 6 F. as of 23.7.1991 +++)

Unofficial table of contents

§ 18c

(1) §§ 10 to 24a shall be implemented by the administrative authority. Within the scope of this competence, the administrative authorities shall provide dentures, the supply of aids, exercise therapy, speech therapy, occupational therapy, stress testing, occupational therapy, spa treatment in accordance with § 11 para. 2 and § 12 para. 3, compensation, physical exercises for the disabled, subsidies for the procurement of dentures, guide dog allowance, aid for the costs of guiding others, lump-sum compensation for wear and tear of clothes and linen, reimbursements in accordance with § 16g, aid in accordance with § 17, benefits in accordance with § 18 para. 3 to 8 and § 24, insofar as the administrative authority is responsible for the provision of the main service, reimbursement of costs to health insurance funds, contributions to the statutory pension insurance for periods of receipt of sickness benefit, reimbursement of expenses for old-age provision and contributions to employment promotion. The remaining services are provided by the health insurance funds for the administrative authority. In this respect, the beneficiaries and recipients of benefits are subject to the sickness insurance scheme.

(2) If the health insurance funds are obliged to provide benefits in accordance with subsection (1), sentence 3, this obligation shall be incumbent on the general local sickness insurance fund of the place of residence in the case of entitled persons who are members of a health insurance fund and in the case of entitled persons and recipients of benefits who are members of the family of a member of the health insurance fund, this health insurance fund, in the case of the treatment of the other injured persons and the treatment of the entitled persons and the other recipients of benefits. Appeals against administrative acts issued by sickness funds in the context of the provision of services shall be decided by the appeal authority responsible for the administrative authority.

(3) Instead of the health insurance fund, the administrative authority may provide the services. The sickness funds shall notify the administrative authority of cases in which the provision of services by the administrative authority appears appropriate.

(4) Even if medical treatment and medical care are only provided on the basis of this Act, doctors, dentists, pharmacists and other persons providing medical treatment and medical care as well as hospitals and institutions shall only be entitled to the remuneration payable to members of the health insurance scheme. When procuring aids within the meaning of § 13, the remuneration to be paid by the local health insurance fund for its members at the supplier's head office may not be exceeded. If an agreement within the meaning of § 13 (5) has been concluded for the supply of a body replacement part, the remuneration provided for in this agreement may not be exceeded, notwithstanding sentence 2. Exceptions to these provisions may be permitted.

(5) Benefits of public service providers based on legal provisions, but to which there is no entitlement, may not be refused or reduced because benefits are provided for the same purpose under sections 10 to 24a. If

another public service provider does not provide a benefit in kind, a subsidy or other cash benefit or a benefit in kind linked to a subsidy for the same purpose because a benefit in kind is already granted on the basis of this Act, it shall be liable to reimburse the amount of the benefit in kind to the extent that it would otherwise have provided benefits. The obligation to reimburse does not apply if the health disorder to be treated is recognized as the result of an injury or has been caused by a recognized injury or if benefits have been provided for entitled persons who are insured under § 10 of Book 5 of the Social Security Code.

(6) Doctors, hospitals and other service providers are obliged to provide the administrative authority and the sickness insurance fund (paragraph 2, first sentence) with the data referred to in §§ 294, 295, 298 and 301 to 303 of Book 5 of the Social Security Code insofar as this is necessary for the performance of the tasks of the administrative authority or the sickness insurance fund.

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§ 19

The health insurance funds are reimbursed for expenses for services that they have provided in accordance with § 18c. Expenses for their members shall only be reimbursed to them insofar as these expenses have arisen through the treatment of recognised damage consequences.

Footnote

(+++ § 19: For application see OEGÄndG 2 Art. 6 F. as of 23.7.1991 +++)

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§ 20

(1) The reimbursement claims of the health insurance funds pursuant to § 19 shall be settled at a flat rate. The basis for determining the lump sum for a calendar year is the reimbursement of the previous year. It shall be adjusted by the percentage rate by which the number of damaged persons and survivors entitled to a pension has changed on 1 July of the year in comparison with 1 July of the previous year. This result is then adjusted by the percentage by which the health insurance funds' expenditure per member and pensioner, including family members, for medical and dental treatment (excluding dental prostheses and orthodontic treatment), for medicines and dressings, for therapeutic products, for hospital treatment and for travel expenses in the first half of each year has changed in comparison with the first half of the previous year. With the payment of this lump sum, the expenses of the health insurance companies mentioned in § 19 are settled.

(2) The Federal Ministry of Labour and Social Affairs pays the lump sums to the AOK Federal Association, which receives them on behalf of the health insurance funds. Partial amounts are paid at the end of each calendar quarter. For the calculation of the partial amounts, the lump sum of the previous year is reduced by 10 percent. As long as the comparative data referred to in paragraph 1 are not available, instalments shall be paid in the amount of the previous year's lump sum, reduced by 10 per cent. The AOK Federal Association shall distribute the amounts to the central associations of the health insurance funds with their agreement; the distribution shall be based on the ratio of the shares of the individual types of health insurance funds in the reimbursements pursuant to §§ 19 and 20 in the version valid until 31 December 1993 to the reimbursement volume of all health insurance funds in the 1993 financial year.

(3) The health insurance funds shall be reimbursed administrative costs of 3.25 per cent of the lump sum pursuant to paragraph 1 for the provision of services pursuant to § 18c. The distribution of this amount to the individual Länder shall be based on the number of damaged persons and survivors entitled to a pension on 1 July of each year. The Federal Ministry of Labour and Social Affairs shall announce the shares to be paid by the Länder. Paragraph 2 shall apply accordingly.

(4) For expenses to be borne by the Länder under laws which provide for the corresponding application of this Act, paragraphs 1, 2 and 3 shall apply only where this is expressly provided for.

Footnote

(+++ § 20: for application see OEGÄndG 2 Art. 6 F. as of 23.7.1991 and OEG § 1 Abs. 13 F. as of 25.7.1996 and BSeuchG § 54 Abs. 3a F. as of 25.7.1996 +++)

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§ 21

Sections 107 to 114 of Book Ten of the Social Security Code shall apply to reimbursement under Section 18c(5). The statute of limitations shall begin at the end of the year in which the medical or nursing treatment was provided, but at the earliest when the entitlement to benefits is recognised.

Footnote

(+++ § 21: For application see OEGÄndG 2 Art. 6 F. as of 23.7.1991 +++)

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§ 22

1. The administrative authority shall pay contributions to the statutory pension insurance scheme for periods of receipt of sickness benefit and the contribution to the promotion of employment for persons entitled thereto.

(2) Beneficiaries who are not subject to compulsory pension insurance and who receive sickness benefit shall, upon application, be reimbursed for old-age security expenses up to the amount of the contributions that would be payable to the statutory pension insurance scheme for periods of receipt of sickness benefit.

Expenditure on old-age insurance within the meaning of sentence 1 shall be voluntary contributions to the statutory pension insurance scheme, contributions to public-law professional insurance and pension schemes and contributions to public or private insurance undertakings on the basis of life insurance contracts.

3. Each quarter the sickness insurance fund shall notify the administrative authority of the names of the recipients of sickness benefits, provide the information necessary for payment of the amounts due and, on request from the administrative authority, submit the relevant documents.

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§ 23

(dropped out)

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§ 24

(1) Entitled persons are entitled to reimbursement of travel expenses incurred in connection with the provision of curative or medical treatment and a spa treatment. The entitled persons shall be reimbursed for the necessary travel costs, including the necessary transport of luggage and the costs of board and lodging, to an appropriate extent for themselves, for any necessary accompaniment and for children whose transportation to the place of rehabilitation is necessary because their care cannot be ensured otherwise. If the measure lasts longer than eight weeks, the necessary travel costs for family journeys home or for journeys by a family member to the place of residence of the beneficiary or recipient of benefits may also be covered. If inpatient treatment is interrupted without compelling reason, there is no entitlement to reimbursement of travel costs.

(2) Compensation for loss of earnings shall be granted to a reasonable extent

a)

in the adaptation and repair of aids,

b)

in the case of necessary accompaniment, if the person entitled is obliged to reimburse the accompanying person

Sentence 1 letter b) shall also apply in connection with services provided by the health insurance fund to treat the consequences of damage.

(3) If an aid (§ 13 para. 1) has been adapted, changed or repaired without official approval, reimbursement of cash expenses and compensation for loss of earnings shall be granted to a reasonable extent if the necessity of the measure is acknowledged.

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§ 24a

The Federal Government is authorised, by statutory instrument and with the consent of the Bundesrat

a)

to specify the nature, scope and special requirements of the supply of aids and appliances, including accessories, and of replacement services (Section 11(3)),

b)

to specify in more detail what is considered to be an aid and accessories within the meaning of § 13 para. 1,

c)

to specify in more detail the type, scope and special requirements of physical disability exercises for injured persons in accordance with the Federal Supply Act and the laws which provide for the corresponding application of this Act, as well as the sports which are considered physical disability exercises, the performance of physical disability exercises to determine the bases and maximum amounts of the lump-sum compensation of expenses to be agreed in the case of safeguarding the physical injury exercises by sports organisations, as well as to regulate in more detail the bases for the pro rata compensation of expenses incurred by the participation of the injured persons in the exercise events, to be agreed with sports communities,

d)

to regulate the assessment of the lump sum for wear and tear of clothes and linen for individual groups of damage consequences and to determine the special cases in the sense of § 15.

War Victim Welfare

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§ 25

(1) Benefits under the welfare scheme for war victims shall be granted to injured persons and survivors as special assistance in individual cases to supplement the other benefits under this Act (section 24(1)(2) of Book I of the Social Code).

(2) The task of the care of war victims is to take care of the injured and their family members as well as their survivors in all situations of life in order to adequately compensate or mitigate the consequences of the injury or loss of the spouse or partner, parent, child or grandchild.

3. War victim assistance benefits shall be granted in accordance with the following provisions

1.

Injured persons receiving a basic pension under § 31 or entitled to medical treatment under § 10(1)

2.

Survivors who receive a survivor's pension, widow's or orphan's allowance under this Act, parents even if they are not entitled to a parental pension because of the amount of their income and if the requirements of §§ 49 and 50 are met.

Benefits of the welfare of war victims shall also be granted if the entitlement to benefits under section 65 is suspended, the entitlement to payment of basic pension has expired or been transferred due to severance pay, or widow's benefits cease to be paid due to crediting under section 44(5).

(4) Injured persons shall also receive benefits under the war victim welfare scheme for family members if they are unable to cover their needs, which are to be recognised under the following provisions, from their own income and assets. The following are deemed to be family members

1.

the spouse or partner of the injured party,

2.

the children of the injured party,

3.

the children who are considered to be children of the aggrieved party pursuant to § 33b par. 2, and his foster children (persons with whom the aggrieved party is connected by a family-like bond calculated for a longer period of time, provided that he has taken them into his household and a relationship of care and custody with the parents no longer exists)

4.

other relatives living with the victim in the same household,

5.

Persons whose exclusion would mean obvious hardship,

if the injured person predominantly denies the livelihood of the family member, denied it before the injury or would probably deny it without the injury. Pursuant to sentence 2 nos. 2 and 3, children are deemed to be family members beyond the age of 18 years if they live in domestic community with the injured party or fulfil the requirements of § 33b subsection 4 sentences 2 to 7.

(5) Benefits for the care of war victims may also be paid if the type and extent of care has not yet been decided with legal effect, but recognition of a claim to care is to be expected.

(6) Entitlement to benefit in an institution (Section 25b(1), second sentence) or to care allowance (Section 26c(1)) shall, if the benefit would have been paid to the beneficiaries, be due after their death to those who provided the assistance or care.

Unofficial table of contents

§ 25a

(1) Benefits under the war victim welfare scheme shall be paid if and to the extent that the injured person, as a result of the injury, and the survivors, as a result of the loss of spouse or partner, parent, child or grandchild, are unable to meet the need to be recognised under the following provisions from the other benefits under this Act and from other income and property.

(2) A connection between the injury or loss of spouse or partner, parent, child or grandchild and the need for the benefit shall be presumed, unless the contrary is manifest or proven. Benefits of the welfare of war victims may also be paid if there is no connection between the injury or loss of the spouse or partner, parent, child or

grandchild and the necessity of the benefit, but the benefit is justified in the individual case by special reasons of equity. The connection is always assumed

1. in the case of injured persons who receive a basic pension with a degree of the damage consequences of 100 and compensation for occupational injury or who receive a care allowance; § 25, Subsection 3, Sentence 2 shall apply *mutatis mutandis*
2. for severely disabled persons who have reached the age of 60,
3. for survivors who are fully disabled or incapacitated for work within the meaning of Book Six of the Social Security Code or who have reached the age of 60.

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§ 25b

(1) Benefits for the care of war victims are

1. Benefits for participation in working life and supplementary benefits (sections 26 and 26a),
2. Sickness assistance (Article 26b),
3. Help for care (§ 26c),
4. Assistance for the continuation of the budget (§ 26d),
5. Assistance for the elderly (Article 26e),
6. childcare allowance (§ 27),
7. supplementary assistance for subsistence (§ 27a),
8. Recreational assistance (§ 27b),
9. Housing assistance (§ 27c),
10. Assistance in special circumstances (§ 27d).

If the benefit is provided in an inpatient or semi-inpatient facility, it also includes the subsistence paid in the facility, including the one-off benefits required in addition; Section 133a of Book 12 of the German Social Security Code applies accordingly. Sentence 2 shall also apply if assistance for nursing care is not provided solely because corresponding benefits are provided under Book Eleven of the Social Code.

(2) The types of benefits provided for the welfare of war victims are service benefits, benefits in kind and cash benefits.

(3) The service includes, in particular, advice on matters relating to the welfare of war victims and the provision of information on other social matters, insofar as these are not the responsibility of other bodies or persons.

4. Cash benefits shall take the form of one-off aid, ongoing aid or loans. Loans may be granted if this type of benefit is sufficient or more appropriate to achieve the purpose of the benefit. Instead of cash benefits, benefits in kind may be provided if this type of benefit is more appropriate in individual cases.

(5) The nature, extent and duration of the benefits of the assistance to war victims shall depend on the specificity of the individual case, the nature of the need and local conditions. Special consideration shall be given to the nature and severity of the injury, the state of health and age, as well as the life position prior to the occurrence of the injury or prior to the effects of the consequences of the injury or prior to the loss of the spouse or partner, parent, child or grandchild. Wishes of the beneficiary which are directed towards the design of the benefit should be complied with, provided that they are reasonable and do not involve unjustifiable additional costs.

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§ 25c

(1) The amount of the cash benefits shall be calculated on the basis of the difference between the recognised need and the income and assets to be used; § 26 para 5 and § 26a shall remain unaffected. In addition, in

justified cases cash benefits may also be paid to the extent that the income or assets of the persons entitled to benefits are to be used or disposed of to cover their needs; to this extent they shall reimburse the expenses to the institution responsible for the care of war victims.

(2) If a benefit in kind is eligible, beneficiaries shall bear the cost of the benefit in kind to the extent of the income and assets to be used.

(3) Income shall not be used to the extent that the use of the income would be inequitable in individual cases taking into account the special situation of the injured person or survivors, in particular with regard to the nature and closeness of the need, duration and amount of the necessary expenditure and the special burden on the beneficiaries and their dependants. Income is not to be used if the need is exclusively due to damage. In cases of integration assistance in institutions or premises within the meaning of § 43a of Book Eleven of the Social Code in conjunction with § 71.4 No. 1 or No. 3 of Book Eleven of the Social Code, sentence 2 shall apply only to the remuneration of the benefits of integration assistance within the meaning of § 125.1 No. 2 in conjunction with paragraph 2 sentence 1 Nos. 1 to 5 of Book Nine of the Social Code. The nursing allowance pursuant to § 35 shall be taken into account up to the amount of the flat-rate measure within the meaning of § 76 para. 3 sentence 1 number 2 of Book Twelfth of the Social Code to reduce the need for nursing care.

(4) (dropped out)

Unofficial table of contents

§ 25d

(1) Income within the meaning of the provisions governing the care of war victims shall be all income in money or monetary value, with the exception of benefits under the care of war victims; section 26a(4) shall remain unaffected. Income shall not include the basic pension and the allowance for severely disabled persons or an amount equal to the basic pension if benefits are credited against the widow's basic pension under section 44(5) or if the basic pension is suspended under section 65. Sentence 2 shall also apply to the amount of the basic pension on which the widow's and orphan's allowance under § 48 is based.

(2) The income of spouses or life partners who are not living separately shall also be deemed to be the income of the persons entitled to benefits, insofar as it exceeds the income limit applicable to the persons entitled to benefits under Section 25e(1). Benefits paid by others on the basis of a civil-law claim to maintenance shall be deemed to be income of the persons entitled to benefits to the extent that the income of the breadwinner exceeds the income limit to be determined for them in accordance with § 25e subsection 1; if a maintenance amount has been determined by a court, the benefits based thereon shall be deemed to be income of the persons entitled to benefits. § Section 25e subs. 2 shall remain unaffected.

(3) The following shall be deducted from income

1. taxes to be paid on the income,
2. compulsory social security contributions, including contributions for the promotion of employment,
3. Contributions to public or private insurance companies or similar institutions, insofar as these contributions are prescribed by law or are appropriate in terms of reason and amount, as well as subsidised pension contributions in accordance with section 82 of the German Income Tax Act, provided that they do not exceed the minimum own contribution pursuant to section 86 of the German Income Tax Act,
4. the necessary expenses associated with the generation of income.

