



Preface

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

Article 20 (1) of the German Basic Law



Germany is strong because it operates as a social state. The German social security system is one of the best in the world. It is a locational factor in business because it supports industry and creates opportunities, not just for employment and but for participation in society as a whole.

Many generations of women and men have fought hard to achieve what we now take for granted. To ensure this social safety net remains tightly meshed, I see it as our common duty to maintain it and adapt it to changing social conditions.

The social state and the social market economy characterise the Federal Republic of Germany, make its name ring true around the world and provide a better life for those who live here. I want us to work together to ensure it stays that way.

Dr. Ursula von der Leyen
Federal Minister of Labour and Social Affairs

Contents

Child benefit, federal parental benefit, parental leave, maintenance advance, supplementary child allowance

Kindergeld, Bundeselterngeld, Elternzeit, Unterhaltsvorschuss, Kinderzuschlag

Protection of working mothers

Mutterschutz

Promotion of employment

Arbeitsförderung

Basic security benefits for job-seekers

(Unemployment Benefit II/Social Assistance)

Grundsicherung für Arbeitssuchende

Labour law

Arbeitsrecht

Industrial democracy

Betriebsverfassung

Co-determination

Mitbestimmung

Minimum wage

Mindestlohn

Health and safety at work

Arbeitsschutz, Unfallverhütung

Occupational accident insurance

Unfallversicherung

Rehabilitation and integration of people with disabilities

Rehabilitation und Teilhabe von Menschen mit Behinderung

‘Jobs Without Barriers’ and Job4000

Jobs ohne Barrieren, Job4000

Health insurance and the electronic health card

Krankenversicherung und elektronische Gesundheitskarte

Long-term care insurance

Pflegeversicherung

Pension insurance

Rentenversicherung

Promotion of additional provision for old age

Förderung der zusätzlichen Altersvorsorge

Compensation and assistance for war victims

Soziale Entschädigung und Kriegsopferversorgung

Social assistance

Sozialhilfe

Housing benefit

Wohngeld

International social security

Internationale Sozialversicherung

The social courts

Sozialgerichtsbarkeit

Social security data protection

Sozialdatenschutz

Publisher's information

Impressum

Child benefit, federal parental benefit, parental leave, maintenance advance, supplementary child allowance Kindergeld, Bundeselterngeld, Elternzeit, Unterhaltsvorschuss, Kinderzuschlag

Children are a wonderful gift, but they do cost money. Food, clothes, education and toys all have to be paid for. Child benefit (Kindergeld) helps parents afford them. It is granted as a tax refund, primarily to meet the constitutional rule that income is untaxable up to a child's subsistence level. Any child benefit awarded over and above this amount is paid to support the family.

Your rights

Anyone with children who lives in Germany can claim child benefit. Foreign citizens are also entitled, as long as they have a valid permanent settlement permit (Niederlassungserlaubnis) or temporary, purpose-specific residence permit (Aufenthaltserlaubnis). Under certain circumstances and according to strict criteria, mothers and fathers living abroad for a period, say for job-related reasons, can also receive child benefit, although (as ever, with some exceptions) the state only pays the benefit for children living on German soil, in an EU member state or in Switzerland.

Important: Only one person can receive child benefit for each child. Parents can choose which of them claims child benefit for the children living in their household.

If the parents are separated or divorced, child benefit is paid to the parent the child lives with. In the case of children who do not live with their parents, child benefit is usually paid to the person in whose household the children live, or who primarily supports them.

Children you can claim for

You can also claim child benefit for:

- Your spouse's children if they live in your household
- Foster children if they live in your household, are long-term members of your family, and their parents no longer have custody over them
- Grandchildren, if you have taken them into your household. Do you meet any of these criteria? If so, you can certainly claim child benefit for any children aged 18 or less.

