

Law on Equalisation of Burdens (Lastenausgleichsgesetz - LAG)

Unofficial table of contents

LAG

Date of issue: 14.08.1952

Full quote:

"Burden Equalisation Act in the version promulgated on 2 June 1993 (Federal Law Gazette I p. 845; 1995 I p. 248), as last amended by Article 211 of the Ordinance of 19 June 2020 (Federal Law Gazette I p. 1328)."

Stand: Amended by Decree of 2.6.1993 I 845; 1995 I 248
last amended by Art. 211 V v. 19.6.2020 I 1328

You will find more details on the stand indication in the menu under Notes

Footnote

(+++ Text reference validity as of: 1.1.1988 +++)
(+++ Requirements due to EinigVtr cf. LAG Annex EV +++)

Unofficial table of contents

Table of contents

Part One: Principles and Definitions

First section: Principles	§§ 1 - 7
Second section: Definitions	§§ 8 - 15a

Part Two: Compensatory levies (not printed)	§§ 16 - 227
---	-------------

Section Eight:	§ 227a
----------------	--------

Part Three: Compensation

First section: General provisions	§§ 228 - 234
Second section: Determination of damage	
First title: Principles	§§ 235 - 237
Second title: Damage calculation	§§ 238 - 242

Third section:	Main compensation	§§ 243 - 252
Fourth section:	Inclusion loan	
First title:	(omitted)	§§ 253 - 257
Second title:	Inclusion loans to individual aggrieved parties (construction loans)	§ 258
Third title:	(omitted)	§§ 259, 260
Fifth section:	War damage pension	
First title:	General provisions	§§ 261 - 266
Second title:	Maintenance aid	§§ 267 - 278a
Third title:	Compensation pension	§§ 279 - 285a
Fourth title:	Common rules	§§ 286 - 292
Fifth title:	Rules for the payment of the war injury pension after 31 December 2005	§§ 292a - 292c
Section Six:	Household contents compensation	§§ 293 - 297
Seventh section:	Housing assistance	§§ 298 - 300
Section Eight:	Hardening services	§§ 301 - 301b
Ninth section:	Other promotional measures	§§ 302, 303
Tenth section:	Currency compensation for savings of displaced persons	§ 304
Eleventh section:	Organisation and responsibility ...	§§ 305 - 317
Twelfth Section:	Management of funds for burden sharing	§§ 318 - 324
Thirteenth Section:	Procedure	
First title:	General provisions	§§ 325 - 334a
Second title:	Procedure for main compensation, war damage pension and household contents compensation	§§ 335 - 344
Third title:	Procedure for the fulfilment of claims for main compensation and household allowance as well as for integration loans, hardship benefits and on the basis of other support measures ...	§§ 345, 346
Fourth title:	Housing assistance procedures ...	§§ 347, 348
Fourteenth Section:	Recovery in the event of compensation for damage	§§ 349, 349a
Fifteenth	Other and reconciliation provisions	§§ 350 -

Unofficial table of contents**Preamble**

Recognising the right of the sections of the population particularly affected by the war and its consequences to a compensation of burdens which takes into account the principles of social justice and the possibilities of the national economy and to the assistance necessary for the integration of the injured parties, and subject to the express reservation that the granting and acceptance of benefits does not imply a waiver of the assertion of claims and the restitution of the property left behind by the displaced persons, and with the further express reservation that the granting and acceptance of benefits for damage within the meaning of the Act on the Preservation and Determination of Evidence shall neither affect the property rights of the aggrieved party nor contain a waiver of the restoration of unrestricted property rights or of compensation, the Bundestag, with the consent of the Bundesrat, has passed the following law:

**Part One Principles
and Definitions****First Section Principles**Unofficial table of contents**1 Objective of the equalisation of burdens**

Compensation for damage and losses resulting from expulsions and destruction during the war and post-war period or from damage in the area of damage within the meaning of section 3(1) of the Act on the Preservation and Assessment of Evidence (Beweissicherungs- und Feststellungsgesetz), as well as the alleviation of hardships which have occurred as a result of the reorganisation of the monetary system in the area of application of the Basic Law including Berlin (West), shall be determined in accordance with this Act; the necessary funds shall be raised in accordance with this Act (equalisation of burdens).

Unofficial table of contents**2 Implementation of the equalisation of burdens**

In order to implement the equalisation of burdens, equalisation levies are charged and equalisation benefits are granted.

Unofficial table of contents**§ 3 Compensatory levies**

The following are levied as equalisation levies:

1. a one-off property levy (Vermögensabgabe) - §§ 16 to 90 -,
2. a special levy on profits from debts for which mortgages have been created (mortgage profits levy) - §§ 91 to 160 -,
3. a special levy on debtor profits of commercial enterprises (credit profit levy) - §§ 161 to 197 -.

Unofficial table of contents**§ 4 Compensation**

Compensatory benefits are granted:

1. Main compensation - §§ 243 to 252 -,

2. Inclusion loans - §§ 253 to 260 - ,
3. War damage pension - §§ 261 to 292c - ,
4. Compensation for household effects - §§ 293 to 297 - ,
5. Housing assistance - §§ 298 to 300 - ,
6. Hardship benefits - §§ 301, 301a - ,
7. Benefits due to other support measures - §§ 302, 303 - ,
8. Compensation in currency compensation for savings of displaced persons - § 304 - ,
9. Compensation under the Old Savers Act,
10. Loans granted on the basis of section 46(2) of the Federal Expellees Act in the years 1953 to 1957 for the increased promotion of refugee settlement.

Unofficial table of contents

§ 5 Budgetary execution

The rights and obligations of the former special fund shall be transferred to the Federation. Revenues under this Act and other values hitherto specially allocated to the equalisation fund by law or otherwise shall be transferred to the federal budget.

Unofficial table of contents

§ 6 Contribution of the Länder to burden sharing

The Länder, with the exception of the Länder of Brandenburg, Mecklenburg-Western Pomerania, Thuringia, Saxony and Saxony-Anhalt, shall pay the Federation an annual subsidy amounting to one third of the annual expenditure on maintenance assistance, but not more than 30 million euros. The Länder shall pay the subsidy in proportion to their tax revenues in the respective preceding accounting year.

Unofficial table of contents

§ 7 Credits

Interest and redemption payments on loans taken out by the Equalisation Fund in accordance with § 7 of this Act in the version applicable until 1 January 2005 shall be borne by the Federation.

Section Two Definitions

Unofficial table of contents

§ 8 Designation of regulations

(1) In this Act the following are designated

1. the Act to Mitigate Urgent Social Emergencies (Emergency Assistance Act) of 8 August 1949 (Law Gazette of the Administration of the United Economic Territory p. 205) in the version of the amending acts of 8 August 1950 (Federal Law Gazette p. 355) and of 29 March 1951 (Federal Law Gazette I p. 224) as Emergency Assistance Act,
2. the Implementing Ordinance to the First Part of the Emergency Assistance Act of 8 August 1949 (Law Gazette of the Administration of the United Economic Area p. 214) as the First Implementing Ordinance to the First Part of the Emergency Assistance Act,
- 3.

the Second Implementing Ordinance to the First Part of the Emergency Assistance Act of 29 December 1950 (Federal Law Gazette 1951 I p. 51) as the Second Implementing Ordinance to the First Part of the Emergency Assistance Act,

4. the Implementing Ordinance to the Second and Third Parts of the Emergency Assistance Act of 8 August 1949 (Law Gazette of the Administration of the United Economic Territory p. 225) in the version of the Ordinance Supplementing the Implementing Ordinance to the Second and Third Parts of the Emergency Assistance Act of 22 December 1950 (Federal Law Gazette 1951 I p. 51) as the Emergency Assistance Implementing Ordinance,
5. the Law on the Security of Claims for Equalisation of Burdens of 2 September 1948 (Law and Ordinance Gazette of the Economic Council of the United Economic Territory p. 87) in the version of the amending law of 10 August 1949 (Law Gazette of the Administration of the United Economic Territory p. 232) as the Mortgage Security Law,
6. the Ordinance on the Implementation of the Law on Securing Claims for the Equalisation of Burdens of 7 September 1948 (Law and Ordinance Gazette of the Economic Council of the United Economic Area p. 88) as the First Implementing Ordinance to the Mortgage Security Act,
7. the Second Regulation for the Implementation of the Law on the Securing of Claims for the Equalisation of Burdens of 8 August 1949 (Law Gazette of the Administration of the United Economic Area p. 233) as the Second Regulation for the Implementation of the Mortgage Security Law,
8. the Act to Promote the Integration of Expellees into Agriculture (Refugee Settlement Act) of 10 August 1949 (Law Gazette of the Administration of the United Economic Area p. 231) as the Refugee Settlement Act,
9. the Third Law on the Reorganisation of the Monetary System (Conversion Law) of 20 June 1948 (Law and Ordinance Gazette of the Economic Council of the United Economic Area 1948 Supplement 5 p. 13), taking into account the amending laws enacted thereto, as the Conversion Law,
10. the Valuation Law of 16 October 1934 (Reich Law Gazette I p. 1035), taking into account the amendments made by the Introductory Law to the Real Tax Laws of 1 December 1936 (Reich Law Gazette I p. 961) and the Law on the Valuation of Property for the Calendar Years 1949 to 1951 (1949 Main Assessment) of 16 January 1952 (Federal Law Gazette I p. 22) as the Valuation Law,
11. the Law on the Opening Balance Sheet in Deutschmarks and the Restatement of Capital (D-Mark Balance Sheet Law) of 21 August 1949 (Law Gazette of the Administration of the United Economic Territory p. 279) in the version of the Law Amending and Supplementing the D-Mark Balance Sheet Law (D-Mark Balance Sheet Supplement Law) of 28 December 1950 (Federal Law Gazette p. 811) as the D-Mark Balance Sheet Law,
12. the Act Amending and Supplementing the D-Mark Balance Sheet Act (D-Mark Balance Sheet Supplement Act) of 28 December 1950 (Federal Law Gazette p. 811) as the D-Mark Balance Sheet Supplement Act,
13. the First Housing Act in the version of the announcement of 25 August 1953 (Federal Law Gazette I p. 1047) and the Second Housing Act of 27 June 1956 (Federal Law Gazette I p. 523) with the scope of application resulting from its § 50a as well as the Second Housing Act (Housing Construction and Family Home Act) of 27 June 1956 (Federal Law Gazette I p. 523) with the scope of application resulting from its § 126 as the respective applicable housing law,
14. the Federal Budget Code of 19 August 1969 (Federal Law Gazette I p. 1284) as the Federal Budget Code,
15. the Accounting Regulations for the German Reich of 3 July 1929 (Reichsministerialblatt p. 439) as accounting regulations,
16. the Act on the Assessment of Expulsion Damages and War Property Damages (Assessment Act) of 21 April 1952 (Federal Law Gazette I p. 237) in the version established by the present Act as the Assessment Act,

17. the Act to Mitigate Hardships of the Currency Reform (Old Savers Act) of 14 July 1953 (Federal Law Gazette I p. 495) as the Old Savers Act,
18. the Act on the Affairs of Displaced Persons and Refugees of 19 May 1953 (Federal Law Gazette I p. 201) as the Federal Displaced Persons Act,
19. the Act on the Deferral of Emergency Assistance Levy and on Inflation Surcharges for Maintenance Assistance of 4 December 1951 (Federal Law Gazette I p. 934) as the Emergency Assistance Adjustment Act,
20. the Act on the Provisions for Victims of War (Federal Provisions Act) of 20 December 1950 (Federal Law Gazette, p. 791), taking into account the amending acts passed thereto, as the Federal Provisions Act,
21. the Law on a Currency Compensation for Savings of Expellees of 27 March 1952 (Federal Law Gazette I p. 213), taking into account the amending laws enacted thereto, as the Currency Compensation Law,
22. the Federal Evacuees Act of 14 July 1953 (Federal Law Gazette I p. 586) as the Federal Evacuees Act,
23. the Law on the Preservation of Evidence and Determination of Property Damages in the Soviet Occupation Zone of Germany and in the Soviet Sector of Berlin (Law on the Preservation of Evidence and Determination of Property Damages - BFG) of 22 May 1965 (Federal Law Gazette I p. 425), taking into account the amending laws enacted thereto, as the Law on the Preservation of Evidence and Determination of Property Damages,
24. the Law on Aid Measures for Germans from the Soviet Occupation Zone of Germany and the Soviet Occupied Sector of Berlin of 15 July 1965 (Federal Law Gazette I p. 612), taking into account the amending laws enacted thereto, as the Refugee Aid Law,
25. the Act on Compensation for Damages Resulting from Reparation, Restitution, Destruction and Reimbursement (Reparation Damages Act - RepG) of 12 February 1969 (Federal Law Gazette I p. 105) as the Reparation Damages Act.

(2) Insofar as regulations have been issued in the Länder of the French occupation zone and in the Bavarian district of Lindau as well as in Berlin (West) which correspond to the regulations referred to in paragraph 1, the reference to the regulations referred to in paragraph 1 shall also include the corresponding regulations in the Länder of the French occupation zone and in the Bavarian district of Lindau as well as in Berlin (West).

Unofficial table of contents

§ 9 Seat in Berlin (West)

A registered office in Berlin (West) within the meaning of this Act shall be deemed to be a registered office in Berlin. However, an enterprise which has its registered office in Berlin but its management in Germany outside the area of application of the Basic Law including Berlin (West) shall not be deemed to have its registered office in Berlin (West) within the meaning of this Act.

Unofficial table of contents

§ 10 German Mark and Euro

(1) The German mark within the meaning of this Act is the Deutsche Mark of the Deutsche Bundesbank.

(2) Euro within the meaning of the Act is the currency introduced in the Federal Republic of Germany pursuant to Article 2 of Council Regulation (EC) No. 974/98 of 3 May 1998 (OJ EC No. L 139 p. 1).

Unofficial table of contents

§ 11 Displaced person

(1) A displaced person is a person who, as a German national or a German ethnic group, had his or her residence in the German eastern territories currently under foreign administration or in the territories outside the borders of the German Reich according to the territorial status of 31 December 1937 and who lost this residence in connection with the events of the Second World War as a result of expulsion, in particular through

expulsion or flight. In the case of multiple residence, the residence which was decisive for the personal living conditions of the person concerned must have been lost. In particular, the domicile at which the family members lived shall be regarded as the determining domicile within the meaning of sentence 2.

(2) A displaced person shall also be a person who, as a German national or a German ethnic group

1. left the territories mentioned in paragraph 1 after 30 January 1933 and took up residence outside the German Reich because National Socialist violence was perpetrated against him or threatened him for reasons of political opposition to National Socialism or for reasons of race, faith or ideology,
2. has been resettled from non-German territories on the basis of intergovernmental treaties concluded during the Second World War or during the same period on the basis of measures taken by German authorities from territories occupied by the German Wehrmacht (resettlers),
3. after completion of the general expulsion measures before 1 July 1990 or thereafter by way of admission in accordance with the provisions of Title I of Section III of the Federal Expellees Act, has left or is leaving the German Eastern territories currently under foreign administration, Gdansk, Estonia, Latvia, Lithuania, the Soviet Union, Poland, Czechoslovakia, Hungary, Romania, Bulgaria, Yugoslavia, Albania or China, unless he or she, without having been expelled from these territories and having returned to them by 31 March 1952, has established a residence in these territories after 8 May 1945 (Aussiedler). The following shall apply to persons who have been expelled from these territories and have not returned there by 31 March 1952,
4. without having had a place of residence, has permanently pursued his trade or profession in the territories referred to in paragraph 1 and has had to give up this activity as a result of expulsion,
5. had lost his residence in the territories mentioned in paragraph 1 in accordance with section 10 of the Civil Code by marriage, but had retained his permanent residence there and had to give it up as a result of expulsion,
6. did not have a domicile in the areas mentioned in paragraph 1 as the child of a wife covered by number 5 in accordance with § 11 of the Civil Code, but had a permanent residence and had to give this up as a result of expulsion.

(3) A displaced person shall also be deemed to be a person who, without being a German national or a German ethnic group himself, has lost his residence as the spouse of a displaced person or, in the cases referred to in paragraph 2, No. 5, has lost his permanent residence as the spouse of a German national or a German ethnic group in the territories referred to in paragraph 1.

(4) Any person who, as a result of the effects of war, has taken up residence in the territories referred to in subsection 1 shall, however, be deemed to be a displaced person only if it is evident from the circumstances that he intended to settle permanently in these territories even after the war.

Unofficial table of contents

§ 12 Damage caused by displacement

(1) Expulsion damage within the meaning of this Act is, under the conditions of subsection 2, damage suffered by an expellee in connection with the expulsion measures directed against persons of German nationality or German ethnicity in the German eastern territories currently under foreign administration or in the territories outside the borders of the German Reich according to the territorial status on 31 December 1937

1. in assets belonging to agricultural and forestry assets, real property or business assets within the meaning of the Valuation Act,
2. in the following assets, insofar as they do not fall under number 1:
 - a) on objects required for the exercise of the profession or for scientific research,
 - b) of household effects,
 - c) of Reichsmark savings deposits,
 - d) in pecuniary claims under private law other than Reichsmark savings deposits, provided their valuation was permissible under § 4, § 5 (1) and § 8 of the Valuation Act,
 - e)

in shares in corporations as well as in business assets in cooperatives,

f)
of trade licences within the meaning of the Valuation Act,

g)
in literary and artistic copyrights, in industrial property rights and unprotected inventions as well as in licences in such rights and inventions,

3.
as a loss of living space,

4.
as a loss of professional or other livelihood.

(2) Damage under subsection (1) is only displacement damage if

1.
in the cases of paragraph 1 no. 1 and no. 2 letters a, b and f, the economic property was located in the expellee's expulsion area;

2.
in the cases of paragraph 1 no. 2 letters c and d, the debtor and the creditor had the residence or the registered office (in the case of financial institutions: the head office or branch office) in the same expulsion area or the real property in which a claim was secured in rem was located in the creditor's expulsion area;

3.
in the cases of paragraph 1 no. 2 letter e, both the company or the cooperative and the shareholder had their registered office or place of residence in the same expulsion area;

4.
in the cases of subsection 1 no. 2 letter g, the copyrights, industrial property rights, inventions and licences have been exploited in the expellee's expulsion area after the removal;

5.
in the cases of paragraph 1 nos. 3 and 4, the displaced person had the place of residence or the occupational or other means of livelihood in his/her expulsion area.

The expulsion area within the meaning of the first sentence shall be the territory of the state from which the expellee was expelled; the entirety of the territories referred to in paragraph 1 which on 1 January 1914 belonged to the German Reich or the Austro-Hungarian Monarchy or at a later date to Poland, Estonia, Latvia or Lithuania shall be deemed to be a single expulsion area. By means of a legal ordinance, it may be determined that territories of other states between which special relations existed, in particular due to their geographical location, economic interdependence or historical development, shall also be considered as a single expulsion area.

(3) Losses to ships that were entered in a ship register in the expulsion area (paragraph 2 sentence 2) shall be deemed to have occurred in that area.

(4) Expulsion damage shall also include war-related property damage (section 13) incurred by an expellee in the expulsion area (subsection 2, sentence 2) prior to expulsion.

(5) In the case of a person who is deemed to be displaced on account of political persecution (section 11, subsection 2, no. 1), only damage incurred in connection with displacement measures (subsection 1) or equivalent to such damage in accordance with subsection 4 shall be deemed to be displacement damage.

(6) In the case of a resettled person (section 11, subsection 2, no. 2), the loss of property allocated to him/her as compensation for the property left behind in the country of origin shall not be deemed to be displacement damage.

(6a) Expulsion damage shall also be damage suffered by a resettled person (section 11(2)(3)) before 1 January 1992 in connection with the resettlement.

(7) Damage caused to the property of a German national or German ethnic group member who died in the expulsion area after the commencement of the general expulsion measures in connection with the expulsion measures or as war-related material damage shall be deemed to be

1.
insofar as it had already occurred at the time of death, as displacement damage of the deceased,

2.
otherwise, in accordance with the shares of the inheritance, as expulsion damage of those heirs who were expelled from the deceased's expulsion area after the death of the deceased.

The prerequisite is that the deceased had his permanent residence in the expulsion area since the beginning of the general expulsion measures or returned there after his expulsion until 31 March 1952. In the case of deaths before 1 April 1952, it shall be presumed that the damage was incurred by the deceased, insofar as the deceased did not exercise actual power of disposal over his or her property until his or her death.

(8) Expulsion damage shall also include damage suffered by a German national or a German ethnic group member in the uniform expulsion area referred to in the second half of the second sentence of subsection (2) outside the German eastern territories currently under foreign administration in connection with the expulsion measures or as war-related material damage, provided that he/she moved his/her place of residence from this

area to the territory of the German Reich (territorial status on 31 December 1937) after 31 December 1937 and before the beginning of the general expulsion measures.

(9) A deposit of money with a financial institution with its registered office in the expulsion area (paragraph 2 no. 2) shall also be deemed to be a deposit of money with a main or branch office of a financial institution that was located in the area of a municipality bisected by the Oder-Neisse line.

(10) A share in a company or cooperative with its registered office in the expulsion area (subsection 2, no. 3) shall also be deemed to be a share in a corporation or in a commercial and industrial cooperative which had its registered office in the territory of the Reich according to the territorial status on 31 December 1937 west of the Oder-Neisse line, but whose management and all of its permanent establishments were located in the expulsion area.

(11) The displacement damage shall be deemed to have occurred

1.

in the case of expellees, refugees and resettlers, at the time when they left the German eastern territories currently under foreign administration or the territory of the state from which they were expelled,

2.

in the cases of paragraph 7 no. 1, at the time of death,

3.

in the cases of paragraph 8, of section 11, paragraph 2, nos. 1 and 2, as well as in the case of persons who could not return to their place of residence in the expulsion area due to expulsion measures, on 8 May 1945; in the case of persons who died before 8 May 1945, this date shall be replaced by the date of death, if at that time the return to the expulsion area was no longer possible due to expulsion measures.

(12) If economic goods other than household effects are left behind after 31 March 1952 in a resettlement area (section 11 subs. 2 No. 3) in the power of disposal of persons entitled to inherit, not displacement damage to these economic goods but damage to an entitlement to benefits shall be deemed to have occurred which are usually agreed upon in the transfer of property by way of anticipated succession in favour of the transferor; if displacement damage occurs to such economic goods in the person of the transferee or his heirs, these benefits shall be deemed to be a liability.

(13) If displacement damage, Eastern damage or damage within the meaning of section 2(1)(1) and (2)(a) and (c) to (g) occurred to an asset within the meaning of subsection (1)(1) and (2)(a) and (c) to (g), the following shall be taken into account as displacement damage in the case of a subsequent acquirer of that asset or of his or her heirs or further heirs, insofar as it is not an exchange

1.

a purchase price actually paid, not consisting in the assumption of liabilities, as damage to a pecuniary claim under private law,

2.

the increase in value of the acquired asset resulting from the expenditure of own funds as damage to the asset.

Unofficial table of contents

§ 13 War property damage

(1) War property damage within the meaning of this Act shall be damage directly caused by acts of war in the period from 26 August 1939 to 31 July 1945.

1.

in assets belonging to agricultural and forestry assets, real property or business assets within the meaning of the Valuation Act,

2.

in the following assets, insofar as they do not fall under number 1:

a)

on objects required for the exercise of the profession or for scientific research,

b)

of household effects,

3.

as a loss of living space,

4.

as a loss of professional or other livelihood.

(2) Acts of war within the meaning of paragraph 1 are

1.

the action of weapons or other means of warfare or military measures directly related thereto,

2. the damage, removal or looting of property in connection with warlike events in the territories directly attacked, directly threatened or occupied by the enemy,
3. the deprivation of possession of a ship by enemy action and its self-sinking if this has taken place in order to escape enemy boarding.

(3) War property damage shall also include damage caused by damage to, destruction or removal of property due to official measures taken in connection with the events of war.

Unofficial table of contents

§ 14 Eastern damage

(1) Damage to the East within the meaning of this Act is damage that has arisen in the German eastern territories currently under foreign administration in connection with the events of the Second World War as a result of the confiscation of property or as material war damage (section 13) to economic goods of the type specified in section 12, paragraph 1, no. 1, no. 2 letters a to f and no. 4, provided that the damage is not expulsion damage. Damage to the East shall be deemed to be damage caused by the fact that, in the case of deaths occurring before 1 January 1969 in the German Eastern territories under foreign administration, the heirs are denied the right of inheritance to economic goods of the kind referred to in sentence 1 which were not taken away from the deceased or are denied the right of inheritance in this respect. In the cases of sentence 2, however, there is no damage insofar as the inheritance share has been transferred to a co-heir on the basis of subsequent legal declarations; if the transferred economic goods are taken away from the co-heir or his or her heirs, there is damage in their person. In the case of damage of the kind described in section 12 subs. 1 No. 2 letters c and d, the debtor, and in the case of damage of the kind described in section 12 subs. 1 No. 2 letter e, the corporation or the commercial and industrial cooperative must have had its domicile or registered office (in the case of financial institutions: the head office or branch office) in the German Eastern territories currently under foreign administration when the general expulsion measures began; in the case of claims secured in rem, section 12 subs. 2 No. 2, in the case of deposits with a financial institution § 12 par. 9 and in the case of shares in a company or cooperative § 12 par. 10 shall apply mutatis mutandis. Section 12 (12) and (13) shall apply mutatis mutandis.

(2) Losses to ships that were entered in a ship register in the eastern territories shall be deemed to have occurred in the eastern territories.

(3) The Eastern loss shall be deemed to have occurred on 8 May 1945, in the cases of paragraph 1 sentence 2 as at the time of the death of the deceased.

Unofficial table of contents

§ 15 Savings damages

(1) A saver's loss is the reduction of the nominal amount of savings deposits which has occurred because the savings deposits were converted to German marks at a ratio of 10 to 1 or at a less favourable ratio during the reorganisation of the monetary system in the area of application of the Basic Law including Berlin (West) or were not converted to German marks in accordance with § 14 of the Conversion Act.

(2) Savings investments within the meaning of paragraph 1 are

1. Savings deposits within the meaning of § 22 of the Banking Act of 25 September 1939 (Reichsgesetzblatt I p. 1955), including postal savings deposits, unless the savings deposits were not established by crediting cash deposits until after the introduction of the Deutsche Mark, and including building society savings,
2. Pfandbriefe, annuity bonds, municipal bonds and other bonds issued by basic credit institutions, municipal credit institutions, ship lending banks and redemption institutions, irrespective of whether, in the individual case, registration in a debt register has taken the place of the issue of a bond,
3. Debt securities and interest-bearing treasury bonds of the Reich and the Länder, the Reichsbahn and the Reichspost, the municipalities and the municipal associations, including debt register claims and claims to preferential pensions,
4. Industrial and similar debt securities,
5. Claims from life insurance contracts,
6. claims under private law secured by the creation of real estate liens, insofar as these are not claims from current account.

Cash deposits for which a notice period or investment period had been agreed shall be treated in the same way as the savings deposits referred to in No. 1 if deposit books or corresponding documents had been issued for them in which entries on deposits and withdrawals could only be made by the financial institution.
(3) The discontinuation of the payment of Reich allowances to small pensioners as well as the discontinuation of pension payments granted from Reich funds to compensate for liquidation damages and damages caused by violence suffered during the First World War shall be treated as equivalent to a savings loss.

(4) By statutory order, other financial investments may be treated as equivalent to savings investments within the meaning of subsection (2), provided that they served the purpose of capital investment or provision.