An amount of up to EUR 200 per month shall be deducted from the pocket money under Section 2(4) of the Federal Voluntary Service Act or under Section 2(1)(3) of the Youth Voluntary Service Act instead of the amounts under sentence 1, numbers 2 to 4.

(3a) In the case of supplementary subsistence assistance, an amount of EUR 100 per month from a supplementary old-age provision of the beneficiary plus 30 per cent of the income exceeding this amount from a supplementary old-age provision of the beneficiary shall also be deducted, but not more than 50 per cent of the standard need level 1 pursuant to the Annex to § 28 of Book 12 of the Social Code.

3b. Income from a supplementary pension scheme within the meaning of paragraph 3a is any income paid monthly until the end of life to which beneficiaries have acquired rights on a voluntary basis before reaching the standard retirement age and which is intended and suitable for that purpose, to improve the income situation of those entitled to benefits in relation to possible claims arising from periods of compulsory insurance in the statutory pension insurance scheme pursuant to Articles 1 to 4 of Book Six of the Social Security Code, pursuant to Article 1 of the Farmers' Old-Age Insurance Act, from civil servants' pension rights and from claims arising from periods of compulsory insurance in an insurance and pension institution established for members of certain professions. Income from an additional old-age provision also includes current payments from

1. a company pension scheme within the meaning of the Company Pensions Act,

2.

a retirement provision contract certified in accordance with § 5 of the Retirement Provision Contract Certification Act, and

3.

a basic pension contract certified in accordance with § 5a of the Pension Contract Certification Act.

If up to twelve monthly benefits from a supplementary old-age pension scheme are combined, in particular pursuant to an agreement under Section 10(1)(2) sentence 3 first half-sentence of the Income Tax Act, the income shall be divided equally over the period for which the payment was made.

(4) Benefits which are provided for an expressly stated purpose on the basis of public law provisions shall only be taken into account as income to the extent that the care of war victims serves the same purpose in the individual case. Compensation paid under section 253 or under section 844(3) of the Civil Code for damage other than pecuniary loss shall not be taken into account as income.

(5) Benefits from the Freie Wohlfahrtspflege are not considered as income, unless they influence the situation of those entitled to benefits in such a favourable way that, in addition, benefits from the welfare of war victims would be unjustified. Benefits provided by another person without having a legal or moral obligation to do so shall not be taken into account as income if taking them into account would cause particular hardship to the persons entitled to benefits.

(6) (dropped out)

Unofficial table of contents

§ 25e

(1) The income of beneficiaries shall only be used to meet needs if it exceeds an income limit per month resulting from

1.

a basic amount of 2.65 percent of the assessment amount in § 33, Subsection 1, Sentence 2, Letter a (assessment amount), but at least the basic amount in accordance with § 85, Subsection 1, No. 1 of Book Twelfth Book of the Social Security Code,

2.

the cost of accommodation,

3.

a family supplement amounting to 40 % of the basic amount referred to in point 1 for the spouse or partner who is the primary breadwinner of a beneficiary and for any other person who is the primary breadwinner of a beneficiary, alone or with the spouse or partner,

but not exceeding one twelfth of the assessment amount plus 75 per cent of the relevant family allowance.

(2) In the case of underage unmarried disabled persons, the income of their parents shall also be used to cover their needs. Paragraph 1 of this article shall apply mutatis mutandis to the use of the income, provided that a family allowance shall be applied to one parent if the parents live together, and to injured persons and to any person who was previously mainly supported by the parents or the injured person or to whom they become liable to pay maintenance after the decision on the payment of welfare benefits for war victims. If the parents do not live together, the income limit shall be determined by the parent with whom the victim lives; if the parents do not live together and the victim does not live with either parent, the income limit shall be determined in accordance with subsection (1); section 25d subsection (2) second sentence shall apply.

(3) Paragraphs 1 and 2 shall not apply in the cases of sections 26a, 27(2) sentence 4 and 27a; section 26(5) sentence 2, section 26b(4), section 26c(5), section 27(2) last sentence and section 27d(5) shall remain unaffected.

(4) In the case of a stay in an inpatient or semi-inpatient facility, income to the amount of the saved expenses for domestic subsistence shall be used after two months after admission to the facility to the extent that it is below the relevant income limit and it would be unreasonable to refrain from using the income. In addition, beneficiaries who are likely to require nursing care in an inpatient facility for a longer period of time may be required to use income below the income limit as long as they do not maintain another person predominantly.

(5) Insofar as, in individual cases, income is to be used to meet a specific need, the use of this income to meet other, simultaneously existing needs cannot be demanded. If different income limits are decisive, a decision shall first be made on the benefit for which the lower income limit is decisive. If the same income limits are applicable and different institutions for the care of war victims are responsible, the decision on the benefit for the need that occurred first has priority; if the cases of need occur simultaneously, the income above the income limit is to be taken into account equally for the cases of need.

Unofficial table of contents

§ 25f

(1) The entire realisable assets shall be used. This also applies to savings from benefits under this Act. Benefits paid under the welfare of war victims may not be made dependent on the use or realisation of assets to the extent that this would entail hardship for the beneficiaries who have to use the assets and their dependants. This is the case if the use of the assets would make it considerably more difficult to lead an appropriate life, to maintain an adequate provision for old age or to ensure adequate burial and grave care. Assets from supplementary pension payments under this Act shall not be taken into account for a period of

one year. Otherwise, § 90 para. 2 nos. 1 to 7 and 9, § 91 of Book 12 of the Social Security Code and § 25c para. 3 shall apply accordingly.

(2) The following percentages of the assessment amount pursuant to § 33 paragraph 1 sentence 2 letter a shall be taken into account as smaller cash amounts or other monetary values:

1. 40 per cent in the case of the provision of care allowance pursuant to § 26c paragraph 1 for persons in need of long-term care in grades 4 or 5, of assistance for the blind pursuant to § 27d paragraph 1 number 4 and of all benefits to persons entitled to special care, with the exception of supplementary assistance with subsistence,
2. 20 percent for the provision of all other services,

plus an amount equal to 20 per cent of the assessment amount for the spouse or civil partner who is not living separately or for the partner in a cohabiting or cohabiting partnership, and 2 per cent for each additional person mainly maintained by the beneficiary, his spouse or civil partner or the partner in a cohabiting or cohabiting partnership.

(3) Owner-occupied residential property within the meaning of Section 17(2) of the Housing Promotion Act (Wohnraumförderungsgesetz), which is inhabited in whole or in part by Beneficiaries alone or together with relatives for whom it is intended to serve as a dwelling after the death of the Beneficiaries, shall not be disposed of.

(4) In the case of underage unmarried disabled persons who are minors, the assets of the parents or of one of the parents with whom the disabled person lives shall also be used or disposed of to cover their needs. Insofar as the property of the parents or of one parent is to be used or disposed of, the following percentages of the assessed amount pursuant to § 33 subsection (1), second sentence, letter a, shall be taken into account as smaller cash amounts or other monetary values by way of derogation from subsection (2)

1. 2 percent for injured parties,
2. a further 20 per cent for injured persons in the case of the provision of care allowance pursuant to § 26c paragraph 1 for persons in need of long-term care in grades 4 or 5, of assistance for the blind pursuant to § 27d paragraph 1 number 4 and of all benefits to persons entitled to special care, with the exception of supplementary assistance with subsistence,
3. 20 per cent for each parent with whom the injured person lives and for their spouse or partner who is not separated or for their partner in a marital or similar partnership, and
4. 2 per cent for each additional person who is predominantly maintained by the parents or one of the parents or by their spouse or partner who is not separated or by their partner in a marital or cohabiting partnership.

Notwithstanding sentence 1, the assets of the parents shall not be used or disposed of as long as injured persons are pregnant or care for at least one biological child until the age of six years. If injured persons live with neither parent or if a case of sentence 3 exists, subsection 2 shall apply to the use and realisation of assets.

(5) (dropped out)

Unofficial table of contents

§ 26

(1) Injured persons shall receive benefits for participation in working life in accordance with Sections 49 to 55 of Book Nine of the Social Code, as well as benefits in the entry procedure and in the vocational training sector of workshops for disabled persons in accordance with Section 57 of Book Nine of the Social Code and corresponding benefits from other service providers in accordance with Section 60 of Book Nine of the Social Code and as a budget for training in accordance with Section 61a of Book Nine of the Social Code.

(2) In the case of accommodation of injured persons in a vocational rehabilitation facility, the costs incurred there shall be borne by the institution responsible for the care of war victims as benefits in kind.

(3) Benefits for participation in working life also include assistance in establishing and maintaining a self-employed existence; cash benefits for this purpose should normally be provided as loans.

(4) The benefits referred to in paragraph 1 shall be supplemented by

1. Transitional allowance and subsistence allowance in accordance with § 26a,
2. Payment of contributions to the statutory pension insurance scheme for periods of receipt of transitional allowance in accordance with Section 70 of Book 9 of the German Social Security Code, reimbursement of expenditure on old-age insurance for injured parties not subject to compulsory pension insurance for voluntary contributions to the statutory pension insurance scheme, for

contributions to public-law professional insurance and pension institutions and to public or private insurance undertakings on the basis of life insurance contracts up to the amount of the contributions that would be payable to the statutory pension insurance scheme for periods of receipt of transitional allowance,

3.

Domestic help under Section 74 of Book Nine of the Social Security Code,

4.

other benefits which, taking into account the nature and severity of the injury, are necessary to achieve or maintain the objective of rehabilitation,

5.

travel expenses under Section 73 of Book Nine of the Social Security Code.

(5) Insofar as under subsection (1) or subsection (4) No. 4 benefits for reaching the place of work or the place of performance for participation in working life, in particular assistance in procuring and maintaining a motor vehicle, the use of income may be determined in deviation from § 25e subsections (1) and (2) and § 27d subsection (5) and the use and realisation of assets may be dispensed with in whole or in part in order to harmonise these benefits within the framework of a statutory instrument under § 27f. Apart from this, income and assets are not to be taken into account in the case of benefits for participation in working life and the benefits supplementing them, with the exception of other assistance under subsection 4 no. 4; section 26a remains unaffected.

(6) Widows, widowers or surviving life partners who wish to be gainfully employed in order to maintain a decent standard of living shall, in justified cases, provide benefits in analogous application of subsections 1 to 5 with the exception of subsection 4 No. 4.

Unofficial table of contents

§ 26a

(1) The entitlement to transitional allowance and the amount and calculation thereof shall be determined in accordance with Chapter 11 of Part 1 of Book 9 of the Social Code; in all other respects, Sections 16a, 16b and 16f shall apply mutatis mutandis to the calculation of the transitional allowance.

(2) If the injured person has earned income within the meaning of Section 16b(1) and immediately before the start of the benefit for participation in working life did not receive a care sickness benefit, sickness benefit, injury benefit or transitional allowance, Section 16b(2) to (4) and (6) shall apply mutatis mutandis for the calculation of the transitional allowance. In the case of injured persons receiving care due to damage caused by military service or civilian service, the income (cash and non-cash benefits) received as a soldier before the end of military service, for soldiers who have received military service pay and for persons performing civilian service, ten-eighths of the income (cash and non-cash benefits) received as a soldier or a person performing civilian service before the end of military service or civilian service shall be taken as the basis for calculating the standard pay if

a)

the injured person has not earned any income from work before commencing military or civilian service, or

b)

the remuneration to be taken into account under Section 66(1), first sentence, or Section 67(1) of Book Nine of the Social Code or under subsection (2), first sentence, is lower.

(3) Injured persons who were not professionally active to participate in working life prior to the commencement of the benefit shall receive a maintenance allowance instead of the transitional allowance; this shall not apply to injured persons within the meaning of subs. 2 second sentence. For the assessment of the maintenance allowance, the provisions on subsistence benefits shall be applied mutatis mutandis in the case of the granting of child-raising allowance; section 25d subs. 2 shall not apply to adult injured persons. In the case of accommodation of injured persons in a rehabilitation facility, the calculation of the subsistence allowance shall be based only on an appropriate amount to compensate for additional further needs and expenses arising from further unavoidable obligations.

(4) If, in addition to benefits under section 26, other assistance for the care of war victims is eligible, the transitional allowance and maintenance support shall be deemed to be income.

Unofficial table of contents

§ 26b

(1) Sickness assistance shall be granted to injured persons and survivors in addition to the benefits for treatment and sickness pursuant to this Act. Sections 10 to 24a shall remain unaffected.

(2) Sickness assistance includes medical and dental care, the supply of medicines, dressings and dentures, hospital treatment and other benefits necessary for recovery, improvement or alleviation of the consequences of the disease. As a rule, benefits should correspond to those provided under the provisions on statutory health insurance.

(3) Doctors and dentists are entitled to the remuneration paid for their services by the local sickness insurance fund in whose area the doctor or dentist is established on behalf of its members. The patient shall be free to choose from among the doctors and dentists who agree to provide medical or dental treatment within the scope of health care assistance at the remuneration specified in sentence 1.

(4) After the illness has required either permanent sick-leave or, due to its particular severity, permanent medical care during a continuous period of three months, section 27d subsection (5) first sentence No. 1 shall apply mutatis mutandis when determining the income limit.

Unofficial table of contents

§ 26c

(1) Damaged persons and surviving dependants shall receive assistance with care in corresponding application of Section 13 of Book 12 of the Social Code and Chapter 7 of Book 12 of the Social Code, unless otherwise provided for in the following paragraphs.

(2) Assistance with care shall be preceded by the benefits pursuant to § 35.

(3) If persons in need of long-term care ensure their care by special carers employed by them in accordance with Section 63b(6) of Book 12 of the Social Code, Section 11(3) of Book 5 of the Social Code and Section 34(2), second sentence, of Book 11 of the Social Code shall apply mutatis mutandis.

(4) Section 64a (2) of Book Twelfth Book of the Social Security Code shall not apply.

(5) In determining the income limit, the basic amount pursuant to § 25e para. 1 number 1 shall be replaced by a basic amount

1.

in the amount of 4.25 percent of the rated amount for

a)

assistance with care in an inpatient or semi-inpatient facility, if this assistance is likely to be required for a long period of time, and

b)

the home care of persons in need of long-term care at care levels 2 and 3,

2.

in the amount of 8.5 per cent of the assessment amount for the care allowance for persons in need of long-term care at care levels 4 or 5.

The family supplement shall amount to 40 per cent of the basic amount pursuant to section 25e(1)(1). in the cases referred to in the first sentence, point (2), the family supplement for the spouse or partner who is not living separately shall amount to half of the basic amount pursuant to the first sentence, point (1), if both spouses or partners are blind or meet the requirements of section 72(5) of Book 12 of the Social Code or are so severely disabled that, as disabled persons, they received the care allowance in stages III to VI pursuant to section 35(1), fourth sentence.

(6) If assistance to care for an adult child of the aggrieved person is provided, the aggrieved person shall use income and property up to the amount specified in Section 27h(2), third sentence, if the income exceeds the income limit under Section 25e(1) or Section 26c(5) or the property exceeds the property limit under Section 25f.

Unofficial table of contents

§ 26d

(1) Injured persons and survivors with their own household shall receive benefits for the continuation of the household if neither they themselves nor members of the household with whom they live are able to maintain the household and the continuation of the household is necessary. The institution responsible for the care of war victims shall endeavour to ensure that the continuation of the household is taken over by persons close to the injured and surviving dependants or by means of neighbourhood assistance. As a rule, the benefits should only be provided on a temporary basis. Sentence 3 shall not apply if the benefits can prevent or postpone placement in an inpatient facility.

(2) The benefits include personal care of household members and other activities necessary for the continuation of the household.

3. Injured persons and survivors within the meaning of paragraph 1 shall be reimbursed the reasonable expenses incurred by a person managing a household. Adequate assistance may also be provided and contributions by the person running the household to an adequate pension scheme may be accepted if this is not otherwise ensured. If, in addition to or instead of continuing the household, it is necessary to call in a special person to manage the household, or if advice or temporary relief is required for the person running the household, the reasonable expenses shall be paid.

(4) Benefits may also be provided by assuming the reasonable costs of temporary accommodation of other members of the household if such accommodation is necessary in special cases in addition to or instead of the continuation of the household.

Unofficial table of contents

§ 26e

(1) Assistance for the elderly shall be provided to injured persons and survivors in addition to the benefits under the other provisions of this Act. It shall contribute to preventing, overcoming or alleviating difficulties arising from old age and to enabling the disabled and survivors in old age to participate in community life in a self-determined manner and to strengthen their ability to help themselves.

(2) The main benefits to be considered as old-age benefits are

1. Services in the procurement and maintenance of housing that meets the needs of the elderly person,
2. Advice and support in the preliminary and surrounding area of care, in particular in all questions concerning the supply of forms of housing in the event of support, care or nursing needs as well as services that provide care or nursing,
3. Benefits in all matters relating to the use of age-appropriate services,
4. Services for attending events or facilities that serve the social, entertainment, educational or cultural needs of the elderly,
5. Services that enable elderly people to connect with people close to them,
6. Services for other activities and for social commitment.

(3) Benefits under subsection 1 shall also be provided if they serve to prepare for old age.

(4) Assistance for the elderly shall be provided regardless of existing income or assets, insofar as advice and support is required in individual cases.