The age limit is 25 for the following:

- Young people in education or training. A child aged 18 or over in education or training can normally be claimed for until completion of a first vocational qualification or first degree. In addition, child benefit can be claimed, for example, for a child who is still in vocational training and does not regularly engage in paid work for more than 20 hours a week. A short break between two education or training stages still counts as education or training.
- Young people doing a year of voluntary community or environmental service under the Youth Voluntary Service Act (Jugendfreiwilligendienstgesetz), voluntary service in the EU Youth Action Programme, other voluntary service abroad under Section 14b of the Civilian Alternative Service Act (Zivildienstgesetz), "weltwärts" development service in accordance with the Federal Ministry of Economic Cooperation and Development directive of 1 August 2007, 'all generations' voluntary service under Book VII of the Social Code, § 2 Section 1a, international youth voluntary service in accordance with the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth directive of 20 December 2010 (GMBI. 2010 p. 1778) or federal voluntary service in accordance with the Federal Voluntary Service Act (Bundesfreiwilligendienstgesetz).
- Young people unable to start or continue vocational training for want of a training place.
- Up to the age of 21, young people without employment and registered as job seekers with an Employment Agency.

Special cases

In certain circumstances, parents can continue to claim child benefit when their children are over 25.

Child benefit is paid for sons over 25 who are still in education or training and have completed compulsory military or civilian service, or a period of equivalent service (for example as a development worker). The age limit of 25 is then raised by the length of their statutory basic military or civilian service. For example, parents whose son has completed nine months of basic military service can claim child benefit until he is 25 years and 9 months old.

You can continue to claim child benefit for disabled children over 25 if they became disabled before this age and cannot support themselves.

Orphans receive €184 in child benefit a month if no one else can claim child benefit or equivalent payments for them. The same applies for children who do not know where their parents are.

The law

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

Information

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

How to claim

To claim child benefit, you must apply for it.

The family benefits department (*Familienkasse*) at your local Employment Agency (*Agentur für Arbeit*) will be pleased to help – or if you are in public service, your employer's family benefits department.

The Federal Employment Agency (*Bundesagentur für Arbeit*) website (www.bundesagentur-fuer-arbeit.de) contains a wide selection of forms for download and lists the addresses of local family benefit offices (*Familienkassen*).

Tax-free allowance for children and tax-free allowance for child-care, child-raising and vocational training

If the child benefit payments do not reach the untaxable subsistence level for a child, a tax-free allowance for children (€4,368 a year) and a tax-free allowance for child-care, child-raising and vocational training (€2,640 a year) are deducted from the parents' taxable income. The tax relief from these allowances is decreased by the amount of child benefit already paid out. Whether the total tax relief comes up to the amount required by the constitution is determined in the course of income tax assessment.

Supplementary child benefit

Claimants who have built or purchased their own home can claim supplementary child benefit (*Kinderzulage*) for up to eight years, in addition to the normal child benefit, as part of the grants paid to encourage home ownership. Owner-occupiers of homes for which the contract of sale was signed or which the claimants began building before 1 January 2004 receive €767 a year for each child. Claimants who purchased or began building since then but not later than 31 December 2005 receive €800. Because tax concessions for home owners (*Eigenheimzulage*) were abolished on 1 January 2006, supplementary child benefit is no longer paid to claimants who build or purchase their own homes. Claimants who were previously granted the tax concession for home owners will continue to receive supplementary child benefit for the remainder of the eight-year period.

Parental leave

Parents can only take parental leave (*Elternzeit*) if they are already in employment.

If they wish, both parents can take parental leave simultaneously for all or part of the maximum term of three years each per child. Alternatively,

How much child benefit you receive

Child benefit is paid monthly as follows

– €184 for each of the first two children

– €190 for the third child

– €215 for the fourth and each additional child

Child benefit is paid regardless of the parents' income. Under a system of tax relief for families, child benefit takes the form of a tax refund, a tax-free allowance for children and a tax-free allowance for child-care, child-rearing or vocational training. Child benefit is paid throughout the year. When assessing income tax, the tax office checks that the amount of child benefit paid satisfies the constitutional rule on tax relief (in other words, that the parents have received enough child benefit to cover the tax refund due to them). If not, their tax bill is reduced by the tax-free allowance for children and the tax-free allowance for child-care, child-rearing and vocational training, less the child benefit they have already received. If this calculation comes out to the parents' advantage, the child benefit payments are left as they stand.