Unofficial table of contents

§ 15a Zone damage

(1) A zonal loss within the meaning of this Act is a pecuniary loss that has occurred in the area of loss (section 3(1) of the Act on the Preservation and Establishment of Evidence)

1. as damage within the meaning of § 3 para. 1 no. 1 of the Act on the Preservation and Establishment of Evidence,
2. as damage that could be taken into account in accordance with the provisions of the Reparation Damages Act if the territorial restrictions of § 12 of the Reparation Damages Act were not opposed to this,
3. as war property damage within the meaning of § 13, which could be determined in accordance with the provisions of the Feststellungsgesetz if it had occurred within the scope of this Act,
4. as damage suffered by a persecuted person as a result of deprivation due to measures of National Socialist tyranny.

(2) Damage must have occurred

1. in assets belonging to agricultural and forestry assets, real property or business assets within the meaning of the Valuation Act,
2. in the following assets, insofar as they do not fall under number 1:
 - a) to objects required for the exercise of the profession or for scientific research, as well as to own products equivalent thereto pursuant to section 15 subsection 2 of the Feststellungsgesetz and the Thirteenth Ordinance for the Implementation of the Feststellungsgesetz of 8 November 1960 (Bundesgesetzblatt I p. 838),
 - b) to pecuniary claims under private law, insofar as their valuation was permissible pursuant to §§ 4, 5 (1) and § 8 of the Valuation Act,
 - c) in shares in corporations or in business assets of members of cooperatives,
 - d) of trade licences within the meaning of the Valuation Act,
 - e) to literary and artistic copyrights, to industrial property rights and unprotected inventions as well as to licences to such rights and inventions, insofar as these have been exploited in the area of damage after the occurrence of the damage.

(3) Where damage has been caused to an asset within the meaning of subsection (2), only the following shall be taken into account as damage in the case of a subsequent acquirer of that asset or of his heirs or further heirs, provided that it is not a case of exchange

1. a purchase price actually paid, not consisting in the assumption of liabilities, as damage to a pecuniary claim under private law,
2. the increase in value of the acquired asset resulting from the expenditure of own funds as damage to the asset.

(4) A loss suffered by the property of a deceased person in the area of loss shall apply,

1. insofar as it had already occurred at the time of death, as zonal damage of the deceased,

2.

otherwise in accordance with the inheritance shares as zonal damage of the heirs.

Part Two Compensatory levies

Unofficial table of contents

§§ 16 to 227 (not reprinted)

Section Eight

Unofficial table of contents

§ 227a Application of Part Two for the period after 31 December 2001

For the calculation of equalisation levies under this Act, the German mark shall continue to be the basis of calculation after 31 December 2001. The result shall be converted into euro for the redetermination of equalisation levies at the irrevocably fixed conversion rate in Council Regulation (EC) No. 2866/98 of 31 December 1998 (OJ EC No. L 359 p. 1) on the conversion rates between the euro and the Member States adopting the euro.

Part Three Compensation

First Section General Provisions

Unofficial table of contents

Section 228 Damages

(1) Compensation benefits under Part Three of this Act shall be granted on the basis of

1. displacement damage (§ 12),
2. War property damage (§ 13),
3. Eastern damage (§ 14),
4. Savings damages (§ 15),
5. Zone damage (§ 15a).

(2) Compensation for war-related damage in kind shall be granted only if such damage occurred within the territory of the Basic Law or in Berlin (West); section 39, subsection 1, no. 1 shall apply to war-related damage in kind incurred by shipping. Damage to household effects caused by war events which have been relocated from these areas for war-related reasons shall also be deemed to be war property damage incurred in the area of application of the Basic Law or in Berlin (West), provided that the owner has maintained his or her permanent residence in the area of application of the Basic Law or in Berlin (West) or has returned there as an evacuee until the Federal Evacuee Act comes into effect or returns in accordance with the Federal Evacuee Act.

(3) In order to mitigate hardship, compensation may also be granted in accordance with sections 301, 301a.

Unofficial table of contents

§ 229 Aggrieved party

(1) Compensation benefits shall be granted to injured parties, to heirs of injured parties or for the benefit of injured parties in accordance with the provisions of this Act. The directly injured party and, if he died before 1 April 1952, those persons who were his heirs or further heirs on 1 April 1952 shall be deemed to be injured parties; if, in the cases referred to in section 12 subs. 7 No. 1 or section 15a subs. 4 No. 1, the directly injured party died after 31 March 1952 and before 1 January 1993, his heirs shall be deemed to be injured parties. If

the directly injured party is the previous heir of a testator who died before the damage occurred and if the succession occurred before 1 April 1952, the successor heir and, if he died before 1 April 1952, those persons who were his heirs or further heirs on 1 April 1952 shall be deemed to be injured parties with regard to the damage to the property subject to the succession. With regard to the war property damage incurred to agricultural and forestry property, real property or business assets and with regard to the expulsion damage, East damage and zone damage incurred to business assets, the assumption of such property during the lifetime of the directly aggrieved party (anticipated succession) is equivalent to succession.

(2) In the case of pecuniary loss, the directly aggrieved party shall be the person who was the owner or other legal owner of the economic good at the time of the occurrence of the loss; in the cases of section 14 subsection (1) sentence 2, the directly aggrieved party shall be the heir or the person who would have become the heir if the right of inheritance had not been denied. If the destroyed, damaged or lost economic goods are or would be attributable to the assets of another person if section 39 (2) of the Fiscal Code were applied, that person shall be deemed to be the directly aggrieved party.

(3) Only a natural person may be the injured party.

Unofficial table of contents

§ 230 Key date

(1) The aggrieved party may only claim expulsion damages if he/she had his/her permanent residence in the area of application of the Basic Law or in Berlin (West) on 31 December 1952. Anyone who had his permanent residence in the area of application of the Basic Law including Berlin (West) on 31 December 1950 or who has had his permanent residence in this area for at least one year since the occurrence of the damage and before 31 December 1952 and has moved from there to a state which does not belong to the resettlement areas (section 11 subs. 2 No. 3) shall be deemed to have the same status. Furthermore, anyone who has moved from the Soviet occupation zone of Germany or from the Soviet sector of Berlin, without having violated the principles of humanity or the rule of law by his or her conduct there, by way of emergency admission or a comparable procedure, and who had his or her permanent residence in the area of application of the Basic Law or in Berlin (West) on 31 December 1961 or on 31 December 1964, shall be deemed to have the same status. The prerequisite of sentence 1 shall also be deemed to have been fulfilled if the injured party

1. had his permanent residence abroad on 31 December 1952 and
2. has demonstrably endeavoured in good time before that date to take up permanent residence within the territory of the Basic Law or in Berlin (West), but was prevented from actually taking up residence by the fact that the documents required for departure or entry were not handed over to him in good time, and
3. has taken up permanent residence in the area of application of the Basic Law or in Berlin (West) without delay after delivery of these documents.

(2) If the requirements of subsection (1) are not met, an aggrieved person may only claim expulsion damages if he or she took up permanent residence in the territory covered by the Basic Law or in Berlin (West) after 31 December 1952 and before 1 January 1993

1. no later than six months after the date on which he/she left the German eastern territories currently under foreign administration or the territory of the State from which he/she was expelled or resettled, or
2. before 28 December 1991 as a repatriate in accordance with the provisions of the Repatriates Act of 19 June 1950 (BGBl. p. 221), as amended, or
3. as a Soviet zone refugee (§ 3 of the Federal Expellees Act) or as a returned evacuee within the meaning of the Federal Evacuees Act, or
4. by way of family reunification with a person falling under number 1, 2 or 3 or under paragraph 1. Family reunification means the reunification
 - a) of spouses,
 - b) of minor children to the parents,
 - c) from parents in need of assistance to children, whereby children-in-law are also to be taken into account if the only or last child is deceased or missing,
 - d) from grandparents in need of help to grandchildren,

- e) of adult children in need of assistance or in education to the parents,
- f) of minor children to the grandparents if the parents are no longer alive or cannot take care of them,
- g) of minor children to relatives of the collateral line up to the third degree, if relatives of the ascending line are no longer alive or cannot take care of them,
- h) of injured persons in need of assistance to relatives of the collateral line up to the third degree, if closer relatives are no longer alive or cannot take care of them.

Anyone who has reached the age of 65 is always considered to be in need of assistance if they did not and could not receive sufficient care in their previous area of residence. In the case of immigration from abroad, family reunification must have been completed by 31 December 1961 at the latest.

For the purposes of the period referred to in No. 1, periods shall not be counted during which an expellee, after leaving one of the states referred to in Section 11, Subsection 2, No. 3, has resided in another of the states referred to therein, nor shall such periods be counted during which he/she or a member of his/her family resettled with him/her became ill following the resettlement and was consequently unable to continue the journey, nor such periods during which he/she or a member of his/her family resettled with him/her was forcibly detained in the Soviet occupation zone of Germany or in the Soviet sector of Berlin for reasons for which he/she was not responsible; the time limit referred to in No. 1 shall also be deemed to have been observed if, after expulsion or resettlement, an expellee has stayed in the Soviet occupation zone of Germany or in the Soviet sector of Berlin or in a state to whose benefits for damage within the meaning of this Act the Federal Republic of Germany does not contribute by way of any financial expenditure on the basis of special treaties, and demonstrably endeavoured in good time before the expiry of the time limit to take up permanent residence within the area of application of this Act, but was prevented from doing so by the fact that the documents required for onward travel were not issued to him or her in good time, and if he or she immediately took up permanent residence within the area of application of this Act after they had been issued.

(3) Irrespective of the cut-off date referred to in subsection 1, an aggrieved party may claim displacement damages if, as a member of the public service, he or she transferred his or her permanent residence within the territory of the Basic Law or in Berlin (West) to a foreign country before 31 December 1952.

(4) If the aggrieved party has died as a prisoner of war or an internee within the meaning of the Repatriation Act or as a person held in forced labour in the custody of a third party following captivity, his heirs may claim the expulsion damage, provided that they fulfil the requirements of paragraphs 1 to 3 before 28 December 1991. If an aggrieved person with permanent residence in the Soviet occupation zone of Germany or in the Soviet sector of Berlin has died before 1 January 1965, his heirs or further heirs existing on 31 December 1964 may claim the expulsion damage insofar as they or previous heirs of the aggrieved person fulfil in their person the requirements of paragraphs 1 to 3.

(5) Paragraphs 1 to 4 shall apply mutatis mutandis to eastern damage, and paragraphs 1 to 3 and 4 sentence 1 shall apply mutatis mutandis to zonal damage.

(6) Paragraphs 1 to 3 shall apply mutatis mutandis to savings losses on bonds and interest-bearing treasury notes of the Reich, the Reichsbahn, the Reichspost and the Land of Prussia including debt register claims and claims to preferential pensions (section 15 subs. 2 No. 3) as well as to savings losses within the meaning of section 15 subs. 3.

Unofficial table of contents

Section 230a Special personal requirements

(1) Damage outside the scope of this Act must have occurred to a person who, at the time of the damage, was

1. was a German citizen

or

2.

as a member of the German nationality had no nationality or only that of a state in whose territory expulsion or deprivation measures were taken against this person because of his or her German nationality.

(2) Persons covered by the laws regulating questions of nationality of 22 February 1955 (Federal Law Gazette I p. 65), last amended by the law of 28 December 1959 (Federal Law Gazette I p. 829), and of 17 May 1956 (Federal Law Gazette I p. 431), shall not be deemed to be German nationals within the meaning of paragraph 1, No. 1, if they have renounced German nationality in accordance with the provisions of these laws or have not retroactively reacquired it, unless they possessed German nationality on 1 January 1967 for other reasons. If a directly aggrieved person who belongs to the group of persons covered by the aforementioned laws has died before their entry into force or before the expiry of the declaration period applicable to him or her, it is a prerequisite that the heirs of the deceased possessed German nationality at the time of the succession or re-acquired it by declaration or possessed it on 1 January 1967 for other reasons.

(3) Damage outside the scope of this Act shall not be taken into account if the directly injured party acquired a foreign nationality after the time of the damage and before the requirements of section 230 were fulfilled; if the directly injured party has died without fulfilling the requirements of section 230 and without having acquired a foreign nationality, his or her damage shall not be taken into account in the case of heirs who themselves possessed a foreign nationality or acquired one before the requirements of section 230 were fulfilled. Sentence 1 does not apply if the state whose nationality the directly injured party acquired or the heir possessed or acquired has not brought about or is not bringing about a reduction in damage either by granting benefits or in any other way and the Federal Republic of Germany does not contribute to the granting of benefits for damage within the meaning of this Act by making any financial expenditure on the basis of special agreements. Sentence 1 shall furthermore not apply to damage suffered by persecuted persons to seized economic goods (section 359 (2)).

(4) Article 4 of the Act on the Treaty of 27 November 1961 between the Federal Republic of Germany and the Republic of Austria on the Settlement of Damages of Expellees, Resettlers and Persecutees, on Other Financial Questions and Questions in the Social Field (Finance and Compensation Treaty) of 21 August 1962 (Federal Law Gazette II p. 1041) shall remain unaffected.

Unofficial table of contents

Section 231 Legal nature of the compensation payments

The following are granted

1. Compensation benefits with legal entitlement,
2. Compensation benefits without legal entitlement.

Unofficial table of contents

Section 232 Compensatory benefits with legal entitlement

(1) The following shall be granted as compensation benefits with legal entitlement

1. main compensation (§§ 243 to 252),
2. War damage pension (§§ 261 to 292c),
3. Compensation for household effects (§§ 293 to 297),
4. Compensation in currency compensation for savings of displaced persons (§ 304),
5. Compensation under the Old Savers Act.

(2) The legal claim shall be deemed to have arisen in the person of the aggrieved party (section 229) as of 1 April 1952; in the cases of subsection 1, nos. 4 and 5, the corresponding provisions of the Currency Compensation Act and the Old Savers Act shall apply in this respect.

Unofficial table of contents

Section 233 Compensation without legal entitlement

(1) The following shall be granted as compensation without legal entitlement, subject to the available funds

1. Inclusion loans (§§ 253 to 260),
2. Housing assistance (§§ 298 to 300),
3. Hardship benefits (§§ 301, 301a),
4. Benefits due to other support measures (§§ 302, 303).

(2) Compensation benefits without legal entitlement may also be granted to heirs of injured parties.

Unofficial table of contents

§ 233a Limitation

- (1) Claims for the fulfilment or payment of compensation benefits shall become time-barred after four years. The claims shall expire by limitation.
- (2) In the case of one-off benefits, the limitation period shall commence at the end of the calendar year in which the decision on which the claim is based became final; if a claim is awarded in several instalments, this shall apply to each instalment. In the case of death grants, the end of the calendar year in which the death occurred shall be decisive. The limitation period for a claim to main compensation against which a construction loan or a current benefit is to be offset shall commence at the end of the calendar year in which the offsetting decision has become incontestable or legally binding.
- (3) In the case of ongoing benefits, the limitation period shall begin at the end of the calendar year in which the ongoing payment fell due; paragraph 2 sentence 1 shall apply mutatis mutandis to subsequent payments.
- (4) The provisions of the Civil Code shall apply mutatis mutandis to the suspension and interruption of the limitation period.
- (5) Until 31 July 1996, the provisions of the Civil Code on the statute of limitations shall apply mutatis mutandis in place of paragraphs 1 to 4.

[Unofficial table of contents](#)

§ 234 Request

- (1) Compensation shall only be granted upon application.
- (2) If the aggrieved person is a prisoner of war or interned outside the area of application of the Basic Law or of Berlin (West), or if he is held in a forced labour relationship following his captivity, or if he has disappeared, the following relatives shall be entitled to apply for main compensation and household effects compensation on his behalf until 31 December 1970
1. the spouse,
 2. if there is no spouse, any descendant,
 3. if there is neither a spouse nor descendants, each parent.

The application may, if displacement damage, eastern damage or zonal damage is claimed, only be filed if the applicant fulfils the requirements of section 230. Section 230 (4) remains unaffected. If it becomes apparent after the application has been filed that the requirements of section 230 subs. 4 are met, the rights arising from the application shall pass to the heirs. However, insofar as household effects compensation has previously been paid to the applicant, this shall be the end of the matter.

(3) Applications for main compensation and household contents compensation may only be filed until the expiry of two years after the end of the relevant period for the application for the assessment of damage under section 28, paragraph 2 of the Assessment Act and under section 30, paragraph 3 of the Preservation of Evidence and Assessment Act. In the case of applicants for whom a claim under the Feststellungsgesetz is first established after 31 December 1971 or a claim under the Beweissicherungs- und Feststellungsgesetz is first established after 31 December 1973, the time limit for the application for main compensation shall end at the earliest one year after the end of the month in which the decision on the assessment of damage becomes final or non-appealable.

(4) Subject to section 264, subsection 2, second sentence, no. 2 and third sentence, and section 265, subsection 4, third sentence, no. 2, applications for compensation benefits may be filed only until 31 December 1995, but not later than three years after entitlement to file an application. Paragraph 3 sentence 2 and provisions of this Act which determine the expiry of application periods prior to the relevant date according to sentence 1 shall remain unaffected.

Section Two Determination of Damage

First Title Principles

[Unofficial table of contents](#)

§ 235 Assessment of damage as a prerequisite for compensation payments

Compensation to which a legal claim exists under this Act shall only be granted once the damage has been established.

[Unofficial table of contents](#)

§ 236 Determination of damage under the Determination of Damage Act and the Preservation of Evidence and Determination of Damage Act

In the case of damage within the meaning of sections 3 to 5 of the Assessment Act and damage within the meaning of the Second Section of the Preservation of Evidence and Assessment Act, the assessment of damage in accordance with these Acts shall be a prerequisite for the granting of compensation benefits with a legal claim. This assessment of damage is binding.

Unofficial table of contents

§ 237 Assessment of damage outside the Assessment Act

(1) The following shall be subject to determination in accordance with the special provisions of this Act

1.

Expulsion damage, war property damage and damage to the East due to loss of occupation or other means of livelihood (section 12 subsection 1 no. 4, section 13 subsection 1 no. 4, section 14),

2.

Savings damages (§ 15).

(2) Savings claims whose total amount does not exceed 500 Reichsmark shall not be determined.

(3) Insofar as damages pursuant to paragraph 1 form the prerequisite for the granting of compensation benefits with a legal claim, the application for the granting of such compensation benefits shall at the same time be deemed to be an application for the determination of the damage. A separate application for a determination of the damage shall be excluded in such cases.

Title Two Calculation of Damages

Unofficial table of contents

Section 238 Calculation of damages under the Declaratory Judgement Act and the Preservation of Evidence and Declaratory Judgement Act

The provisions of these Acts shall apply to the calculation of damage to be ascertained under the Feststellungsgesetz or the Beweissicherungs- und Feststellungsgesetz.

Unofficial table of contents

Section 239 Calculation of damages in case of loss of professional or other livelihood

(1) In determining the loss suffered by a displaced person, war property victim or East German victim as a result of the loss of occupational or other means of livelihood (section 12 subs. 1 no. 4, section 13 subs. 1 no. 4, section 14), the income to be taken into account shall be that which the directly injured person and his or her spouse received on average in 1937, 1938 and 1939. 4, section 14) shall be based on the income which the directly aggrieved person and his spouse received on average in the years 1937, 1938 and 1939 and lost as a result of the injury; if the directly aggrieved person and his spouse received income only after the year 1937, the years 1937, 1938 and 1939 shall be replaced by the three years following the year in which they first received income. If there are no documents on the income relevant according to sentence 1, the occupation of the aggrieved person at the time of the injury shall be assumed. A non-occupational use caused by the war conditions or by measures of the National Socialist tyranny shall not be taken into account when calculating the damage. Upon application, the average income of the years 1939 and 1940 or of the years 1940 and 1941 shall be taken into account if the aggrieved person has lost his or her occupational or other means of livelihood in the uniform expulsion area outside the German eastern territories currently under foreign administration as defined in section 12, paragraph 2, sentence 2, second half-sentence.

(2) Income within the meaning of subsection 1 shall not include benefits from public welfare. Income lost as a result of the injury which did not exceed 35 Reichsmark per month shall not be determined. In the case of displaced persons who did not earn their living entirely or predominantly from public welfare benefits, it shall be presumed that they have lost their occupational or other means of livelihood as a result of the injury.

(3) By statutory order, provisions shall be made on the calculation and proof of income and on the income reference rates to be adopted for the individual occupational groups.

Unofficial table of contents

§ 240 Calculation of damage in the case of damage to savings

(1) Savings losses shall be assessed at the nominal Reichsmark amount of the claim affected by the conversion less the conversion amount. Savings losses on claims against the Reich, the Reichsbahn and the Reichspost as well as the Land Prussia shall be assessed at the full Reichsmark nominal amount.

(2) A statutory instrument shall determine the details of the determination of the nominal amount of the Reichsmark for those claims whose nominal amount of the Reichsmark is not readily fixed.

Unofficial table of contents

§ 241

(omitted)

Unofficial table of contents

§ 242 Summary of individual findings

For the purpose of granting compensation, the damages to be taken into account in each case for the granting of compensation which have been incurred by the directly injured party shall be grouped together.

Section Three Main Compensation

Unofficial table of contents

§ 243 Prerequisites

Main compensation is granted to compensate for

1. Expulsion damage, war property damage and East German damage to economic assets that belong to agricultural and forestry assets, real property or business assets within the meaning of the Valuation Act, as well as to objects that are necessary for the exercise of a profession or for scientific research,
2. Expulsion damage and East German damage to Reichsmark savings deposits, to other pecuniary claims under private law, to trade licences within the meaning of the Valuation Act as well as to shares in corporations and to business assets in cooperatives, insofar as these are not Reichsmark savings deposits from which compensation is granted in currency compensation for savings deposits of expellees,
3. Distribution damage to literary and artistic copyrights, to industrial property rights and unprotected inventions as well as to licences to such rights and inventions,
4. Zone damage.

Unofficial table of contents

§ 244 Transferability

Subject to sections 258, 278a, 283 and 283a, the claim to principal compensation is heritable and transferable; however, it is not subject to execution in the person of the injured party. If the injured party is the previous heir of a testator who died before the occurrence of the damage or before 1 April 1952, the claim to main compensation, insofar as it is based on damage to the property subject to succession, shall pass to the subsequent heir or his or her heirs upon the occurrence of the event of succession; if the claim to main compensation is only partly based on damage to the property subject to succession, it shall be divided in proportion to the amounts of damage to each other resulting from the damage to the various parts of the property in accordance with section 245. The claim shall pass to the Treasury as the legal heir only to the extent that estate liabilities could not be satisfied without its fulfilment.

Unofficial table of contents

§ 245 Amount of damage

For the assessment of the main compensation, the ascertained damages of the directly injured party (section 243), subject to section 249a, shall be combined into one amount of damages. The following shall apply:

1. Damage to agricultural and forestry property shall be assessed at an amount increased by one third.
2. From expulsion damage, damage to the East and zonal damage to agricultural and forestry property as well as to real property, established long-term liabilities which were economically connected with this property at the time of the damage or were secured in rem against it shall be deducted at half their established amount.
3. Liabilities secured by mortgages on real property of the damaged economic unit or mortgages or annuity debts encumbering them shall be deducted from war damage to agricultural and forestry

property as well as real property at half the amount by which the mortgage profit levy incurred on the basis of these liabilities has been reduced in accordance with section 100.

4.

Expulsion losses and losses suffered in the East in respect of Reichsmark savings deposits and other pecuniary claims under private law shall be assessed at the amount at which they would have had to be converted to German marks if the conversion provisions applicable to the area of application of the Basic Law had been applied. By statutory order, deviating provisions may be made for claims in such currencies which until 31 March 1952 were not exposed to a currency decline comparable to the conversion ratio of the Reichsmark; the same shall apply to claims in such currencies for which a provision is made in accordance with section 20 subs. 2 No. 3 or sentence 2 of the Feststellungsgesetz.

5.

Zone damage to pecuniary claims under private law shall be assessed,

a)

if they were denominated in Reichsmark, at the amount at which they would have had to be revalued in Deutsche Marks of the German Central Bank; in this connection, a revaluation ratio of 100 to 10 shall be taken as a basis for claims from purchase prices within the meaning of section 15a subs. 3 No. 1,

b)

otherwise with the established amount.

If damages have been determined in a German currency other than Reichsmark, they shall be assessed unchanged as Reichsmark for the aggregation to the amount of damages after application of numbers 1 to 5.
Unofficial table of contents

§ 246 Damage groups and basic amounts

(1) On the basis of the assessment of the damage, the directly injured party shall be classified in one of the following damage groups. The main compensation shall be calculated on the basis of a basic amount corresponding to the damage group in which the directly injured party has been classified.

(2) The following damage groups shall be formed and the following basic amounts shall be determined:

Damage group	Damage amount in Reichsmark RM	Basic amount in EUR EUR	Included increase amount EUR	
1	2	3	4	
1	to 5.000	the amount of damage, assessed with the divisor 1.95583 in Euro, at most	2.454,20	
2	to 5.500		2.633,15	
3	to 6.200		2.837,67	
4	to 7.200		3.118,88	
5	to 8.500		3.630,17	153,39
6	to 10.000		4.115,90	230,08
7	to 12.000		4.652,76	281,21
8	to 14.000		5.240,74	357,90
9	to 16.000		5.752,03	460,16
10	to 18.000		6.212,20	562,42
11	to 20.000		6.672,36	664,68
12	to 23.000		7.055,83	690,24
13	to 26.000		7.490,43	715,81
14	to 29.000		7.873,89	715,81
15	to 32.000		8.257,36	766,94
16	to 36.000		8.666,40	818,07
17	to 40.000		9.024,30	818,07

Damage group		Damage amount in Reichsmark RM	Basic amount in EUR EUR	Included increase amount EUR
1		2	3	4
18	to	44.000	9.331,08	818,07
19	to	48.000	9.637,85	869,20
20	to	53.000	9.919,06	920,33
21	to	58.000	10.225,84	971,45
22	to	63.000	10.532,61	1.022,58
23	to	68.000	10.839,39	1.073,71
24	to	74.000	11.171,73	1.124,84
25	to	80.000	11.529,63	1.175,97
26	to	86.000	11.887,54	1.227,10
27	to	93.000	12.271,01	1.278,23
28	to	100.000	12.680,04	1.329,36
29	to	110.000	13.165,77	1.380,49
30	to	2.000.000	13.165,77	1.431,62
			+ 10 per cent of the amount of damage exceeding RM 110,000, calculated with the divisor 1.95583 in Euro	
31	via	2.000.000	109.799,93	1.431,62
			+ 6.5 per cent of the amount of damage exceeding RM 2,000,000, calculated with the divisor 1.95583 in Euro	

Unofficial table of contents

§ 247 Division of the basic amount

If the directly injured party died before 1 April 1952, the basic amount attributable to the amount of damage calculated for the directly injured party shall be divided among the heirs (section 229 subs. 1) in proportion to their shares of the inheritance. In the cases of section 12 subs. 7 No. 1 and section 15a subs. 4 No. 1, this shall also apply if the directly injured party died after 31 March 1952; in the cases of section 230 subs. 4, the first sentence shall also apply to the apportionment of the basic amount among the heirs of the injured party.

Unofficial table of contents

§ 248 Supplement to the basic amount

The basic amount resulting for the aggrieved party under sections 246, 247 shall be increased by 10 per cent for

1. Displaced persons within the meaning of § 2 of the Federal Displaced Persons Act,
2. Soviet zone refugees within the meaning of section 3 of the Federal Expellees Act and persons treated as such under section 4 of the Federal Expellees Act; where section 4(2) in conjunction with section 1(2)(1) of the Federal Expellees Act applies, the conditions of endangerment within the meaning of section 4(1) of the Federal Expellees Act shall be deemed to have been met.
3. War property victims who were unable to return to the town or district in which they lived at the time of the injury by 1 April 1952 and who have not been able to regain an adequate livelihood at their new place of residence by that date.