(5) The benefits of care for the elderly shall be interlinked with the other benefits of this Act, the benefits of local care for the elderly and the municipal infrastructure for the prevention and reduction of the need for care and for the use of the benefits of integration assistance. The results of the overall planning in accordance with § 121 of Book Nine of the Social Code as well as the principles of coordination, cooperation and convergence of benefits in accordance with the provisions of Book Nine of the Social Code shall be taken into account.

Unofficial table of contents

§ 27

(1) Receive education allowance

- a) orphans who receive a pension or orphan's allowance under this Act, and
- b) Damaged persons drawing a basic pension under § 31 for their children and for children within the meaning of § 25(4), second sentence, no. 3.

§ Section 25 para. 3 sentence 2 shall apply accordingly.

The educational assistance is intended to ensure education in physical, mental and moral proficiency as well as appropriate general and vocational training in accordance with the facilities and abilities.

(2) Childcare allowance shall be paid if the reasonable needs for education, training and subsistence are not covered by the income and property to be used by the orphans and their parents or by the income and property to be used by the injured person and their children within the meaning of paragraph 1, first sentence, letter b. In determining the need for subsistence, costs of accommodation in the family shall not be taken into account. § 25e Subsection 1 shall be applied with the proviso that a family supplement need not be applied to the child or orphan for whom child-raising allowance is applied for or is paid; this shall also apply in the cases of the first half of sentence 5 and in the determination of the income limit for the spouse or partner of the victim and the spouse or partner of the orphan in accordance with § 25d Subsection 1. The income of the orphan and the child of the injured party is to be used without restriction with the exception of the earned income earned during the training, insofar as it is not training remuneration and does not exceed seven per cent of the assessment amount in the calendar year. The income of the child shall also be deemed to be the income of his spouse or life partner to the extent that it exceeds the income limit to be determined for him in accordance with § 25e, Sub-Clause 1; if a maintenance amount has been determined by a court, the benefits based thereon shall be deemed to be income of the child. Damaged persons who receive a care allowance shall be paid an educational allowance at least equal to the costs of upbringing and education.

(3) If the income of the parent of the orphan, the income of the injured party, the income of the spouse or partner of the orphan or the income of the spouse or partner of the injured party's child exceeds the income limit applicable to them, the amount in excess shall be reduced to

- a) the orphan and other dependants of the parent,

- b) the child of the injured party and other dependants of the injured party,
- c) the orphan and other dependants of the spouse of the orphan,
- d) the child of the injured party and other dependants of the spouse of the child of the injured party

evenly distributed. The share attributable to the orphan or child of the injured party shall be entered as income.

(4) Parental allowance shall be paid to the injured person at the latest until the child reaches the age of 27. However, in the event of an interruption or delay in education or vocational training due to the child's fulfilment of his or her statutory military or civilian service obligations, the education allowance shall continue to be paid beyond the age of 27 for a period corresponding to the period of such service. Sentence 2 applies accordingly

1. for members of the Bundeswehr and the police force who have voluntarily committed themselves for a period not exceeding three years, and

2. for the activity in the sense of § 1 paragraph 1 of the Development Aid Act

for a period corresponding to the duration of basic military service.

(5) Educational assistance may be paid if, instead of the damaged person's pension, orphan's pension or orphan's allowance, a compensation payment is made in accordance with § 89.

(6) If, for reasons beyond the control of the injured person, his or her children or orphans, the usual education cannot be completed by the age of 27, education allowance may continue to be paid beyond that age.

Unofficial table of contents

§ 27a

Supplementary subsistence assistance shall be provided to injured persons and their surviving dependants, provided that the subsistence cannot be met from the other benefits under this Act and the income and assets to be used. The provisions of Chapter Three of Book Twelfth of the Social Code shall apply mutatis mutandis to supplementary subsistence assistance, taking into account the special situation of the injured person or survivors.

Unofficial table of contents

§ 27b

(1) Recuperation assistance shall be granted to injured persons for themselves and their spouse or life partner as well as surviving dependants as a form of recuperation stay, if the recuperation measure is necessary to maintain their health or ability to work, the intended form of recuperation stay is appropriate and, in the case of injured persons, the need for recuperation is determined by the recognised consequences of the injury; in the case of severely injured persons, the connection between the recognised consequences of the injury and the need for recuperation shall always be assumed.

(2) The duration of the recreational stay is to be calculated in such a way that the success of the recovery is as sustainable as possible; it should be three weeks, but as a rule may not exceed this period. As a rule, further recovery assistance should not be provided before two years have passed.

(3) Expenditures of the persons seeking recreation, which are saved during the recreational stay for the domestic subsistence, are taken into account to reduce the need. Additional minor expenses incurred by the recreation-seekers as a result of the recreation stay are to be considered as special needs and can be compensated by lump sums.

(4) During the implementation of the recreational measure, it shall be ensured that adequate care is provided for children and such household members who require care.

(5) If persons seeking rest and recuperation require constant accompaniment, the need for recuperation assistance shall also include the need to take the accompanying person with them.

Unofficial table of contents

§ 27c

Housing assistance is available to the damaged and surviving dependants. Housing assistance consists of advice on housing and settlement matters and assistance in procuring and maintaining sufficient and healthy housing. Cash benefits will only be paid if the home of a severely disabled person requires special design or structural alterations in view of the type and severity of the damage or if severely disabled persons, widows, widowers or surviving partners apply for housing assistance within five years of first coming within the scope of this Act and a cash benefit is justified by the special nature of the individual case.

Unofficial table of contents

§ 27d

(1) As assistance in special circumstances, injured persons and survivors shall receive

1. Help to build up or secure the basis of life,
2. Aids to health,
3. Integration assistance for people with disabilities,
4. Help for the blind,
5. Help to overcome particular social difficulties.

(2) Benefits may also be provided in other special circumstances if they justify the use of public funds, taking into account the purpose of caring for war victims.

(3) Chapter 1 to 7 of Part 2 of Book Nine of the Social Code shall apply mutatis mutandis to the integration assistance for persons with disabilities under subsection 1(3), unless otherwise provided by this Act. Sections 47, 49 to 52, Chapter Eight and Sections 72, 74 and 88(2) of Book Twelfth of the Social Code shall apply mutatis mutandis to the other assistance in special circumstances under subsection 1. The benefits under subsection 1 shall be paid taking into account the situation of the injured person or survivors. Articles 10 to 24a shall remain unaffected. Assistance for the blind shall only be considered unless a care allowance is paid under section 35 on account of damage-related blindness. If blind persons receive a care allowance under section 35 for other reasons, it shall be credited against the assistance to the blind to the extent specified in section 72(1), second sentence, of Book 12 of the Social Code. Benefits under section 43a of Book Eleven of the Social Security Code and similar benefits under other provisions shall take precedence over the benefits of the welfare of war victims.

(4) Paragraphs 1 to 3 shall also apply to survivors who are in need of assistance because of disability.

(5) For the use of income and assets in the provision of integration assistance benefits for persons with disabilities, the provisions of Part 2, Chapter 9 of Book 9 of the Social Code Book 9 shall apply instead of Section 25c (1) and (2) and Sections 25d to 25f. Notwithstanding § 136, Subsection 2 of Book Nine of the Social Code, a contribution to expenses shall be paid if the income pursuant to § 135 of Book Nine of the Social Code is predominantly

1. is obtained from employment subject to social insurance contributions or from self-employment and exceeds 100 per cent of the annual reference value pursuant to Section 18 (1) of Book IV of the Social Code,
2. is obtained from employment not subject to social insurance contributions and exceeds 90 per cent of the annual reference value pursuant to Section 18 (1) of Book 4 of the German Social Code, or
3. is generated from pension income and exceeds 75 percent of the annual reference value pursuant to Section 18 (1) of Book 4 of the German Social Security Code.

Section 25c (3) shall apply accordingly to the use of assets.

(6) In determining the income limit, in the case of assistance for the blind under section 72 of Book 12 of the Social Code, the basic amount under section 25e(1)(1) shall be replaced by a basic amount equal to 8.5 per cent of the assessment amount. The family supplement shall amount to 40 per cent of the basic amount pursuant to § 25e, Subsection 1, No. 1. For the spouse or civil partner who is not living separately, the family supplement shall amount to 2.13 per cent of the assessed amount if both spouses or civil partners are blind or meet the requirements of § 72, Subsection 5, of Book Twelfth Book of the Social Code or are so severely disabled that they, as disabled persons, received the care allowance pursuant to Levels III to VI pursuant to § 35, Subsection 1, Sentence 4.

(7) Section 150 of Book Nine of the Social Code shall apply mutatis mutandis to the use of income in the provision of integration assistance for persons with disabilities.

Unofficial table of contents

§ 27e

For recipients of a nursing allowance under § 35 and for injured persons whose degree of damage alone due to tuberculosis or facial disfigurement is at least 50, as well as for brain-damaged persons, the main welfare offices shall provide the benefits of the war victim welfare system, taking into account effective special welfare.

Unofficial table of contents

§ 27f

The Federal Government shall be authorised, with the consent of the Bundesrat, to determine by statutory instrument the nature, extent and duration of the benefits of the war victim welfare scheme (sections 25 to 27e) and the procedure to be followed.

Unofficial table of contents

§ 27g

(1) If injured persons or surviving dependants have a claim against another person who is not a benefit provider within the meaning of § 12 of Book I of the Social Code, the war victim welfare institution may, by written notification to the other person, have the claim transferred to him up to the amount of his expenses. The transfer of the claim may only be effected to the extent that the assistance would not have been provided if the other party had provided it in time or if the persons entitled to benefits under § 25c para. 1 sentence 2 or para. 2 have to reimburse or bear the expenses. The transfer is not excluded by the fact that the claims cannot be transferred, pledged or attached. § 115 of the Tenth Book of the Social Security Code takes precedence over the provision of Subsection 1, Sentence 1.

(2) Written notification shall result in the transfer of rights for the period for which benefits under the provisions for war victims' welfare are provided without interruption to the injured or surviving dependants; a period of more than two months shall be deemed to be an interruption.

(3) and (4) (omitted)

Unofficial table of contents

§ 27h

(1) If injured persons or their survivors have a claim to maintenance for the period for which assistance is provided under civil law, such claim shall be transferred to the institution responsible for the care of war victims up to the amount of the expenses incurred together with the right to information under maintenance law. The transfer of the claim is excluded if the maintenance claim is met by ongoing payments. The same applies if maintenance debtors are related to injured persons or survivors in the second degree or to a more distant degree, as well as for maintenance claims against first-degree relatives of an injured person or survivor who is pregnant or cares for her biological child until the age of 6 years. § 115 of Book Ten of the Code of Social Law shall take precedence over the provision in subsection 1 sentence 1.

(1a) Maintenance claims of the beneficiaries against their children and parents shall not be taken into account unless their total annual income within the meaning of § 16 of Book IV of the Social Code exceeds EUR 100 000 (annual income limit). The transfer of claims of the persons entitled to benefits shall be excluded if maintenance claims pursuant to sentence 1 are not to be taken into account. It is presumed that the income of persons obliged to pay maintenance pursuant to sentence 1 does not exceed the annual income limit. In order to rebut the presumption in accordance with sentence 3, the institution responsible for the welfare of war victims may require the persons entitled to benefits to provide information that allows conclusions to be drawn about the income situation of the breadwinners in accordance with sentence 1. If there are sufficient indications in an individual case that the annual income limit has been exceeded, the children or parents of the persons entitled to benefits shall be obliged to provide information to the institution for the care of war victims about their income situation to the extent required for the implementation of this Act. The obligation to provide information shall include the obligation to submit documents of evidence or to consent to their submission at the request of the institution for the care of war victims. Sentences 1 to 6 shall not apply to benefits under section 27a to minor children.

(2) The entitlement shall only pass to the extent that injured persons and survivors have to use their income and assets in accordance with the provisions of § 25e subs. 1, § 25f subs. 1 to 4, § 26b subs. 4, § 26c subs. 5 and § 27d subs. 5. The transfer of a claim against a person liable to pay maintenance under civil law is excluded if this would mean undue hardship. The entitlement of maintenance creditors of full age who receive integration assistance or assistance with care towards their parents shall only be transferred in the amount of up to EUR 26 per month for benefits under sections 26c and 27d with the exception of the benefit under section 27d(1)(3), and in the amount of up to EUR 20 per month for benefits under section 27a. It is presumed that the claim is transferred in the amount of the above-mentioned amounts and that several breadwinners are equally liable; this presumption may be rebutted. The amounts mentioned in sentence 3 shall change at the same time and by the same percentage by which the child benefit changes.

(3) In respect of the past, the institution providing care for war victims may, except under the conditions laid down in civil law, claim the transferred maintenance only from the time when it has notified the debtor in writing that the assistance has been granted. If the assistance is likely to have to be granted for a longer period of time, the institution for the care of war victims may also sue for future benefits up to the amount of the previous monthly expenses.

4. The institution responsible for the care of war victims may, with the agreement of the persons entitled to benefits, reassign to them the right to maintenance transferred to it for the purpose of legal proceedings and have the right to claim the maintenance claimed assigned to it. Any costs incurred by the persons entitled to benefits shall be borne by them. The claims under paragraphs 1 to 3 shall be decided by civil law.

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§ 27i

The war victims' welfare institution entitled to reimbursement may apply for a social benefit and lodge an appeal. The expiry of the time limits which have expired through no fault of his or her own does not affect him or her; this does not apply to the procedural time limits if the war victims' welfare institution conducts the proceedings itself.

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§ 27j

Persons in need of long-term care who until 31 March 1995 received long-term care allowance under Article 26c(6) in the version applicable until 31 March 1995 shall continue to receive the long-term care allowance to the extent that it exceeds the entitlement to long-term care allowance under Article 37 of Book Eleven of the Social Code and the applicable provisions of the Federal Pensions Act do not, notwithstanding Article 26c, exclude the receipt of benefits; in this context, crediting of the cash benefit under Article 57 of Book Five of the Social Code in the version applicable until 31 March 1995 shall not be taken into account. The same shall apply in so far as persons in need of long-term care who received long-term care allowance under § 26c.6 in the version applicable up to 31 March 1995 and, in addition, received benefits for domestic care under this Act, receive lower benefits for domestic care under this Act because the part of the long-term care allowance attributable to domestic care under Book Eleven of the Social Code is credited against it.

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§ 27k

(1) Persons in need of long-term care whose need for long-term care has been determined in accordance with Section 26c in the version applicable on 31 December 2016 and for whom the requirements for benefits under Section 26c in the version applicable on 31 December 2016 are met by 31 December 2016 at the latest shall be transferred to the degrees of long-term care as from 1 January 2017 without the need for a new application and without a new assessment as follows

1. Patients with care level I to care level 2,
2. Patients with care level II to care level 3,
3. Patients with care level III to care level 4.

(2) The transition to the degrees of care in accordance with § 140 of Book Eleven of the Social Code shall be binding on the war victim welfare institution.

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§ 27l

A person who on 31 December 2016 is entitled to benefits under section 26c in the version applicable on 31 December 2016 shall continue to be granted the benefits to which he/she is entitled on 31 December 2016 beyond 31 December 2016 until the conclusion of the procedure to be conducted ex officio to determine and establish the degree of care and the necessary need for care under section 26c(1) in conjunction with section 63a of Book 12 of the Social Code in the version applicable as from 1 January 2017. Insofar as persons simultaneously receive benefits under the Eleventh Book of the Social Security Code in the version applicable as of 1 January 2017, these benefits shall be credited; this shall not apply to the supplements pursuant to section 141(2) of the Eleventh Book of the Social Security Code and to the relief amount pursuant to section 45b of the Eleventh Book of the Social Security Code. If the proceedings show that, for the period from 1 January 2017, the benefits for the necessary nursing requirement to be granted under section 26c in the version applicable from 1 January 2017 are lower than the benefits granted under the first sentence, the higher benefits granted under the first sentence shall not be reimbursed by the beneficiary; section 45 of Book 10 of the Code of Social Law shall remain unaffected. If the proceedings show that, for the period from 1 January 2017, the benefits for the necessary nursing requirement to be granted under § 26c in the version applicable as from 1 January 2017 are higher than the benefits granted under the first sentence, the benefits shall be granted retroactively under § 26c in the version applicable as from 1 January 2017.

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§ 28

(dropped out)

Damage pension

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§ 29

If benefits for medical rehabilitation or for participation in working life are promising and reasonable, a claim to a higher assessment of the degree of the consequences of the injury in accordance with § 30, Subsection 2, to compensation for occupational injury and to a compensatory pension shall arise at the earliest in the month in which these measures are concluded.

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§ 30

(1) The degree of damage consequences shall be assessed according to the general effects of the functional impairments caused by the physical, mental or psychological health disorders recognised as damage consequences in all areas of life. The degree of damage shall be measured in degrees of 10 to 100; a degree of damage up to five degrees less shall be included in the higher degree of 10. Temporary health problems shall not be taken into account; a period of up to six months shall be considered as temporary. In the case of injured children and adolescents, the degree of damage shall be assessed according to the degree of damage suffered by adults with the same health disorder, provided this does not result in a worse position of the children and adolescents. Minimum degrees can be set for significant external health damage.