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

parents may choose to use it solely for the partner months allowed in conjunction with parental benefit (Elterngeld). However, if both parents claim their entitlement at the same time it must be remembered that this does not constitute an entitlement to welfare benefit, i.e. the parents must ensure that they can provide for themselves during the period of joint parental leave. With their employer's consent, either or both parents can put off up to a year of their respective parental leave to between the child's third and eighth birthday. Parents who meet the conditions may work up to 30 hours a week while on parental leave. Parents are entitled to work part-time for between 15 and 30 hours a week if they have been with their employer for more than six months, the employer regularly employs more than 15 people, the reduction in working time to the stated number of hours is to be for at least two months, and there are no compelling operational grounds opposing the arrangement. Parents have the right to reinstatement of their prior working hours on termination of parental leave. The employer must be given seven weeks' notice before the beginning of parental leave. The entitlement to take a reduction in working hours must be claimed by giving notification no later than seven weeks before beginning part-time work.

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

The law

The law on parental benefit and parental leave is set out in a German-language brochure, 'Elterngeld und Elternzeit' ('Parental Benefit and Parental Leave'). Further information is available by calling the service line run by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, on 030 20179130 (9 am to 6 pm).

Maintenance advance

Benefits and conditions

By way of special help for single parents, the Maintenance Advance Act (Unterhaltsvorschussgesetz) stipulates that a minimum level of child maintenance, less child benefit for the first child, will be paid from public funds where children receive no maintenance or no regular maintenance from the other parent.

Maintenance advance (Unterhaltsvorschuss) is available for children up to 12 years old, and is paid for a maximum of 72 months. The amount paid is the standard rate of maintenance (as stipulated in Section 1612a (1) of the German Civil Code (BGB) less half the child-benefit rate for a first child.

Accordingly, the monthly maintenance advance as of 1 January 2010 is as follows:

- For children aged under 6 years: €133
- For children aged 6 to 11 inclusive: €180

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

Supplementary child allowance

Parents are entitled to supplementary child allowance (Kinderzuschlag) for each child up to age 25 if:

- They claim child benefit for the child;
- They earn at least the minimum income threshold of €900 before deductions for a couple or €600 before deductions for a single parent;
- They do not exceed the maximum income limit;
- The supplementary child allowance prevents need of assistance as defined in Book II of the Social Code.

Supplementary child allowance is limited to €140 per child. Supplementary child allowance and the €184 a month child benefit together meet the average needs of a child. At the applicable income levels, housing needs are covered by housing benefit.

If the parents' income or assets just meet their personal subsistence level, the supplementary child allowance is paid in full. Deduction of income from supplementary child allowance begins on reaching the assessment limit. For incomes between the minimum income limit and the assessment limit, supplementary child allowance is normally paid in the full amount. Once the parents' income reaches the assessment limit, the supplementary child allowance is reduced by 50 percent of the amount by which their earned income – and by 100 percent of the amount by which any other income they may have – exceeds the assessment limit. The extent to which income and assets are taken into account is mostly determined as for unemployment benefit II.

Children's income is always deducted in full from the supplementary child allowance.

From 1 January 2011, in addition to the maximum of €140 per child in cash benefit, recipients of supplementary child allowance are also entitled to seven types of education and participation assistance:

- Single-day school/daycare centre outings (actual cost)
- Multiple-day school/daycare centre trips (actual cost)
- Personal school supplies (€100 per year in total)
- Pupils' transportation to/from school (actual cost)
- Learning support (actual cost)
- Participation in school/daycare centre communal meals (grant)
- Participation in the social and cultural life of the community, such as sports clubs and music lessons (€10 per month)

A German-language pamphlet on parental benefit and parental leave (Elterngeld und Elternzeit) is available free of charge from: Publikationsversand der Bundesregierung, Postfach 481009, 18132 Rostock, Germany. Further information is Available at: www.bmfsfj.de

The package includes cash and non-cash assistance. The non-cash parts of the package guarantee that the assistance reaches those it is meant for, as assistance for the individual child or adolescent. The assistance is handled by a single local government agency in each area, ensuring that it is locally administered in a targeted, accessible and unbureaucratic way. This ensures that it gets to the children who need it.

Supplementary child allowance is applied for in writing from the local family benefits department.

The legal provisions are contained in the Federal Child Benefit Act (Bundeskindergeldgesetz).

If you have further questions, please contact the family benefits department at your local employment agency.

The law

The relevant law is contained in the Federal Child Benefit Act of 28 January 2009 (BGBl. I, 142, 3177) as last amended by Article 9 of the Act dated 7 December 2011 (BGBl. I p. 2592).

Information

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

Federal parental benefit

Parental benefit is an important source of support for families in the first twelve (or fourteen) months of their child's life. The benefit cushions the loss of earnings after the birth of a child. Parental benefit consequently makes it easier for mothers and fathers to take a break from or cut down on paid work in order to take time for a child.