Unofficial table of contents

§ 249 Reduction of the basic amount

(1) The basic amount shall be reduced insofar as its inclusion in the final assets would result in a sum exceeding 50 per cent of the initial assets. The final assets shall be deemed to be the assets of the directly injured party on 21 June 1948, reduced by 40 per cent. The initial assets shall be the sum of the amount of the loss and the assets of the directly aggrieved party on 21 June 1948 plus twice the amount of the increase in accordance with section 246 subs. 2. The amount of the reduction in accordance with sentence 1 may not exceed 50 per cent of the assets of the directly aggrieved party on 21 June 1948. If losses were not incurred until after 20 June 1948, the assets which would have resulted on this reference date if the losses had been incurred earlier shall take the place of the assets on 21 June 1948.

(2) The basic amount shall furthermore be reduced by those compensation payments which have been granted for the damages taken into account in the amount of damages on the basis of the War Property Damage Ordinance, the Reich Benefits Act or other domestic German regulations, unless a deviating regulation exists for the treatment of the compensation payments or unless the corresponding economic goods procured again from the compensation payments have been lost again due to war events. Reichsmark payments shall be assessed at 10 per cent. The amount of the reduction may not be higher than the amount by which the basic amount (section 246) would be reduced if the economic units or the other economic goods for which compensation payments have been granted had not been taken into account in the calculation of the amount of the loss.

(3) If damage included in the amount of damage (section 245) has also been taken into account in the property levy under sections 39 to 47b, the following shall be deducted from the basic amount

1. the current value of the amount by which the property levy has been reduced in accordance with sections 39 to 47,
2. thirty-three times the amount by which the original quarterly amount of the property levy has been reduced under section 47a, and
3. seventeen times the amount by which the quarterly amount of the property levy has been reduced in accordance with section 47b.

If damage included in the amount of damage (section 245) has also been taken into account in accordance with section 55a, thirteen times the amount that has been remitted from the quarterly amount of the property levy in accordance with section 55a, subsection 2, shall also be deducted from the basic amount. The current value within the meaning of No. 1 shall be the amount of the reduction pursuant to sections 39 to 47 in the case of a quarterly amount of

- from 1 of one hundred with 50 of one hundred,
- from 1.1 of one hundred with 54 of one hundred,
- from 1.2 of one hundred with 58 of one hundred,
- from 1.25 of one hundred with 60 of one hundred,
- from 1.3 of one hundred with 62 of one hundred,
- from 1.4 of one hundred with 66 of one hundred,
- from 1.5 of one hundred with 71 of one hundred,
- from 1.6 of one hundred with 75 of one hundred,
- from 1.7 of one hundred with 79 of one hundred.

(4) The reductions under subsections (1) to (3) shall be made in the order of those subsections. When dividing the basic amount (section 247) and when calculating the supplement to the basic amount (section 248), the basic amount reduced according to paragraphs 1 and 2 shall be taken as a basis.

(5) Further details may be determined by statutory instrument

1. on the delimitation and valuation of the assets to be taken as a basis in accordance with subsection 1 for 21 June 1948 and on the date for which the assets are to be determined in the event of the death of the directly aggrieved person before this reference date,
2. on which aggrieved persons under sections 39 to 47b reductions or remission of the property levy under section 55a (2) are to be taken into account in cases of doubt by reducing the basic amount,
3. the extent to which reductions of the basic amount under subsection 3 are to be taken into account in advance when dividing the basic amount (section 247) and when calculating the supplement to the basic amount (section 248).

(6) For decisions taken after 31 December 2001, the following shall be taken into account in the reduction of the basic amount

1. in accordance with paragraph 1, the assets of the directly injured party on 21 June 1948 and the amount of the loss,
2. in accordance with paragraph 2, the compensation payments to be taken into account in the reduction; and
3. in accordance with paragraph 3, the amounts to be deducted from the basic amount

in each case with the divisor 1.95583 in euros.

Unofficial table of contents

Section 249a Savings Surcharge

(1) Insofar as the principal compensation is granted to compensate for losses on claims which are savings investments within the meaning of the Old Savers' Act, the loss shall not be taken into account when calculating the amount of loss pursuant to § 245. Because of these claims, a basic amount (saver's surcharge) is additionally granted. In the case of damage caused by expulsion and damage caused by the East, this is to be assessed at the amount that results from

1. in the case of savings investments which would have had to be converted in accordance with the provisions applicable in the area of application of the Basic Law, by applying the conversion rate applicable hereunder,
2. in the case of savings in such currencies for which the statutory instrument provided for in section 245 provides for a more favourable conversion than 100 to 10, by applying the rate of one hundred specified in such statutory instrument

to the amount determined in accordance with the Feststellungsgesetz; in the case of zonal claims, the saver's surcharge shall be assessed at the amount resulting from the application of section 245 no. 5. Sentences 1 to 3 shall also apply to losses on claims within the meaning of section 12 subs. 13 No. 1, section 14 subs. 1 fifth sentence and section 15a subs. 3 No. 1; for these, a conversion ratio of 100 to 10 shall be taken as a basis when applying sentence 3 No. 1.

(2) In the case of expulsion losses and losses in the East, the savings surcharge shall be increased by an old savers' surcharge insofar as the savings investments were already due to the directly injured party or a legal predecessor (§ 3 of the Old Savers' Act) at the beginning of 1 January 1940. This amounts to 10 per cent of the nominal amount of the savings investment on 1 January 1940 in the case of savings investments which would have had to be converted at a ratio of 100 to 10 in accordance with the conversion regulations applicable in the area of application of the Basic Law, and 13.5 per cent in the case of savings investments which would have had to be converted at a ratio of 100 to 6.5. In the case of savings deposits in such currencies for which a regulation is made in the statutory order provided for in § 245, the old savers' surcharge shall be calculated at that percentage of the nominal amount of the savings deposit on 1 January 1940 converted in accordance with § 20 of the Feststellungsgesetz which remains after deduction of the conversion rate determined in the statutory order from the figure 20. Savings investments existing at the beginning of 1 January 1940 shall be deemed to exist unless the aggrieved party provides evidence of a higher amount,

- | | |
|--|--------------|
| 1. Savings deposits, postal savings deposits and building society deposits with | 20 per cent, |
| 2. Pfandbriefe, Rentenbriefe, Schiffspfandbriefe, municipal bonds as well as other bonds and interest-bearing treasury notes issued by legal persons under public law, including debt register claims with | 80 per cent, |
| 3. Claims from corporate bonds with | 50 per cent, |
| 4. Claims from life insurance contracts with other private-law claims | 60 per cent, |
| 5. Claims that were secured by mortgages, land charges or annuity debts, with | 100 per cent |

of the amount of the savings investment.

(3) The saver's surcharge shall also be granted if the loss has been ascertained but a basic amount is otherwise omitted. The saver's surcharge shall be reduced to the extent that its allocation would exceed the basic amount resulting without the application of § 245 nos. 4 and 5 to the savings deposits in accordance with § 246; in this connection, the Reichsmark amount underlying the claim existing at the time of the damage

shall be applied to zonal damage to savings deposits to the extent that these arose from the conversion of Reichsmarks into Deutsche Marks of the German Central Bank. In the cases of § 247, it shall be divided in proportion to the shares of the inheritance; §§ 248 and 249 shall not apply to it.

(4) The saver's surcharge shall not be granted if, without the application of subsections 1 to 3, a higher final basic amount (section 250(2)) results.

(5) For decisions after 31 December 2001, the saver's surcharge resulting from subsections (1) to (3) for the loss of savings investments within the meaning of the Old Savings Act shall be set at the divisor 1.95583 in euro.

Unofficial table of contents

249b Particularities of the basic amount calculation in the case of coincidence of zonal damage with damage within the meaning of the Reparation Damage Act

If a directly injured party has suffered both zonal damage and damage within the meaning of the Reparation Damage Act, the following applies:

1.

To the amount of damage under section 245, the amount of damage under section 32 (1) of the Reparation Damages Act shall be added and section 246 shall apply to the aggregate amount of damage.

2.

§ 249 par. 1 shall apply to the basic amount according to no. 1. The basic amount remaining thereafter shall be deducted before the application of sections 247, 248, 249 paras. 2 and 3 and sections 249a and 250,

a)

if only zonal damage coincides with damage within the meaning of the Reparation Damage Act, the basic amount resulting from the application of § 35 para. 1 no. 1 of the Reparation Damage Act,

b)

if damage within the meaning of the Reparation Damage Act includes both zonal damage and expulsion damage, war property damage and damage to the East, the basic amount resulting from the application of § 35 para. 1 nos. 1 and 2 in conjunction with § 36a of the Reparation Damage Act.

3.

If damage to savings has occurred both within the meaning of the Reparation Damage Act and within the meaning of this Act, § 249a shall be applied to all damage to savings and the saver's surcharge pursuant to § 36 of the Reparation Damage Act shall be deducted from the saver's surcharge calculated hereunder.

Unofficial table of contents

§ 250 Award of the claim and interest surcharge

(1) The claim for main compensation shall be awarded to the injured party with the resulting basic amount; it shall be stated how the basic amount is calculated from the amount of the damage. In the cases of section 12, paragraph 13, section 14, paragraph 1, sentence 5, and section 15a, paragraph 3, the maximum basic amount awarded shall be that which would result if the value of the acquired asset were taken as a basis.

(2) The basic amount resulting from sections 246 to 249b shall be rounded up to the next full euro amount divisible by 5 (final basic amount). The following shall be deducted from the final basic amount

1.

Compensation payments under federal laws for losses that are taken into account in the loss amount or the saver's surcharge, provided that these payments have not already been deducted elsewhere from the loss or basic amount,

2.

Redemption amounts pursuant to Part Three of the General Act on the Consequences of War of 5 November 1957 (Federal Law Gazette I p. 1747) and compensation payments pursuant to the Old Savings Act that are attributable to replacement assets that have been allocated to resettled persons,

3.

Amounts arising from the settlement of claims under the Act on the Settlement of Assets of Credit Institutions, Insurance Companies and Building Societies under Special Administration of 21 March 1972 (Federal Law Gazette I p. 465), insofar as this does not involve interest.

(3) The final basic amount awarded shall be supplemented by an interest surcharge of one per cent for each quarter year or part thereof; the interest surcharge shall be granted as from 1 January 1953, unless a later date results from paragraphs 4 to 6.

(4) Insofar as the final basic amount awarded is based on damage actually incurred after 31 December 1952, the interest supplement shall be granted subject to paragraph 6,

1. if the directly aggrieved party has left the expulsion area within the meaning of section 12, paragraph 2, sentence 2, or the damage area within the meaning of section 3, paragraph 1, of the Act on the Preservation and Establishment of Evidence, for that part of the final basic amount that is attributable to damage that had already occurred up to the time of leaving these areas or that occurred in direct connection with the leaving of these areas, from the beginning of the quarter in which the time of leaving these areas falls,
2. if the directly aggrieved person died in the expulsion area within the meaning of section 12 subs. 2 second sentence or in the damage area within the meaning of section 3 subs. 1 of the Act on the Preservation and Establishment of Evidence (section 12 subs. 7 No. 1, section 15a subs. 4 No. 1), and in the cases of section 14 subs. 1 second sentence from the beginning of the quarter in which the time of death falls,
3. otherwise, for that part of the final basic amount which is based on damage occurring before 1 January 1968, from 1 January 1967, and for that part of the final basic amount which is based on damage occurring after 31 December 1967, in each case from the beginning of the year in which the time of the occurrence of the damage falls.

In the case of zonal damage, the time of occurrence of the damage as determined in the notice of damage assessment pursuant to § 14 para. 1 of the Preservation of Evidence and Assessment Act shall be decisive.

(5) Subject to subsection (6), where more than one point in time is relevant to the granting of the interest supplement to a final base amount under subsections (3) and (4), the interest supplement shall be granted

1. from the earliest relevant date for that part of the final basic amount awarded which alone would have resulted as the final basic amount for the losses to be taken into account at that time,
2. from the following relevant point in time for that part of the final basic amount awarded which would have resulted as the total final basic amount for the losses to be taken into account at that point in time and at previous points in time, reduced by the parts of the basic amount for which the interest supplement is to be granted from earlier points in time.

(6) If the final basic amount awarded exceeds the final basic amount which results on the basis of the groups of claims and basic amounts listed in subsection 6a without adding the double increase amount according to section 246 subs. 2 to the initial assets (section 249 subs. 1) (old basic amount), the interest supplement for the exceeding amount (additional basic amount) shall be granted from 1 January 1967, unless the interest supplement according to subsection 4 is to be granted from a later date. If, in the cases referred to in paragraph 5, the interest supplement for parts of the final basic amount is to be granted from dates after 1 January 1967, these dates shall also apply to the corresponding parts of the additional basic amount.

(6a) The calculation according to paragraph 6 shall be based on the following damage groups and basic amounts:

Damage group	Damage amount in Reichsmark RM	Basic amount in EUR EUR
1	2	3
1 to	5.000	2.454,20
2 to	5.500	2.633,15
3 to	6.200	2.837,67
4 to	7.200	3.118,88
5 to	8.500	3.476,78
6 to	10.000	3.885,82
7 to	12.000	4.371,55
8 to	14.000	4.882,84
9 to	16.000	5.291,87
10 to	18.000	5.649,78
11 to	20.000	6.007,68
12 to	23.000	6.365,58

Damage group	Damage amount in Reichsmark RM	Basic amount in EUR EUR
1	2	3
13 to	26.000	6.774,62
14 to	29.000	7.158,09
15 to	32.000	7.490,43
16 to	36.000	7.848,33
17 to	40.000	8.206,23
18 to	44.000	8.513,01
19 to	48.000	8.768,66
20 to	53.000	8.998,74
21 to	58.000	9.254,38
22 to	63.000	9.510,03
23 to	68.000	9.765,67
24 to	74.000	10.046,89
25 to	80.000	10.353,66
26 to	86.000	10.660,44
27 to	93.000	10.992,78
28 to	100.000	11.350,68
29 to	110.000	11.785,28
30 to	120.000	12.271,01
31 to	130.000	12.756,73
32 to	140.000	13.216,90
33 to	150.000	13.677,06
34 to	160.000	14.111,66
35 to	170.000	14.546,25
36 to	180.000	14.955,29
37 to	190.000	15.364,32
38 to	200.000	15.747,79
39 to	1.000.000	15.747,79
		+ 7 per cent of the amount of damage exceeding RM 200,000, calculated with the divisor 1.95693 in Euro
40 via	1.000.000	44.380,14
		+ 6.5 per cent of the amount of damage exceeding RM 1,000,000, calculated with the divisor 1.95583 in Euro

(7) Insofar as the interest surcharge is attributable to a basic amount based on zone damage, those amounts from the use of economic goods taken away (section 14 (2) of the Act on the Preservation and Assessment of Evidence) shall be credited against it which the directly injured party or his or her heir disposed of after the point in time decisive for the granting of the interest surcharge. If zone damage coincides with other damage, the part of the basic amount based on zone damage (partial basic amount for zone damage) shall be determined by deducting from the total basic amount that amount which would result as the basic amount for the other damage alone without the application of section 249 subs. 1 fifth sentence and subs. 3 second sentence.

(8) For decisions after 31 December 2001, the deductions and credits according to subsection 2, second sentence, and subsection 7, first sentence, shall be set at the divisor 1.95583 in euros.

Unofficial table of contents

§ 251 Fulfilment of the claim

(1) Subject to sections 278a, 283 and 283a, the claim for principal compensation shall be satisfied in the amount resulting from the addition of the interest surcharge to the final basic amount awarded (payment amount). Subject to section 278a subs. 2 and the provisions enacted on the basis of section 278a subs. 7 and section 283a subs. 2, settlement amounts shall first be credited against the interest surcharge contained in the payment amount. If the interest surcharge increases due to the award of a further basic amount, this increase shall not be taken into account for the crediting of the previously paid settlement amounts.

(2) If loans under § 258 as well as payments of war damage pensions or corresponding current allowances under §§ 278a, 283 and 283a are to be credited against the main allowance with effect from a date prior to 1 January 1967, the crediting of the old basic amount shall take precedence over the crediting of the additional basic amount (§ 250, para. 6). This shall apply mutatis mutandis to the cases of § 250, paras. 4 and 5.

(3) Any person who has applied for the award of entitlement to main compensation under section 234(2) on behalf of another person may claim fulfilment on that person's behalf. The fulfilment shall have discharging effect for the Federation.

(4) If, in the cases referred to in section 234(2), the requirements for the fulfilment of the entitlement to main compensation were not met by 31 July 1996, the entitlement shall expire on that date, but not earlier than four years after the end of the calendar year in which the decision on the award of the entitlement became final.

Unofficial table of contents

§ 252 Order and time of fulfilment

(1) Subject to paragraphs 5 and 6, claims for main compensation shall be satisfied as from 1 April 1957 in accordance with the available funds. Priority shall be given to the claims of injured persons of advanced age and to claims for which the main compensation serves to avert or alleviate social hardship. Furthermore, priority shall be given to those claims where the main compensation serves to pay voluntary contributions to the statutory pension insurance or can demonstrably contribute to the formation of agricultural and forestry assets, real property or business assets or to the establishment or consolidation of economic independence. The claims can also be met in partial amounts. Small amounts can be paid out early.

(2) The interest surcharge accruing for periods after 31 December 1962 (§ 250 paras. 3 to 7) shall be paid out annually, subject to paras. 5 and 6. The details concerning the implementation and the time of payment shall be regulated by statutory order; in this context, a half-yearly payment may also be provided for.

(3) Interest and redemption payments on liabilities incurred by the Equalisation Fund under section 252(3) and (4) of this Act in the version in force until 1 January 2005 shall be borne by the Federation.

(4) (omitted)

(5) Additional basic amounts (§ 250 para. 6) plus the interest surcharges thereon shall be paid as from 1 January 1972. Provided that funds are available for this purpose, it may be determined by statutory order that such claims may be settled before that date.

(6) Final basic amounts or partial basic amounts based on zonal damage (§ 250, para. 7, sentence 2) plus the interest surcharges thereon shall only be paid in cash as from 1 January 1970; para. 1, sentences 2 to 5 shall apply to the order of payment. Payment in accordance with paras. 3 and 4 may also be permitted by statutory order.

(7) Claims for principal compensation may be met in accordance with subsections (3) and (4) up to a total amount of six billion Deutschmarks; the respective macroeconomic conditions shall be taken into account in the regulation by the reserved statutory instruments.

Fourth Section Integration Loan

First Title General Provisions

Unofficial table of contents

§§ 253 to 257 (omitted)

Title Two Integration Loans to Individual Aggrieved Parties (Construction Loans)

Unofficial table of contents

§ 258 Relationship to the main compensation

(1) To the extent that the recipient of a construction loan is entitled to principal compensation, the amount of the loan shall be credited against the entitlement to principal compensation as follows:

1. If the entitlement to main compensation is awarded prior to the granting of the construction loan, the fulfilment of the entitlement to main compensation shall take the place of the granting of the loan to the extent of the amount paid out (section 251 (1)).
2. If the entitlement to principal compensation is awarded after the construction loan has been granted, the entitlement to principal compensation shall be deemed to have been fulfilled in the amount of the loan at the time the loan was granted. The loan liability shall be deemed not to have arisen to that extent. Interest and redemption payments made shall be added to the principal compensation with effect from the time of the award of the claim.
3. If the construction loan under section 254(3) has been granted for the construction of a rented flat or a cooperative flat, the crediting shall only occur upon application.
4. Upon application and with the consent of the person entitled to main compensation, the loan amount shall also be credited against such claims to main compensation which have been assigned by the spouse or by relatives or in-laws of the first or second degree to the borrower or to the Federal Government for his or her benefit; in the case of pledging, the consent of the pledgee shall be required.

(2) Paragraph 1 shall apply mutatis mutandis to loans that have been granted

1. as hardship benefits (§§ 301, 301a),
2. under section 44 of the Emergency Assistance Act,
3. in accordance with the provisions of the Refugee Settlement Act,
4. under the Fourth and Fifth Parts of the General War Consequences Act,
5. in accordance with § 10 of the Fourteenth Law Amending the Equalisation of Burdens Act of 26 June 1961 (Federal Law Gazette I p. 785),
6. under Section IV of the Refugee Assistance Act,
7. according to § 45 of the Reparation Damages Act.

(3) The credit under subsections (1) and (2) shall not apply if the decision on the award of the entitlement to main compensation has been issued with reservation (section 335a).

(4) If the aggrieved person is granted a war damage pension before or after the granting of a loan (paragraphs 1 and 2), the crediting of the loan against the main compensation according to paragraphs 1 and 2 shall only occur after the crediting of the war damage pension against the main compensation according to sections 278a, 283 and 283a has been carried out. The crediting shall, however, be carried out before the time stipulated in sentence 1 if and to the extent that the claim to main compensation under sections 278a(4) and (7), 283(3) and 283a(1)(3) and (2) can be met.

(5) The fulfilment of the entitlement to main compensation shall not preclude the granting of a construction loan.

(6) Insofar as a loan is also to be credited against the claim for compensation under the Reparation Damages Act pursuant to section 40, paragraph 2, nos. 4, 5 and 7, the crediting against the compensation under the Reparation Damages Act shall take precedence in the cases of paragraph 2, nos. 4, 5 and 7, otherwise the crediting against the main compensation.

Third title Integration loan for the creation of permanent jobs (job loan)

Unofficial table of contents

§§ 259 and 260 (omitted)

Section Five War Damage Pension

First TitleGeneral Provisions

Unofficial table of contents

§ 261 Prerequisites

(1) War damage pensions shall be granted to compensate for expulsion damage, damage in kind caused by the war, damage caused by the East and, insofar as nothing to the contrary results from the provisions of this section, damage caused by savings if

1. the injured party is of advanced age or is permanently incapacitated as a result of illness or infirmity, and
2. it is not possible or reasonable for him/her to meet his/her living expenses according to his/her income circumstances; in this context, due claims for benefits in money or money's worth shall also be taken into account if and to the extent that their realisation is possible.

(2) War damage pensions shall be paid only to the directly injured party or, if the latter is deceased, to his or her spouse, provided that the spouse was not living permanently apart from the injured party at the time of his or her death. If the directly injured person and his spouse are deceased, a war damage pension shall also be granted to a single daughter who lived in the same household as her parents or one of their parents for at least one year until the death of the latter and during this period performed domestic work for her relatives in lieu of her own gainful employment, provided that she acquired or would have acquired, by reason of death, livelihood-bearing property affected by the injury or rights to such property securing her old-age pension.

(3) War damage pensions shall not be granted for the loss of household effects, insofar as this loss is not the cause of the destruction of the livelihood of the aggrieved person, for the loss of living space and on account of damage to the East within the meaning of section 14, paragraph 1, sentence 2.

(4) If the prerequisites for the granting of a war damage pension under this Act or under the Reparations Damages Act or for the granting of current assistance under sections 301, 301a of this Act or under the Refugee Assistance Act coincide in the person of a beneficiary, the damages and basic amounts shall be aggregated within the meaning of these provisions; section 1, paragraph 1, sentence 2 of the latter Act shall not apply in this respect. The details concerning the aggregation of the damages and basic amounts and the granting of benefits shall be regulated by ordinance; in this connection, the calculation of a uniform benefit shall be provided for and the relationship of this benefit to the main compensation as well as to the compensation under the Reparation Damages Act shall be determined in accordance with the principles of sections 278a, 283 and 283a. Furthermore, it may be determined that the benefit is to be allocated to that damage on which the greater part of the basic amount is based.

(5) War damage pensions shall only be granted if the preconditions for granting them are met by 31 December 1999 at the latest and the application is submitted by 30 June 2000.

Unofficial table of contents

§ 262 Transferability

Unless otherwise provided for in this section, the entitlement to a war damage pension may not be transferred, attached or pledged; this shall not apply, subject to sections 290 and 350a, to amounts that have been legally granted for a period in the past.

Unofficial table of contents

§ 263 Forms of war damage pension

(1) War damage pensions shall be granted as

1. Maintenance assistance (§§ 267 to 278a),
2. Compensation pension (§§ 279 to 285).

(2) The maintenance assistance shall serve to secure the social basis of life. The compensation pension shall be granted in accordance with the provisions of this section either with the subsistence allowance or independently.

(3) As soon as the requirements for both maintenance assistance and compensation pension are met, the beneficiary shall choose in which form he wishes to receive war damage pension; the choice may be exercised only once after 31 December 1992 and only until 30 June 2000. If the beneficiary applies for a compensation pension in addition to maintenance assistance or exclusively for a compensation pension, he/she may claim either only pecuniary losses or only the loss of occupational or other means of livelihood.

Unofficial table of contents

§ 264 Age

(1) Due to advanced age, war damage pensions shall only be granted if the injured party has reached the age of 65 (a woman the age of 60) at the time of application. A further condition, subject to § 273, paras. 5 to 7, § 282, paras. 4 and 5, and § 284, para. 2, is that the claimant was born before 1 January 1890 (a woman before 1 January 1895). The requirement of sentence 2 shall not apply if the aggrieved person is entitled to file an application under section 230 subs. 2 No. 1 and has reached the age of 65 (a woman the age of 60) at the time of taking up residence within the area of application of this Act, but not later than 31 December 1971.

(2) The application for a war injury pension due to advanced age may only be filed until 31 December 1970. However, the application period shall end subject to § 261, para. 5

1.

in the case of persons entitled to file an application under section 230(2), at the earliest two years after the end of the month in which the aggrieved person took up permanent residence within the area of application of this Act,

2.

in the case of persons entitled to file an application under section 273 subs. 5 to 7, section 282 subs. 4 and 5 and section 284 subs. 2 second sentence, at the earliest two years after the end of the month in which the aggrieved person has reached the age of 65 (a woman the age of 60).

Persons who, at the expiry of the application period applicable to them under sentences 1 and 2, could not be granted a war injury pension because they received income within the meaning of section 267(2)(3) may, subject to section 261(5), apply for a war injury pension for two years after the expiry of the month in which such income ceased to preclude the granting of a war injury pension for the first time.

Unofficial table of contents

§ 265 Disability

(1) War disability pensions shall only be granted if the injured person is permanently unable to earn half of what physically and mentally healthy persons of the same kind with similar training in the same region are used to earn by working in an occupation which corresponds to his or her strength and abilities and which he or she can reasonably be expected to perform, taking into account his or her training and previous occupation.

(2) A single woman shall be treated in the same way as an incapacitated person, irrespective of her age, provided that at the time of application she has to care for at least three children belonging to her household on the day of the entry into force of this Act. Equal status shall cease when the single woman no longer has to care for at least one child, unless at that time she has reached the age of 45 or is incapacitated within the meaning of paragraph 1. Stepchildren as well as foster children and, if the parents are deceased or unable to fulfil their maintenance obligation, grandchildren living with the injured party shall also be taken into account as children,

1.

if they have not yet reached the age of 16, or

2.

if they are in school or vocational training or are doing a voluntary social year or a voluntary ecological year within the meaning of the Youth Volunteer Service Act and have not yet reached the age of 27, or

3.

if they are unable to support themselves due to physical, mental or psychological disability.

In the cases of sentence 3 no. 1, section 2 subsection 4 of the Federal Child Benefit Act shall apply accordingly, and in the cases of sentence 3 nos. 2 and 3, section 2 subsection 3 sentence 2 of the Federal Child Benefit Act shall apply accordingly.

(3) Orphans shall also be deemed to be incapable of working under the conditions of subsection 2, sentence 3, nos. 1 and 2; children whose parents are prisoners of war or are detained outside the area of application of the Basic Law or of Berlin (West) or whose whereabouts are unknown shall be treated as orphans.