(2) The degree of the consequences of the injury shall be assessed higher if the injured person is particularly affected by the type of consequences of the injury in the occupation exercised or begun before the injury, in the occupation demonstrably aimed at or in the occupation which was exercised or is still exercised after the injury occurred. This is particularly the case if

1. due to the injury, neither the previously exercised, commenced or demonstrably intended occupation nor a socially equivalent occupation can be exercised,
2. although the occupation exercised or begun before the injury continues to be exercised or the demonstrably intended occupation has been achieved, the nature of the consequences of the injury means that the injured person is incapacitated in this occupation to a much greater extent than in general working life, or
3. the injury has demonstrably prevented further advancement in the profession.

(3) Persons entitled to a pension whose income from current or previous employment is reduced by the consequences of the injury shall, after application of paragraph 2, receive compensation for occupational injury amounting to 42.5 per cent of the loss of income rounded up to the nearest euro (paragraph 4) or, if this is more favourable, compensation for occupational injury in accordance with paragraph 6.

(4) Loss of income is the difference between the current gross income from current or past employment plus the compensatory pension (current income) and the higher comparative income. By way of derogation from the first sentence of this paragraph, where the victim is entitled to an income-influenced death pension in accordance with the provisions of other social security benefit schemes, the calculation of the loss of income shall be based on the compensatory pension which would have resulted if this death pension had not been taken into account. If the pension from the statutory pension insurance scheme is reduced because the earned income was reduced due to injury in a period in the past which did not cover more than half of the working life, the pension reduction is, notwithstanding sentence 1, the loss of income. The extent of the reduction shall be determined by basing the calculation of pensions for injured persons on income points which would be obtained without taking into account the periods during which the income of the injured person is reduced as a result of the injury.

(5) The comparative income shall be calculated in accordance with sentences 2 to 5; to determine the average income, the basic salaries of grades of Federal grade A from the penultimate three calendar years preceding the adjustment shall be used. Amounts of average income up to EUR 0.49 shall be rounded down to full euros and from EUR 0.50 to full euros. The average value from the three years is to be adjusted by the percentage that results from the sum of the rates of change in gross wages and salaries per employee (Section 68 (2) in conjunction with Section 228b of Book 6 of the German Social Security Code) that are decisive for the pension adjustment for the current year and the previous year; the rates of change are determined in each case by reducing the factor for the change in gross wages and salaries per employee by one and converting it into a percentage by multiplying it by 100. The comparative income shall be revised on 1 July of each year; if the comparative income calculated in accordance with sentences 1 to 6 is less than the previous comparative income, it shall remain unchanged. It shall be determined by the Federal Ministry of Labour and Social Affairs and published in the Federal Gazette; the amounts shall be rounded up to full euros. Notwithstanding sentences 1 to 5, the comparative incomes of Tables 1 to 4 of the announcement of 14 May 1996 (Federal Gazette p. 6419) for the period from 1 July 1997 to 30 June 1998 shall be determined by adjusting the values published there by the percentage specified in § 56 para. 1 sentence 1; sentence 6, second half-sentence shall apply accordingly.

(6) Occupational injury compensation in accordance with the last part of the sentence of paragraph 3 is the net amount of the settlement income (paragraph 7) less the net income from current or previous employment (paragraph 8), the compensation pension (§§ 32, 33) and the spouse supplement (§ 33a). Subsection 4 sentence 2 applies accordingly.

(7) The net amount of the settlement income of injured persons born after 30 June 1927 shall be determined on a lump-sum basis for the period until the end of the month in which they would have retired from employment even without the injury, but no longer than until the end of the month in which the injured person reaches the standard age limit pursuant to Book Six of the Social Security Code, by calculating the settlement income

1. 18 per cent for married victims, 36 per cent for the part exceeding 716 euros and 40 per cent for the part exceeding 1,790 euros
2. for unmarried injured persons, 18%, 40% for the part exceeding 460 euros and 49% for the part exceeding 1 380 euros

is reduced. Otherwise, 50 per cent of the settlement income is considered to be its net amount.

8. Net income from current or past employment shall be calculated as a lump sum from current gross income by

1. the gross income from current gainful employment is reduced by the percentages specified in subsection 7, first sentence, nos. 1 and 2,
2. pensions from the statutory pension insurance scheme as well as pensions for old age, pensions for reduced earning capacity and land transfer pensions under the Law on Old-Age Insurance for Farmers shall be reduced by the percentage applicable to the assessment of the contribution to social long-term care insurance (§ 55 of Book 11 of the Social Code) and by half of the percentage of the general contribution rate of the health insurance schemes (§ 241 of Book 5 of the Social Code); the pensions to be paid as of 1 January 1998 shall be reduced by the amount of the contribution rate for the social long-term care insurance scheme (§ 55 of Book 11 of the Social Code). The contribution rates determined on 1 January shall apply from 1 July of the current calendar year to 30 June of the following calendar year,
3. other cash payments from service providers (§ 12 of Book One of the Social Security Code) are taken into account at the net amount, and
4. the remaining gross income is reduced by the percentages referred to in point 2 and by an additional 19% of the amount exceeding EUR 562; the last half-sentence of point 2 shall apply *mutatis mutandis*.

In the cases of paragraph 11, the net income within the meaning of the first sentence shall be replaced by the net amount of the average income determined in accordance with paragraph 7.

(9) Occupational injury compensation in accordance with subsection (6) shall be paid in cases of a reduction in pension within the meaning of subsection (4), third sentence, only if the periods of working life during which the earned income was not reduced due to injury are covered by a statutory or equivalent old-age insurance scheme.

(10) The compensation for occupational injury shall be calculated exclusively in accordance with paragraph 6 if the application is submitted for the first time after 21 December 2007. In all other cases, the competent authority shall make the last determination of favourability pursuant to subsection 3 on the cut-off date pursuant to sentence 1 and thus determine the method of calculation to be applied in the future.

(11) If the gross income from current employment is likely to be permanently reduced as a result of subsequent non-harmful effects or events, in particular the occurrence of a non-harmful health disorder (subsequent damage), the basic salary of the grade of Federal grade A to which the injured person would have been assigned without the subsequent damage shall instead be deemed to be income; unemployment or age-related retirement shall not in principle be deemed to be subsequent damage. If a further loss of income due to the injury occurs after the subsequent loss, this average income must be reduced accordingly. If, on the other hand, the injured person withdraws from working life as a result of the injury, the compensation for occupational injury shall be calculated in accordance with paragraphs 3 to 8.

(12) Persons entitled to a pension who run a joint household with their spouse or life partner, a relative or a stepchild or foster child, or who would have to run a joint household without the injury, shall receive as compensation for occupational injury an amount equal to half the additional expenses incurred in running the joint household as a result of the consequences of the injury.

(13) If the basic pension has been increased because of a particular occupational injury, the entitlement to compensation for occupational injury shall be suspended in the amount of the additional amount obtained by the increase in the basic pension in accordance with § 31(1), first sentence. The same shall apply *mutatis mutandis* if the basic pension has been increased in accordance with § 31, para. 4, second sentence.

(14) The Federal Government is authorised to determine by statutory order with the consent of the Bundesrat:

- a) the basis of comparison and the manner in which it is to be used to determine the loss of income,
- b)

how to determine the loss of income in the case of injury suffered before completion of school education or before the start of vocational training,

c) how the compensation for professional injury is to be determined if, without the injury, the injured person would have pursued other professional activities in addition to his professional activity or would have managed a joint household within the meaning of paragraph 12,

d) what is deemed to be current gross income or average income within the meaning of subsection (11) and section 64c subsection (2) second and third sentences and which income is not taken into account in determining the loss of income

e) how, in special cases, the net income is to be determined in deviation from subsection 8, first sentence, nos. 3 and 4.

(15) If a decision has already been taken before 1 July 1989 on the entitlement to compensation for occupational injury for the period after retirement, the decision shall remain valid as to whether the first or third sentence of paragraph 4 shall apply.

(16) The Federal Ministry of Labour and Social Affairs shall be authorised, in agreement with the Federal Ministry of Defence and with the consent of the Bundesrat, to establish by statutory order the principles governing the medical assessment of the consequences of damage and the determination of the degree of damage within the meaning of subsection 1, as well as the principles governing the recognition of a health disorder in accordance with § 1 subsection 3 and the criteria for the assessment of helplessness and the levels of the long-term care allowance in accordance with § 35 subsection 1, and to regulate the procedure for determining and further developing them.

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§ 31

(1) Injured persons shall receive a basic monthly pension in the case of a degree of damage

| | |
|---------|-----------------------------|
| from 30 | in the amount of EUR 156, |
| from 40 | in the amount of 212 euros, |
| from 50 | in the amount of EUR 283, |
| from 60 | in the amount of 360 euros, |
| from 70 | in the amount of EUR 499, |
| from 80 | in the amount of EUR 603, |
| from 90 | in the amount of EUR 724, |
| of 100 | in the amount of 811 euros. |

The basic pension is increased for severely disabled persons who have reached the age of 65, if the degree of damage is

| | |
|----------------|---------------|
| of 50 and 60 | for 32 euros, |
| of 70 and 80 | for 39 euros, |
| of at least 90 | for 48 euros. |

(2) Serious injury shall be deemed to have occurred if a degree of damage of at least 50 is determined.

(3) Damaged persons who are recognised as being blind as a result of an injury shall always receive the pension according to a degree of the injury consequences of 100. Damaged persons entitled to a care allowance shall always be regarded as severely disabled persons. They receive at least one care allowance based on a degree of damage of 50.

(4) Injured persons with a degree of injury consequences of 100 who are exceptionally affected by the recognised injury consequences in terms of health shall receive a monthly allowance for severely injured persons, which shall be granted in the following stages:

| | |
|----------|------------|
| Stage I | 94 euros, |
| step II | 193 euros, |
| step III | 288 euros, |
| Stage IV | 385 euros, |

| | |
|---------|------------|
| Step V | 479 euros, |
| step VI | 578 euros. |

The Federal Government shall be authorised, with the consent of the Bundesrat, to specify by statutory instrument the group of persons who are exceptionally affected by the consequences of the damage and to classify them in levels I to VI.

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§ 32

(1) Severely disabled persons shall receive a compensatory pension if, as a result of their state of health or advanced age or for any other reason for which they are not responsible, they are unable to engage in gainful employment which is reasonable for them, or are able to do so only to a limited extent or with above-average effort.

(2) The full compensatory pension shall be paid monthly at a rate of

| | |
|-------------|------------|
| of 50 or 60 | 499 euros, |
| of 70 or 80 | 603 euros, |
| from 90 | 724 euros, |
| of 100 | 811 euros. |

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§ 33

(1) The full compensatory pension is to be reduced by the amount of income to be credited. This income shall be determined in stages, on the basis of gross income, in accordance with the statutory instrument to be adopted pursuant to paragraph 6, so that

a) in the case of income from current employment, an amount of 1.5% and in the case of other income an amount of 0.65 % of the assessment amount of EUR 34 561, rounded up to the nearest euro (tax-free amount)

and

b) the injured party is entitled to a compensatory pension with a degree of damage equal to 100 only if his income from current employment is less than one-twelfth or his other income is less than one-twentieth of the assessment amount referred to in point (a), rounded up to the nearest whole euro (income threshold); this income threshold includes amounts of gross income which have the same step in common with the said amounts

(2) Income from current gainful employment within the meaning of paragraph 1 is income from

a) employment within the meaning of Section 19(1)(1) of the Income Tax Act,

b) Agriculture and forestry,

c) Commercial enterprise,

d) self-employed activity and

sickness, sickness and injury benefit, provided that these benefits are not calculated on the basis of a previously received unemployment benefit or maintenance allowance under Book Three of the Social Code. In the case of sickness benefit, sickness benefit and injury benefit, income from current employment shall be deemed to be the gross income on which the calculation of this benefit is based, increased, where appropriate, from the time of an adjustment of the benefit by the percentage by which the amount of the benefit was last adjusted in accordance with § 56, para. 1, second sentence. The income from current gainful employment under subsection 1 shall also include parental allowance within the meaning of the Federal Parental Allowance and Parental Leave Act in the amount paid in each case which exceeds the relevant amount under section 10 of the Federal Parental Allowance and Parental Leave Act. The parental allowance due and paid for a month of life shall be fully credited in the calendar month in which the month of life begins.

(3) If the income cannot be determined numerically, it should be determined taking into account the overall situation.

(4) Recipients of a care allowance shall receive at least half of the full equalisation pension, recipients of a care allowance of at least Level III shall receive the full equalisation pension, even if the care allowance is not paid under Section 35(4) or is suspended under Section 65(1).

(5) The Federal Government shall be authorised, with the consent of the Bundesrat, to specify in more detail by statutory instrument,

a)

what counts as income and which income is not taken into account when determining the equalisation pension,

b)

how to determine the gross income.

(6) The Federal Ministry of Labour and Social Affairs shall be authorised, with the consent of the Bundesrat, to issue the statutory instrument on the imputable income referred to in paragraph 1. The amounts to be credited shall be indicated in a table which is divided into 200 levels for injured persons with a degree of damage consequences of 100; the values determined shall also apply to the other groups of injured persons. The amount up to which each tier reaches shall be determined by multiplying the number of tiers by two hundredths of the amount referred to in paragraph 1 (b), reduced by the allowance (paragraph 1 (a)), and adding the allowance to the product rounded down to the nearest whole euro. The amount of income to be taken into account for each step shall be determined by multiplying the number of steps by two hundredths of the amount of the full compensatory pension for injured parties with a degree of damage of 100 and rounding the product down to the nearest whole euro. The Regulation may also provide further details on the application of the table and may indicate the amounts of the compensatory pension to which each is entitled.

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§ 33a

(1) Severely disabled persons shall receive a supplement of 91 euros per month for their spouse or partner. The supplement shall also be paid to severely disabled persons whose marriage or civil partnership has been dissolved or declared null and void if they care for a child in their own household within the meaning of § 33b.1 sentence 1 and subsections 2 to 4. If no equalisation pension is due, § 33 shall apply mutatis mutandis subject to the following provision:

a)

The income to be credited is only to be taken into account to the extent that it has not already led to the loss of the equalisation pension.

b)

§ Section 33(1) sentence 2(b) shall not apply.

(2) All recipients of a care allowance shall receive the full allowance, even if the care allowance is not paid in accordance with § 35 (4) or is suspended in accordance with § 65 (1).

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§ 33b

(1) Severely disabled persons receive a child supplement for each child. This shall not apply if the same child is entitled to child benefit or to benefits within the meaning of section 4(1) sentence 1 no. 1 of the Federal Child Benefits Act or if a child allowance is due under the Income Tax Act.

(2) Stepchildren or children of the life partner admitted to the household of the aggrieved party shall also be deemed to be children. Children who have been taken into the care of the adopter with the aim of adoption as a child and for whom the consent of the parents required for adoption has been granted are considered to be children of the adopter and no longer children of the natural parents.

(3) If several injured persons fulfil the requirements of paragraphs 1 and 2 for the same child, the child supplement shall be granted only once. The person entitled to the child supplement shall be the person who predominantly maintains the child. If none of the aggrieved persons maintains the child predominantly, section 3(2) of the Federal Child Benefit Act shall apply.

(4) The child supplement is granted until the age of 18. It shall be granted in the same way after the completion of the 18th year for a child who

1.

has not yet reached the age of 21, is not in an employment relationship and is registered as a jobseeker with a domestic employment agency,

2.

has not yet reached the age of 27 and

a)

is undergoing education or vocational training which is predominantly labour-intensive and does not involve payment of remuneration, wages or other benefits of an equivalent amount, or

b)

is in a transitional period of, as a general rule, a maximum of seven calendar months between two periods of training or between a period of training and the completion of compulsory military or civilian service, service of an equivalent level to military or civilian service or voluntary service within the meaning of point (d), or

c)

cannot start or continue vocational training due to a lack of training places, or

d)

performs voluntary service within the meaning of Section 32(4), first sentence, point 2(d) of the Income Tax Act, or

3.

is unable to support himself or herself on account of a physical, mental or psychological disability at the latest on reaching the age of 27, for as long as this condition lasts, but beyond the age of 27 only if his or her spouse or partner is unable to support him or her.

When applying sentence 1, § 32 para. 4 sentences 2 and 3 of the Income Tax Act or § 2 para. 2 sentences 2 and 3 of the Federal Child Benefit Act shall apply accordingly. If a child who was physically, mentally or emotionally handicapped at the age of 27 had been in gainful employment after that date, the child supplement shall be granted again if and for as long as the child is again unable to support himself or herself because of the same physical or mental infirmity. In the event of an interruption or delay in education or vocational training due to fulfilment of the statutory military or civilian service obligation of a child within the meaning of sentence 2 letter a, the child supplement shall be granted for a period corresponding to the time of such service beyond the age of 27. Sentence 5 shall apply mutatis mutandis to military service to be credited to basic military service, which a soldier has performed on the basis of voluntary commitment for a period of service not exceeding three years, and to the activity as a development worker within the meaning of section 1(1) of the Development Workers Act exempting him or her from military or civilian service for a period corresponding to the duration of such service or activity, but not exceeding the duration of domestic statutory basic military service; in the case of recognised conscientious objectors, this shall be taken into account for the duration of domestic statutory civilian service beyond the age of 21 or 27. If the statutory basic military service or civilian service is performed in a Member State of the European Union or a state to which the Agreement on the European Economic Area applies, the duration of this service shall be decisive. § Section 2(2) sentences 2 to 7 of the Federal Child Benefits Act shall apply accordingly. If schooling or vocational training is delayed for a reason for which neither the injured party nor the child is responsible, the child supplement shall be granted for a longer period of time in accordance with the period of the proven delay.

(5) The child supplement shall be granted in the amount of the statutory child benefit. The supplement shall be reduced by child allowances or similar benefits paid or to be paid for the child. If there is no equalisation pension and no supplement under section 33a, section 33 shall apply mutatis mutandis subject to the following proviso:

a)

The income to be credited shall only be taken into account to the extent that it has not already led to the discontinuation of the equalisation pension and the supplement pursuant to § 33a.

b)

§ Section 33(1) sentence 2(b) shall not apply.

If child allowances are granted for several children, the income to be credited in accordance with sentence 3 letter a) shall be divided according to the ratio between the amounts of the individual child allowances.

(6) In the case of recipients of a care allowance, subsection (5) sentences 2 and 3 shall not apply even if the care allowance is not paid under Section 35(4) or is suspended under Section 65(1). For each child for which they are not entitled to a child supplement under subsection 1, they shall receive a supplement in the amount of the statutory child benefit provided for the first child.

(7) If the injured party is not entitled to representation in the personal affairs of the child, the child's legal representative may apply for payment of the child supplement as such. If the child is of age, he or she may apply for payment to himself or herself.

Footnote

§ Paragraph 33b(6) sentence 2 in conjunction with paragraph 2: Compatible with the Basic Law in accordance with the decision formula pursuant to BVerfGE of 28 June 1983 I 951 - 1 BvL 20/79 -

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§ 34

(1) The compensatory pension for severely disabled persons shall amount to up to 30 per cent of the rates in § 32 subsection 2 for severely disabled persons before the age of 14, and up to 50 per cent of the rates in § 32 subsection 2 for severely disabled persons before the age of 18; it shall be increased to the full rate if the severely disabled person has to support himself alone.

2. A compensatory pension shall be granted only to the extent that it is justified by the economic circumstances of the injured person and his dependants. Apprenticeship allowances of up to EUR 77 per month shall not be taken into account.

Care allowance

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§ 35

(1) As long as injured persons are helpless as a result of the injury, a care allowance of EUR 342 (Level I) shall be paid monthly. Helpless within the meaning of sentence 1 are injured persons if they require constant assistance from others for a series of frequently and regularly recurring tasks to secure their personal existence during the course of each day. These prerequisites are also fulfilled if the assistance is required in the form of supervision or instruction for the tasks mentioned in sentence 2 or if the assistance does not have to be provided continuously, but a constant readiness to provide assistance is required. If the health disorder is so serious that it requires permanent sick-leave or permanent exceptional care, the care allowance shall be increased to EUR 584, 832, 1 068, 1 386 or 1 706 (stages II, III, IV, V and VI), depending on the circumstances of the case and taking into account the extent of the care required. The principles laid down in the Regulation on § 30 Para. 17 are decisive for determining the degree of helplessness and the levels of the care allowance. Blind persons receive at least the care allowance according to level III. Brain-damaged persons with a degree of damage of 100 receive a care allowance at least according to level I.

(2) If outside assistance within the meaning of subsection 1 is provided by third parties on the basis of an employment contract and the reasonable costs incurred for this exceed the amount of the flat-rate care allowance pursuant to subsection 1, the care allowance shall be increased by the amount in excess. If a person with a disability lives with his or her spouse, partner or one of the parents in the same household, the care allowance shall be increased in such a way that he or she is only required to pay one quarter of the reasonable costs incurred by him or her under the flat-rate care allowance and is left with at least half of the flat-rate care allowance. In exceptional cases, the remaining amount may be increased up to the full amount of the lump-sum care allowance where spouses, partners or one parent of care allowance recipients at least at Level V provide exceptional additional assistance in addition to third parties. If costs for external assistance arise temporarily, in particular as a result of the illness of the carer, the care allowance shall be increased for a maximum of six weeks in each case beyond the second sentence in such a way that the injured person remains entitled to the flat-rate care allowance at the same level as before the costs were temporarily incurred. Sentences 2 and 3 shall not apply if the spouse, life partner or parent does not provide care services not only temporarily; Section 40a (3) sentence 3 shall apply.

3. During in-patient treatment, the care allowance referred to in paragraphs 1 and 2 shall continue to be paid to recipients of care allowance under stages I and II until the end of the first calendar month following admission, and to the other recipients of care allowance until the end of the twelfth calendar month following admission.

(4) Beyond the date specified in paragraph 3, the care allowance during inpatient treatment shall continue to be paid until the end of the calendar month preceding discharge only to the extent specified in the following sentences. Damaged persons shall receive one quarter of the lump-sum care allowance referred to in paragraph 1 if the spouse, partner or parent has provided at least part of the care until the beginning of inpatient treatment. In addition, the care allowance shall continue to be paid in the amount of the costs incurred on the basis of a care contract, unless the costs could have been avoided by conduct to be expected of the injured party in consideration of all circumstances, in particular by terminating the care contract. Recipients of a care allowance at least according to level III receive a care allowance if a greater contribution from the carer already working free of charge until the start of inpatient treatment is medically necessary, in deviation from sentence 2, exceptionally a care allowance up to the full amount according to paragraph 1, but in cases of sentence 3 not exceeding the amount remaining from the lump-sum care allowance according to paragraph 2 sentence 2.

(5) If helplessness within the meaning of subsection (1), first sentence, occurs at the same time as the need for inpatient treatment or during inpatient treatment, there shall be no entitlement to a care allowance for the period prior to the calendar month of discharge. A care allowance shall be paid for this period, insofar as this is determined in the following sentences. A care allowance equal to one quarter of the standard care allowance under Stage I shall be paid to injured persons living with their spouse, partner or one parent in the same household. If a greater involvement of the spouses, life partners or one parent or the involvement of a person close to the injured person in the care is medically necessary, a care allowance up to the amount of the lump-sum care allowance under Level I may be paid in justified exceptional cases.

(6) For injured persons who, as a result of the injury, require permanent care within the meaning of paragraph 1, if suitable care cannot otherwise be ensured, the costs of non-temporary home care, insofar as they include accommodation, board and lodging and care, including necessary nursing care, shall be borne by the insured person, offsetting them against the pension benefits. However, in order to meet other needs, an amount equal to the basic pension for the injured person after a degree of damage of 100 shall be left to the injured persons from their pensions to cover other needs, and an amount equal to at least the survivor's benefits to which they would have been entitled if the injured person had died as a result of the damage. In calculating the remuneration of the dependants, the income of the injured person shall also be taken into account, unless it is exceptionally to be used for other purposes, in particular for the fulfilment of other maintenance obligations.

Funeral allowance

Unofficial table of contents

§ 36

- (1) If an injured person dies as a result of the consequences of the damage, the person who arranged the transfer shall be entitled to have the costs of the transfer paid by the person who arranged the transfer. The claim to be taken over shall include the necessary and reasonable costs of transport to the place of burial.
- (2) If an injured person does not die from the consequences of the injury during an inpatient treatment carried out in accordance with the provisions of this Act, the person who arranged the transfer shall be entitled to have the costs of the transfer paid by the person who arranged the transfer. Paragraph 1 sentence 2 shall apply accordingly.
- (3) If an injured person dies as a result of the consequences of the damage, the costs of the funeral shall be borne up to the amount of one seventh of the reference value applicable at the time of death in accordance with § 18 paragraph 1 of Book IV of the Social Security Code. The claim to assumption of the costs of the funeral shall lie with the person who arranged the funeral.
- (4) If a pensionable injured party or a pensionable injured party dies as a result of the consequences of the damage, a funeral allowance of at least EUR 1 958 shall be paid. The costs of the funeral shall first be paid from this sum. If there is a surplus, the spouse, registered partner, children, parents, stepparents, foster parents, grandchildren, grandparents, siblings and sibling children are entitled to receive the allowance if they were living with the deceased at the time of death. In the absence of such entitled persons, the surplus shall not be paid out.
- (5) It shall be irrefutably presumed that death is a consequence of damage when a damaged person dies from a health disorder which is recognised as a consequence of damage.
- (6) If an aggrieved person entitled to a pension or an aggrieved person entitled to a pension dies without the death being a consequence of the damage, the person who arranged the funeral shall be entitled to have the costs of the funeral assumed up to an amount of EUR 982. If the funeral costs were less than 982 Euro, the excess shall be paid as a funeral allowance. Paragraph 4 sentences 3 and 4 shall apply accordingly.
- (7) The funeral allowance shall include one-off benefits provided on the occasion of death under public law for the purpose of reimbursing the costs of the funeral.

Death benefits

Unofficial table of contents

§ 37

- (1) In the event of the death of an injured person, a death grant equal to three times the pension to which he was entitled for the month of death under sections 30 to 33, 34 and 35 shall be paid. However, the nursing allowance shall not exceed level II. Reductions in the remuneration pursuant to sentence 1 which are due to special benefits within the meaning of section 60a(4) and increases in such remuneration which are due to a reduction in income as a result of death shall not be taken into account.
- (2) Entitled to benefits are, in the following order of precedence, the spouse, life partner, children, parents, step-parents, foster parents, grandchildren, grandparents, brothers and sisters and siblings if they lived with the deceased in domestic community at the time of death. If the deceased was not living in the same household as any of these persons, the death grant shall be paid to the person whom the deceased was maintaining, in the order given above.
3. Where there are no beneficiaries within the meaning of paragraph 2, the death grant may be paid to the person who bore the cost of the last illness or of the funeral or who took care of the deceased until his death.

Survivor's pension

Unofficial table of contents

§ 38

1. Where an injured person dies as a result of an injury, the widow, surviving partner, orphans and relatives in the ascending line shall be entitled to a survivor's pension. Death shall always be regarded as the consequence of an injury if an injured person dies of a condition which was recognised as a consequence of an injury with legally binding effect and for which a pension was awarded to him at the time of death.
- (2) The widow or the surviving civil partner shall not be entitled to a claim if the marriage or civil partnership was entered into after the injury and did not last for at least one year, unless the special circumstances of the case do not justify the assumption that the sole or predominant purpose of the marriage or the establishment of the civil partnership was to provide the widow or the surviving civil partner with a pension.

(3) A surviving partner is not entitled to a pension if a widow who was married to the claimant at the time of death is entitled to a widow's pension.

Unofficial table of contents

§ 39

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Unofficial table of contents

§ 40

The widow or surviving partner receives a basic pension of 488 euros per month.

Unofficial table of contents

§ 40a

(1) Widows or surviving civil partners whose income is less than half of the income that the husband or deceased civil partner would have earned without the injury shall receive compensation amounting to 42.5 per cent of the established difference, rounded up to full euros (subsection 2), or, if this is more favourable, compensation in accordance with subsection 4. Compensation shall only be granted if the widow or surviving civil partner fulfils the requirements of section 41(1) first sentence. § Section 41 subsection (1), sentence 2 shall apply mutatis mutandis.

(2) For the purpose of determining the amount of compensation for damage, the gross income earned by the widow or surviving partner, plus the basic pension (§ 40), the nursing care compensation (§ 40b) and the compensation pension (§ 41 or §§ 32 and 33), shall be compared to half of the comparative income determined in accordance with § 30.5 from the basic salary of grade of Federal grade A to which the deceased would probably have been assigned in accordance with his or her living conditions, knowledge and abilities without the damage.

(3) If the deceased was entitled at the time of his death to the basic pension of an injured person with a degree of damage of 100 and to a care allowance at least under step III on account of not only temporary helplessness (§ 35) or to corresponding benefits under previous provisions of the pension law, then, if it is more favourable, one half of the comparative income determined in accordance with § 30.5 from the final basic salary of grade A 14 plus the family allowance under step 1 of the Federal Remuneration Act shall be taken into account, notwithstanding paragraph 2. The same shall apply if the deceased was unable to assert these claims only because he or she had his or her domicile or habitual residence in the territory referred to in Article 3 of the Unification Treaty before 1 January 1991. A period of more than six months shall be deemed to be not merely temporary. Compensation for damage calculated in accordance with the first sentence of this paragraph shall also be paid if the conditions in the first sentence of paragraph 1 are not fulfilled.

(4) The compensation to be paid in accordance with subsection 1, first sentence, last part of the sentence shall amount to 30 per cent of the settlement income pursuant to section 30(5) less the net income of the widow or surviving partner and the basic pension (section 40), the nursing care compensation (section 40b) and the equalisation pension (section 41 or sections 32 and 33). The net income is determined by applying § 30 Para. 8 Sentence 1 accordingly.

5. Compensation for damage shall be calculated in accordance with paragraph 4 only if the application is submitted for the first time after 21 December 2007. The applicability of paragraph 3 shall remain unaffected. Otherwise, the competent authority shall make the last determination of favourability pursuant to subsection (1) sentence 1 on the cut-off date pursuant to sentence 1 and thus determine the future method of calculation.

(6) Section 30(14) shall apply accordingly.

Footnote

§ Paragraph 40a(1): According to the decision formula incompatible with the Basic Law pursuant to BVerfGE of 9 November 2004, 2005 I 1047 - 1 BvR 684/98 -

Unofficial table of contents

§ 40b

(1) The widow or surviving partner of a disabled person who was helpless within the meaning of § 35 subsection 1 shall receive a care allowance if she has cared for the disabled person for more than 10 years during her marriage or civil partnership. Periods of care are deemed to be the calendar months in which the injured person was helpless within the meaning of § 35.1 during the marriage or civil partnership as a result of the injury at least to an extent corresponding to Stage II or the injured person was blind as a result of the injury. Calendar months in which the spouse or civil partner did not provide care free of charge shall not be counted. This also applies to calendar months in which more than only a minor part of the care was provided by third parties, unless this care activity by third parties did not last longer than three months in each case. The total care time to be credited is rounded up to full years.

(2) For each year of the period of care exceeding 10 years, the care allowance shall amount to 0.5 per cent of the amount of the care allowance level applicable at the time of commencement of benefit, according to which the injured person was entitled to the care allowance in each case or which would have corresponded to the extent of his or her helplessness in accordance with § 35 (1). In the event of a change in the level of the care allowance, one twelfth of the amount pursuant to sentence 1 shall be set for each calendar month. The nursing allowance pursuant to sentences 1 and 2 shall be adjusted annually at the percentage specified in § 56.1 sentence 1, insofar as the year 2000 is affected, at the percentage specified in § 56.3; § 15 sentence 2, second half-sentence shall be applied accordingly.

(3) Paragraphs 1 and 2 shall apply mutatis mutandis to the parent within the meaning of section 35(2).

(4) If a care compensation of less than 10 euros per month results, it will be increased to this amount.

(5) From 1 January 1991, in the area referred to in Article 3 of the Unification Treaty, the care allowance under subsections 1 to 3 shall, in derogation of the provision in the third sentence of subsection 2, be calculated, in the area referred to in Article 3 of the Unification Treaty, on the basis of the amount of the care allowance level applicable in that area, according to which the injured person was entitled to the care allowance in each case or which would have corresponded to the extent of his helplessness under section 35(1); the second half of the second sentence of section 15 shall apply mutatis mutandis. As soon as § 56 is applicable in the territory referred to in Article 3 of the Unification Treaty, the first sentence shall no longer be applied.

Unofficial table of contents

§ 41

(1) The compensatory pension is paid to widows or surviving partners who

- a) have not only temporarily lost at least half of their earning capacity through illness or other infirmities, or
- b) have reached the age limit for the large widow's pension or widower's pension in accordance with Book Six of the Social Code, or
- c) provide for at least one child of the deceased within the meaning of Section 33b(2) or for a child of his or her own who receives an orphan's pension under this Act or under laws providing for the corresponding application of this Act, or who received an orphan's pension under one of these laws or under previous pension legislation until the age limit is reached or until he or she is married or forms a civil partnership

A compensatory pension may also be granted if a widow or surviving partner is unable to pursue gainful employment for other compelling reasons. In the case of sentence 1 letter a, § 29 applies accordingly.

(2) The full compensatory pension of the widow or surviving partner is EUR 538 per month.

(3) The full compensatory pension is to be reduced by the amount of income to be credited. This is to be determined in stages, starting from gross income, in accordance with the statutory instrument to be issued in accordance with sentence 4 in conjunction with § 33 (6), so that

1. in the case of income from current employment, an amount of 1.1583 per cent and in the case of other income, an amount of 0.4325 per cent of the assessment amount (§ 33, para. 1, letter a), rounded up to the nearest euro, is exempt (tax-free amount) and
2. in the case of income from Step 10 onwards, the amount up to which each Step extends and the individual intervals between the amounts of imputable income correspond to the corresponding values of the statutory instrument under Section 33(6) from Step 0 onwards.

When income from current employment is combined with other income, the two step numbers determined separately for each income group are added together and the total is reduced by 8 between 1 April 1990 and 30 June 1990, by 6 between 1 July 1990 and 30 June 1991 and by 3 between 1 July 1991 and 30 June 1992, but by no more than the lower of the two step numbers. § 33, paragraphs 2, 3, 5 and 6 shall apply mutatis mutandis.