(4) Incapacity for work within the meaning of subsection 1 must, subject to § 273 paras. 5 to 7, § 282 paras. 4 and 5 and § 284 para. 2, have existed at the latest one year after the entry into force of this Act, and in the case of subsequent residence within the area of application of this Act in accordance with § 230 para. 2 No. 1 at the time of residence, but at the latest on 31 December 1971. An application for a war damage pension due to incapacity for work within the meaning of paragraphs 1 to 3 may only be submitted until 31 December 1955. However, subject to § 261, para. 5, the application period shall expire on

1.

in the case of persons entitled to file an application under section 280 subs. 2, at the earliest two years after the end of the month in which the aggrieved person took up permanent residence within the area of application of this Act,

2.

in the case of persons entitled to apply under § 273 paras. 5 to 7, § 282 paras. 4 and 5 and § 284 para. 2 sentence 2, at the earliest two years after the end of the month in which incapacity for work occurred, but not before 31 December 1968.

(5) If there is any doubt as to whether the injured party is incapable of working, an expert opinion shall be obtained from the health authority responsible for his/her permanent residence. If necessary, a higher expert opinion shall be obtained. University hospitals are obliged to prepare such higher expert opinions upon request. The higher expert opinions shall be remunerated in accordance with the Judicial Remuneration and Compensation Act (Justizvergütungs- und -entschädigungsgesetz). The same shall apply if the expert opinion of other bodies which are not obliged to cooperate free of charge is required for the preparation of expert opinions of the public health authorities.

Unofficial table of contents

§ 266 Determination of the damage and the basic amount

(1) Insofar as the determination of an amount of damage is necessary for the purposes of the war damage pension, the ascertained damages of the directly injured party (§ 261) shall be combined into one amount of damage; § 245 nos. 1 to 4 shall apply accordingly. Expulsion losses and East German losses to Reichsmark savings deposits and to other pecuniary claims under private law, insofar as these are savings deposits within the meaning of § 15 paras. 2 and 4, shall, in deviation from § 245 no. 4, be assessed at the amount determined in this respect in accordance with the Feststellungsgesetz, less any amount converted to Deutschmarks or credited in accordance with § 3 para. 1 of the Währungsausgleichsgesetz.

(2) In the case of pecuniary losses, the calculation of the war damage pension shall be based on the basic amount resulting from the corresponding application of sections 246, 248, 249 and 250, paragraph 2. The basic amounts of spouses who are not permanently separated shall be added together, even if one of the spouses has died after the damage; the surviving spouse may also apply for the determination of the damage of the deceased spouse for the purposes of the war damage pension. If, in the cases of § 261, para. 2, sentence 2, the single daughter is herself the directly injured party, her basic amount shall be added to that of her parents, unless she applies for the basic amounts not to be added together; this application shall be combined with the application for war damage pension.

(3) Damages due to loss of occupational or other livelihood shall be determined on the merits and in terms of amount for the application of section 269a and section 273 subs. 5 as well as for the purposes of the compensation pension, otherwise only on the merits for the purposes of maintenance assistance; for the determination of the amount of the damage, the income of spouses who are not permanently separated shall be added together, even if one of the spouses has died after the injury. Paragraph 2 sentence 3 shall apply accordingly.

(4) In applying subsections (1) and (2), subject to the statutory order under section 261(4), the amounts of damage and basic amounts shall not be taken into account insofar as they are based on zonal damage (section 250(7), second sentence).

Title Two Maintenance assistance

Unofficial table of contents

§ 267 Maximum income amount

(1) Maintenance assistance shall be granted if the income of the entitled person (§ 261) does not exceed a total of 745 German marks <adjusted to 451 euros> *) per month. This amount shall be increased

1. for the spouse who is not permanently separated from the beneficiary by 497 Deutsche Marks <adjusted to 300 Euros> *) per month,
2. for each child within the meaning of section 265 subs. 2, provided that the child is predominantly maintained by the beneficiary, by 252 Deutsche Marks <adjusted to 153 Euros> *) per month,
3. by the self-employed supplement according to § 269a,
4. by the social supplement according to § 269b.

The maximum income amount shall also be increased by a care allowance of 26 euros, or 11 euros per month in the case of institutional accommodation, if the single entitled person or, in the case of spouses who are not permanently separated, both spouses are so helpless as a result of physical or mental infirmity at the latest at the time of the decision on the care allowance that they cannot exist without outside maintenance and care. The same shall apply if one spouse, as a result of physical handicap, is unable to take over the maintenance and care of the helpless other spouse at the latest at the time specified in sentence 3. A prerequisite for the care allowance is that a caregiver is available for constant maintenance and care. The care allowance of 26 Euro per month shall be increased by 291 Deutsche Marks <adjusted to 159 Euro> *) per month if care

allowance, care allowance or a care benefit in kind according to other regulations is not granted. The care allowance of 26 Euros, in case of institutional accommodation of 11 Euros per month, is not to be granted if persons in need of care receive care allowance or a care benefit in kind according to the provisions of the Eleventh Book of the Social Code or, in the cases of § 276 para. 3a, comparable benefits from a private insurance company.

(2) Income shall be deemed to be all emoluments in money or money's worth remaining to the entitled person and his or her spouse who is not permanently separated from him or her as well as his or her children within the meaning of subsection 1 no. 2 after deduction of the expenses to be taken into account as income-related expenses in accordance with the principles of income tax law; however, the following exceptions shall apply:

1.

Statutory and voluntary maintenance payments by relatives as well as charitable benefits shall not be regarded as income. The same applies to honorary gifts from the Federal President and the Minister Presidents of the Länder as well as to other honorary gifts granted from public funds as a reward for rescue from danger, as a loyalty bonus, on the occasion of marriage or old-age anniversaries or of sponsorships or on similar occasions. Benefits for bringing up children which are granted by an institution of the statutory pension insurance as benefits of their own kind shall also not be regarded as income.

2.

Special benefits of a one-off or ongoing nature for a specific purpose, such as care allowances, care allowances, care benefits in kind, reimbursement of extraordinary costs for increased wear and tear of clothing and linen, maintenance amounts for a guide dog for the blind, shall not be taken into account. In addition, the following persons shall be granted allowances for expenses directly incurred by them as a result of their special circumstances, namely

a)

Persons who receive pensions under the Federal Pensions Act or under the Criminal Rehabilitation Act or under the Administrative Rehabilitation Act in corresponding application of the Federal Pensions Act, allowances in the amount of their basic pension as well as their severely disabled person's allowance, persons who receive care allowance under the Federal Pensions Act or under the Criminal Rehabilitation Act or under the Administrative Rehabilitation Act in corresponding application of the Federal Pensions Act, but at least an allowance of 39 euros per month;

b)

The following allowances apply to persons who are restricted from working as a result of an accident:

in the event of a purchase restriction

- from 30 to 60 per cent = 45 euros per month,

- over 60 to 80 per cent = 48 euros per month,

- over 80 % = 53 euros per month;

c)

persons who are so helpless as a result of physical or mental infirmity that they cannot exist without outside maintenance and care, an allowance of 39 euros per month, unless they receive care allowance or a care benefit in kind in accordance with the provisions of Book Eleven of the Social Code or comparable benefits from a private insurance company;

d)

Parents or parents who receive a parental pension under the Federal Pensions Act or under the Criminal Rehabilitation Act or under the Administrative Rehabilitation Act in corresponding application of the Federal Pensions Act, under the Acts for the Reparation of National Socialist Injustice or on the occasion of the death of children caused by accident, an allowance amounting to 30 per cent of the rate of the parental pension under section 51 para. 1 of the Federal Pensions Act in the version applicable on 1 January 1972; this amount shall be increased by the amounts by which the parental pension under the Federal Pensions Act in the version applicable on 1 January 1972 is increased on account of the loss of several, all or at least three children, the only child or the last child. The allowance may not exceed the amount paid out for the parental pension;

e)

Persons who are restricted in their ability to work as a result of damage to their body or health suffered as victims of persecution within the meaning of the statutory or extra-statutory regulations of the Federation and the Länder on the redress of National Socialist injustice, allowances for their pensions or current allowances up to the amount of the comparable basic pension under the Federal Pensions Act, but at least the allowances under letter b.

3.

Income from agriculture and forestry, from trade or business, from self-employment and from a current employment relationship shall be assessed at half. This does not apply to income up to the

rates of maintenance assistance according to sections 269, 269a; in these cases a tax-free allowance amounting to half of these rates shall be granted. Income which has been earned with lasting damage to health up to the time when a decision is made on the award of maintenance assistance shall not be taken into account.

4.

State gratuities which are not disregarded in accordance with number 1, sentence 2, as well as voluntary benefits which are granted in consideration of a former service or employment relationship or a former self-employed occupation or as an additional benefit of a professional organisation shall only be deemed to be income if they exceed half of the rates of maintenance assistance in accordance with sections 269, 269a, at 50 per cent of the additional amount; this shall also apply if a legal entitlement is assumed on the basis of company practice or a grant made over a longer period of time in accordance with case law.

5.

Allowances for children, in particular child benefit, child supplement and child allowance, shall not be deemed income insofar as they exceed the supplement according to paragraph 1, no. 2 plus the increase amount to the social supplement according to section 269b, paragraph 2, no. 2.

6.

Pensions from the statutory pension insurance are to be recognised as income with the amounts reduced by the following allowances:

- 45 euros per month when receiving insured persons' pensions,
- in the case of receipt of survivors' pensions other than orphans' pensions, 33 euros per month,
- 16 euros per month when receiving orphans' pensions.

In the case of comparable other pensions, corresponding allowances shall be granted, insofar as no provision has already been made in No. 2 letters a, b and d or No. 4.

7.

For income from renting and leasing, an allowance of 26 euros per month is granted, but not more than the amount of this income.

8.

For income from capital assets, a tax-free allowance of 21 euros per month is granted, but not more than the amount of this income. The interest surcharges paid according to section 252 (2) are not considered as income.

The allowances and benefits under No. 2 letters a to e, Nos. 3, 4, 6 to 8, with the exception of allowances for basic pensions and severely disabled persons' allowances under the Federal Pensions Act or under the Criminal Rehabilitation Act or under the Administrative Rehabilitation Act in corresponding application of the Federal Pensions Act and allowances under letter e for pensions or current allowances under the statutory or extra-statutory regulations of the Federation and the Länder for the redress of National Socialist injustice to body or health, shall be granted only to the extent that they exceed the social supplement under section 269b. (3) By statutory order, further details on the delimitation and calculation of income and allowances may be determined. In this connection, with effect from 1 January 1983, the reduction of income by the deduction of contributions to statutory health insurance and, to an appropriate extent, to private health insurance shall be regulated.

Unofficial table of contents

§ 268

(omitted)

Unofficial table of contents

§ 269 Amount of maintenance assistance

(1) The maintenance assistance shall amount to 745 Deutsche Marks <adjusted to 451 Euro> *) per month for the entitled person.

(2) The maintenance assistance shall be increased by 497 Deutsche Marks <adjusted to 300 Euros> *) per month for the spouse who is not permanently separated and by 252 Deutsche Marks <adjusted to 153 Euros> *) per month for each child within the meaning of section 265, paragraph 2, provided that the child is predominantly maintained by the entitled person; in the case of section 267, paragraph 1, sentences 3 to 6, the maintenance assistance shall be increased by the care allowance.

Unofficial table of contents

§ 269a Self-employed supplement

(1) The maintenance assistance resulting from section 269 shall be increased by a self-employment supplement for former self-employed persons within the meaning of section 273 subs. 5 nos. 1 and 2. The supplement under subsection (2), step 1, shall also be paid on application to persons entitled under section 273(6), no. 2, who, as future heirs to an agricultural or commercial enterprise, were not self-employed at the time of the injury only because no further transfer of assets had taken place by that time.

(2) The self-employed supplement shall be

in stage	in the case of a final basic amount of the main allowance (section 273 (5) no. 2 sentences 1 and 2)	in the case of average annual income from self-employment under section 239 (section 273 (5) no. 2 sentence 3)	monthly
1	-	up to RM 4,000	170 DM <adjusted to 102 Euro> *)
2	up to EUR 2,351.94	up to RM 5,200	215 DM <adjusted to 130 Euro> *)
3	up to EUR 2,863.23	up to RM 6,500	258 DM <adjusted to 157 Euro> *)
4	up to EUR 3,885.82	up to RM 9,000	286 DM <adjusted to 173 Euro> *)
5	up to EUR 4,908.40	up to RM 12,000	315 DM <adjusted to 191 Euro> *)
6	over EUR 4,908.40	over RM 12,000	345 DM. <adjusted to 208 Euro> *)

(3) The self-employed supplement shall increase for the spouse who is not permanently separated in overhead rate by monthly

1	90 DM <adjusted to 54 Euro> *)
2	103 DM <adjusted to 63 Euro> *)
3	115 DM <adjusted to 70 Euro> *)
4	129 DM <adjusted to 78 Euro> *)
5	148 DM <adjusted to 89 Euro> *)
6	DM 175. <adjusted to 107 Euro> *)

(4) If the beneficiary and his dependants entitled to a supplement (§ 269 par. 2) receive pension benefits within the meaning of § 267 par. 2 no. 6, the self-employed supplement shall be increased by

1. by 31 euros per month in the case of receipt of insured persons' pensions and comparable other pension benefits,

2. by 23 euros per month for survivors' pensions other than orphans' pensions and comparable other pensions,

3. by 11 euros per month for orphans' pensions and comparable other pensions,

but by no more than the amount by which the pension benefit exceeds 14 euros per month in the case of number 1, 10 euros per month in the case of number 2 and 5 euros per month in the case of number 3. The granting of allowances under section 267(2)(6) shall not apply if the allowances do not exceed the self-employment supplement.

Unofficial table of contents

§ 269b Social supplement

(1) The maintenance assistance resulting from sections 269, 269a shall be increased by a social supplement.

(2) The social supplement shall amount to 103 Deutsche Mark <adjusted to 63 Euro> *) per month for the entitled person. It shall increase

1. for the spouse who is not permanently separated from the beneficiary by 129 Deutsche Marks <adjusted to 78 Euros> *) per month,

2.

for each child within the meaning of section 265 subs. 2, provided that the child is predominantly maintained by the beneficiary and has reached the age of seven, by 162 Deutsche Marks <adjusted to 97 Euros> *) per month.

(3) The social supplement shall be granted only to the extent that it exceeds the self-employed supplement under section 269a.

Unofficial table of contents

§ 270 Crediting of income

(1) Pension benefits and other income shall be offset against the maintenance assistance to the extent that they are deemed to be income in accordance with section 267(2). The amount to be offset shall be rounded down to full euros. If the allowance under section 267(2) no. 2 letter d is reduced because the parental pension has been reduced as a result of the granting of or increase in other income, the income to be offset shall be reduced by the amount by which the sum of the income under subsection 2 and the maintenance assistance would fall short of the previous total income due to the reduction in the allowance; the reduction in the income to be offset shall cease as soon as and to the extent that an increase in the total income occurs.

(2) If the total income under section 267 subs. 2, adding those amounts which are to be exempted from offsetting under section 267 subs. 2 no. 2 second sentence, nos. 3, 4, 6, 7 and 8, together with the maintenance assistance resulting under sections 269 to 269b and under subsection 1, exceeds twice the maximum income amount under section 267 subs. 1, the maintenance assistance shall be reduced by the amount exceeding twice the maximum income amount.

(3) Pension benefits granted for past months shall be credited retrospectively against the maintenance assistance granted for those months.

(4) Maintenance assistance shall not be granted if a payment amount of less than 3 euros per month would result according to paragraphs 1 to 3.

Unofficial table of contents

Section 271 Duration of maintenance assistance

Maintenance assistance is granted for life or for a fixed term.

Unofficial table of contents

§ 272 Maintenance assistance for life

(1) Maintenance assistance for life shall be granted if the injury has permanently destroyed the livelihood of the person entitled. This condition shall always be deemed to be fulfilled if the damage has been established as a loss of occupational or other means of livelihood and this loss is still having an effect. In the case of pecuniary loss, the permanent destruction of the livelihood of the beneficiary is presumed if the beneficiary is a displaced person; in the case of war victims, victims of the East and savers, the existence of these preconditions is always presumed if the basic amount resulting from section 266 reaches 2,863.23 euros.

(2) In the event of the death of the beneficiary, payment shall cease on the last day of the month following the date of death. From the beginning of the month following the day after the day of death, the beneficiary shall be replaced without a new application by his or her spouse who is not permanently separated from him or her. The prerequisite for this is that

1.

the marriage has existed for at least one year or has already existed at the time from which maintenance assistance has been awarded under this Act, and

2.

the surviving spouse has reached the age of 65 (the wife the age of 45) at the time of the death of the previous beneficiary or is incapacitated within the meaning of section 265 subs. 1 at that time; incapacity shall be deemed to exist if and for as long as a widow has to care for at least one child within the meaning of section 265 subs. 2 belonging to her household at the time of the death of the spouse.

Sentences 2 and 3 shall apply mutatis mutandis to a single daughter under the conditions of section 261 subs. 2 second sentence; section 266 subs. 2 third sentence and subs. 3 second sentence shall apply with the proviso that the application not to add up the basic amounts or the lost income must be made by the expiry of one year after the decision changing the maintenance assistance to the single daughter has become final.

(3) If a recipient of maintenance assistance receives supplements for children at the time of his death and if these children become orphans as a result of the death, they shall take the place of the deceased as long as the requirements of section 265, subsection 2, sentence 3, nos. 1 and 2 are met; they shall receive the amounts determined in section 275. Paragraph 2 sentence 1 shall apply accordingly.

Unofficial table of contents

§ 273 Temporary maintenance assistance

(1) Temporary maintenance assistance shall be granted if the special conditions for granting it for life under section 272 are not met.

(2) Temporary maintenance assistance shall be granted until the sum of the payments to be credited has reached the basic amount (section 266 subs. 2); the following shall be credited

1. for the period up to 31 March 1952, maintenance assistance benefits granted under the Emergency Assistance Act with the amounts under § 38 of the Emergency Assistance Act,
2. for payments made for the period from 1 April 1952 to 31 March 1957 (maintenance assistance under this Act and under the Emergency Assistance Act, cost-of-living allowances under the Emergency Assistance Adjustment Act) at 50 per cent,
3. for payments made for the period from 1 April 1957 to 31 May 1961 (maintenance assistance under this Act and under the Emergency Assistance Act) at 40 per cent,
4. for payments made for the period from 1 June 1961 to 31 May 1965 (maintenance assistance under this Act and under the Emergency Assistance Act) at 20 per cent,
5. payments made for the period from 1 June 1965 onwards at a rate of 10 per cent,
6. Maintenance allowance according to § 37 of the Emergency Assistance Act always with the full amount.

Maintenance assistance shall be granted at the longest until the death of the entitled person or, in the case of legal succession pursuant to section 272 subs. 2 second to fourth sentences, until the death of the spouse or the single daughter, in the case of section 272 subs. 3 until the death of the orphan, at the longest until the age limits are reached.

(3) Recipients of maintenance allowance under section 37 of the Emergency Assistance Act shall continue to receive maintenance allowance, insofar as they do not receive maintenance assistance under this Act, until the total amount of benefits resulting from section 33 of the Emergency Assistance Act is reached.

(4) Persons who, on the basis of the regulations issued under section 357 (1), have received maintenance assistance under the Emergency Assistance Act up to 30 June 1953, but who do not meet the requirements for the granting of war damage pensions under this Act, shall continue to receive maintenance assistance beyond 30 June 1953 if the grant is made because of loss of household effects and the maximum amount of benefits under section 33 of the Emergency Assistance Act had not been reached on 30 June 1953. The maintenance assistance shall continue to be granted, as from 1 July 1953, with full crediting of the amount paid out including the cost-of-living allowances, until the part of the maximum amount under Section 33 of the Emergency Assistance Act not yet used on 30 June 1953 is reached by the sum of the payments to be credited as from 1 July 1953.

(5) If the injured person was born after 31 December 1889 (a woman after 31 December 1894) and before 1 January 1907 (a woman before 1 January 1912) or became incapable of work within the meaning of section 265, subsection 1, not later than 31 December 1971, temporary maintenance assistance shall be granted subject to the following conditions:

1. At the time of the occurrence of the damage, the livelihood of the directly injured party and his or her spouse to be taken into account in accordance with section 266 subs. 2 second sentence must have been predominantly based on
 - a) on the exercise of a self-employed activity or
 - b) on claims and other counter-values from the transfer, other realisation or leasing of the property serving such activity, or
 - c) on a pension plan that had been established from the earnings of such activity.
2. A claim for main compensation with a final basic amount of at least 1,840.65 Euros must have been awarded for the damages of the directly injured party and his spouse to be taken into account according to section 266, paragraph 2, sentence 2; subject to the statutory order according to section 261, paragraph 4, the basic amount or partial basic amount based on zone damages (section 250, paragraph 7, sentence 2) shall not be taken into account. If several claims for main compensation have arisen for these losses, the final basic amounts shall be added together; this shall also apply if an heir took the place of the directly injured party or his spouse before 1 April 1952. The award of a claim to main compensation with a final basic amount of at least 1,840.65 Euros is equivalent to a loss of professional or other livelihood with an average annual income from self-employment of at least 2,000 Reichsmark pursuant to section 239; this condition is also deemed

to be fulfilled if, in addition to self-employment, another paid activity was not carried out or was carried out only to a small extent and the livelihood was not or only insignificantly supported by other income.

Temporary maintenance assistance shall be granted until the sum of the payments to be credited (paragraph 2) reaches the final basic amount of the main allowance (number 2). Maintenance assistance shall be granted by analogous application of the provisions on maintenance assistance for life if the final basic amount of the main allowance (number 2, sentences 1 and 2) reaches 2,863.23 euros or if it is based on damage to property on which the livelihood (number 1) was based or if the condition of number 2, sentence 3 is met.

(6) Under the vintage and disability prerequisites of subsection 5 sentence 1, maintenance assistance shall be granted in corresponding application of the provisions on maintenance assistance for life

1.

to persons who meet the requirements of section 284(2) sentence 1,

2.

to persons whose livelihood lost as a result of the injury was based on the fact that prior to the injury they lived in a household with a family member who met the requirements of paragraph 5 nos. 1 and 2 and were economically dependent on him or her.

(7) If the aggrieved person was born after 31 December 1906 (a woman after 31 December 1911) or became incapable of work within the meaning of section 265, subsection 1, after 31 December 1971, maintenance assistance shall be granted in accordance with subsection 5 and subsection 6, no. 2, if a livelihood within the meaning of these provisions existed for a total of at least 10 years after reaching the age of 16 until the loss of this livelihood. In the event of loss of a livelihood within the meaning of subsection 5, no. 1, periods of existence of a livelihood within the meaning of subsection 6, no. 2, and in the event of loss of a livelihood within the meaning of subsection 6, no. 2, periods of existence of a livelihood within the meaning of subsection 5, no. 1, shall also be taken into account.

Unofficial table of contents

Section 274 Special regulation in case of discontinuation of public pensions

(1) If the beneficiary's claim is based on a savings loss caused by failure to convert claims to draw or re-draw preferential pensions or by cessation of payment of liquidation pensions of the First World War or of Reich allowances to small pensioners (§ 15, para. 3), and if the beneficiary's income (§ 267, para. 2) does not exceed the maximum income amount according to § 279, para. 1, sentences 1 to 3, maintenance assistance shall be granted for life. The calculation of a damage amount and a basic amount shall be omitted.

(2) The beneficiary shall receive maintenance assistance in the amount of the monthly payment discontinued and a supplement in the amount of 891 <adjusted to 1,073> * per cent, but not more than in the amount of the rates of maintenance assistance according to § 269; in this case, if the beneficiary has received a simple preferential pension, the monthly payment discontinued shall be assessed at 125 per cent, or, if he was over 65 years of age on the currency reference date, at 150 per cent. The bond redemption debt with drawdown rights on which the preferential pension is based shall be extinguished by claiming the maintenance assistance. An amount of 20 Reichsmark per month for a single person and 30 Reichsmark per month for a married person shall be deemed to be a lapsed payment in the case of small pensioners. Section 270 shall not apply; however, the total amount of income, including maintenance assistance, may not exceed the maximum income amount under subsection 1, first sentence. The maintenance assistance shall be rounded up to full euros; it shall not be granted if a payment amount of less than three euros per month would result.

(3) If another damage giving rise to a claim for maintenance assistance coincides with a savings damage of the kind referred to in paragraph 1, the beneficiary shall have the choice of claiming a war damage pension in accordance with the general provisions on account of his other damage or of claiming the special provision in accordance with paragraphs 1 and 2 on account of the damage referred to in paragraph 1.

Unofficial table of contents

§ 275 Maintenance assistance for orphans

(1) Directly injured orphans within the meaning of section 265(2) shall receive temporary maintenance assistance in accordance with the provisions of this section. The amount specified in § 267, para. 1 and in § 269, para. 1 shall be replaced by a rate of 410 Deutsche Marks per month <adjusted to 249 Euros> *). Section 269b shall only apply to orphans who have reached the age of 15; a monthly amount of 60 Deutsche Marks <adjusted to 36 Euro> *) shall be applied as a social supplement.

(2) The granting of maintenance assistance shall end at the end of the month in which the requirements of section 265 subs. 2 third sentence nos. 1 and 2 cease to apply, unless an earlier date results from section 273 subs. 2.

Unofficial table of contents

Section 276 Health care, long-term care insurance

(1) Recipients of maintenance assistance shall receive as an additional benefit sickness treatment which corresponds in type, form and extent to the sickness treatment granted to uninsured recipients of current

subsistence benefits under the Third Chapter of the Twelfth Book of the Code of Social Law; persons who have their permanent residence abroad shall receive sickness benefits only if they would be granted social assistance under the Twelfth Book of the Code of Social Law if they had no income or assets. The sickness benefit according to sentence 1 also includes the dependants for whom supplements are granted according to section 269 subs. 2, in the case of section 274 the spouse who is not permanently separated. Sickness assistance shall not be provided as long as sickness assistance is granted in accordance with the provisions of social insurance or other statutory provisions or if there is an entitlement to corresponding benefits in accordance with the Federal Pensions Act with the exception of the provisions on the welfare of war victims; if it is stipulated in the aforementioned provisions that benefits in accordance with other laws take precedence, this shall not apply in relation to sickness assistance in accordance with this Act. If the recipient of maintenance assistance for life has given up his voluntary sickness insurance after first receiving maintenance assistance under this Act and if the maintenance assistance is discontinued or the entitlement to the maintenance assistance lapses, the sickness benefit shall continue to be granted even after the maintenance assistance is discontinued or the entitlement to the maintenance assistance lapses.

(2) Insofar as the recipient of maintenance assistance is voluntarily insured against illness with a statutory health insurance fund, a substitute health insurance fund or a private health insurance company together with his or her dependants referred to in subsection 1 on 1 January 2005, he or she shall receive an allowance of 150 euros per month for each person insured on that day to continue health insurance.

(3) The President of the Federal Equalisation Office shall commission a health insurance fund to take over the provision of health care pursuant to subsection 1, first sentence, first half-sentence. Section 264, subsections 4 and 6 of the Fifth Book of the Code of Social Law shall apply *mutatis mutandis* to the provision of health care. If the provision of health care ceases, in particular because the maintenance assistance is discontinued or suspended, the procedure shall be in accordance with section 264(5) of the Fifth Book of the Code of Social Law. Section 264(7) of the Fifth Book of the Code of Social Law shall apply to the expenses and costs arising from the provision of health care pursuant to subsection 1, with the proviso that 75 per cent thereof shall be borne by the competent social assistance institutions; the remaining amount shall be reimbursed to the health insurance fund by the Federation.

(3a) Recipients of maintenance assistance who are subject to compulsory insurance pursuant to Section 20(3) of Book Eleven of the Social Code or who are insured against the need for long-term care with a private insurance company pursuant to Section 22 or Section 23 of Book Eleven of the Social Code shall receive a subsidy towards the costs of long-term care insurance as part of the maintenance assistance. The monthly allowance shall be paid in the amount of the contribution which the benefit provider has to bear as a long-term care insurance contribution for benefit recipients who are compulsorily insured under the social long-term care insurance scheme.