Footnote

§ Section 41(1), first sentence, letter c: According to the decision formula incompatible with the Basic Law pursuant to BVerfGE of 9 November 2004, 2005 I 1047 - 1 BvR 684/98 -

Unofficial table of contents

§ 42

(1) In the event of divorce, annulment or annulment of marriage or dissolution of the civil partnership, the former spouse or partner of the deceased shall be treated in the same way as a widow or a surviving partner if

the deceased was, at the time of his or her death, dependent on the spouse or partner for maintenance under marriage or family law or for other reasons, or had to pay such maintenance in the year preceding his or her death. A pension is only to be paid as long as the former spouse or partner would have been entitled to maintenance under the marriage or family law provisions or would otherwise have received maintenance payments. If there was no maintenance obligation due to war or military service, this shall not be taken into account. If the marriage has been divorced, annulled or declared null and void in connection with a health disorder of the deceased which was the consequence of an injury within the meaning of § 1, or if the civil partnership has been dissolved for the same reason, the former spouse or civil partner shall be treated in the same way as a widow or a surviving civil partner, even without the requirements of sentence 1.

(2) The same shall apply mutatis mutandis if at the death of the injured party the marriage was dissolved.

Unofficial table of contents

§ 43

The widower receives care like a widow.

Unofficial table of contents

§ 44

(1) In the event of remarriage or the establishment of a civil partnership, the widow or, in the event of marriage or the establishment of a new civil partnership, the surviving civil partner shall receive a lump-sum settlement equal to fifty times the basic monthly pension instead of the entitlement to a pension. The lump-sum settlement is also payable if, at the time of remarriage or the establishment of a new civil partnership, there was no entitlement to a pension due to lack of application.

(2) If the new marriage is dissolved or declared null and void or the new civil partnership is annulled or dissolved, the entitlement to widow's pension shall be revived.

(3) If the marriage is dissolved or annulled within 50 months of remarriage or if the civil partnership is dissolved or annulled during this period, one fiftieth of the severance payment (paragraph 1) shall be credited to the widow's pension for each month until the end of this period.

(4) The widow's pension shall commence with the month in which it is applied for, but at the earliest with the month following the date of dissolution or annulment of the marriage or annulment or dissolution of the civil partnership. In the case of divorce, annulment or annulment of marriage or dissolution of civil partnership, this shall be the date on which the judgment or administrative act has become final.

(5) Pension, annuity or maintenance claims arising from the new marriage or civil partnership shall be offset against the widow's pension (paragraph 2), provided that they are realisable, have not already led to the reduction of other revived benefits under public law and have not been transferred to the funding agency for war victims' benefits. The crediting of a benefit under this Act against a revived benefit that is also based on this Act shall take precedence over any other crediting; this shall also apply if the benefit or the revived benefit is based on a law that declares this law to be applicable mutatis mutandis. If the widow or surviving partner has waived a claim within the meaning of sentence 1 without reasonable cause, the amount that the former spouse or partner would have had to pay without the waiver shall be credited.

(6) If a widow or the surviving civil partner has not received a widow's pension under this Act and if the former spouse or civil partner has died as a result of an injury (§ 1), subsections 2, 4 and 5 shall apply mutatis mutandis if, without remarrying or establishing a new civil partnership, she would be entitled to a pension.

Unofficial table of contents

§ 45

(1) After the death of the injured person, his children shall receive an orphan's pension until they reach the age of 18.

(2) The following shall also be considered children

1.

Stepchildren or children of the life partner whom the deceased had taken into his household

2.

foster children within the meaning of § 2 (1) sentence 1 no. 2 of the Federal Child Benefits Act (Bundeskindergeldgesetz) and

3.

(dropped out)

3. An orphan's pension shall be granted after the age of 18 for an orphan who

a)

is in education or vocational training which predominantly uses his or her labour and is not linked to the payment of remuneration, wages or other benefits of an equivalent amount, at the latest until the age of 27,

b)

is in a transitional period of normally not more than seven calendar months between two periods of training or between a period of training and the completion of statutory military or civilian service, a service equivalent to military or civilian service or voluntary service within the meaning of letter c, but not beyond the age of 27,

c) performs voluntary service within the meaning of Section 32(4), first sentence, point 2(d) of the Income Tax Act, at the latest until the age of 27,

d) as a result of a physical, mental or psychological disability, is unable to support himself/herself at the latest by the age of 27 for as long as this condition lasts, but beyond the age of 27 only if his/her spouse or partner is unable to support him/her.

The actual amount of time spent in school education and vocational training is irrelevant for periods in which the training relationship continues despite illness and it can be expected that the training will be continued. This also applies to the duration of the protection periods under the Maternity Protection Act. For the entitlement to an orphan's pension, it is not detrimental if an orphan who fulfils the requirements of § 1 of the Federal Parental Benefits Act looks after and brings up a child within the time frame of § 15 of the Federal Parental Benefits Act, as long as school or vocational training is interrupted in view of this. If an orphan who was physically or mentally frail at the age of 27 had been in gainful employment after that date, the orphan's pension shall be paid again if and for as long as he or she is again unable to support himself or herself because of the same physical, mental or psychological handicap. The orphan's pension shall also be paid again if, in the case of orphans whose entitlement has ceased due to the use of assets, these assets have been used up to an amount equal to the amount of the settlement amount under § 25f.2. In cases of the first sentence, letter a, the relevant age limit shall be increased in the event of interruption or delay in school education or vocational training due to statutory military service, alternative civilian service or an equivalent service by the time of this service, but not by more than a period corresponding to the duration of the statutory basic military service or alternative civilian service. Completion of a voluntary social or environmental year or voluntary service within the meaning of the first sentence of point (c) shall not constitute equivalent service within the meaning of the seventh sentence. If school education or vocational training is delayed for a reason beyond the control of the orphan, the orphan's pension shall be granted for a longer period corresponding to the period of the proven delay.

4. Acceptance of an orphan as a child shall not affect any entitlement to an orphan's pension which has accrued up to the date of acceptance.

5. Where several orphans' pensions are payable to the same orphan under this Act or under Acts providing for the application of this Act mutatis mutandis, only one pension shall be granted.

Unofficial table of contents

§ 46

The basic monthly pension is

| | |
|------------------|------------|
| for half-orphans | 213 euros, |
| for orphans | 373 euros. |

Unofficial table of contents

§ 47

(1) The full compensatory pension shall be paid monthly

| | |
|------------------|------------|
| for half-orphans | 241 euros, |
| for orphans | 336 euros. |

(2) Section 33 shall apply mutatis mutandis with the exception of paragraph 1 sentence 2 letter b and paragraph 4.

Unofficial table of contents

§ 48

(1) If an aggrieved person entitled to a pension has not died from the consequences of the injury, the widow, the surviving partner and the orphans (§ 45) shall be paid a widow's and orphan's allowance if the aggrieved person was prevented by the consequences of the injury from exercising a corresponding gainful occupation

and as a result the widow's pension derived from the marriage with the aggrieved person is reduced in total by at least the following percentage

| Amount of the total derived widow's pension as a percentage of one twelfth of the assessment amount referred to in § 33.1 letter a | Reduction of at least |
|--|-----------------------|
| 36 and more | fifteen percent |
| 34 to less than 36 | fourteen per cent |
| 32 to below 34 | thirteen per cent |
| 30 to below 32 | at 12 per cent |
| 28 to under 30 | eleventh percentile |
| below 28 | 10%. |

The amount of the widow's pension and the amount of the reduction must be determined taking into account the pension insurance regulations on the crediting of the widow's or surviving partner's own income. The percentage of the reduction applicable according to the table must be based on the widow's pension which would have been payable to the widow without the reduction within the meaning of sentence 1 and without the crediting of the widow's own income. If no widow's pension is paid, a notional widow's pension is to be calculated and the extent of the reduction is then determined. The requirements of sentence 1 shall be deemed to have been met if at the time of his death the aggrieved person was entitled to the basic pension of an aggrieved person with a degree of damage of 100 or was entitled to a care allowance on account of not only temporary helplessness; § 40a.3 sentence 3 shall apply. The requirements of the first sentence shall also be deemed to have been met if the injured person was entitled for at least five years to compensation for occupational injury on account of a loss of income within the meaning of § 30.4 or to compensation for occupational injury under § 30.6.

(2) The widow's and orphan's allowance shall be paid in the amount of two-thirds, in the case of widows, surviving life partners and orphans of injured persons with entitlement to the basic pension of an injured person with a degree of injury consequences of 100 or to a care allowance in the full amount of the corresponding widow's or orphan's pension (§§ 40, 40a, 41, 46 and 47). If the monthly gross income of the surviving dependants of injured persons who at the time of death were entitled to a pension according to a degree of the damage consequences of 30 to 90,

for the widow or surviving partner one twelfth,

for half-orphaned children one twenty-fourth,

for an orphan one-eighteenth

of the assessment amount referred to in Section 33(1)(a), the aid to be granted shall be reduced by the excess amount; if no payment amount is calculated, the entitlement to pension shall lapse.

(3) In the event of remarriage or establishment of a civil partnership of the widow or in the event of marriage or establishment of a new civil partnership of the surviving civil partner, section 44 shall apply accordingly. Fifty times the monthly amount of a widow's basic pension shall be granted as a lump-sum settlement if widow's allowance has been drawn in the amount of the full pension, otherwise two thirds of this amount shall be granted.

(4) Paragraphs 1 to 3 shall apply to widowers.

5. The rules on orphan's pensions shall apply in the event of discontinuation of the orphan's allowance.

6. Paragraphs 1 to 5 shall apply mutatis mutandis if the injured party was unable to assert the claims solely because he had his domicile or habitual residence in the territory referred to in Article 3 of the Unification Treaty before 1 January 1991.

Unofficial table of contents

§ 48a

(1) Sections 42(1), 43 and 48(4) in the version in force from 1 January 1986 shall apply only if the injured party died after 31 December 1985.

(2) Section 42(1), Section 43 and Section 48(4) in the version in force until 31 December 1985 shall continue to apply with regard to the conditions of entitlement to a survivor's pension if the injured person died before 1 January 1986.

Unofficial table of contents

§ 49

(1) If the injured person died as a result of an injury, the parents receive a parental pension, but at the earliest from the month in which the injured person would have reached the age of 18.

(2) The following shall be treated equally with parents

1. adoptive parents, if they adopted the deceased as a child before the injury
2. stepparents and foster parents, if they provided the deceased with free maintenance before the injury,
3. grandparents, if the deceased was or would have been supporting them.

Unofficial table of contents

§ 50

A parental pension is paid to anyone who is fully disabled or incapacitated for work within the meaning of Book Six of the Social Security Code, or who for other compelling reasons cannot reasonably be expected to work, or who has reached the age of 60.

Unofficial table of contents

§ 51

(1) The full monthly parental pension is

| | |
|------------------------|------------|
| with a pair of parents | 660 euros, |
| with one parent | 460 euros. |

2. Where several children have died as a result of an injury, the amounts referred to in paragraph 1 shall increase monthly for each additional child

| | |
|-----------------------------|------------|
| with a couple of parents at | 121 euros, |
| to one parent for | 91 euros. |

The increase is also granted for children who

- a) died as a result of an injury within the meaning of laws which provide for the corresponding application of this Act, or
- b) have disappeared as a result of an injury within the meaning of this law or of laws which provide for the corresponding application of this law.

3. Where the only child or the last child, or where all or at least three children have died as a result of an injury, the amounts referred to in paragraph 1 shall be increased, where more favourable, on a monthly basis

| | |
|-----------------------------|------------|
| with a couple of parents at | 374 euros, |
| to one parent for | 272 euros. |

Paragraph 2 sentence 2 applies accordingly.

(4) Section 41(3) shall apply mutatis mutandis with the proviso that the income to be credited shall always be determined as if the income did not form part of the income from current employment (Section 33(2)); it shall be credited against the increase under subsections (2) or (3) only to the extent that it has not already led to the discontinuation of the parental pension.

(5) If only one partner of a married couple or civil partnership is entitled to a pension, the parental pension for one of the parents shall be reduced by the credited income of both partners; however, the pension may not exceed the full pension for one parent, including the increases referred to in paragraphs 2 and 3.

6. Where pensions are less than EUR 3 per month, they shall be increased to that amount.

7. Stepchildren and foster children shall also be considered children within the meaning of paragraphs 2 and 3.

Whether the child who dies as a result of an injury is the only child or the last child depends on the circumstances at the time of the loss of the child.

(8) If a couple or one parent is eligible for more than one parental pension under this Act or under laws providing for the application of this Act, only the more favourable pension shall be granted.

(9) Where, in the case of recipients of a parental pension for one parent couple, a spouse or partner dies, the surviving spouse or partner must continue to receive the parental pension for one parent couple due for the month of death instead of the pension for one parent for the following three months, where this is more favourable. Reductions in the pension for one parent couple in accordance with the first sentence above, which are due to special benefits within the meaning of § 60a para. 4, as well as increases in these benefits which are due to a reduction in income as a result of death, shall not be taken into account.

Unofficial table of contents

§ 52

1. Where a person whose survivors would be entitled to a pension has disappeared, such pension shall be granted before the declaration of death if the death of the person who disappeared is highly probable. If it transpires that the person who disappeared is still alive, benefits in accordance with the first sentence above shall be deemed to have been granted as well as to fulfil his legal maintenance obligation; he shall be obliged to pay compensation in accordance with the provisions on management without authority from the time when he failed to fulfil his legal maintenance obligations for reasons for which he is responsible. Further claims remain unaffected.
2. A child shall not be entitled to a pension if the mother's husband has been missing during the period of conception.

Funeral allowance in the event of death of a survivor

Unofficial table of contents

§ 53

In the event of the death of survivors entitled to benefits, a funeral allowance shall be granted in accordance with the provisions of § 36. On the death of a widow or surviving partner who leaves behind at least one child entitled to an orphan's pension or orphan's allowance, it amounts to EUR 1 958, in all other cases EUR 982.

Unofficial table of contents

§ Section 53a Contributions to long-term care insurance

- (1) Beneficiaries Damaged persons and survivors entitled to a pension who are entitled to curative or sickness treatment and who are insured with a private insurance company or with a nursing care insurance fund in accordance with § 20 Para. 3 of Book Eleven of the Social Code shall be reimbursed the contribution to nursing care insurance.
- (2) The amount to be refunded under subsection 1 shall not exceed the amount resulting from the equalisation pension, the spouse's supplement and the compensation for occupational injuries in the case of the injured party, and from all pension benefits under this Act in the case of survivors, based on the contribution rate pursuant to section 55(1) of Book XI of the Social Code.
- (3) Section 61(6) and (7) of Book Eleven of the Social Security Code shall apply mutatis mutandis.

concurrence of claims

Unofficial table of contents

§ 54

- (1) If an injury within the meaning of § 1 is at the same time an accident within the meaning of the statutory accident insurance, the only entitlement shall be under this Act. This shall not apply if the damaging event occurred before 1 January 1942 or after 8 May 1945.
- (2) Persons who have suffered injury within the meaning of section 1 as a result of being subjected to forced labour in the period from 8 May 1945 to 5 October 1955 in the acceding territory, as well as their survivors, shall have no claim under this Act. They are entitled to benefits from the statutory accident insurance; the activity in accordance with sentence 1 is deemed to be insured activity. Sentences 1 and 2 shall not apply to persons who took up their habitual residence before 19 May 1990 in the area of application of this Act at that time.

Unofficial table of contents

§ 55

(1) Meetings held pursuant to this Act

a)

a disabled person's pension with a widow's or orphan's pension, the more favourable compensatory pension shall be granted in addition to the basic pensions,

b)

an occupational injury compensation with a compensation for damage, the occupational injury compensation is to be taken into account as income when determining the compensation for damage,

c)

a disabled person's or widow's pension with entitlement to a parental pension, the equalisation pension, the spouse supplement, the compensation for occupational injury and the compensation for damage must be taken into account as income when determining the parental pension.

If the widows' compensatory pension is to be granted in accordance with sentence 1 letter a, the compensatory pension only counts towards the current gross income with the amount which would have been payable as a compensatory pension for damages without the concurrence. This shall also apply if benefits under sentences 1 and 2 coincide with corresponding benefits under other laws which provide for the corresponding application of this law.

2. Paragraph 1 shall apply mutatis mutandis to widows' or orphans' benefits.

Adjustment of pensions

Unofficial table of contents

§ 56

(1) The benefits for the blind (section 14), the lump-sum compensation for wear and tear of clothes and linen (section 15), the basic pensions and the allowance for the severely disabled (section 31(1)), the lump-sum allowance for the severely disabled (section 31(1)) and the lump-sum allowance for the severely disabled (section 31(1)). 1 and 4, §§ 40 and 46), the equalisation and parental pensions (§§ 32, 41, 47 and 51), the spouse supplement (§ 33a), the care allowance (§ 35) and the funeral allowance (§§ 36, 53) are each adjusted according to the percentage by which the pensions of the statutory pension insurance scheme change. At the same time, the assessment amount (§ 33(1)) shall be adjusted in accordance with the percentage by which the gross wages and salaries per employee (§ 68(2) in conjunction with § 228b of Book Six of the Social Security Code), which are decisive for the pension adjustment, change.

(2) The Federal Government shall amend by statutory order, with the consent of the Bundesrat, the amounts specified in §§ 14, 15, 31(1) and (4), 32, 33(1), 33a, 35, 36, 40, 41, 46, 47, 51 and 53 in accordance with subsection 1, in each case at the same time as the pensions of the statutory pension insurance scheme are adjusted. In § 15, the lump-sum amounts specified there shall be determined by multiplying the lowest and the highest valuation figure by the multiplier. The amounts resulting from sentences 1 and 2 shall be rounded down to full euros up to 0.49 euros and rounded up to full euros from 0.50 euros. Notwithstanding the above, the multiplier in § 15 shall be rounded to 3 decimal places after the decimal point.