(3b) For recipients of maintenance assistance who are subject to compulsory insurance in the social long-term care insurance pursuant to section 21 no. 2 of the Eleventh Book of the Social Code, the contribution supplement for childless persons pursuant to section 55 subsection 3 of the Eleventh Book of the Social Code shall be borne by the Federation.

(4) Section 132 (1) and (2) of the Twelfth Book of the Code of Social Law shall apply *mutatis mutandis* to the examination of eligibility for benefits under subsection 1, first sentence, second half-sentence, whereby the receipt of maintenance assistance shall be deemed equivalent to benefits under sections 119 and 147b of the Federal Social Assistance Act prior to 1 January 2004. The implementation of health care is the responsibility of the supra-local social welfare agencies, which also bear the costs. The Federation shall reimburse 25 per cent of these costs. The provisions applicable to social assistance concerning responsibility and reimbursement of costs between the social assistance institutions shall apply *mutatis mutandis*.

(5) The Social Code and the Social Court Act shall apply to the relationship between the entitled person on the one hand and the health insurance fund (paragraph 1, sentence 1, half-sentence 1) or the supra-local social welfare agency (paragraph 1, sentence 1, half-sentence 2) on the other hand. Accordingly, the health insurance fund or the supra-local social welfare agency shall have passive legitimacy in preliminary and legal action proceedings.

(6) By statutory order, the amount determined in subsection 2 may be adjusted to the development of contributions to voluntary health insurance.

Unofficial table of contents

§ 276a

(omitted)

Unofficial table of contents

§ 277 Death grant

(1) Recipients of maintenance assistance may apply to be granted a death grant of 520 euros each in the event of their death or the death of their spouse. The recipient of maintenance assistance shall contribute 1 Euro per month and his spouse 0.50 Euro per month to the costs incurred; these amounts shall be withheld from the current payments of war damage pensions. For the rest, the costs are borne by the Federal Government.

(2) If the suspension of the maintenance assistance is ordered, the death provision shall be maintained. The contributions due during the suspension shall, insofar as they cannot be withheld from current payments of

compensation pension, be withheld from the maintenance assistance after resumption of payments or, if the death occurred during the suspension, from the death grant.

(3) The provision for death shall cease to apply if the maintenance assistance ceases to be permanent without the death having occurred; contributions paid shall be refunded. This shall not apply if and as long as a compensation pension or current allowance pursuant to § 301b is paid after the cessation of maintenance assistance; in this case, the contributions due shall be withheld from the current payments of compensation pension or current allowance. Sentences 1 and 2 shall also apply to cases in which maintenance assistance had already ceased permanently on 1 January 1993 and the death had not yet occurred.

(4) The application in accordance with subsection 1 may only be made until the expiry of one year after the decision on the granting of maintenance assistance has become final. The persons referred to in section 272, subsection 2, sentences 2 to 4 may still apply for the granting of death grants until the expiry of one year after the decision changing the maintenance grant to them has become final.

(5) The death grant shall be paid to the person whom the maintenance assistance recipient has declared to be entitled to receive it, in case of doubt to those persons, institutions or bodies who have demonstrably borne the funeral costs.

(6) The death grant shall not be offset against comparable benefits. It is also not subject to offsetting against overpaid other benefits.

Unofficial table of contents

§ 277a

(omitted)

Unofficial table of contents

§ 278 Relationship to the compensation pension

(1) The basic amount determined in accordance with section 266(2) shall be deemed to have been taken up by the granting of lifetime subsistence allowance in the following amount (blocked amount):

Age of majority at the relevant time in accordance with paragraph 2	Monthly payment amount of the maintenance assistance at the relevant time according to paragraph 2				
	up to EUR 7.67	up to EUR 15.34	up to EUR 25.56	up to EUR 51.13	over EUR 51.13
80	306,78	613,55	1.022,58	1.687,26	1.994,04
75	409,03	869,20	1.431,62	1.994,04	2.300,81
70	562,42	1.175,97	1.994,04	2.300,81	2.607,59
65	766,94	1.533,88	2.300,81	2.607,59	2.812,11
60	971,45	1.994,04	2.812,11	2.812,11	2.812,11
55	1.227,10	2.454,20	2.812,11	2.812,11	2.812,11
50	1.891,78	2.812,11	2.812,11	2.812,11	2.812,11
under 50	2.812,11	2.812,11	2.812,11	2.812,11	2.812,11

(2) The following shall be decisive for the amount of the blocked amount

1. the age of the beneficiary at the time when maintenance assistance was first granted to him under this Act, and

2.

the amount paid out for maintenance assistance

a)

in the case of persons entitled who have received maintenance assistance for the first time with effect from 1 January 1955 or from an earlier date, on the average of the first three months of the calendar year 1955 or, if maintenance assistance has been suspended in one of these months, of the three months following the resumption of payments,

b)

for entitled persons who have been or will be admitted to maintenance assistance for the first time with effect from a date later than 1 January 1955, in the amount resulting from the first admission.

Unofficial table of contents

§ 278a Relationship to main compensation

(1) Payments made to the beneficiary and to persons replacing him/her shall be credited against the basic amount of the principal allowance as follows:

1. for the period up to 31 March 1952, maintenance assistance benefits granted under the Emergency Assistance Act with the amounts under § 38 of the Emergency Assistance Act,
2. for payments made for the period from 1 April 1952 to 31 March 1957 (maintenance assistance under this Act and under the Emergency Assistance Act, cost-of-living allowances under the Emergency Assistance Adjustment Act) at 50 per cent,
3. for payments made for the period from 1 April 1957 to 31 May 1961 (maintenance assistance under this Act and under the Emergency Assistance Act) at 40 per cent,
4. for payments made for the period from 1 June 1961 to 31 May 1965 (maintenance assistance under this Act and under the Emergency Assistance Act) at 20 per cent,
5. payments made for the period from 1 June 1965 onwards, including the social supplement (§ 269b), at 10 per cent,
6. Maintenance allowance according to § 37 of the Emergency Assistance Act always with the full amount,
7. Subsistence allowance under sections 301, 301a and under the Refugee Assistance Act at the rate of one hundred resulting from numbers 2 to 5,
8. Maintenance assistance under the Reparation Damage Act and maintenance assistance under the General War Consequences Act and section 10 of the Fourteenth Act Amending the Burden Equalisation Act at the rate of one hundred resulting from numbers 3 to 5, insofar as these benefits cannot be offset against the compensation under the Reparation Damage Act.

For decisions made after 31 December 2001, the DM amounts to be credited in accordance with numbers 1 to 8 shall be calculated in euros using the divisor 1.95583. The crediting shall be carried out if, taking into account other settlement amounts, it leads to the full settlement of the claim to main compensation or if the maintenance assistance ends beforehand on a permanent basis or is discontinued in accordance with § 291, para. 2 or if the entitled person waives the further granting of the maintenance assistance in order to enable the settlement of the claim to main compensation. If, in cases where maintenance assistance was granted for life, the prerequisites for a crediting according to sentence 3 did not exist until 31 December 2000, the crediting shall be carried out as of 1 January 2001; in this case, the entitlement to main compensation shall be deemed to have been fulfilled by maintenance assistance paid or suspended beyond this date in the amount relevant according to subsection 4, last sentence. Changes in circumstances after 31 December 2000 shall not be taken into account for the purpose of offsetting; however, any main allowance awarded after that date shall be taken into account.

(2) The following shall be credited against the basic amounts of the main allowance awarded in accordance with sub-section 1

1. for the damages of the directly injured party,
2. for the damages of his spouse to be taken into account according to § 266 par. 2 sentence 2,
3. for the damages of a single daughter to be taken into account under section 266(2) sentence 3, section 272(2) sentence 4;

this shall also apply if the claims to main compensation arose in the person of heirs who took the place of the directly injured person or his spouse before 1 April 1952. If, according to this, several basic amounts of the principal compensation are to be offset, the offset shall be made according to the ratio of these basic amounts; if, after the offset has been made, basic amounts of the principal compensation are awarded or changed, the offset shall be changed according to the resulting ratio of the basic amounts to each other.

(3) The interest surcharge on the principal compensation under section 250 attributable to the imputed amount shall be deemed to have been satisfied by the granting of maintenance assistance from the beginning of the calendar quarter following the date from which maintenance assistance has been awarded.

(4) Irrespective of whether maintenance assistance is being paid, is suspended or has been discontinued, entitlements to principal compensation to be offset in accordance with subsections (1) to (3) shall, in the case of basic amounts

-

from 1,020 to 1,534 euros in the amount of 154 euros,

- from 1,535 to 2,044 euros in the amount of 205 euros,
- from 2,045 to 2,554 euros in the amount of 281 euros,
- from 2,555 to 2,864 euros in the amount of 358 euros,
- from 2,865 to 3,339 euros in the amount of the part of the basic amount exceeding 2,505 euros,
- of more than 3,339 euros amounting to 25 per cent of the basic amount

(minimum settlement amount); if, pursuant to paragraph 2, several basic amounts of the main allowance are to be taken into account, the minimum settlement amount shall be calculated from the sum of these basic amounts and divided in proportion to the basic amounts. As long as the maintenance assistance is paid or suspended, the claims to the main allowance can only be met in excess of the minimum amount if an overpayment of the main allowance is not to be expected on average in the cases. Insofar as the claims to main compensation cannot be fulfilled before the crediting, they are provisionally claimed by the granting of maintenance assistance.

(5) Maintenance assistance may no longer be awarded after the entitlements to main compensation, which would have to be credited in the event of an award in accordance with paragraphs 1 to 3, have been fulfilled; after partial fulfilment of these entitlements in excess of the minimum fulfilment amount (paragraph 4), maintenance assistance may only be awarded to the extent that an overpayment of the main compensation is not to be expected on average in the cases.

(6) However, lifetime subsistence allowance may also be awarded after claims to principal compensation have been satisfied in accordance with the following provisions:

1.

If claims to principal compensation have been fulfilled by cash payment, registration of debt register claims, delivery of bonds, establishment of savings deposits or offsetting and if thereafter the prerequisites for the award of maintenance assistance have been created by extension of section 273, the fulfilment shall be reversed upon application insofar as it precludes the award of maintenance assistance for life in accordance with subsection 5. The settlement amount shall, if reasonable, be repaid to the equalisation fund within one year of the application. Maintenance assistance may be awarded at the earliest from the first day of the month following the date of the application to cancel the settlement; payment of maintenance assistance shall commence on the first day of the month following the repayment of the settlement amount. If repayment of the settlement amount cannot reasonably be expected within one year, maintenance assistance for life may be awarded subject to the proviso that the amount paid out in maintenance assistance shall be reduced by the imputation amount (paragraph 1) until the sum of the reduction amounts reaches the settlement amount which precludes the award of maintenance assistance for life.

2.

If claims to main compensation have been met by crediting loans within the meaning of section 291 (1) or if settlement amounts have demonstrably been used for a project within the meaning of section 291 (1), number 1, sentences 1 to 3 shall apply. If repayment of the settlement amount, insofar as it precludes the award of maintenance assistance for life, is unreasonable and a livelihood within the meaning of section 273 (5), no. 1 existed, maintenance assistance may be granted in accordance with number 1, sentence 4, if the creation or securing of the livelihood was not achieved because

a)

an agricultural lease has expired or

b)

the beneficiary of the benefit has died or has been prematurely rendered unable by severe physical or mental infirmity to continue the project himself or with the help of his dependants.

3.

If claims to main compensation have been met by crediting loans within the meaning of section 291 (3) or if settlement amounts have demonstrably been used for a project within the meaning of section 291 (3), the first and second sentences of No. 1 shall apply. If repayment of the settlement amount is unreasonable to the extent that it precludes the award of maintenance assistance for life, the following shall apply:

a)

If a construction loan has been credited, the loan shall be restored to the amount not repaid with effect from the date of crediting.

b)

If a settlement amount has been used for a project within the meaning of section 291(3), a new loan relationship shall be established for the amount not repaid with effect from the time of settlement.

c)

The arrears of interest and redemption payments arising from the restoration or reestablishment of a loan relationship shall be set off against the maintenance assistance from the effective date of its award.

Maintenance assistance may be awarded at the earliest from the first day of the month following the date of the application to cancel performance; payment of maintenance assistance shall begin on the first day of the month following the repayment of the performance amount or the completion of the set-off of the arrears (letter c).

4.

If claims to main compensation have been fulfilled by crediting loans to support a full-time agricultural business, if the recipient of the loan had to transfer the farm to a descendant or other aggrieved party due to advanced age or incapacity to work, and if the retirement provision associated with a farm transfer cannot be realised at this time due to the economic situation of the farm, number 1, sentences 1 to 3 shall apply. If repayment of the settlement amount is not reasonable, the settlement shall, with the consent of the transferee, be reversed on application, insofar as it precludes the award of lifetime maintenance assistance, in such a way that the loan relationship shall be restored vis-à-vis the transferee with effect from the time of the crediting; for this purpose, number 3, sentence 2 letter c and sentence 3 shall apply.

5.

If claims for main compensation for damages of a deceased directly injured person have been fulfilled before the requirements of section 230 for the application for war damage pension were met in the case of his surviving spouse, the fulfilment shall be reversed upon application insofar as it precludes the award of lifetime subsistence allowance pursuant to subsection 5 and if it cannot be reversed pursuant to numbers 2 to 4. Number 1, sentences 2 to 4 shall apply.

(7) The details on the crediting of maintenance assistance (paragraph 1), on the fulfilment of claims to main compensation in addition to the continued granting of maintenance assistance (paragraph 4) and on the awarding of maintenance assistance after full or partial fulfilment of claims to main compensation (paragraphs 5 and 6) shall be determined by statutory order. With regard to paragraphs 4 and 5, the amount of maintenance assistance paid out and the average life expectancy of the beneficiary shall be taken as a basis; in the case of spouses who are not permanently separated and have different average life expectancies, the higher average life expectancy shall be taken as a basis for three fifths of the amount paid out and the lower average life expectancy for two fifths. For the application of paragraph 6, in particular, the consideration of the minimum settlement amount, the time of the award and payment of maintenance assistance, the amount of the reduction of maintenance assistance and the interest on the claim to main compensation in the case of repayment of settlement amounts may also be regulated.

Title Three Compensation Pension

Unofficial table of contents

§ 279 Maximum income amount

(1) Compensation pension is granted if the total income of the entitled person does not exceed 1,133 Deutsche Mark <adjusted to 659 Euro> *) per month. This amount shall be increased

1.

for the spouse who is not permanently separated from the beneficiary by 701 Deutsche Marks <adjusted to 415 Euros> *) per month,

2.

for each child within the meaning of section 267 subs. 1 No. 2 by 260 German marks <adjusted to 157 euros> *) per month,

3.

for persons in need of care within the meaning of § 267 par. 1 sentences 3 to 6 by the care allowance,

4.

for former self-employed persons within the meaning of § 269a by the self-employment supplement.

In the case of directly injured full orphans within the meaning of § 265, para. 3, the maximum income amount is 475 German marks <adjusted to 282 euros> *) per month. If the calculation of the compensation pension is based on the basic amount of the main compensation, the maximum income amount for the beneficiary increases to 1.363 Deutsche Marks <adjusted to 777 Euro> *) per month and for a full orphan to 590 Deutsche Marks <adjusted to 341 Euro> *) per month as well as the increase amount for the spouse to 756 Deutsche Marks <adjusted to 443 Euro> *) per month and for each child to 311 Deutsche Marks <adjusted to 183 Euro> *) per month. For children who have reached the age of seven and for orphans who have reached the age of 15, the amounts determined for them in sentences 2 to 4 shall be increased by the social supplement in accordance with section 269b subs. 2 no. 2 or section 275 subs. 1 sentence 3.

(2) Section 267(2) and (3) shall apply to the calculation of income. The last sentence of section 267(2) (reduction of allowances by the social supplement) shall not apply.
(3) The rates of the maximum income amount under subsection (1) shall be adjusted by statutory order in each case by the amounts by which the rates of maintenance assistance including the social supplement are changed by adjustment under section 277a.

Unofficial table of contents

§ 280 Amount of the compensation pension

(1) The compensation pension shall amount annually to four per cent of the basic amount according to section 266 subsection 2, in the cases of section 279 subsection 1 sentence 4, section 282 subsections 4 and 5 and section 283 no. 2 letter b, no. 3 sentence 4 and no. 4, four per cent per annum of the basic amount of the main compensation; subject to the statutory order under section 261 subs. 4, the basic amount or partial basic amount based on zone damage (section 250 subs. 7 second sentence) shall not be taken into account. If a compensation pension is granted in addition to maintenance assistance, it shall amount to four per cent of the basic amount insofar as this exceeds the blocking amounts specified in section 278 (1); if the basic amount is based predominantly on savings losses, the blocking amounts shall be increased by 30 per cent.

(2) The percentage rate of the compensation pension pursuant to subsection 1 shall be increased by one percent for each additional year of age completed at the time the beneficiary first receives the compensation pension. However, the percentage shall be at least

1. if the basic amount is not predominantly based on savings claims, 8 per cent,
2. 7 per cent in the case of persons falling under section 267 subs. 2 no. 2 letters a and b and who are 80 per cent or more restricted in their ability to work,
3. eight per cent for persons who receive nursing allowances, nursing allowances or benefits in kind under the Federal Pensions Act, the provisions of the Seventh or Eleventh Book of the Social Code or comparable benefits from a private insurance company or who fall under section 267 subs. 2 no. 2 letter c.

(3) If the total of the compensation pension and the other income (section 267(2)) of the beneficiary, including any maintenance assistance received by him/her, would result in a higher total amount than the maximum income amount under section 279, the compensation pension shall be reduced by the excess amount.

(4) If the total income in accordance with section 267, paragraph 2, including those amounts which are to be exempted from imputation in accordance with section 267, paragraph 2, no. 2, sentence 2, nos. 3, 4, 6, 7 and 8, together with the resulting war damage pension, exceed 150 per cent of the maximum income amount in accordance with section 279, paragraph 1, the compensation pension shall be reduced by the amount exceeding 150 per cent of the maximum income amount.

(5) Compensation pensions shall not be granted if a payment amount of less than 3 euros per month would result according to paragraphs 1 to 4.

Unofficial table of contents

§ 281 Advance payments on the compensation pension

If the prerequisites for the granting of the compensation pension are met and if the entitled person makes a credible case that he/she has suffered a pecuniary loss of more than 20,000 Reichsmark, advance payments on the compensation pension in the amount of 11 Euros per month may be granted until the entitlement to the compensation pension is determined.

Unofficial table of contents

Section 282 Special requirements for the compensation pension

(1) The compensation pension shall be granted, if the basic amount of the entitled person exceeds the amount specified in section 280, paragraph 1, sentence 2, only in addition to maintenance assistance for life; the entitled person may, subject to paragraph 5, apply to be granted exclusively a compensation pension.

(2) The compensation pension shall, if the basic amount of the beneficiary does not exceed the amount referred to in section 280(1), second sentence, be granted, subject to subsection (5), only if the beneficiary cannot or does not claim maintenance assistance.

(3) If the basic amount is predominantly based on savings losses, indemnity pension alone shall only be granted if the basic amount reaches the following minimum amounts:

Completed age of the beneficiary at the time from which the compensation pension is granted for the first time	Minimum basic amount
80	EUR 1,533

Completed age of the beneficiary at the time from which the compensation pension is granted for the first time	Minimum basic amount
75	EUR 1,891
70	EUR 2,249
65	EUR 2,607
under 65	EUR 2,965.

(4) If the aggrieved person was born after 31 December 1889 (a woman after 31 December 1894) and before 1 January 1907 (a woman before 1 January 1912), a compensation pension shall be granted if the directly aggrieved person and his or her spouse who is to be taken into account in accordance with section 266 subs. 2 second sentence are entitled to main compensation; in this case, the calculation of the amount of the compensation pension shall be based exclusively on the final basic amount applicable to the main compensation. Section 273 subs. 5 no. 2 second sentence shall apply mutatis mutandis. Sentences 1 and 2 shall apply mutatis mutandis if the injured person has become incapable of work within the meaning of section 265 subs. 1 by 31 December 1971 at the latest and fulfils the requirements of section 273 subs. 5 nos. 1 and 2.

(5) If the injured person was born after 31 December 1906 (a woman after 31 December 1911) or became incapacitated for work within the meaning of section 265, subsection 1, after 31 December 1971, a compensation pension shall be granted in accordance with subsection 4 in addition to current or suspended maintenance assistance in accordance with section 273, subsection 7.

Unofficial table of contents

Section 283 Relationship to main compensation

(1) If compensation pension is granted alone, the following shall apply in relation to the main compensation:

1.

Payments of compensation pension made to the entitled person and persons replacing him/her shall be credited against the entitlement to main compensation (section 251 (1)) existing at the time of the discontinuation of the compensation pension or the previous crediting (number 2 letter a); the crediting against the interest supplement shall take precedence. The first sentence shall apply mutatis mutandis to special current allowances under sections 301, 301a and under the Refugee Assistance Act as well as to increments to the subsistence allowance under sections 301, 301a, and to compensation pensions under the Reparation Damage Act insofar as these cannot be offset against the compensation under the Reparation Damage Act. No credit shall be given for the interest supplement until the end of the calendar quarter in which the date from which the compensation pension was awarded falls. The following shall be credited against the entitlement to main compensation

a)

for the damages of the directly injured party,

b)

for the damages of his spouse to be taken into account according to § 266 par. 2 sentence 2,

c)

for the damages of a single daughter to be taken into account pursuant to section 266 subs. 2 third sentence, section 285 subs. 3 second sentence;

this shall also apply if the claims to main compensation arose in the person of heirs who took the place of the directly injured person or his spouse before 1 April 1952. If, according to this, credit is to be given to several claims to main compensation, the credit shall be given in proportion to these claims; if, after credit has been given, claims to main compensation are awarded or amended, the credit shall be amended in proportion to the resulting relationship of the claims to each other.

2.

To be credited according to number 1 if

a)

the crediting, taking into account other settlement amounts, results in the full settlement of the entitlement to main compensation or the compensation pension ends permanently beforehand or is discontinued in accordance with section 291 subs. 2 or

b)

the beneficiary, in order to enable the fulfilment of the entitlement to main compensation, waives the further granting of the compensation pension; if only a part is waived, the compensation pension shall be recalculated from the remaining basic amount of the main compensation, taking into account the credit according to number 1.

If the prerequisites for a crediting according to sentence 1 did not exist until 31 December 2000, the crediting shall be carried out as of 1 January 2001; in this case, the entitlement to main compensation shall be deemed to be fulfilled by a compensation pension paid or suspended beyond

this date in the amount relevant according to number 3, sentence 2. Changes in circumstances after 31 December 2000 shall not be taken into account in the calculation; however, any main compensation awarded after this date shall be taken into account.

3.

As long as compensation pensions are paid or suspended, claims to main compensation to which credit is to be given in accordance with No. 1 may only be met insofar as an overpayment of the main compensation is not to be expected on average in the cases, notwithstanding a partial waiver in accordance with No. 2 sentence 1 letter b. Insofar as the claims to main compensation cannot be met prior to the crediting, they shall be provisionally claimed by the granting of a compensation pension. If claims to main compensation have been partially met during the granting of compensation pension in excess of an interest supplement within the meaning of number 1, sentence 3, the remaining basic amount of the main compensation shall be decisive for the calculation of the compensation pension.

4.

A compensation pension may no longer be awarded after the entitlements to main compensation, which would have to be credited in the event of an award in accordance with No. 1, have been fulfilled. In the event of an award after partial fulfilment of these claims, the compensation pension shall be calculated from the remaining basic amount of the main compensation; if the claims to main compensation have only been fulfilled to the extent of an interest supplement within the meaning of number 1, sentence 3, compensation pension may be awarded as if fulfilment had not been preceded.

(2) The details concerning the crediting of compensation pensions (subsection 1, no. 2, sentence 2) and the fulfilment of claims to main compensation in addition to the continued granting of compensation pensions (subsection 1, no. 3) shall be determined by statutory order. The amount of the compensation pension paid out and the average life expectancy of the beneficiary shall be taken as a basis; in the case of spouses who are not permanently separated and have different average life expectancies, the higher average life expectancy shall be taken as a basis.

Unofficial table of contents

Section 283a Relationship to main compensation in case of simultaneous receipt of maintenance assistance

(1) If a compensation pension is granted in addition to maintenance assistance, section 283 shall apply in relation to the main compensation with the following proviso:

1.

Pursuant to section 283, subsection 1, no. 1 and no. 2, second sentence, subject to nos. 2 to 4 and to subsection 2, the remaining entitlement to main compensation after application of section 278a shall be credited.

2.

Section 283 (1) no. 2 sentence 1 shall apply with the proviso that the fulfilment of the entitlement to main compensation beyond the amounts that can be fulfilled according to no. 3 can only be made possible by a full waiver of the compensation pension. If the continued granting of maintenance assistance is not waived at the same time, the payments of compensation pension shall be set off against that part of the entitlement to main compensation which is not provisionally claimed by the granting of maintenance assistance in accordance with section 278a subs. 4.

3.

Irrespective of whether maintenance assistance and compensation pension are paid, suspended or discontinued, claims to main compensation, against which the payments made are to be offset, shall be settled with the minimum settlement amount resulting in accordance with section 278a subs. 4. As long as maintenance assistance and compensation pension are paid or suspended, claims to main compensation in excess of the minimum settlement amount can only be settled to the extent that they exceed the total of

a)

of the amount provisionally claimed by the maintenance assistance (section 278a (4)),

b)

of the amount provisionally claimed by the compensation pension (section 283 (1) no. 3), and

c)

of the minimum settlement amount (§ 278a par. 4)

exceed.

4.

In the case of an award after partial fulfilment of the entitlement to main compensation (section 283 (1) no. 4), the compensation pension shall be calculated from the amount by which the remaining basic amount of the main compensation exceeds the blocking amounts specified in section 278 (1). 1; if, however, the entitlement to main compensation was not fulfilled beyond the minimum fulfilment amount or only to the extent of an interest supplement within the meaning of section 283 subs. 1 no.

1 third sentence, the compensation pension shall be calculated from the amount by which the basic amount resulting in accordance with section 266 subs. 2 exceeds the blocking amounts determined in section 278 subs. 1.

(2) The details concerning the fulfilment of claims to main compensation in addition to the continued granting of maintenance assistance and compensation pension as well as concerning the awarding of maintenance assistance and compensation pension after partial fulfilment of claims to main compensation shall be determined by statutory order. In particular, provisions may also be made on the effects of previous or subsequent fulfilment of main compensation on the minimum fulfilment amount, on the order in which payments of war damage pensions and fulfilment amounts are credited against the main compensation, and on the consequences of exercising the right of option under section 263(3).

Unofficial table of contents

Section 284 Special provision in case of loss of occupational or other means of livelihood

(1) If damage due to loss of occupational or other means of livelihood has been established and this loss is still having an effect, the following shall be granted as a compensatory pension

for average annual income according to § 239 monthly compensation pension

from RM 2,000 to RM 4,000	16 EUR
from RM 4,001 to RM 6,500	26 EUR
from RM 6,501 to RM 9,000	36 EUR
from RM 9,001 to RM 12,000	44 EUR
over RM 12,000	52 EUR

(2) The rate of the monthly compensation pension shall be increased by 50 per cent if the loss of the occupational or other means of livelihood was associated with the loss of pension claims under private law subject to a condition precedent,

1.

that the condition was the reaching of an age limit or the onset of incapacity for work, and

2.

that there is no entitlement to a pension under the Act regulating the legal relationships of persons falling under Article 131 of the Basic Law of 11 May 1951 (Federal Law Gazette I p. 307) in the version of the amending laws passed thereunder.

In the cases referred to in sentence 1, a compensation pension shall also be granted if the aggrieved person was born after 31 December 1889 (a woman after 31 December 1894) but before 1 January 1907 (a woman before 1 January 1912) or became incapacitated for work within the meaning of section 265, subsection 1, no later than 31 December 1971.