(3) and (4) (omitted)

Unofficial table of contents

§§ Sections 57 to 59 (deleted)

Start, change and end of supply

Unofficial table of contents

§ 60

(1) The provision of care for disabled persons shall begin with the month in which their conditions are fulfilled, at the earliest with the month of application. Care shall also be provided for periods before the application is made if the application is made within one year of the occurrence of the injury. If the injured person was prevented from filing the application through no fault of his own, this period shall be extended by the period of prevention. For periods prior to the month of release from war captivity or from foreign custody, no care is available.

(2) Subs. 1 sentence 1 shall apply mutatis mutandis if a higher benefit is applied for; however, if the injured person was prevented from making the application through no fault of his own, the higher benefit shall begin to accrue from the month from which the prevention is proven if the application is made within six months of the removal of the cause of the impediment. However, due to a reduction in income or an increase in expenses caused by the injury, the higher benefit shall commence, irrespective of the month of application, from the month in which the conditions are fulfilled if the application is submitted within six months of the occurrence of

the change or of receipt of notification of the change. The date of receipt shall be proved by the applicant. If a claim for compensation for occupational injury (§ 30 subsection (3) or (6)) arises as a result of an increase in the settlement income within the meaning of § 30 subsection (5), the second sentence shall apply accordingly if the application is filed within six months.

(3) If the higher benefit is determined ex officio, it shall begin to run from the month in which the facts giving rise to the claim became known to a department of the war victims' benefit scheme. If the higher benefit is due to a change in marital status, the number of children to be taken into account or the attainment of a certain age limit, it shall begin with the month in which the event occurred; this shall also apply if a higher compensation for occupational injury (section 30 subs. 3 or 6) is based on a change in comparative income within the meaning of section 30 subs. 5.

(4) Any reduction or withdrawal of benefits shall take effect at the end of the month in which the conditions for granting them cease to apply. A reduction or withdrawal of benefits due to improvement in the state of health shall take effect at the end of the month following the notification of the decision making the change. Where the reduction or withdrawal of benefits, the amount of which is influenced by income, is due to an increase in that income, the reduction or withdrawal shall take effect from the month in which the income increased.

Unofficial table of contents

§ 60a

(1) The equalisation pension (§§ 32, 33, 41 and 47) shall be definitively determined in the case of income that is fixed monthly. In all other cases, the equalisation pension shall be determined provisionally in accordance with the income situation known at the time of notification and shall be finally determined subsequently.

(2) Monthly fixed income is income for which a certain monthly amount is determined by law, collective agreement, employment or other contract.

3. Where the compensatory pension provisionally paid is higher than that finally determined, only the amount exceeding EUR 3 per month shall be regarded as overpaid.

(4) Special benefits, such as Christmas bonuses, 13th month's salary and success bonuses, shall be taken into account as income in the months in which they are paid.

(5) Paragraphs 1 to 4 shall apply mutatis mutandis to the determination of all current pension benefits, the amount of which is influenced by income, unless otherwise provided by this Act. Paragraph 3 shall be applied in the case of overlapping of several provisionally paid benefits in such a way that the total amounts are compared.

Unofficial table of contents

§ 61

Section 60 shall apply mutatis mutandis to the survivor's pension subject to the following provision:

a) If the first application is submitted before the end of a year after death, the care begins at the earliest in the month following the month of death.

b) In the case of widows, compensation for occupational injury pursuant to § 30 para. 3 or 6 shall be replaced by compensation for damage pursuant to § 40a.

c) For orphans, the death of the father or mother is equivalent to a change in marital status.

Unofficial table of contents

§ 62

(1) A benefit influenced by income shall not be redetermined as long as the gross income has increased by less than 5 Euros per month in total since the last determination of this benefit or the comparative income within the meaning of § 30 para. 5 has decreased by less than 5 Euros per month in total, unless a new determination of one of these benefits becomes necessary for other reasons.

(2) The extent of the consequences of the damage suffered by aggrieved persons entitled to a pension may not be reduced before two years have elapsed since the notification of the notice of assessment. If a substantial and lasting improvement in the injury-induced state of health has been achieved by curative treatment, the lower level may be fixed earlier, but not before one year has elapsed after the end of such treatment.

(3) In the case of beneficiaries who have reached the age of 55 years, the degree of damage consequences due to an improvement in the damage-related state of health or an amendment to the Ordinance pursuant to Section 30(17) as a result of new medical and scientific findings shall not be set lower if it has remained unchanged in the last ten years since it was established under this Act. The same applies to the severely disabled allowance if its level has remained unchanged in the last ten years since its determination. Changes for reasons other than medical reasons shall not be taken into account in the calculation of the period.

(4) If the joint household which a severely disabled person or a severely disabled person has maintained with the persons named in § 30 subsection (12), first sentence, is dissolved, the degree of the consequences of the

injury in accordance with § 30 subsection (2) and the compensation for occupational injury in accordance with § 30 subsection (16) shall be re-assessed ex officio only if he or she could reasonably be expected to take up another occupation without the consequences of the injury or if, after discontinuation of the compensation for occupational injury in accordance with § 30 subsection (16), he or she is entitled to compensation for occupational injury in accordance with § 30 subsections (3) to (11).

Unofficial table of contents

§ 63

(dropped out)

-Special provisions for beneficiaries outside the scope of this Act

Unofficial table of contents

§ 64

Beneficiaries with residence or habitual abode abroad shall receive care as entitled persons within the scope of this Act, unless §§ 64a to 64f provide otherwise. Benefits may be wholly or partly refused or withdrawn with the consent of the Federal Ministry of Labour and Social Affairs if

1. the purpose of the benefit cannot be achieved, in particular the foreign state credits pensions under this Act in whole or in part against its own pensions, or
2. there is an important reason in the person of the beneficiary for which he is responsible, in particular an act of the beneficiary directed against the Federal Republic of Germany.

Unofficial table of contents

§ 64a

- (1) Injured persons shall themselves carry out the curative treatment due to the recognised consequences of an injury, insofar as it is not granted within the scope of this Act. They shall be reimbursed for the proven medically necessary and reasonable costs up to twice the amount of the costs of corresponding curative treatment within the scope of this Act; in specially justified cases, the amount in excess thereof may also be reimbursed in part or in full. The costs of medicines, dressings and remedies may be reimbursed in full. Medical treatment due to the consequences of damage may also be provided within the scope of this Act after prior approval by the competent administrative authority if medical or cost reasons make this necessary.
- (2) Sickness benefit and assistance under section 17 are excluded. Benefits for medical treatment and sickness pursuant to § 10 (2), (4), (5) and (6), first sentence, and § 11 (4) shall be reimbursed in the amount of the benefits customary in the country of residence; paragraph 6 shall remain unaffected. If it is not possible to determine the costs of medical treatment in the country of residence, a benefit may be paid up to the simple amount of the usual benefits which the beneficiary would receive in Germany.
3. For curative actions, costs shall be reimbursed and grants shall be made only with the prior agreement of the competent managing authority. Benefits for physical disability exercises outside the scope of this Act shall be excluded.
- (4) Claims which the beneficiary has against institutions of statutory or private insurance or similar institutions shall be set off against the benefits of curative and medical treatment under this Act, insofar as they are to be realised.
- (5) Section 24 shall apply mutatis mutandis to the reimbursement of travel expenses and compensation for lost earnings.
- (6) The competent administrative authority may, instead of providing benefits in accordance with paragraphs 1 to 3, also take over contributions to an insurance scheme for entitled persons in the State of residence where there is particular hardship, or provide benefits in cooperation with a foreign sickness insurance scheme with which it has concluded a contract.

Unofficial table of contents

§ 64b

(1) Beneficiaries under section 64 shall receive in case of indigence

1. Sickness assistance according to § 26b,
2. Care allowance under Section 26c(1),

3.

supplementary assistance for subsistence in accordance with § 27a.

The same shall apply to the relatives living in the same household as entitled persons in accordance with the first sentence above if the damaged person predominantly makes up the living of the family member, as well as to widows, widowers, surviving life partners, surviving female life partners and orphans.

(2) Benefits shall be paid only to the extent that the injured person or survivors do not receive any other benefits for the same purpose.

(3) The nature, form and extent of the benefits and the use of income and assets shall be determined by the special circumstances of the State of residence, taking into account the necessary local living requirements. The institutions responsible for the care of war victims shall decide on the provision of benefits according to their best judgment.

(4) The certificate of an officially appointed physician or of the medical officer of the competent German mission abroad may be consulted when deciding on the provision of sickness assistance under section 26b and when determining the degree of care required for the provision of care allowance under section 26c(1). If such doctors are not available, the certificate of other local doctors may be consulted.

(5) Insofar as in individual cases a particular hardship results from the application of the provision of subsection (1) first sentence above, further benefits specified in sections 26 to 27d may be provided with the consent of the competent Federal Ministry.

Unofficial table of contents

§ 64c

(1) When determining the pension, foreign income shall be taken into account in the same way as comparable domestic income.

(2) Section 30 subsections 3 to 15 shall apply to the determination of the compensation for occupational injury: If the injured party receives predominantly foreign income, his actual income from current or previous employment (first sentence of Section 30 subsection 4) shall be replaced by the average income of the basic salary of the grades of Federal grade A to which the injured party would be assigned in Germany. If the condition in the second sentence is not satisfied and the aggrieved person has transferred his residence or habitual abode abroad after 30 June 1984, the average income of the basic salary of grade of Federal pay scale A to which the aggrieved person would have been assigned before the transfer shall take the place of his previously earned income. In the cases of sentences 2 and 3, § 30.11 sentence 2 shall apply accordingly.

(3) Section 40a shall apply to the determination of the compensation for damages.

(4) Sections 60 to 62 and 66 shall apply unless special features of the care of war victims outside the Federal territory require a deviation. A deviation may be made only in agreement with the Federal Ministry of Labour and Social Affairs; it may also determine, in agreement with the competent supreme Land authority, how the pensions shall be paid.

(5) Capital compensation shall not be granted.

(6) In the event of the death of an injured party, funeral allowance shall be paid up to the amount specified in the second alternative in § 36(1), second sentence, and in the event of the death of survivors up to the amount specified in § 53, second sentence.

Unofficial table of contents

§ 64d

1. The payment of pensions shall be governed by the provisions of foreign exchange legislation. In the case of income from states with fluctuating monetary values and the associated substantial exchange rate changes, the procedure shall be that set out in § 60a (1) sentence 2. In these cases, provided that the exchange rate changes remain within a constant range during the calendar year, the average exchange rate for that year after the end of the previous calendar year shall be used as the basis for determining the income-related benefits. In cases where the rates are subject to major fluctuations during the calendar year, the average rate may be determined for a longer period of time.

(2) If the person entitled to benefits under this Act cannot be provided with the benefits to which he/she is entitled, substitute benefits may be granted with the consent of the Federal Ministry of Labour and Social Affairs. There shall be no entitlement to retrospective payment of the difference to full benefits.

Unofficial table of contents

§ Section 64e (omitted)

Unofficial table of contents

§ 64f

(1) The relevant procedural provisions shall apply unless special features of the care of war victims outside the Federal territory require a simplified regulation. A simplified regulation requires approval by the Federal

Ministry of Labour and Social Affairs. This applies in particular to the justification of decisions and the involvement of third parties in the proceedings.

(2) If there is a need, a special representative may be appointed, without prejudice to §§ 13 to 15 of Book of Tenth of the Social Code, if he and the applicant or pensioner agree. The consent of the applicant or pensioner may be assumed if there are special reasons. § Section 15(3) of Book Tenth of the Social Code shall apply mutatis mutandis.

(3) Section 60 shall apply subject to the proviso that in the cases of subsection (4) a reduction or withdrawal of benefit shall not occur until the end of the third month following the end of the month in which the notice or communication was announced.

(4) The institutions responsible for the care of war victims and the welfare of war victims cooperate directly with the German services abroad.

suspension of pension rights

Unofficial table of contents

§ 65

1. Entitlement to a pension shall be suspended where both claims are based on the same cause

1.

in the amount of the remuneration from the statutory accident insurance,

2.

in the amount of the difference between a pension under general civil servant law provisions and the civil servant's accident insurance.

Child allowances for injury pensions from the statutory accident insurance are not taken into account with the amount of child allowance or equivalent benefits that would have to be paid by other service providers without the child allowance.

(2) Entitlement to the basic pension (§ 31) shall be suspended in the amount of the benefits granted in addition to remuneration under the civil service accident insurance scheme if both claims are based on the same cause.

(3) The claim to medical treatment (§ 10 para. 1) and to the lump sum as compensation for wear and tear of clothes and linen (§ 15) shall be suspended insofar as

1.

for the same cause there are claims to corresponding benefits from the statutory accident insurance or under the civil service regulations on accident care;

2.

there are entitlements to corresponding benefits in accordance with the provisions on medical care for members of the Federal Police and for soldiers (Section 69a, Section 70(2) of the Federal Salary Act and Section 1(1) of the Military Salary Pay Act) and in accordance with the provisions of Land law for police officers of the Länder.

4. In the territory referred to in Article 3 of the Unification Treaty, other rights based on the same cause shall also give rise to suspension of entitlement to a pension. This shall apply in the case of the war-disabled person's pension, the nursing allowance, the allowance for the blind and the special nursing allowance, as well as in the case of the survivor's pension derived from a war-disabled person's pension under the Pension Adjustment Act of 28 June 1990 (Federal Law Gazette I No. 38 p. 495) to the amount paid by the pension insurance institution solely on the basis of the war-disability.

5. The suspension shall take effect from the date on which its conditions are fulfilled. Payment of pensions shall be discontinued or reduced at the end of the month in which the suspension takes effect and resumed or increased at the beginning of the month in which the suspension ends.

Payment

Unofficial table of contents

§ 66

1. Pensions shall be awarded in monthly instalments, rounded up to the nearest euro and paid monthly in advance. Sickness benefit and allowance under section 17 shall be awarded on a daily basis and paid at the end of each week.

(2) All cash benefits shall be transferred free of charge to an account of the beneficiary or a third party living in the same household as the beneficiary, as specified by the beneficiary. If requested by the Authorized Recipient, they shall be paid to him free of charge by means of a payment order issued by Deutsche Postbank AG at his place of residence or habitual abode. In special cases, they may be paid in cash at the competent

administrative office. § Section 118(3) to (4a) of Book Six of the Social Security Code shall apply mutatis mutandis.

Unofficial table of contents

§ Section 66a (omitted)

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Unofficial table of contents

§ Section 66b (omitted)

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Unofficial table of contents

§ Section 66c (omitted)

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Unofficial table of contents

§ 66d Conversion to the euro in the area referred to in Article 3 of the Unification Treaty

The provisions set out in Annex I, Chapter VIII, Section K, Section III, Nos. 1 to 21 of the Unification Treaty of 31 August 1990 in conjunction with Article 1 of the Act of 23 September 1990 (Federal Law Gazette 1990 II pp. 885, 1067) shall be applied as from 1 January 2002, provided that the words "Deutsche Mark" are replaced by the word "euro".

Unofficial table of contents

§§ Sections 67 to 70a (deleted)

Accommodation care

Unofficial table of contents

§ 71

If the beneficiary (§ 49 of Book One of the Social Security Code) is accommodated in order to serve a custodial sentence or a detention order for the purpose of reformation and security, income which is reduced by the accommodation shall be taken as a basis for the calculation of the pension in the amount received up to the accommodation; at the time of the adjustment of the pension (§ 56) it shall be increased by the percentage by which the current pension benefits are adjusted. If the execution of a custodial sentence or a detention order involving deprivation of liberty for the purpose of rectification and preservation of property directly follows detention pending trial, the first sentence shall be applied with the proviso that income reduced by the detention pending trial shall be taken as a basis in the amount received up to the beginning of the detention pending trial.

Unofficial table of contents

§ 71a

(dropped out)

Transmission by law

Unofficial table of contents

§ 71b

Where the competent administrative authority has paid pension benefits, sections 104 and 106 to 114 of Book 10 of the Social Security Code shall apply if the person entitled to a pension has claims against a social insurance institution or a public-law fund, and section 115 of Book 10 of the Social Security Code shall apply if the person entitled to a pension has claims against a public-law employer, provided that the claims are due to

the payer of the provision for war victims. This shall also apply if the cost-bearer of the war victims' benefit scheme has to bear these benefits as well.

Capital compensation

Unofficial table of contents

§ 72

(1) Damaged persons receiving a pension may be granted a capital settlement for the acquisition or economic strengthening of their own property.

(2) A capital settlement may also be granted

1.

for the acquisition or economic strengthening of a residential property in accordance with the German Condominium Act,

2.

to finance owner-occupied residential property within the meaning of Section 17(2) of the Housing Promotion Act, if the early transfer of ownership to the claimant is ensured,

3.

to acquire a permanent right of residence in accordance with the German Condominium Act, if the person entitled to permanent residence is economically equivalent to a condominium owner and the continued existence of the permanent right of residence is agreed in the event of a compulsory auction in accordance with § 39 of the German Condominium Act,

4.

to finance their own baupar contract with a bauparkasse or the Beamtenheimstättenwerk for the purposes of Para. 1 and Nos. 1 to 3.

(3) The leasehold is equal to the ownership of a property, the residential property is equal to the residential building lease.