(3) If the beneficiary receives maintenance assistance, 16 euros of the amounts resulting from subsections (1) and (2) shall be deemed to be compensated by the maintenance assistance.

(4) Section 280 subs. 3 to 5 shall apply mutatis mutandis.

Unofficial table of contents

§ 285 Duration of the compensation pension

(1) The compensation pension shall be granted for life, to full orphans at the longest until the time specified in § 275, para. 2. Payment of the compensation pension for life shall end at the end of the month in which the beneficiary died, in the case of succession in accordance with subsections 2 and 3 at the end of the month following the date of death.

(2) If the beneficiary is married, his or her spouse who is not permanently separated from him or her shall, in the event of his or her death, take his or her place without a new application from the beginning of the month following the day after the day of death, subject to the conditions of § 272, para. 2, sentence 3. In this case, the compensation pension ends with the death of the spouse.

(3) Paragraph 2 shall apply mutatis mutandis to a single daughter under the conditions of section 261, paragraph 2, sentence 2. Section 266, paragraph 2, sentence 3 and paragraph 3, sentence 2 shall apply subject to the proviso that the application not to add up the basic amounts or the lost income must be made by the expiry of one year after the decision changing the compensation pension to the single daughter has become final.

Unofficial table of contents

§ 285a

In case of receipt of compensation pension and special current allowance, § 276 paras. 3a and 3b shall apply accordingly.

Fourth Title Common Provisions

Unofficial table of contents

§ 286 Award of the entitlement to war damage pension

The entitlement is awarded to the beneficiary according to amount and duration.

Unofficial table of contents

Section 287 Fulfilment of the Entitlement to War Damage Pension

(1) Provided that the other requirements are met, war-damage pensions shall be granted with effect from 1 April 1952 if the application is submitted by 1 May 1953; if the requirements for the granting of war-damage pensions are met in the period between 1 April 1952 and 1 May 1953, they shall be granted from the first of the month in which the requirements for the granting of war-damage pensions are met. In all other cases, war damage pensions shall be granted with effect from the first day of the month following the day of application. The regular payment shall be made in equal monthly amounts in advance by the fifth day of each month; if the resulting monthly payment is less than 10 Euros, it may be paid quarterly in advance. The amounts for previous months shall be paid in arrears with the first regular payment.

(2) The war injury pension shall be suspended as long as the requirements for its granting in the person of the entitled person are not met.

(3) During the serving of a custodial sentence of at least three months, maintenance assistance shall be suspended up to the amount of the rate of maintenance assistance applicable to the prisoner, in the case of spouses who are not permanently separated up to the amount of the spousal supplement pursuant to section 269 subsection (2). The same shall apply in the case of placement in preventive detention; in the case of placement in a psychiatric hospital or a detoxification institution ordered by a criminal court, maintenance assistance shall only be granted up to the amount to which it could not be transferred to the social assistance agency in accordance with section 292 (4).

(4) The war injury pension shall be deemed to have been permanently terminated if it has been suspended for an uninterrupted period of five years after 31 December 1964, unless it was granted on account of advanced age and is suspended on account of the receipt of income within the meaning of section 267, paragraph 2, no. 3.

Unofficial table of contents

§ 288 Effect of changes

(1) Circumstances which have occurred subsequently and which are significant in accordance with the provisions of this section shall be taken into account with effect from the first of the current month, insofar as they have an effect in favour of the beneficiary, and with effect from the following first of the month, insofar as they have an effect to the disadvantage of the beneficiary, but in the case of pension payments from the time of their granting.

(2) In the case of persons without a fixed income, circumstances which would lead to a change in the imputation amount under section 270 shall only be taken into account within the current calendar year if the monthly amount of the income to be imputed deviates on an annual average by more than one fifth upwards or downwards from the previous imputation amount.

Unofficial table of contents

Section 289 Obligation to report

(1) If circumstances subsequently arise which are of significance for the entitlement to a war injury pension or for its amount, the entitled person shall be obliged to notify these if these circumstances may lead to a reduction or to a discontinuation of the war injury pension.

(2) The beneficiary shall in particular be obliged to notify if he is awarded a pension retroactively for months for which he has already received maintenance assistance.

(3) If the beneficiary is deceased or unable to give notice, the spouse and the heirs, or their legal representatives if any, shall be obliged to do so.

Unofficial table of contents

§ 290 Obligation to reimburse

(1) Entitled persons shall be obliged to repay overpayments of war damage pensions as well as of maintenance assistance under the Emergency Assistance Act and of cost-of-living allowances under the Emergency Assistance Adjustment Act, insofar as a claim for repayment exists under these laws or under general administrative law. Subject to sentences 5 and 6, the claim for repayment may only be asserted within

four years after the end of the calendar year in which the overpayment was made; the period shall be ten years if entitled persons are responsible for or jointly responsible for the overpayment, in particular if they have not complied with their obligation to report under section 289. Insofar as the claim for repayment can be asserted hereunder, the overpayment may be treated as an advance payment on the current payments. However, a reduction of the current payments is only permissible up to an amount of 50 Euros per month. If entitled persons are not in a position to make a refund or if the claim for repayment has arisen after the expiry of the relevant period pursuant to sentence 2, the claim shall be offset in the first instance against any subsequent payment amounts, and in the second instance, insofar as there is a claim to main compensation, against the main compensation. If an offset is not possible according to sentences 3 to 5, the basic amount (section 266 (2)) shall be reduced by the overpayment.

(2) The beneficiary shall also be obliged to assign to the Federation the entitlement to pension benefits granted to him/her for past months to the extent that he/she is obliged to reimburse them under subsection 1.

(3) The social insurance institutions and the associations and institutions equivalent to them in accordance with section 18, paragraph 1, no. 16, as well as all public sector offices and funds, in particular the pension service offices and pension funds, shall be obliged to effect the payment of pension benefits granted to recipients of maintenance assistance for past months directly to the Federation, insofar as these benefits are to be offset against the maintenance assistance in accordance with section 270 or were to be offset against the maintenance assistance in accordance with emergency assistance law; the claim to subsequent pension payment shall be transferred to the Federation in this respect. Section 87 of the Tenth Book of the Code of Social Law shall apply accordingly. Insofar as overpayments of maintenance assistance which have arisen through the crediting of supplementary pension payments are not offset by direct payment of the supplementary payment to the Federation, paragraph 1 shall apply to the resulting claim for repayment. In the case of a claim for supplementary pension payment of up to 50 Euros, the Head of the Equalisation Office may refrain from direct payment to the Federation and instead reduce the current payment of the war damage pension. If claims for reimbursement by the Federation coincide with those of other public funds, the Federation shall have priority. Proceedings before the courts to enforce the claim for direct payment of benefits to the Federation in accordance with sentences 1 and 5 shall be free of charge.

Unofficial table of contents

§ 291 Relationship to construction loans

(1) Persons who can claim expulsion damage, war property damage or damage to the East may, if they meet the requirements for the granting of both a war damage pension and a reconstruction loan under section 254(1), be granted either a war damage pension or a reconstruction loan under section 254(1), at their option. If benefits have already been paid to the entitled person or his/her spouse in respect of such a reconstruction loan or in respect of a loan for the reconstruction of livelihood in accordance with section 44 of the Emergency Assistance Act or in accordance with the provisions of the Refugee Settlement Act, the following may be paid to the entitled person or his/her spouse

1.

War damage pensions are only granted if

a)

the payments made on the loan have been reimbursed or the reimbursement is secured by a third party, or

b)

in the case of the granting of a war damage pension, the non-reimbursed loan amounts could be fully offset against the entitlement to subsequent payment or ongoing payments of war damage pension for a period of no more than 12 months in total and the beneficiary agrees to this offsetting,

2.

Maintenance assistance alone may also be granted if the requirements of No. 1 are not fulfilled, but it is made credible that the claims for main compensation arising for the damages of the directly injured person and his or her spouse to be taken into account in accordance with section 266 subs. 2 second sentence exceed the non-reimbursed loan amounts at least by the amounts determined in section 278 subs. 1.

If the creation or securing of a livelihood has not been achieved because an agricultural lease has expired or the recipient of the loan has died or severe physical or mental infirmity has prematurely made it impossible for him/her to continue the project by himself/herself or with the help of his/her relatives, under the conditions of section 273 subsection 5 no. 1, maintenance assistance for life may be awarded subject to the proviso that the amount of the maintenance assistance paid out is reduced by the interest and redemption amounts to be paid on the loan until the sum of the reduction amounts reaches the amount of the loan not repaid; the amount of the reduction may not exceed the amount which would result in accordance with section 278a subs. 6 No. 1 fourth sentence if an entitlement to principal compensation had been fulfilled at the time the loan was granted. The details concerning the time of the award and the beginning of the payment of maintenance assistance, the amount of the reduction as well as the coincidence with the reduction of the maintenance assistance according to section 278a subsection 6 shall be determined by statutory order.

(2) The beneficiary who had initially opted for a war damage pension (subsection 1) may subsequently apply for a top-up loan in accordance with section 254(1); in this case, payment of the war damage pension shall be discontinued no later than six months after the top-up loan has been granted.

(3) Construction loans under section 254(2) and (3) and construction loans to promote an agricultural sideline may also be granted in addition to war damage pensions. Sentence 1 shall apply mutatis mutandis if benefits have been granted in accordance with the provisions of the Refugee Settlement Act to promote an agricultural sideline.

Unofficial table of contents

Section 292 Relationship to social assistance, war victims' welfare and unemployment insurance and to benefits to secure subsistence

(1) The provisions of the Second Book of the Code of Social Law, the Twelfth Book of the Code of Social Law or the provisions of the Federal Pensions Act on the welfare of war victims shall also apply to beneficiaries who, despite receiving a war injury pension, meet the requirements for the granting of benefits to secure their livelihood, of social assistance or of war victims' welfare.

(2) The following shall be deemed to be part of a property on the consumption or realisation of which the granting of benefits to secure subsistence, social assistance or welfare for war victims may not be made dependent

1.

the maintenance assistance granted under section 274, but not more than 297 German marks per month <adjusted to 180 euros> *),

2.

the part of the compensation pension exceeding four per cent of the basic amount pursuant to § 280 or

3.

half of the amount paid out for the compensation pension under section 284.

(3) Subsequent payments of maintenance assistance for previous months shall be offset against benefits to secure subsistence or assistance for subsistence granted for the same period under the Third Chapter of the Twelfth Book of the Code of Social Law, under the Second Section of the Third Chapter of the Second Book of the Code of Social Law or under the provisions on welfare for war victims; this shall not apply to one-off benefits outside institutions, homes or similar facilities. In the case of maintenance assistance under section 274, the credit is limited to the amount exceeding 297 Deutsche Mark <adjusted to 180 Euro> *) per month. The entitlement to subsequent payment shall pass to the social assistance institution, the competent institution under Book II of the Social Code, the Federal Employment Agency or the institution for the welfare of war victims in the amount of the amounts offset. The same shall apply to the part of the compensation pension not covered by sub-section 2 no. 2 or 3.

(4) If assistance for subsistence is provided for the beneficiary or his or her dependants entitled to a supplement pursuant to section 269 para. 2, or, in the case of section 274, for the spouse who is not permanently separated from him or her, assistance towards subsistence under the Third Chapter of Book Twelve of the Social Code, benefits to secure subsistence under the Second Section of Chapter Three of Book Two of the Social Code or supplementary assistance towards subsistence under the provisions on the welfare of war victims in an institution, a home or a similar institution, a home or a similar institution, the respective competent institution under the Second Book of the Social Code, the social assistance institution or the war victims' welfare institution may transfer to itself ongoing payments of war injury pensions to reimburse its expenses as follows:

1.

If maintenance assistance is granted, the entitlement may be transferred up to the full amount of the rate of maintenance assistance plus social supplement applicable to the accommodated person or the accommodated spouses, but in the case of subsection 2 no. 1 only up to the amount exceeding 297 Deutsche Mark <adjusted to 180 Euro> *); in the case of spouses who are not permanently separated, the rate of maintenance assistance shall be the supplementary amount pursuant to section 269 para. 2 and the amount specified in section 269b, subsection 2, no. 1 shall be deemed to be the social supplement even if the beneficiary himself, but not his spouse, receives the assistance for subsistence or the benefits to secure subsistence in an institution, a home or a similar institution. Up to the amount of the supplement for self-employed persons according to § 269a, the entitlement to subsistence assistance may only be transferred if the assistance for subsistence is granted to a single entitled person or to a spouse who is accommodated at the same time; if only one of the spouses who are not permanently separated is accommodated, only the increased amount according to § 269a, para. 3 may be transferred.

2.

If a compensation pension is granted alone or in addition to maintenance assistance, the part of the compensation pension not covered by subsection 2, nos. 2 and 3, or, in the case of advance payments on compensation pensions under section 281, the amount of 11 euros, may be transferred.

(5) Paragraphs 3 and 4 shall apply mutatis mutandis to the granting of benefits comparable to maintenance assistance in respect of assistance under the Fifth to Ninth Chapters of the Twelfth Book of the Code of Social Law, insofar as, under section 19 in conjunction with the Eleventh Chapter of the Twelfth Book of the Code of Social Law, the person making the request, his or her spouse and parents can reasonably be expected to use

the income. The same shall apply to benefits under sections 26, 27, 27a(2) and 27b of the Federal Pensions Act.

(6) Unemployment benefit is income within the meaning of section 267(2) and pension benefit within the meaning of this section.

(7) (omitted)

Fifth Title Rules **for the Payment of the War Damage Pension after 31 December 2005**

Unofficial table of contents

Section 292a Provisions on maintenance assistance and compensation pension

(1) Claims to war injury pensions awarded under sections 261 to 292 shall be satisfied after 31 December 2005 in accordance with the following provisions:

1.

Maintenance assistance and compensation pension shall be determined for the last time on 1 January 2006 according to the situation on 31 December 2005.

2.

Changes in the circumstances relevant to the granting of benefits occurring after 31 December 2005 shall no longer be taken into account. The same shall apply to circumstances occurring up to 31 December 2005 of which the equalisation authority becomes aware from 1 July 2006 onwards after the assessment notice has become final. In these cases, there are no claims for restitution or subsequent payment.

3.

The maintenance assistance set on 1 January 2006 shall be adjusted in accordance with the percentage by which the pensions of the statutory pension insurance in the old Federal Länder are to be adjusted in each case.

(2) In the event of the death of the beneficiary on 1 January 2006, his or her spouse who was not permanently separated from him or her on 31 December 2005 shall take his or her place without a new application if the requirements of § 272, paragraph 2, sentence 3 are met.

(3) The entitlement to maintenance assistance or compensation pension shall expire,

1.

if a payment amount of less than 5 euros per month would result in each case as of 1 January 2006,

2.

in the event of the death of the last beneficiary, at the end of the month of death.

(4) Section 118(3) and (4) of the Sixth Book of the Code of Social Law shall apply mutatis mutandis to the reimbursement of war damage pensions and allowances within the meaning of section 276(2) and (3a) paid for the period after the death of the beneficiary.

Unofficial table of contents

§ 292b Death grant

(1) Recipients of war damage pensions and their spouses participating in the death benefit scheme pursuant to section 277 on 1 January 2006 shall be granted a death grant of 750 euros each in the event of their death. The recipient of maintenance assistance shall contribute 2 euros per month to the costs incurred; this amount shall be withheld from the current payments of war damage pension.

(2) In all other respects, the provisions of section 277(3), (5) and (6) shall apply.

Unofficial table of contents

Section 292c Transitional Provisions

In the cases of § 292, Subsection 4, Sentence 1, the war damage pension may be transferred to

1.

in the case of a single beneficiary and spouses accommodated at the same time, the maintenance assistance in the full amount,

2.

in the case of accommodation of the beneficiary or his spouse who was not permanently separated on 31 December 2005, the maintenance assistance up to the amount of the supplementary amounts granted at that time for the spouse under section 269(2), section 269a(3) and section 269b(2)(1),

3.

in the amount of 4 per cent of the basic amount of the compensation pension determined as at 1 January 2006 in accordance with section 280 or in the amount of half of the payment amount of the compensation pension determined as at 1 January 2006 in accordance with section 284.

Section Six Household Contents Compensation

Unofficial table of contents

§ 293 Prerequisites

(1) Compensation for household effects shall be granted to compensate for damage caused by expulsion, damage caused by war and damage caused by the East within the meaning of section 14(1), first sentence, consisting of the loss of household effects.

(2) If the loss of household effects occurred in the joint household of the spouses, both spouses shall be deemed to be the injured party, irrespective of the ownership structure. The household effects allowance shall be granted to the one of the two spouses for whom the household effects loss has been ascertained. If one spouse has died after the damage, the household effects allowance shall be paid in full to the surviving spouse. If the spouses were living separately or divorced on 1 April 1952, each of the spouses may claim half of the household effects allowance, unless one of the spouses proves that he or she was the sole owner of the lost household effects.

Unofficial table of contents

§ 294 Transferability

The claim to household effects compensation may be inherited, transferred and pledged, but not attached; section 244 sentences 2 and 3 shall apply mutatis mutandis.

Unofficial table of contents

§ 295 Award and amount of the claim

(1) The claim shall be awarded to the injured party in accordance with the calculation of damages pursuant to § 16 of the Feststellungsgesetz; the household contents compensation shall amount to

-

for income up to RM 4,000 per year or assets up to RM 20,000, 620 euros,

-

820 euros for income up to RM 6,500 per year or assets up to RM 40,000,

-

930 euros if income exceeds RM 6,500 per year or assets exceed RM 40,000.

If an unmarried aggrieved person does not lead a household with predominantly own furnishings, but was the owner of furniture for at least one living space at the time of the damage, the compensation amounts of 210 Euros, 310 Euros and 360 Euros shall replace the compensation amounts according to sentence 1.

(2) If the directly injured party is deceased, section 247 shall apply mutatis mutandis.

(3) In addition to the amounts of compensation referred to in subsections (1) and (2), the following supplements shall be granted according to the marital status of the injured person on 1 April 1952:

1.

110 euros for the spouse who is not permanently separated from the injured party,

2.

80 euros for each additional family member belonging to the household of the injured party and economically dependent on him/her, unless the latter is entitled to compensation himself/herself,

3.

for the third and each further child taken into account according to number 2 up to the completion of the 18th year of life, a further 80 Euros each.

The surcharges shall also be granted for family members who were taken into the household of the injured party after 1 April 1952 under the conditions of section 230, paragraph 2, nos. 1 to 4. The supplements shall be granted only once for a person; they shall not be granted for the spouse who is himself entitled to household effects compensation.

Unofficial table of contents

§ 296 Crediting of previous payments

(1) The entitlement to household effects compensation shall be reduced by those compensation payments which have been granted for the loss of household effects on the basis of the War Property Damage

Ordinance, the Reich Benefits Act or other domestic German regulations, unless the household effects recovered from the compensation payments have been lost again as a result of war events; Reichsmark payments shall be assessed at 10 per cent.

(2) Benefits for household effects assistance under section 45 of the Emergency Assistance Act and under the Household Effects Assistance Act of the Land of Berlin of 22 November 1951 (Law and Ordinance Gazette for Berlin p. 1117) and the supplementary provisions issued thereunder shall be fully offset against the entitlement to household effects compensation under this Act.

(3) For decisions taken after 31 December 2001, the DM amounts resulting from subsections (1) and (2) shall be converted into euros by the divisor 1.95583.

Unofficial table of contents

§ 297 Fulfilment of the claim

The order of fulfilment of claims shall be determined by urgency, taking into account social considerations.

Section Seven Housing Assistance

Unofficial table of contents

§ 298 Prerequisites

(1) Housing assistance may be granted to displaced persons and war property victims if they prove,

1.

that they have lost the necessary living space due to the damage, and

2.

a)

that they have not yet been able to obtain sufficient accommodation at all or not yet at their present or future place of work, or

b)

that their previous dwelling, if it becomes vacant, will, with the consent of the person entitled to dispose of it, be made available to an injured person within the meaning of letter a who has not yet been adequately accommodated.

(2) Subject to the conditions of subsection (1), housing assistance may also be granted to persons who may receive benefits under sections 301, 301a, but to Soviet zone refugees and displaced persons only to the extent that they were admitted before 1 February 1953.

Unofficial table of contents

§ 299 Principles

(1) Housing assistance shall be granted in such a way that the injured party is given the opportunity to move into a dwelling, the provision of which has been made possible by loans from the Equalisation Fund.

(2) The loans shall be granted preferentially for the formation of individual property for aggrieved persons, especially in the form of family homes, in compliance with the order of priority determined in the Second Housing Act.

Unofficial table of contents

§ 300 Use of funds

The funds shall be used in such a way as to achieve the construction of the largest possible number of dwellings for aggrieved persons who fulfil the requirements of section 298. Injured persons who can claim displacement damage or war material damage of the kind described in § 12, para. 1, no. 1 and § 13, para. 1, no. 1, the heirs of such injured persons and communities of such injured persons shall have priority in the granting of loans over the other applicants; among the latter, injured persons who can claim displacement damage or war material damage shall have priority. The persons named in section 298 (2) shall be deemed equal to the aforementioned aggrieved parties insofar as they can claim similar damages.

Section Eight Hardiness Benefits

Unofficial table of contents

§ 301 General provisions

(1) In order to mitigate hardship, it may be determined for groups of persons that these persons shall receive benefits if they have suffered damage which corresponds or is similar to the damage taken into account in this Act, the compensation of which, however, is not provided for in this Act; an entitlement to main compensation for zonal damage shall not prevent the granting of benefits. Displaced persons who do not meet the requirements of section 230 shall also be taken into account if they have left the Soviet occupation zone of Germany or the Soviet sector of Berlin and have subsequently taken up permanent residence in the area of application of the Basic Law or in Berlin (West).

(2) A prerequisite for the granting of hardship benefits is that the aggrieved persons have their permanent residence in the area of application of the Basic Law, in Berlin (West) or in the customs union territories. Section 230a shall apply mutatis mutandis to aggrieved persons within the meaning of paragraph 1, sentence 2, and section 301a; benefits shall not be granted to such persons if they

1. have fought or are fighting against the free democratic basic order of the Federal Republic of Germany, including the Land of Berlin, or
2. have left the Soviet occupation zone of Germany or the Soviet sector of Berlin in order to escape prosecution for an act which is also punishable as a felony or misdemeanour according to the principles of the rule of law, unless the denial of benefits would be an undue hardship taking into account the nature and special circumstances of the act, or
3. have apparently moved from the area of application of this Act to the Soviet occupation zone of Germany or to the Soviet sector of Berlin without good cause and have returned from there, or
4. violated the principles of humanity or the rule of law during the rule of National Socialism.

(3) Hardship benefits shall be granted as current allowance (subsistence allowance, special current allowance), as allowance for the procurement of household effects as well as as a loan to build up a livelihood or to procure housing (section 254 (1) and (3)). For subsistence allowances, benefits are granted in accordance with sections 276 and 277. Hardship benefits to the individual aggrieved person shall not exceed the corresponding compensatory benefits provided for in this Act. Sections 292a to 292c shall apply mutatis mutandis to the granting of ongoing benefits after 31 December 2005.

(4) The following shall be determined by statutory instrument

1. on the groups of persons who may receive hardship benefits (paragraph 1),
2. on the conditions and scope of the benefits (paragraph 3) in accordance with the provisions applicable to comparable benefits to injured parties within the meaning of this Act.

The granting of the special current allowance shall be provided for by analogous application of section 301a subs. 3 for such aggrieved persons who are subject to conditions comparable to those specified in section 273 subs. 5 nos. 1 and 2 and subs. 6 nos. 1 and 2. The granting of assistance for the acquisition of household effects may be made dependent on an income limit.

(5) Persons who belong to the group of persons specified in the statutory instrument (subsection 4) may be taken into account as employees when applying section 259(1).

Unofficial table of contents

Section 301a Benefits to Soviet Zone Refugees

(1) Hardship benefits under section 301 shall also be paid in particular to Soviet zone refugees within the meaning of section 3 of the Federal Expellees Act and to persons treated as such under section 4 of the Federal Expellees Act.

(2) The persons referred to in subsection 1 shall receive allowances in accordance with the conditions and principles applicable to comparable benefits to injured parties within the meaning of this Act. Aid for the acquisition of household effects shall be granted at the rates of section 295, without prejudice to section 296.

(3) In accordance with the more detailed provisions of the statutory order provided for in section 301, subsection 4, special ongoing assistance shall be granted to the persons referred to in subsection 1 in accordance with the principles of the compensation pension. The statutory instrument shall specify how the extent of the damage is to be determined; for pecuniary damage, the principles of the Second Section of the Act on the Preservation and Establishment of Evidence shall be used as a basis, and for lost income, the principles of section 239 shall be used as a basis. The statutory instrument may also

1. in accordance with the principles of § 5 and § 7 (5) of the Law on the Preservation of Evidence and the Determination of Income, it shall be determined that income received after 31 December 1944 or assets acquired after that date shall be disregarded in whole or in part,
2. the conversion of income received after 23 June 1948.

If the determination of a basic amount is necessary, it shall be governed by the principles applicable to the calculation of the main compensation for zonal damage.

(4) Section 301 subs. 3 fourth sentence shall apply mutatis mutandis.

Unofficial table of contents

Section 301b Benefits in cases of exceptional hardship

(1) If exceptional hardship results from the provisions of this Act, the Reparations Damages Act or the Refugee Assistance Act, the Federation may grant appropriate compensation. This compensation may also consist of a one-off aid of a different kind than that mentioned in section 301, paragraph 3, if this is the only way to eliminate the hardship.

(2) The hardship compensation shall be granted

1.

on the basis of guidelines issued by the President of the Federal Equalisation Office, which require the approval of the Federal Ministry of Finance and, insofar as the hardship results from provisions of the Refugee Assistance Act, additionally the approval of the Federal Ministry of the Interior, for Construction and Home Affairs, or

2.

with the approval of the President of the Federal Equalisation Office in individual cases.

Section NineOther Support Measures

Unofficial table of contents

§ 302 Provision of funds

For the further economic and social promotion by way of vocational training of young persons, retraining for a suitable occupation, the establishment of homes and training centres for homeless and unemployed young persons as well as the establishment of welfare institutions, funds may be made available for the benefit of aggrieved persons (section 229) as well as of persons who may receive benefits under sections 301, 301a, to the extent limited by this Act. It must be ensured that the funds are used exclusively for the benefit of the persons mentioned in sentence 1.

Unofficial table of contents

§ 303

(omitted)

Section Ten

Unofficial table of contents

§ 304

(omitted)

Section ElevenOrganisation and Responsibility

Unofficial table of contents

§ 305 Contract management

(1) The provisions of Part Three of this Act and of the other laws serving to implement the equalisation of burdens shall be implemented partly by the Federation and partly by the Länder and the Land Berlin on behalf of the Federation.

(2) Insofar as the Länder do not implement these provisions through their own authorities, they may entrust the municipalities and associations of municipalities with their implementation.

Unofficial table of contents

§ 306 Land authorities

In the area of the Länder, equalisation offices and Land equalisation offices shall be established within the existing authorities by the competent authority under Land law or, in the absence of a corresponding Land law provision, by the body designated by the Land government.

Unofficial table of contents

§ 307 Higher federal authority

In the area of the Federation, a Federal Equalisation Office shall be established as an independent higher federal authority.

Unofficial table of contents

Section 308 Equalisation Offices

(1) A compensation office shall be established for each district and each city district within the general administration or another existing authority; if necessary, branch offices may be established. An equalisation office may be established for several districts or with nationwide jurisdiction if this is required for reasons of administrative efficiency. For the same reasons, the tasks of an equalisation office may be transferred in whole or in part to another equalisation office or to the Land equalisation office and its branch offices for performance under their own responsibility. A transfer is also possible across Länder by agreement of the bodies responsible for the establishment of equalisation offices and Land equalisation offices in accordance with section 306.