Unofficial table of contents

§ 73

(1) A lump-sum settlement may only be granted if

1.

the injured party is under 55 years of age at the time of the application,

2.

the pension entitlement is recognised,

3.

it is not to be expected that the pension will cease to exist within the severance period,

4.

for a useful use of the money is guaranteed.

(2) A lump-sum settlement may exceptionally be granted after the age of 55, but not if the application is submitted after the age of 65.

Unofficial table of contents

§ 74

(1) The lump-sum settlement may comprise an amount up to the amount of the basic pension (§ 31 para. 1 sentence 1). If a reduction in the reduction in earning capacity is to be expected within the compensation period, the capital compensation can only be based on the pension that corresponds to the expected degree of the damage consequences.

(2) The severance payment shall be limited to the basic pension to which it is entitled for a period of ten years. Nine times the annual amount on which the lump-sum settlement is based shall be paid as the settlement sum. The entitlement to the remuneration replaced by the lump-sum settlement shall expire for a period of ten years at the end of the month following the month in which the lump-sum settlement was paid.

3. By way of derogation from paragraph 2, the severance grant shall be limited to the basic pension due for a period of five years if the application is submitted after the age of 60. Fifty-seven times the monthly amount on which the lump-sum settlement is based shall be paid as the lump-sum settlement. The entitlement to the remuneration which is replaced by the lump-sum settlement expires for a period of five years at the end of the month following the month in which the lump-sum settlement was paid.

Unofficial table of contents

§ 75

(1) The intended use of the capital shall be ensured by the form of payment and, as a rule, by measures to prevent the immediate sale of the property, heritable building right, residential property, residential building right or right of permanent residence. To this end, it may be ordered in particular that the sale and encumbrance of the real estate, heritable building right, residential property or residential building right acquired or economically strengthened with the capital settlement within a period of up to five years shall only be permitted with the approval of the competent administrative authority. This order becomes effective upon entry in the land register. The entry is made at the request of the competent administrative authority.

(2) Furthermore, the compensation may be made conditional upon the registration of a security mortgage to secure the claim for repayment of the capital compensation pursuant to §§ 76 and 77.

Unofficial table of contents

§ 76

(1) The compensation shall be repaid on demand to the extent that it has not been used as intended within a period set by the competent administrative authority.

(2) The severance payment may be reclaimed if the intended purpose has been frustrated within the severance payment period.

(3) If there are important reasons, the person who has been compensated may, on application, be granted the benefits which have lapsed as a result of the lump-sum settlement in return for repayment of the lump-sum settlement before the end of the settlement period.

Unofficial table of contents

§ 77

(1) The obligation to repay (Section 76) shall be limited in the case of the severance payment pursuant to Section 74(2) after expiry of the

first year on

91 percent of the settlement amount,

second year on

82% of the settlement,

third year on

72 percent of the settlement,

fourth year on

62 percent of the settlement,

fifth year to

52% of the settlement,

sixth year on

42% of the settlement,

seventh year on

32 percent of the settlement,

eight year on

22 percent of the settlement amount,

ninth year to

11 percent of the settlement.

In the case of the severance payment pursuant to Section 74 (3), the obligation to repay is limited after the end of the

first year on

81% of the settlement,

second year on

62 percent of the settlement,
third year on
42% of the settlement,
fourth year on
21% of the settlement.

The periods count from the first of the second month following the payment of the severance pay until the end of the month in which the severance pay has been repaid.

(2) If the amount of compensation is not repaid at the end of a year, the percentages for full years as well as the percentages for the months of the year or part thereof which have elapsed up to the date of repayment shall be taken into account. The same applies if the settlement sum is repaid before the end of the first year.

(3) After repayment of the severance payment, the remuneration on which the severance payment is based shall resurrect on the first day of the month following repayment.

Unofficial table of contents

§ 78

Within the period provided for in § 76 par. 1, an amount of money, securities and claims equal to the amount paid out as compensation is not subject to attachment.

Unofficial table of contents

§ 78a

(1) A lump-sum settlement may also be granted to widows entitled to a pension or widow's allowance (§ 48) and spouses of missing persons (§ 52 para. 1). The provisions of §§ 72 to 80 shall apply accordingly.

2. Where a widow who has been compensated remarries, the amount of the compensation shall be repaid after the remarriage to the extent that it exceeds the total amount of pension which had lapsed until the remarriage. The severance payment pursuant to § 44 shall be credited against the amount to be repaid. If it transpires that the person who has disappeared is still alive, the compensation shall be repaid to the extent that it exceeds the total of the lapsed pensions which would have been payable under this Act and the Act on Maintenance Assistance for Dependants of Prisoners of War until the return of the missing person.

(3) Paragraphs 1 and 2 shall apply mutatis mutandis to surviving civil partners.

Unofficial table of contents

§ 79

(dropped out)

Unofficial table of contents

§ 80

Lump-sum settlements granted up to 9 May 1945 shall not have the effect of reducing pensions awarded under this Act.

Compensation, refund

Unofficial table of contents

§ 81

If persons fulfil the requirements of § 1 or corresponding provisions of other laws which provide for the corresponding application of this Act, they shall have claims against the Federal Government on account of an injury only on the basis of this Act; however, the provisions of the Accident Insurance Fund for Civil Servants, the Act on the Extended Admission of Claims for Damages in the Event of Occupational Accidents as amended in the Federal Law Gazette Part III, Section No. 2030-2-19, and § 82 of the Civil Servants' Pensions Act shall apply.

Unofficial table of contents

§ 81a

(1) Insofar as the beneficiaries are entitled by law to compensation from third parties for the damage caused to them by the injury, this claim shall pass to the Federal Government to the extent of the obligation to provide benefits established by this Act. This shall not apply to claims arising from pregnancy and childbirth. The transfer of the claim may not be asserted to the detriment of the person entitled.

(2) Paragraph 1 shall apply mutatis mutandis insofar as claims under this Act are concerned which are not based on injury.

3. The sickness insurance fund shall notify the administrative authority of facts showing that a third party has caused the damage. It shall, on request, provide the administrative authority with information on the amount of medical treatment it has provided, with the exception of out-patient medical treatment and the supply of medicines and bandages.

(4) Section 116(8) of Book Ten of the Social Security Code shall apply mutatis mutandis.

Unofficial table of contents

§ 81b

If an administrative authority or another institution providing care for war victims has granted benefits and it subsequently turns out that another public-law body which is not a benefit provider within the meaning of § 12 of Book One of the Social Code would have been obliged to provide benefits instead, the body obliged to provide benefits shall reimburse the expenses to the extent that they were incurred by it under the legal provisions applicable to it.

Unofficial table of contents

§ 81c

If benefits are provided under this Act, the amount of which is influenced by the extent of a claim against a third party who is not a benefit provider, the administrative authority may transfer the claim to be taken into account up to the amount of its benefit by written notification to the payer of the war victims' benefit.

Expansion of the circle of persons

Unofficial table of contents

§ 82

(1) This Act shall apply mutatis mutandis to

1.

persons who have been awarded benefits for injury to life and limb

a)

on the basis of § 18 of the Law on Compensation for Personal Injury Caused by War (Kriegspersonenschadengesetz) in the version promulgated on 22 December 1927 (RGBl. I p. 515, 533)

or

b)

on the basis of § 1 No. 2 of the Law on Compensation for Personal Injury Caused by the Occupation of German Reich Territory (Besatzungspersonenschadengesetz) in the version published on 12 April 1927 (RGBl. I p. 103)

2.

Germans within the meaning of Article 116 of the Basic Law who fought in Spain on the Republican side in the period from 18 July 1936 to 31 March 1939 and suffered damage to their health as a result of an accident or exposure to explosive ordnance, as well as their survivors

(2) Care under this Act may also be granted to displaced persons within the meaning of Section 1 of the Federal Act on Expellees who are Germans or German nationals if they have suffered injury within the meaning of Section 1(1) after 8 May 1945 in the performance of their statutory military service in accordance with the provisions in force in the area of expulsion; this shall not apply if they have a claim to care against the country which demanded the service obligation for the same reason and are able to realise this claim. Sentence 1 also applies to late repatriates within the meaning of § 4 of the Federal Expellees Act.

-exclusion of the offsetting of pensions against remuneration

Unofficial table of contents

§ 83

When calculating the remuneration of employees who receive pensions under this Act, such remuneration may not be taken into account to the detriment of the employee; in particular, it is not permitted to set off the pension in whole or in part against the remuneration. This shall also apply to benefits which are paid to the former employee or his surviving dependants with regard to a previous employment in order to satisfy a legal claim or which are paid voluntarily.

Transitional provisions

Unofficial table of contents

§ 84

(1) Widow's and orphan's benefits granted before 1 July 1985 shall not be affected by the amendment to § 48 which entered into force on 1 July 1985.

(2) If, in the month of June 1988, entitled persons with residence or habitual abode abroad have a claim to compensation for occupational injury or damage based on foreign settlement income, section 64c in the version applicable up to 30 June 1988 shall apply for as long as this is more favourable. The current income is to be compared with the foreign comparative income applicable for the month of July 1988; this comparative income will be changed in the following years on 1 July of each year to the same extent as the amount of the assessment (§ 33.1).

Unofficial table of contents

§ 84a

The provisions of Annex I, Chapter VIII, Subject Area K, Section III, point 1(a) in conjunction with Article 3 of the Unification Treaty of 31 August 1990 (Federal Law Gazette 1990 II pp. 885, 1067) shall no longer apply from 1 July 2011.

Unofficial table of contents

§ 85

Insofar as a decision has been made in accordance with the provisions of the law on pensions in force before 1 October 1950 on the question of the causal connection between a health impairment and an injury within the meaning of § 1, the decision shall also be legally binding under this Act. The first sentence shall not apply to a decision denying the causal connection which was taken after 8 May 1945 in the territory referred to in Article 3 of the Unification Treaty.

Unofficial table of contents

§ Section 86 Maintenance allowance for relatives of prisoners of war and political prisoners

Persons who on 20 December 2007 are entitled to maintenance assistance under the Act on Maintenance Assistance for Dependants of Prisoners of War as amended by the Announcement of 18 March 1964 (Federal Law Gazette I p. 218) or under section 8 of the Prisoner of War Assistance Act shall receive the same benefits as survivors under this Act.

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§ 87

(1) If the compensation for occupational injury was applied for before 1 July 2011, the amount of the respective settlement income shall be determined as of 30 June 2011 and then adjusted annually by the percentage specified in section 56(1) first sentence. Section 15 sentence 3 shall be applied accordingly. Sentences 1 and 2 shall also apply to applications for adjustment of the compensation for occupational injury under section 30(16) in the version applicable until 30 June 2011.

(2) If compensation for damages was applied for before 1 July 2011, the amount of the respective settlement income shall be determined as of 30 June 2011 in accordance with section 30(5) and then adjusted annually by the percentage specified in the first sentence of section 56(1). Section 15, third sentence, shall apply *mutatis mutandis*. If a higher comparative income than the comparative income resulting from the first sentence above was determined for the deceased prior to 1 July 2011, this shall replace the comparative income determined in accordance with section 30(5).

(3) For benefits under Section 64a, Section 10(7) shall apply with the proviso that benefits shall be excluded if, after 2 February 2011, beneficiaries or those persons for whom sickness treatment is sought have cancelled a

statutory or comparable insurance policy customary in the country of residence or have been exempted from compulsory insurance upon application.

(4) The provisions of Annex I, Chapter VIII, Subject Area K, Section III, No. 1 letter a of the Unification Treaty of 31 August 1990 (Federal Law Gazette 1990 II pp. 885, 1067) shall not apply when calculating the benefits under paragraphs 1 and 2.

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§ Section 88 Transitional provision to prevent a payment shortfall

Beneficiaries,

1.

who are living in an inpatient facility on 31 December 2019 and are receiving integration assistance benefits in accordance with section 27d(1) no. 3,

2.

who are entitled to benefits under Section 27a, and

3.

who will receive a current pension from the statutory pension insurance in January 2020,

notwithstanding section 25d, the income received in January 2020 shall not be used for supplementary subsistence assistance under section 27a. A current pension from the statutory pension insurance scheme is equivalent to pensions and pension-like permanent benefits from other social benefit institutions, provided that these are not due until the end of the current month.

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§ 88a

(1) Supplementary subsistence assistance under section 27a for approval periods beginning in the period from 1 March 2020 to 30 June 2020 shall be provided in accordance with subsections 2 to 4.

(2) Notwithstanding sections 25c and 25f, assets shall not be taken into account for a period of six months. Sentence 1 shall not apply if the property is substantial; it shall be presumed that no substantial property exists if the applicant declares this in the application.

(3) Notwithstanding § 27a of this Act in conjunction with § 35 of Book 12 of the Social Security Code, the actual expenditure on accommodation and heating shall be deemed reasonable for a period of six months. After expiry of the period under sentence 1, section 27a of this Act in conjunction with section 35(2) sentence 2 of Book Twelfth Book of the Social Code shall apply with the proviso that the period under sentence 1 shall not count towards the period under section 35(2) sentence 2 of Book Twelfth Book of the Social Code. Sentence 1 shall not apply in those cases in which the reasonable and not the actual expenses were recognised as requirements in the previous approval period.

(4) If cash benefits of supplementary subsistence assistance are to be granted in advance in accordance with § 42 of Book One of the Social Security Code, a final decision on the monthly entitlement to benefits shall only be taken at the request of the person entitled to benefits.

(5) Notwithstanding section 60 subsection (1) of this Act in conjunction with section 54 subsection (1) first sentence of the Ordinance on War Victims' Welfare, no new application shall be required for the continued granting of benefits under section 27a whose authorisation period ends in the period from 31 March 2020 to before 31 August 2020. In this respect, the most recently submitted application shall continue to apply once for a further approval period. The benefits shall continue to be granted for twelve months, assuming that the circumstances remain unchanged. Any changes in the actual circumstances which become known to the implementing institution before the decision on granting the benefits is issued must be taken into account. § Section 60 of Book One of the Social Code and Sections 45, 48 and 50 of Book Ten of the Social Code shall remain unaffected.

(6) The Federal Government is authorised to extend the period referred to in paragraph 1 by statutory instrument without the consent of the Bundesrat until 31 December 2020 at the latest.

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§ 88b

(1) Notwithstanding Section 27a sentence 2 of this Act in conjunction with Section 34(6) sentence 1 of Book 12 of the German Social Security Code (Sozialgesetzbuch), it shall not be necessary for lunch to be communal in the period from 1 March 2020 to 31 July 2020. Expenses within the meaning of Section 27a sentence 2 of this Act in conjunction with Section 34 para. 6 sentence 1 of Book 12 of the German Social Security Code include payment obligations incurred by the beneficiaries even if they are calculated at a different amount due to the pandemic or on the basis of different tax routes. This also includes the costs of delivery. § Section 27a sentence 2 of this Act in conjunction with Section 34 (6) sentence 2 of Book Twelfth Book of the Social Security Code shall not apply.

(2) If an additional requirement has been recognised for February 2020 in accordance with section 27a sentence 2 of this Act in conjunction with section 30(8) and section 42b(2) of Book 12 of the Social Security Code, it shall continue to be recognised for the period from 1 May 2020 to 31 August 2020 in unchanged

amounts. Notwithstanding section 27a sentence 2 of this Act in conjunction with section 30(8) and section 42b(2) sentences 1 and 2 of Book Twelfth Book of the Social Code, the communal nature of lunch and the receipt of meals in the period from 1 May 2020 to 31 August 2020 shall not be a matter of the service provider's responsibility.

(3) The Federal Government is authorised to extend the periods referred to in paragraphs 1 and 2, first sentence, by statutory order without the consent of the Bundesrat until 31 December 2020 at the latest.

Hardness compensation

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§ 89

(1) If in individual cases the provisions of this Act result in particular hardship, compensation may be granted with the consent of the Federal Ministry of Labour and Social Affairs.

(2) The Federal Ministry of Labour and Social Affairs may generally approve the granting of hardship compensation.

3. Payments relating to periods prior to the month in which the decision becomes binding on the managing authority shall not normally be eligible if they predominantly resulted in the satisfaction of reimbursement claims by other service providers.

Final provisions

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§ 90

(1) If an amendment to the Federal Pensions Act, an ordinance on the basis of the Federal Pensions Act or a legal provision to which the Federal Pensions Act refers results in a change to pensions, sickness benefits and transitional allowances that are granted on an ongoing basis, these shall be redetermined ex officio. If only the non-income-based benefits under §§ 14, 15, 31(1) and (4), § 35(1) and §§ 40 and 46 are to be adjusted (§ 56), a formal decision may be dispensed with.

(2) In all other respects, new claims arising from such a change of law shall only be determined upon application. If the request is made within one year of the entry into force of the change of law, payment shall commence upon the entry into force of the corresponding change of law, but not earlier than the year, month or day in or on which the conditions are met. It shall begin at the same time if the new entitlements can only be established on the basis of a statutory order yet to be issued and the application is made within one year of the statutory order being issued.

(3) Paragraphs 1 and 2 shall apply mutatis mutandis where pensions are granted as optional benefits or by way of hardship compensation.

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§ 91

The Federal Ministry of Labour and Social Affairs is authorised to publish the wording of the Act and the implementing ordinances issued in respect of this Act in the version valid at the time with a new date and in a new sequence of paragraphs. In doing so, it may eliminate inconsistencies in the wording.

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§ Section 92 (omitted)