(2) A permanent representative of the head of the authority in which the Equalisation Office is established shall be appointed to manage the business of the Equalisation Office (Head of Service).

(3) Only persons who have the necessary personal and professional aptitude for such an office shall be appointed as head of department and deputy head of department. As a rule, the required professional aptitude shall be assumed if the person to be appointed has the qualification for the higher administrative service.

(4) The provisions of subsection (3) concerning the required professional qualification shall apply mutatis mutandis to the case worker entrusted with assessment matters in the determination procedure.

(5) The persons provided for in subsection (3) shall be appointed in agreement with the Land compensation office or the competent body under Land law.

Unofficial table of contents

§ 309

(omitted)

Unofficial table of contents

§ 310 Complaints Committees

(1) A Board of Appeal shall be formed for the area of a city or district or several districts; if necessary, several Boards of Appeal may be formed.

(2) The Board of Appeal shall consist of a chairman and two honorary assessors. The chairman shall be an employee of the authority where the Board of Appeal is constituted. One assessor shall be an aggrieved party. The assessors shall be obliged by the chairman to perform their official duties conscientiously and impartially; they shall be appointed for four years, unless otherwise provided by Land law.

(3) The Land government or the body competent under Land law shall determine the seat and area of office of the board of appeal, the term of office of the assessors of the board of appeal and by whom or by which electoral body the assessors shall be appointed. Land law may, in derogation of subsections (1) and (2), also provide that an authority shall act as an appeal board instead of the appeal board. The provisions of this Act on boards of appeal shall apply mutatis mutandis to the appeal body. If an authority is established as an appeal body, subsections 1 and 2 shall not apply.

Unofficial table of contents

Section 311 Land Equalisation Offices

(1) A Land equalisation office shall be established for each Land; if necessary, branch offices of this office shall be established. The Land equalisation office shall be established at a supreme Land authority. The tasks of a Land equalisation office may, with the consent of the Federal Equalisation Office, be transferred in whole or in part to another Land equalisation office to be carried out under its own responsibility in accordance with section 308, paragraph 1, sentences 3 and 4.

(2) Section 308 subsections (2) to (4) shall apply mutatis mutandis; as a rule, the required professional aptitude shall be assumed if the person to be appointed has the qualification for higher administrative service.

(3) The Land Equalisation Office shall exercise material supervision over the equalisation offices in its area.

Unofficial table of contents

§ 312 Federal Equalisation Office

(1) The Federal Equalisation Office shall be headed by a President. The President of the Federal Equalisation Office shall be appointed and dismissed by the Federal President on the proposal of the Federal Government; the proposal of the Federal Government shall be made in agreement with the Bundesrat.

(2) The President of the Federal Equalisation Office shall exercise the supervision of the Land Equalisation Offices in accordance with section 319(2). The performance of tasks under Part Three of this Act may be transferred to the Federal Compensation Office for performance under its own responsibility by statutory order in accordance with section 308, paragraph 1, sentence 3. As of 1 October 2006, the implementation of the war damage pension as well as the comparable current benefits according to the regulations under the equalisation of burdens law and as of 1 January 2010, the implementation of the reclaim and exclusion procedures of the equalisation of burdens in the cases in which the equalisation administration became aware of the reclaim or exclusion facts after 30 June 2009, shall be transferred to the Federal Equalisation Office.

(3) The Federal Ministry of the Interior, for Construction and Home Affairs shall exercise official supervision over the Federal Equalisation Office for the area of equalisation of burdens in agreement with the Federal Ministry of Finance. The Federal Ministry of Finance shall be responsible for the technical supervision of the Federal Equalisation Office; the powers of the President of the Federal Equalisation Office in accordance with paragraph 2, sentence 1 shall remain unaffected.

Unofficial table of contents

Section 313 Transfer of jurisdiction

(1) The responsibility of a Land for the implementation of the provisions referred to in section 305(1) may be transferred to the Federal Equalisation Office by agreement between the body responsible under section 306 for the establishment of equalisation offices and Land equalisation offices and the Federal Equalisation Office.

(2) The scope of the transferred competence as well as the time of the transfer shall be announced by the Federal Equalisation Office in the Federal Gazette.

(3) If the competence has been transferred to the Federal Equalisation Office, sections 306, 308, 310 and 311 shall no longer be applied by the respective Land in this respect.

Unofficial table of contents

§ 314

(omitted)

Unofficial table of contents

§ 315 General Administrative Courts

The judicial activity required for the implementation of the provisions of Part Three of this Act shall be exercised by the general administrative courts of the Länder, including the Land of Berlin, and by the Federal Administrative Court, except in the cases provided for in section 276(5).

Unofficial table of contents

§ 316

(omitted)

Unofficial table of contents

Section 317 Administrative and legal assistance and duty to provide information

(1) All public authorities and courts shall provide administrative and legal assistance free of charge to the authorities named in this section, provide information and grant access to files to the extent necessary for the implementation of this Act. All other institutions entrusted with tasks under public law shall also be deemed to be authorities within the meaning of sentence 1. Sections 156 et seq. of the Courts Constitution Act shall apply mutatis mutandis to legal assistance by the courts.

(2) The compensation administration shall forward to the office responsible for the release, restitution or compensation of an asset information on the identification of the assets that have been taken away in the area of damage under the Act on the Preservation of Evidence and the Compensation of Loss and for which principal compensation has been granted, as well as the related reference numbers and the name of the compensation office keeping the file.

(3) At the request of the body responsible for the release, restitution or compensation of assets, the compensation office shall provide further information insofar as this is necessary to carry out the procedures for the release, restitution or compensation of the asset. Required in the sense of this provision are, in

particular, information on the amount of the ascertained damage, on the existence of multiple damage, on the main compensation awarded for the asset, on the amount to be recovered calculated in accordance with section 349 subs. 2 to 4, as well as information on the injured party or the beneficiary. The Equalisation Office shall refuse to transmit the information if there are indications that the conditions mentioned in sentence 1 are not fulfilled.

(4) The recipient may only use the transmitted data for the purpose of releasing, returning or compensating the respective asset.

(4a) The data collected in the admission procedure under section 28 of the Federal Expellees Act and in the procedure under section 15 of the Federal Expellees Act may be used and transmitted for procedures under the equalisation of burdens law if this is necessary.

(5) A fee shall not be charged for the issue of a certificate of inheritance, including the preceding proceedings, if the certificate of inheritance is to be used only for the purposes of the equalisation of burdens. This shall not apply to the taking of an affidavit in accordance with section 352(3) sentence 3 of the Act on Proceedings in Family Matters and in Matters of Voluntary Jurisdiction. A certificate of inheritance issued free of charge in accordance with sentence 1 may also be used in proceedings for the restitution, release or compensation of economic goods taken away.

Section Twelve Administration of funds for burden sharing

Unofficial table of contents

§ 318

(omitted)

Unofficial table of contents

Section 319 Duties of the President of the Federal Equalisation Office

(1) The President of the Federal Equalisation Office shall perform the duties resulting from § 5 on behalf of the Federation.

(2) The President of the Federal Compensation Office shall determine the details of the granting of compensation benefits within the framework of this Act, the legal ordinances issued in connection therewith and the directives of the Federal Government. He shall issue the necessary general administrative regulations. He shall exercise the powers vested in the Federal Government and the competent supreme federal authorities under Article 85 of the Basic Law in accordance with Article 120a of the Basic Law.

(3) (omitted)

Unofficial table of contents

§ 320

(omitted)

Unofficial table of contents

§ 321

(omitted)

Unofficial table of contents

§ 322

(omitted)

Unofficial table of contents

§ 323 Special provisions on the use of funds

(1) A maximum of 650 million German marks shall be made available for the granting of development loans in the 1957 accounting year. This maximum amount shall be reduced by 72 million German marks in each of the accounting years 1958 to 1965. In the accounting year 1965, an additional one-off amount of 200 million German marks shall be made available. In the accounting years 1966 to 1974, an amount of 100 million Deutschmarks may be made available, without prejudice to paragraph 8.

(2) For the purposes of housing assistance (sections 298 to 300), the income from the mortgage profit levy (sections 91 et seq.) shall be made available; the funds shall be made available to the Länder on a loan basis. In each of the 10 accounting years following the 1956 accounting year, the amount shall be reduced by 10 per

cent of the amount to be made available in accordance with sentence 1. In calculating the income from the mortgage profit levy in accordance with sentence 1, amounts accruing on account of the early redemption of the mortgage profit levy shall each be assessed at five per cent as income of the year of redemption and of the 19 following accounting years. Income from the mortgage profit levy which is not to be made available for housing assistance purposes in the year of redemption shall be made available in addition to the funds to be made available in accordance with paragraph 1 as development loans for housing construction in accordance with § 254, paragraphs 2 and 3; this shall apply for the last time to redemption amounts which are included in the income from the mortgage profit levy of the 1962 accounting year. Of the amount resulting from sentences 1 to 3, in addition to the funds to be made available in accordance with paragraph 1, the following shall be made available for the granting of housing construction loans

in the 1963 financial year DM 50,000,000,

in the financial year 1964 DM 40,000,000,

in the accounting year 1965 DM 30,000,000;

the President of the Federal Equalisation Office may, in accordance with the provisions of section 319, subsection 1, determine that part of the remaining amount, but not more than 50 per cent, shall also be additionally made available for the granting of loans for the construction of housing. At the same time it shall be empowered to take account in the years 1962 to 1964 of any urgent need for housing loans in excess of the funds available, in anticipation of the additional funds to be made available in the years 1963 to 1965.

(3) No funds shall be made available for the granting of job loans from the beginning of the 1957 accounting year.

(4) For the Hardship Fund (§§ 301, 301a), resources of the Equalisation Fund shall be made available, subject to paragraph 8, until 31 December 1965, resources for development loans beyond that also for the accounting years referred to in paragraph 1, sentence 4; the annual amount to be made available shall not exceed 100 million German Marks. Funds shall be made available for other promotion measures in accordance with Section 302 until 31 March 1963. Beyond this date, subject to paragraph 8, funds for the granting of training assistance shall be made available until 31 December 1965 for cases in which the training was commenced before 1 April 1963, as well as for persons who became eligible to apply after 31 December 1956 by taking up permanent residence within the territory of the Basic Law including Berlin (West).

(5) With the consent of the Federal Government, guarantees (section 303) up to a total amount of 100 million Euros and participations (section 303) up to a total amount of 10 million Euros may be assumed by the Equalisation Fund. In the case of the assumption of guarantees, the expenditure plan shall take into account the probable utilisation of the equalisation fund.

(6) For the implementation of the Currency Equalisation Act, at least 50 million German marks shall be made available annually from the equalisation fund until the currency equalisation has been implemented.

(7) For the implementation of the Old Savers' Act, the amounts required to pay interest on the cover claims arising under the Old Savers' Act shall be made available until the Old Savers' Act has been completed.

(8) From 1 January 1966, funds may be provided for

1. for the granting of a loan for construction (§§ 254, 301, 301a), training assistance (§ 302) and assistance for the acquisition of household effects under §§ 301, 301a to persons who have become eligible to apply under §§ 230, 301, 301a in the ten calendar years preceding the date of application,

2. for the granting of training assistance in cases where the training had begun before 1 April 1963, or before 1 January 1966 in the case of persons referred to in paragraph 4, sentence 3,

3. for the granting of current aid pursuant to §§ 301, 301a,

4. for the granting of benefits according to § 301b.

The amount to be provided for the designated benefits, with the exception of the current allowance and the allowance for the acquisition of household effects under sections 301, 301a, shall not exceed 5 million euros per year.

Unofficial table of contents

§ 324

(omitted)

Thirteenth Section Procedure

First Title General Provisions

Unofficial table of contents

§ 325 Application

(1) Unless otherwise provided, applications for the granting of compensation benefits shall be addressed to the compensation office competent for the permanent residence of the aggrieved party. If the applicant does not have a permanent residence in the area of application of the Basic Law or in Berlin (West), the following shall be competent

1.

in the case of expulsion claims, claims from the East, savings claims and zonal claims, the compensation office in whose area the claimant last had permanent residence in the area of application of the Basic Law or in Berlin (West),

2.

in the case of war property damage, the compensation office in whose area the war property damage occurred.

(2) If an applicant who does not have a permanent residence in the area of application of the Basic Law or in Berlin (West) has suffered war property damage in the area of several compensation offices or if there are doubts for other reasons as to which compensation office is responsible for receiving the application, the President of the Federal Compensation Office shall determine the compensation office responsible.

(3) Unless otherwise specified, the application shall be submitted to the local authority competent for the permanent residence of the injured party. If the application is not sufficiently substantiated or the information is incomplete, the local authority or the authority designated in its place shall endeavour to have it supplemented and, if necessary, summon the applicant. It shall forward the application with a brief statement of its own.

(4) Applications for the granting of compensation to which a legal claim exists under this Act shall be submitted on an official form.

Unofficial table of contents

Section 326 Further processing of applications

(1) The equalisation office competent under section 325 or, in the cases of section 308, subsection 1, third and fourth sentences, the equalisation office or Land equalisation office which has become competent shall also be responsible for the further processing of the application, unless the President of the Federal Equalisation Office determines otherwise.

(2) The Compensation Office designated by the President of the Federal Compensation Office shall decide on the applications of several aggrieved persons who are heirs or further heirs of a directly aggrieved person who died before 1 April 1952 by means of a uniform decision. The same shall apply if several parties are involved in a compensation payment.

(3) In the cases referred to in subsection (2), appeals shall be effective against all parties to whom the notice has been served with a reference to this legal consequence.

Unofficial table of contents

§ 327 Representation

(1) The applicant may be represented in the proceedings before the compensation authorities and the boards of appeal; however, his personal appearance may be ordered. Any person who does not professionally represent aggrieved parties before the compensation authorities and the boards of appeal may be dismissed if he or she lacks the capacity to make an appropriate written or oral presentation; the same shall apply to persons who act as representatives for associations (subsection 2, no. 3). Persons who have worked as members of the equalisation authorities, the boards of appeal, the home information offices (section 24 of the Feststellungsgesetz), the information offices (section 28 of the Beweissicherungs- und Feststellungsgesetz) or the commissions set up by them may not, for a period of three years after termination of this activity, work for clients with whose affairs they have been materially concerned within the last three years before termination.

(2) In addition to lawyers and persons and associations authorised on the basis of the Legal Advice Act of 13 December 1935 (Reich Law Gazette I p. 1478), as last amended by the Foreign Trade and Payments Act of 28 April 1961 (Federal Law Gazette I p. 481), only the following shall be entitled to act as legal representatives before the equalisation authorities and the boards of appeal

1.

the authorities, bodies and persons referred to in Article 1 § 3 of the Legal Advice Act, insofar as representation is part of their remit,

2.

Persons and companies, insofar as they are permitted to provide assistance in tax matters on a businesslike basis on the basis of § 3 and § 4 nos. 1, 2 and 4 of the Tax Consultancy Act,

3.

associations recognised by the competent supreme federal authorities or the Land governments, the purpose of which is not directed towards commercial business operations, provided that the associations represent their members free of charge and that representation in matters covered by Part Three of this Act is one of their statutory tasks; such associations may be prohibited from representation by the head of the Land Compensation Office,

a)

if the representation is exercised wholly or predominantly by persons who would have to be refused admission under sections 4 to 8 of the 1st Implementing Ordinance to the Legal Advice Act of 13 December 1935 (Reich Law Gazette I p. 1481), and if deficiencies complained of in this respect are not remedied within a reasonable time,

b)

if their legal form is misused to circumvent the required authorisation,

c)

if they advertise their legal activities, unless it is only information intended for their members.

(3) The authorities, corporations, persons and associations referred to in subsection (2) nos. 1 to 3 shall, to the extent that they are authorised to act as professional representatives before the equalisation authorities and the boards of appeal, also be authorised to act as professional legal advisers in the matters covered by Part Three of this Act.

(4) (repealed)

Unofficial table of contents

Section 328 Exclusion from participation in the proceedings

The members of the equalisation authorities, the boards of appeal, the home information offices, information offices and the commissions formed at these are excluded from participating in the decision on their own applications or on applications of their members within the meaning of section 15 of the Fiscal Code. In all other respects, the provisions on the exclusion of court persons under the Code of Civil Procedure shall apply mutatis mutandis.

Unofficial table of contents

Section 329 Joinder of proceedings

(1) The proceedings on the granting of compensation, the granting of which depends on the determination of a loss under the Declaratory Act, shall be combined with the declaratory proceedings.

(2) The proceedings for the recovery of compensation payments by way of set-off under section 8 of the Compensation Act may be combined with the compensation proceedings to form one proceeding if the responsibility for both proceedings lies with the same Land.

Unofficial table of contents

§ 330 Taking of evidence

(1) The compensation authorities and the boards of appeal shall collect ex officio all evidence necessary for the granting of compensation.

(2) In proceedings before the equalisation authorities and the boards of appeal, the making of affidavits shall be inadmissible and the party oath shall be excluded.

(3) A request for the sworn examination of a witness or expert shall be made to the Local Court in whose district the witness or expert has his or her permanent residence. The provisions of the Judicature Act and the Code of Civil Procedure shall apply mutatis mutandis to the request for examination.

Unofficial table of contents

Section 330a Duties to cooperate

(1) Claimants and beneficiaries as well as their dependants, heirs and further heirs whose personal and factual circumstances are relevant for the benefit shall have

1.

to state all necessary facts relevant to the benefit and, at the request of the equalisation authorities, to agree to the provision of the necessary information by third parties,

2.

immediately notify any changes in the circumstances that are relevant for the performance,

3.

The applicant shall designate evidence and, upon request of the equalisation authority, submit or consent to the submission of documentary evidence,

4.

to undergo medical examinations at the request of the compensation authority, insofar as these are necessary for the decision on the benefit and are reasonable for the person concerned.

Sections 289, 342 subs. 2 second sentence and section 349 subs. 5 third sentence remain unaffected. Sentence 1 shall apply mutatis mutandis to the reclaiming of overpaid benefits.

(2) The persons obliged under paragraph 1 shall be informed of their obligations to cooperate.

(3) If duties to cooperate pursuant to paragraph 1 are not fulfilled and the clarification of the facts becomes impossible or considerably more difficult as a result, the benefit may be refused, discontinued or reclaimed after the persons concerned have been informed of this consequence in writing and have not fulfilled their duty to cooperate within a reasonable period of time set for them.

Unofficial table of contents

§ 331 Consideration of evidence

(1) The equalisation authorities and the Appeals Committees shall freely decide which information relevant for the decision is to be regarded as proven or credible. Information shall be deemed to have been made credible if it is shown to be correct to the exclusion of serious doubt.

(2) Information that has not been proven or made credible shall not be taken into account.

Unofficial table of contents

§ 332 Decisions

(1) Decisions of the equalisation authorities and the boards of appeal shall be made in writing and shall state the reasons on which they are based. They shall contain information as to whether an appeal is available and which appeal is available.

(2) Decisions shall identify the issuing compensation authority and contain the signature or the reproduction of the name of the person acting on its behalf. The signature and the reproduction of the name may be omitted in the case of decisions taken by automatic means.

(3) The decisions shall be served on the applicants. The provisions of the Administrative Service Act shall apply to the service procedure. The service of the decisions may be replaced by a sealed simple letter. In which cases service may be effected by simple letter shall be determined by the President of the Federal Equalisation Office in accordance with section 319(2). A decision transmitted by post by simple letter within the scope of this Act shall be deemed to have been notified on the third day after posting, unless it has not been received or has been received at a later date; in case of doubt, the authority shall prove receipt of the decision and the date of receipt.

(4) Settlements shall be admissible if, on a reasonable assessment of the facts or the legal situation, an existing uncertainty is eliminated by mutual concession and the authority, in its due discretion, considers the conclusion of the settlement to be expedient for the elimination of the uncertainty.

Unofficial table of contents

Section 332a Bidding procedure

(1) If a decision on an application cannot be taken because the person to whom the decision is to be served or his or her whereabouts are not known, a default action shall be taken. The rights arising from the application shall expire upon the expiry of the time limit specified therein.

(2) The requirement shall be issued by the equalisation authority. The order shall include in particular

1. Subject and date of the application,
2. Name and last known address of the applicants,
3. the determination of the offer period,
4. the request to assert rights arising from the application at the latest by the expiry of the time limit for the offer,
5. the indication that the rights not asserted under the application expire with the expiry of the time limit for the presentation of the application.

(3) The invitation to tender shall be published by posting it at the place generally designated by the authority for this purpose and by publishing it in the Federal Gazette.

(4) The bidding period must be at least six months after the publication of the bid in the Federal Gazette.

(5) The combination of several bids is permissible.

(6) Paragraphs 1 to 5 shall apply mutatis mutandis if a decision cannot be taken on the crediting of a reconstruction loan or war damage pension against the main compensation or on the offsetting of claims for repayment against compensation benefits because the person to whom the decision would have to be served

or his or her whereabouts are not known. The claims shall expire upon the expiry of the time limit for the posting of a decision.

Unofficial table of contents

Section 333 Proceedings before the Administrative Courts

In proceedings before the administrative courts, the provisions applicable to these courts shall apply.

Unofficial table of contents

Section 334 Fees and Costs

(1) The proceedings before the equalisation authorities and the boards of appeal shall be free of charge.

(2) The necessary costs of the proceedings before the equalisation authorities including the boards of appeal may not be imposed on the applicant. The costs of representation shall be borne by the applicant; this shall not apply to the appeal proceedings insofar as the appointment of a representative was necessary for the appropriate prosecution and the appeal was well-founded. The decision on the costs shall be made at the time of the decision on the merits of the case.

(3) In proceedings before the administrative courts of the Länder, fees shall be charged at the minimum rate. In proceedings before the Federal Administrative Court, the fees shall be reduced to one quarter.

(4) For the regulation of costs in proceedings before the administrative courts, the provisions applicable to these courts shall apply.

Unofficial table of contents

§ 334a

(omitted)

Second Title Procedure for Main Compensation, War Damage Pension and Household Contents Compensation

Unofficial table of contents

§ 335 Notice

(1) The equalisation office shall decide on the granting and reclaiming of equalisation benefits by means of a notice.

(2) If, according to the result of the investigation, a decision can be taken on part of the claim, a partial decision may be issued; such a partial decision shall be issued on application if the requirements are met. After the conclusion of the proceedings, an overall decision shall be issued.

Unofficial table of contents

Section 335a Conditional notice

(1) The notice or the partial notice may be issued in its entirety or with regard to certain parts subject to the express reservation of amendment or withdrawal if the applicant has a legitimate interest in the issuing of such a notice as soon as possible. The prerequisite is that the notice of assessment of damages under the Feststellungsgesetz has also been issued subject to reservation or that a calculation of the exact amount of the claim, in particular with regard to the provisions of section 245 no. 3, section 249 or section 266 is not yet possible and therefore the notice cannot yet be issued without reservation. The content and extent of the reservation must be clear from the notice. If the uncertainty has been removed, the applicant shall be issued a final notice in this respect.

(2) The provisions of this Act and the principles of general administrative law according to which notices may be amended, revoked or otherwise cancelled without express reservation shall remain unaffected.

Unofficial table of contents

Section 335b Procedure for Compensation of Damages to Participations

(1) In cases under section 349(3), third sentence, the equalisation office competent under section 31(2) of the Feststellungsgesetz and section 33(2) of the Beweissicherungs- und Feststellungsgesetz in the version in force on 31 December 1991 shall issue a uniform notice on the amount of compensation for damage to the shareholding.

(2) If the competent equalisation office has not identified all the parties, the notice shall be served on the identified parties and shall also be published in the Federal Gazette. The publication, which shall be accompanied by information on the right of appeal, shall take the place of the notice for the parties not identified.

[Unofficial table of contents](#)

§ 336 Complaint

(1) The applicant may lodge an appeal against the decision of the Equalisation Office within one month of notification. The Board of Appeal shall decide on the appeal if no remedy is granted.

(2) The appeal shall be lodged with the authority which has issued the decision; the time limit shall also be observed if the appeal is lodged directly with the Board of Appeal in due time.

(3) The complaint may be filed in writing or on the record and shall be substantiated. If the statement of grounds is not filed at the same time as the complaint, it may be filed within a reasonable period of time.

(4) In the cases referred to in section 308, subsection 1, sentences 3 and 4, the Länder may provide that appeals may also be lodged against the decisions of the Land Equalisation Authority.

[Unofficial table of contents](#)

Section 337 Decision of the Appeals Board

(1) The Board of Appeal shall decide by resolution. Instead of deciding itself, it may refer the case back to the Equalisation Office.

(2) The Appeals Board may also amend the decision to the detriment of the person who has lodged the appeal.

[Unofficial table of contents](#)

Section 338 Action for annulment before the administrative court

The applicant may appeal to the Administrative Court against the decision of the Appeals Committee as well as the decision of the Land Compensation Office, if no appeal is allowed against it, or of the Federal Compensation Office within one month after notification.

[Unofficial table of contents](#)

Section 339 Appeals against decisions of the administrative court

(1) The appeal against a judgment and the appeal against another decision of the administrative court shall be excluded. This shall not apply to the appeal against the non-admission of the appeal pursuant to section 135 in conjunction with section 133 of the Code of Administrative Procedure and the appeal against decisions on the course of law pursuant to section 17a subsections (2) and (3) of the Code of Judicial Procedure. Section 17a (4) sentences 4 to 6 of the Judicature Act shall apply mutatis mutandis to appeals against decisions on the course of justice.

(2) (omitted)

(3) Paragraph 1 shall also apply to proceedings on disputes under public law between the Federation and other public legal entities.

[Unofficial table of contents](#)

Section 340 Suspensive effect

(1) The appeal, the action for annulment and the revision shall have suspensive effect.

(2) By way of derogation from subsection (1), the suspensive effect shall not apply to appeals against recovery notices and benefit notices as well as notices under section 349(3a) to (3c).

(3) In the cases referred to in subsection (2), the Equalisation Office may suspend the execution in whole or in part. Section 80, paragraph 4, sentences 2, 3 and paragraph 6 of the Code of Administrative Procedure shall apply mutatis mutandis.

[Unofficial table of contents](#)

Section 341 Restitutio in integrum

If a person was prevented through no fault of his or her own from complying with a time limit for lodging an appeal in proceedings before the equalisation authorities and the boards of appeal, he or she shall be granted restitutio in integrum on application. Section 60 (2) to (4) of the Code of Administrative Procedure shall apply mutatis mutandis.

[Unofficial table of contents](#)

§ 342 Reopening of the proceedings

(1) If a decision has become final or non-appealable, the proceedings may be resumed within five years on the same grounds as provided for in the provisions of the Fourth Book of the Code of Civil Procedure. This shall also apply to other amendments of notices. Sentence 1 shall not apply in the cases of paragraph 2 and section 360.

(2) The proceedings shall also be resumed if

1.

compensation payments within the meaning of section 249 subs. 2 and section 296 subs. 1 or within the meaning of section 8 subs. 2 no. 4 of the Feststellungsgesetz are subsequently granted, or

2.

damage is subsequently compensated in full or in part.

The aggrieved party shall be obliged to give notice of reasons leading to the reopening of proceedings hereunder; section 289 subs. 3 shall apply mutatis mutandis. The benefits and privileges under nos. 1 and 2 shall be taken into account by recalculation and, in case of overpayment, by reclaiming. Section 349 subs. 5 fourth and fifth sentences shall apply mutatis mutandis.

(3) By way of derogation from subsection (2), the proceedings shall not be resumed if damage is compensated in whole or in part after 31 December 1989. Benefits and advantages under subsection (2) No. 2 shall be taken into account by recovering the compensation granted in accordance with section 349.

Unofficial table of contents

Section 343 Expiry, discontinuation and recovery of the war damage pension

(1) If the conditions for the granting of a war injury pension subsequently change (section 288), the Compensation Office shall order the expiry of the entitlement under section 292a(3)(1), the cessation, suspension or modification of the payments.

(2) The provisions of sections 336 et seq. shall apply to the proceedings. An appeal shall not have suspensive effect. This shall also apply to assessment notices under section 292a(1) no. 1.

(3) Subsections (1) and (2) shall apply mutatis mutandis if the beneficiary is obliged to repay amounts received in excess (section 290).

(4) In the cases of section 342 subs. 2 No. 2, the payments of maintenance assistance shall be deemed to have been made; the same shall apply to the payments of compensation pensions insofar as they were made or could have been made to compensate for the loss of the occupational or other means of livelihood.

(5) Section 292a shall apply to periods after 31 December 2005.

Unofficial table of contents

§ 344 Declaratory proceedings

In proceedings under the Declaratory Judgments Act and in declaratory proceedings under the Preservation of Evidence and Declaratory Judgments Act, remedies shall not be available if, even if the proceedings on the remedy are successful, higher compensation benefits cannot be granted under the provisions of this Act.

Third title procedures in the case of fulfilment of claims to main compensation and household allowance as well as in the case of integration loans, hardship benefits and on the basis of other support measures

Unofficial table of contents

§ 345 Basic regulation

(1) The Equalisation Office shall decide by notice on the fulfilment of claims for main compensation (section 252) and household allowance (section 297) as well as on the application for the granting of integration loans (sections 253 et seq.), hardship benefits (sections 301, 301a) and benefits on the basis of other support measures (section 302). The decision may also state that the application cannot be granted at present due to lack of available funds, but that the application will be reconsidered as soon as sufficient funds are available.

(2) The aggrieved party may appeal against the decision of the Equalisation Office and, in the cases of section 336, subsection 4, of the Land Equalisation Office within one month after service to the Appeals Committee, which shall decide in accordance with section 337. Against the decision that at present an application cannot be complied with for lack of available funds, the applicant may appeal to the decision of the Appeals Committee only for the purpose of reviewing whether there has been an abuse of discretion.

(3) If, according to general statutory provisions, the requirements for an administrative court action against the decision of the Appeals Committee or the decision of the Land Compensation Office or the decision of the Federal Compensation Office are met, sections 338 et seq. shall apply mutatis mutandis.

Unofficial table of contents

§ 346 Special regulation

(1) The President of the Federal Equalisation Office may, in accordance with section 319, paragraph 2, sentence 1, regulate the procedure in deviation from the provisions of section 345. In so far as section 345 prescribes that the compensation committee be heard, it shall be ensured that representatives of the displaced persons and war property victims are heard before the decision is taken. The aggrieved person must be able to have the decision reviewed, unless it was issued by the President of the Federal Equalisation Office; the review must at least relate to whether there has been an abuse of discretion.

(2) The President of the Federal Compensation Office may further determine, in accordance with section 319, paragraph 2, sentence 1, that the hearing of the Compensation Committee shall be dispensed with when claims for main compensation (section 252) are met, provided that the decision results from generally established objective standards.

**Fourth Title Proceedings
in Housing Assistance**

Unofficial table of contents

§ 347 Decision of the Board of Equalisation

Upon the application for housing assistance, the head of the equalisation office shall decide whether the applicant is recognised as a preferred candidate for housing by means of a notice. The aggrieved person may appeal against the decision of the equalisation committee within one month after notification of the decision. An appeal or complaint against the decision of the equalisation committee is not admissible. If, according to general statutory provisions, the prerequisites for an action before an administrative court are met, sections 338 et seq. shall apply mutatis mutandis.

Unofficial table of contents

§ 348 Allocation of funds

(1) The funds made available for housing assistance shall be used to finance housing for aggrieved persons as public funds within the meaning of the Housing Act applicable from time to time in accordance with section 8(1) no. 13, taking into account the provisions of sections 298 to 300.

(2) The funds shall be repaid to the Equalisation Fund by the Länder as the first borrowers at the rate of two per cent per annum in the accounting years 1957 to 1964 and at the rate of four per cent per annum in the accounting years 1965 and 1966. In the accounting years 1967 to 1982, the liability still existing on 31 March 1967 shall be repaid with one sixteenth each. This liability shall be calculated in such a way that the payments made by the Länder which are deemed to be repayments under the fourth sentence of section 6(3) shall be deducted in one sum as at 31 March 1967. Interest accruing from the temporary use of funds for bridging loans in lieu of first mortgages shall be paid to the equalisation fund. Interest on and repayment of the funds by the last borrower shall be determined in accordance with the provisions of the Housing Act applicable in each case.

(3) The President of the Federal Equalisation Office shall determine the details of the distribution and use of the funds, the terms and conditions of the loans and the distribution of the housing to the aggrieved persons in accordance with the first sentence of section 319(2). It must be ensured that the housing created using these funds or adequate substitute housing is made available to the aggrieved persons recognised under section 347. Replacement housing may only be allocated if the aggrieved party or, if it is not possible to interview the aggrieved party at the start of construction, the compensation office has given its consent.

(4) Paragraph (2), sentences 1 and 2, shall apply mutatis mutandis to the funds granted to the Länder on a loan basis for the promotion of social housing construction from the Emergency Assistance Fund, from the proceeds on the basis of the Mortgage Protection Act and under the Act on the Promotion of Housing Construction for Resettlers in the Host Countries and of Housing Construction for Soviet Zone Refugees in Berlin of 30 July 1953 (Federal Law Gazette I, p. 712) and under section 46, paragraph (2) of the Federal Expellees Act.

Section Fourteen

Unofficial table of contents

§ 349 Recovery in the event of compensation for damage

(1) In the cases referred to in section 342, subsection 3, the excess compensation granted shall be reclaimed in accordance with subsections 2 to 5. Section 21a (2) of the Feststellungsgesetz shall not apply. No reclaim shall be made if, on the basis of other statutory provisions, compensation benefits or other compensation payments have been reduced because of compensation benefits granted. If the reclaiming of equalisation payments by offsetting has been omitted contrary to section 8 of the Compensation Act, the excess compensation payments granted shall be reclaimed; in this case, no offsetting shall take place against the basis of assessment reduced in accordance with section 7 of the Compensation Act.

(2) In order to determine the amount to be recovered, the final basic amount of the principal compensation shall be calculated which would result without taking into account the damage insofar as it has been compensated or is deemed to have been compensated. For the assessment of the damage, the provisions of the Determination Act and the Preservation of Evidence and Determination Act in the version applicable on 31 December 1991 shall apply. The valuation limits pursuant to section 22 (1) sentence 1 of the Valuation Act shall apply.

(3) In the case of the restitution of an economic unit or an asset as well as in the case of the restoration of full rights of disposal over such assets, it shall be presumed that the ascertained damage has been compensated in full in this respect. In the case of restitution of assets located in the territory referred to in Article 3 of the Unification Treaty and restoration of full rights of disposal over such assets, the ascertained damage shall always be deemed to have been compensated in full in this respect; reductions in value and the absence of accessories or inventory shall not be taken into account. If damage to a legal entity or a partnership under commercial law is compensated in whole or in part by the restitution of assets or compensation payments, the compensation for damage shall be attributed to the individual party involved in accordance with its shareholding ratio. In the case of compensation for damage under the Property Act or other domestic German legal provisions in money or money's worth in German marks, in euros or in the form of the provision of replacement property, the ascertained damage shall be compensated in full. Other compensation payments in money or money's worth shall be set off against the amount of the damage taken into account in awarding the main compensation at their value in German marks, after 31 December 2001 in euros. Compensation payments in money made after 30 June 1990 which have been converted in accordance with the provisions on the introduction of the currency of the German Mark in the German Democratic Republic shall be assessed at their nominal amount before the conversion.

(3a) In the cases of § 32, paragraph 1, sentence 4 of the Property Act, the equalisation office may order the beneficiary named in the intended decision to provide security for the amount expected to be recovered in accordance with the provisions of the 2nd section of the Mortgage Redemption Ordinance as soon as the decision on the retransfer has become final. The equalisation office shall forward the decision to the competent office or Land office for the settlement of open property issues for service within the time limit of section 33, paragraph 5a of the Property Act. Section 34, paragraph 1, sentences 3 to 6 of the Property Act shall apply mutatis mutandis with the proviso that the competent equalisation office shall take the place of the office for the settlement of open property issues and the Federal Government shall take the place of the General Settlement Fund. Fees for the land register procedure shall not be charged.

(3b) For entitled persons within the meaning of section 6 (1a) of the Property Act who have applied for the restitution of a sole proprietorship or an enterprise within the meaning of section 1 (2) of the Enterprise Restitution Ordinance which had only one proprietor, subsection (3a) shall apply mutatis mutandis in the case of the restitution of assets under section 6 (6a), first sentence, of the Property Act.

(3c) If the person entitled to dispose of the property within the meaning of section 2(3) of the Property Act is obliged to pay the proceeds or to compensate the beneficiary for the market value, the provisions of subsections (3a) and (3b) shall apply mutatis mutandis. In addition, the equalisation office shall instruct the person entitled to dispose of the property to provide the security under subsection 3a, first sentence, from the proceeds or market value on behalf of the person entitled. Paragraph 3a sentence 2 shall apply mutatis mutandis to the service of the notice. The claim of the Federation shall take precedence over the claim of the person entitled.

(3d) Further details of the procedure under paragraphs 3a to 3c may be regulated by statutory instrument. Section 367 (2) shall not apply.

(4) If the final basic amount of the principal compensation awarded and fulfilled in accordance with the provisions of sections 251, 258, 278a, 283 and 283a exceeds the final basic amount calculated in accordance with subsection 2, the exceeding basic amount plus the interest surcharge calculated in accordance with sentence 3 shall be reclaimed. In the cases of § 249a, in the case of a release of savings, the fulfilled main compensation is to be reclaimed in the amount of the additionally granted basic amount (saver's surcharge) plus the interest surcharge. For the calculation of the interest surcharge, the percentage rate applied for the first fulfilment of main compensation for the asset concerned shall be decisive, which was used as a basis for the interest surcharge within the meaning of section 250 subs. 3; the additional basic amount (section 250 subs. 6) shall not be taken into account for the calculation of the interest surcharge to be reclaimed. If the person liable to repayment proves that the value of the indemnification obtained is less than the amount to be recovered, the recovery shall be limited to the value of the indemnification; indemnification paid before 1 January 2002 in German marks shall be assessed with the divisor 1.95583 in euros. The payments made in war damage pensions and comparable benefits shall remain unaffected; this shall not apply to the amounts credited to the main compensation awarded, which are subject to recovery in accordance with sentence 1. Current payments of war damage pensions and comparable benefits shall continue to be paid in accordance with the applicable provisions; a reclaim of the main compensation paid in accordance with §§ 251, 258, 278a, 283 and 283a shall not reduce the current payments. Benefits in respect of compensation for household effects or assistance in obtaining household effects shall not be reclaimed.

(5) Recovery shall be directed against recipients of compensation benefits, their heirs or further heirs and, in the case of property subject to succession, against subsequent heirs, insofar as these or their legal

successors have obtained the compensation benefit; beneficiaries within the meaning of section 2 subs. 1 third sentence of the Property Act and members of a community of heirs benefiting from the waiver in accordance with section 2a subs. 3 of the Property Act shall also be deemed to be heirs in respect of the recovery claims (repayment debtors). If a legal successor of the person liable to repay or of the injured party under section 229 has obtained the compensation of damage without adequate consideration or as a legatee, he or she may be held jointly and severally liable in addition to the persons liable to repay mentioned in sentence 1. Recipients of compensation for damage are obliged to notify the competent compensation authority and to provide the information required for recovery. Except in cases under section 8 of the Compensation Act, recovery shall be precluded after the expiry of four years from the calendar year in which the equalisation authority became aware of the compensation for damage and of the person liable, but not before 31 December 1996; the period shall be ten years if the recipient of compensation for damage has not fulfilled his obligation under sentence 3. The period may be interrupted by written notice to the obligor.

Unofficial table of contents

§ 349a Minimum amount for recoveries

Compensation payments shall not be reclaimed as long as the amount to be reclaimed attributable to the respective person liable for repayment is less than 50 euros.

Fifteenth Section Other and Transitional Provisions

Unofficial table of contents

§ 350 Volunteering

(1) Persons residing in the area of application of the Basic Law and in Berlin (West) who are requested to cooperate in an honorary capacity in the implementation of the provisions of Part Three of this Act shall be obliged to do so.

(2) Voluntary work, in particular as an assessor in the Appeals Committees, can only be refused for important reasons.

(3) The granting of travel expenses, daily and overnight allowances as well as compensation for loss of earnings to committee assessors shall be governed by the provisions applicable to the compensation of honorary judges.

Unofficial table of contents

§ 350a Reimbursement and offsetting of compensation payments

(1) Recipients of compensation benefits, their heirs or further heirs shall be obliged to repay any overpayment received to the extent that a claim for repayment exists under this Act or under general administrative law. Except in the cases of section 342(2) and section 349 and subject to subsection (2), the claim for repayment may only be asserted within four years of the end of the calendar year in which the overpayment was made; the period shall be ten years if recipients of compensation benefits are responsible for or jointly responsible for the overpayment.

(2) Claims for repayment may be offset against all compensation benefits, with the exception of current payments of war damage pensions (sections 261 et seq.) and death benefits (section 292b), and against all cash benefits due under the Compensation and Equalisation Benefits Act. This shall also apply insofar as a claim for repayment can no longer be asserted due to expiry of the time limit under subsection 1, sentence 2. Insofar as an excess amount received is covered by a claim to main compensation, it shall be set off against the latter; if the entitled person receives a compensation pension or temporary maintenance assistance, the basic amount determined in accordance with section 266 subs. 2 shall be reduced accordingly. Section 290 remains unaffected.

(3) Section 343 paras 1 and 2 shall apply mutatis mutandis to the proceedings.

Unofficial table of contents

Section 350b Maturity, Deferment and Enforcement

(1) The claim for recovery shall become due one month after the service of the benefit notice. For the purposes of offsetting, the due date shall be the date of service of the notice of recovery.

(2) Section 222 of the Fiscal Code shall apply mutatis mutandis.

(3) The provisions of the Administrative Enforcement Act of 27 April 1953 (Federal Law Gazette I p. 157) shall apply to federal monetary claims under public law. The decision on performance under section 3(2) and the enforcement order under section 3(4) of the Administrative Enforcement Act shall be issued by the head of the Equalisation Office. Section 340 (2) and (3) shall apply mutatis mutandis to the appeal against the performance notice.

(4) The enforcement authorities within the meaning of section 4 of the Administrative Enforcement Act shall be the administrations of the municipalities and districts, unless the Länder designate other authorities.

(5) The Länder may determine that the provisions of the Administrative Enforcement Act shall be replaced by the provisions of Land law on administrative enforcement proceedings in respect of federal pecuniary claims under public law.

[Unofficial table of contents](#)

Section 350c Interest, Late Payment Surcharges and Expenses

(1) The provisions of section 234, paragraphs 1 and 2, and sections 237, 238 and 240 of the Fiscal Code shall apply mutatis mutandis.

(2) The expenses incurred by the Kreditanstalt für Wiederaufbau for the administration of the claim after the due date of a claim for repayment shall be borne by the party obliged to repay.

[Unofficial table of contents](#)

Section 350d Making and Receiving Declarations for the Federation

(1) If the President of the Federal Equalisation Office has designated equalisation authorities, financial institutions or other bodies as competent to administer loans or other claims of the Federation arising in connection with the granting or overpayment of equalisation benefits (section 4), these bodies shall be authorised to receive or make legally effective declarations concerning rights in rem which are or will be entered for the Federation in the land register or register of ships, in particular concerning their establishment, amendment or cancellation.

(2) If the determination of the President of the Federal Equalisation Office referred to in subsection 1 has been published in the Federal Gazette, no further proof is required in this respect vis-à-vis the land registry office or the register court. Proof that a registered right is subject to the administration of the financial institution or other body acting on behalf of the Federation in an individual case shall be deemed to have been furnished to the land registry office or the registry report if a certificate of the equalisation office is presented in this respect or if it is evident from the deed drawn up for the purpose of registering the right or from the deed relating to a contract under the law of obligations on which the creation of the right is based that the financial institution or other body has already acted on behalf of the Federation in this respect as well. If the declaration concerning a right in rem is made by an equalisation authority, proof that the right in question in the individual case is subject to the administration of the equalisation authority is not required.

[Unofficial table of contents](#)

Section 350e Transfer of appeal proceedings

If an appeal is lodged against the decision of the equalisation board on the basis of a decision taken before 31 July 1992, such appeal shall be deemed to be an appeal. Sections 336 to 341 shall apply to the procedure. The same shall apply mutatis mutandis to the appeal procedures regulated differently under section 346 in the version applicable before 31 July 1992.

[Unofficial table of contents](#)

§ 351 Administrative costs

The costs of the Federal Equalisation Office shall be borne by the Federation.

[Unofficial table of contents](#)

§§ 352 to 357 ----

(The regulations are outdated).

[Unofficial table of contents](#)

Section 358 Special Provisions for Berlin

The provisions of Part Three of this Act shall apply in Berlin (West) subject to the following proviso:

1.

Insofar as assets in Berlin (West) are to be taken into account for the reduction of the basic amount in accordance with section 249 (1), they shall be taken into account in accordance with sections 80 to 83. The authorisation in section 249 (5) no. 1 shall also apply to the provisions on the calculation of the assets to be taken as a basis in accordance with sentence 1.

2.

In the application of section 249(3), third sentence, insofar as the reduction of the property levy under section 84(4) applies to property in Berlin (West), the following shall apply instead

of the fair value of	the time value of
50 per cent	16 per cent,
54 from one hundred	18 per cent,
58 from percent	19 per cent,
60 from one hundred	20 per cent,
62 from one hundred	21 per cent,
66 from one hundred	22 per cent,
71 from one hundred	23 per cent,
75 from one hundred	25 per cent,
79 from percent	26 per cent.

3. Instead of the five permanent jobs required in section 259 (2), three permanent jobs are sufficient in Berlin (West).
4. The authorities mentioned in section 352 (2) shall be replaced by the departments for household effects and war damages as well as by a state office for emergency aid established at the Senator for Finance.
5. Section 353 nos. 1 and 2 shall apply mutatis mutandis to the proceedings pending before the Household Relief and War Damage Offices and the Appeals Committees established at the Senator for Finance on the basis of the Household Relief Act of 22 November 1951 (Law and Ordinance Gazette for Berlin p. 1117).
6. Section 354 (1) shall apply mutatis mutandis from the time the Act enters into force in Berlin (West) to the emergency assistance special fund established on the basis of Article III § 11 of the First Act on the Reorganisation of Property Taxation in Berlin of 29 December 1950 (Ordinance Gazette for Berlin 1951 I p. 26).
7. The authorisation under section 357 shall apply mutatis mutandis to the provisions of the Household Assistance Act in Berlin (West).

Part Four Common final provisions

Unofficial table of contents

Section 359 Non-consideration of damages and losses, restitution cases

- (1) Damage to and loss of property acquired by taking advantage of measures of National Socialist tyranny may neither constitute a claim for compensation nor be taken into account in the determination of the property levy. Further details shall be determined by ordinance.
- (2) The granting of compensation payments and the reduction of the property levy in those cases in which assets were seized in the period from 30 January 1933 to 8 May 1945 within the meaning of the restitution laws shall be regulated by ordinance in accordance with the principles of this Act. In this connection, the status of displaced persons may be assumed in favour of persons who were subjected to persecution measures in the expulsion areas; the requirements of section 230 may be waived in the case of these persons and in the case of persons who have suffered damage within the meaning of section 15a, paragraph 1, no. 4.
- (3) Furthermore, the following shall not be taken into account in the granting of compensation and in the determination of the property levy
1. Damage and losses of persons who have substantially aided and abetted the expulsion or harming of Germans or who have violated the principles of humanity or the rule of law by their conduct in the expulsion area after the beginning of the general expulsion measures,
 2. Damage and losses suffered by persons who have substantially aided and abetted the political system prevailing in the Soviet occupation zone of Germany and in the Soviet sector of Berlin or who

have violated the principles of humanity or the rule of law by their conduct there since the occupation,

3.

Damage and losses to economic goods that were acquired after the beginning of the general expulsion measures by taking advantage of the existing conditions in the expulsion area without adequate consideration or through a legal transaction that is contrary to good morals or induced by threat or coercion or connected with an unlawful seizure of property or through another unlawful act.

Unofficial table of contents

§ 360 Exclusion from compensation and benefits

(1) Compensation payments as well as benefits under the property levy may be excluded in whole or in part without prejudice to prosecution under criminal law or criminal tax law,

1.

whoever, in his own or another's cause, has knowingly or through gross negligence made, caused to be made or permitted to be made false statements about the occurrence or extent of the damage, including the liabilities, or for the purpose of deception has concealed, distorted or faked other facts material to the decision,

2.

whoever, on his own behalf or on behalf of another person, has offered, promised or granted gifts or other advantages to witnesses, experts or persons involved in the matter of damage, or has threatened or inflicted disadvantages on them, in order to induce them to make a false statement, to give a false expert opinion or to commit an act involving a breach of official duty,

3.

anyone who has intentionally caused or attempted to cause a deterioration in his or her circumstances in order to thereby create the conditions for the granting of compensation or benefits.

(2) Upon application by the head of the equalisation office, the head of the Land equalisation office shall decide on the exclusion from the granting of equalisation benefits. The decision shall be substantiated; it may be contested by the person concerned in accordance with sections 338 et seq. The appeal shall not have suspensive effect. At the request of the head of the Equalisation Office, the decision may also be taken after the entitlement has been granted or after it has been fulfilled; benefits granted shall be refunded. If the person charged with conduct under paragraph 1 nos. 1 to 3 has died before the initiation or conclusion of exclusion proceedings, the proceedings may be initiated or concluded with effect against the heir or further heirs.

(3) If there is sufficient suspicion that the conditions for exclusion under paragraph 1 exist, the payment of current benefits may be temporarily suspended by the head of the Equalisation Office by notice after the application for exclusion has been filed, until a decision on the exclusion has been taken.

(4) The provisions of the Reich Tax Code shall apply to decisions on the exclusion of benefits from the property levy under subsection 1 and to appeals against such decisions.

Unofficial table of contents

§ 361 Contractual assistance

Insofar as the assets or income of a person are to be taken into account in proceedings for judicial assistance in contract or in corresponding judicial proceedings for the settlement of debts, claims to which the person is entitled on the basis of this Act shall be disregarded.

Unofficial table of contents

Section 362 Protection against enforcement due to old debts

(1) Upon application by a debtor who has received reconstruction loans under this Act, reconstruction aid under the Emergency Aid Act or loans or aid under the Refugee Settlement Act, the enforcement court shall temporarily suspend enforcement measures in respect of debts incurred prior to 8 May 1945 until contract assistance proceedings have been conducted, but no later than 31 December 1953.

(2) After the order for discontinuance has been issued, the creditor may also apply for the initiation of the contract assistance proceedings.

Unofficial table of contents

Section 363 Protection against recourse to social assistance benefits or basic benefits for jobseekers

If the maintenance claim of a person entitled to maintenance who has been granted social assistance in accordance with Book Twelve of the Code of Social Law or who has been granted benefits to secure subsistence in accordance with Book Two of the Code of Social Law has been transferred to the social assistance agency or to the employment agency, compulsory enforcement may not be pursued against the

person obliged to pay maintenance on account of this claim if the latter is a displaced person or a person who has suffered material war damage and if compulsory enforcement would jeopardise the re-establishment or securing of his or her livelihood.

[Unofficial table of contents](#)

Section 364 Supplementary measures

(1) The benefits provided for in this Act shall not affect support measures implemented by the Federation, the Länder, municipalities and associations of municipalities for the purpose of integrating displaced persons and war-affected persons.

(2) For the purpose of implementing the equalisation of burdens, the regional authorities shall reserve the right to adopt supplementary provisions on relief in the field of public charges as well as fees and costs; in the area of the Federation, further details may be determined by ordinance.

[Unofficial table of contents](#)

Section 365 Old Savers' Scheme

In addition to the measures provided for in this law to compensate for losses incurred by savers, a more far-reaching legal regulation will be made by 31 March 1953 to compensate for losses incurred on old savings investments as a result of the reorganisation of the monetary system within the territory of the Basic Law and in Berlin (West) (Old Savers' Act). The federal government will provide funds for this purpose.

[Unofficial table of contents](#)

§ 366

(omitted)

[Unofficial table of contents](#)

Section 367 Enactment of Statutory Orders

(1) The statutory orders provided for in this Act shall be issued by the Federal Government with the consent of the Bundesrat.

(2) By statutory order under subsection 1, the power to issue statutory orders may be further delegated to the President of the Federal Equalisation Office; the President of the Federal Equalisation Office shall not require the consent of the Bundesrat to issue such statutory orders.

[Unofficial table of contents](#)

§§ 368 to 372 ----

(The regulations are outdated).

[Unofficial table of contents](#)

Section 373 Transitional Provision on the Occasion of the Act on the Amendment and Streamlining of the Burden Equalisation Law

The provisions repealed by Articles 2 and 4 to 8 of the Act amending and rectifying the law on equalisation of burdens of 21 June 2006 (Federal Law Gazette I p. 1323) shall continue to apply in proceedings under this Act, the Act on the preservation of evidence and the Act on the establishment of evidence and the Reparation Damages Act if they are not concluded until after 1 July 2006. This also applies to proceedings concerning the modification of decisions, the reopening of proceedings as well as the recovery of benefits, in particular as a result of compensation for damage. Settlements as provided for in section 332 subs. 4 are admissible.

[Unofficial table of contents](#)

Section 374 Application of the Act in Berlin

This Act and the statutory ordinances, general administrative orders and instructions issued on the basis of this Act shall also apply in Berlin (West) if the Land Berlin decides to apply this Act in accordance with Article 87(2) of its Constitution.

[Unofficial table of contents](#)

§ 375

(Entry into force) *)

*)

Pursuant to Annex I, Chapter II, Subject Area D, Section III, No. 4 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, 920) and in conjunction with Article 1, No. 3 of the Act of 20 December 1991 (Federal Law Gazette I p. 2270), the Equalisation of Burdens Act entered into force in the territory referred to in Article 3 of the Unification Treaty with the following provisions:

a)

In the territory referred to in Article 3 of the Treaty, section 230 subs. 2 No. 1 shall apply only to persons who took up permanent residence in that territory after accession took effect and before 1 January 1993.

b)

Section 6 subs. 4, sections 305, 306, 308 to 311 as well as section 313 subs. 1 third sentence, section 314 subs. 1 second sentence and section 316 subs. 1 first sentence shall not apply in the territory referred to in Article 3.

c)

The President of the Federal Equalisation Office shall designate the competent equalisation office for applicants with permanent residence in the territory referred to in Article 3 of the Treaty.

Unofficial table of contents

Annex EV Extract from EinigVtr Annex I Chapter II Subject Area D Section III (BGBl. II 1990, 889, 920) - Measures for the acceded territory (Art. 3 EinigVtr) -

Section II Federal law shall enter into

force in the territory referred to in Article 3 of the Treaty subject to the following provisions:

...

4.

Burden Equalisation Act (Lastenausgleichsgesetz) in the version promulgated on 1 October 1969 (BGBl. I p. 1909), last amended by Article 2 of the Act of 28 June 1990 (BGBl. I p. 1247),

with the following conditions:

a)

(no longer applicable)

b)

Section 6 subs. 4, sections 305, 306, 308 to 311 as well as section 313 subs. 1 third sentence, section 314 subs. 1 second sentence and section 316 subs. 1 first sentence shall not apply in the territory referred to in Article 3 of the Treaty.

c)

The President of the Federal Equalisation Office shall designate the competent equalisation office for applicants with permanent residence in the territory referred to in Article 3 of the Treaty.