Conditions for claiming

Mothers and fathers can claim parental benefit if they:

- Look after and raise their children from birth themselves
- Do not do more than 30 hours' paid work a week
- Live with their children in one household
- Have a place of residence or are normally resident in Germany

Spouses and civil partners who look after a child from birth can receive parental benefit under the same conditions even if the child is not their own.

Parental benefit is also paid for up to 14 months for adopted children and children taken in with a view to adoption. The 14-month period begins when the child is taken into the household. Any remaining entitlement lapses with the child's eighth birthday. In the event of the parents' severe illness, severe disability or death, parental benefit can be claimed by first, second and third-degree relatives (brothers and sisters, uncles and aunts, grandparents and great-grandparents) and by their spouses or civil partners.

There is no entitlement to parental benefit for parents or otherwise entitled couples whose joint taxable income exceeded €500,000 in the calendar year before the birth of the child. For single parents, the entitlement ceases at upwards of €250,000.

Under EU law, nationals of other EU/EEA member states and Switzerland can generally claim parental benefit if they live or work in Germany.

Other foreign nationals can claim parental benefit if their stay is likely to be long-term based on the type of residence permit they hold and whether they are allowed to work. Holders of a permanent settlement permit (Niederlassungserlaubnis) satisfy the conditions for claiming automatically. Holders of a residence permit (Aufenthaltserlaubnis) only meet the conditions for claiming if they have a German work permit or have already legally worked in Germany. Holders of a residence permit issued in case of hardship, for the holder's temporary protection, under a stay of deportation or because of circumstances preventing the holder's departure can only claim parental benefit if they have been resident in Germany for at least three years and are in employment or receiving unemployment benefit.

Benefit amount and duration

Parental benefit cushions the loss of the income that the parent looking after a child had in the year preceding the child's birth and no longer has following the birth. The benefit replaces 65 percent of a prior monthly income of €1,240 or higher, 66 percent of a prior monthly income of €1,220 and 67 percent of a prior monthly income of between €1,000 and €1,200. For low earners with a monthly income of less than €1,000 prior to the child's birth, the percentage rises up to 100 percent on a sliding scale: the lower the income, the higher the percentage. The minimum amount of parental benefit is €300 and the maximum amount is €1,800.

The minimum amount of €300 is paid to all entitled parents, even if they were not in employment prior to the child's birth. Families with two or more children can receive a bonus equal to 10 percent of their parental benefit entitlement, or €75, whichever is greater. For multiple births, parental benefit increases by €300 a month for the second and each additional multiple birth child.

Each individual parent can claim a minimum of two and a maximum of twelve months' benefit. A child's two parents can claim a total of twelve months' benefit between them. The benefit is paid for months of the child's life (as opposed to calendar months). The entitlement is supplemented by two additional months' benefit if both parents claim and their earned income is reduced for two of the months for which benefit is claimed.

Parental benefit is deducted in full, as income, from unemployment benefit II, social assistance and supplementary child allowance. However, parents who receive these benefits but were in employment prior to the birth of their child are entitled to an exempt amount. The exempt amount corresponds to the prior income subject to a maximum limit of €300 per month. Up to this amount, parental benefit is not deducted from these benefits and so remains at the parents' disposal.

Information

Responsibility for administering parental benefit under the act lies with agencies designated by the German states (Länder):

- Baden-Württemberg: Landeskreditbank Baden-Württemberg
- Bavaria: the local Zentrum Bayern Familie und Soziales (pensions and family welfare centre)
- Mecklenburg-West Pomerania and Hessen: the local Versorgungsamt (war pensions office)
- Berlin and Rhineland-Palatinate: the local Jugendamt (youth welfare office)
- Brandenburg: the Landkreise (district administrations)
- Hamburg: the local Einwohneramt (citizens registration office)
- Bremen: the Amt für Soziale Dienste (social services office)
- Bremerhaven: the Amt für Familie und Jugend (family and youth welfare office)
- Lower Saxony: the local council
- North Rhine-Westphalia, Saxony, Saxony-Anhalt and Thuringia: the Kreise/Landkreise and kreisfreie Städte (district administrations and urban municipalities)
- Saarland: the Elterngeldstelle (parental benefit office) at the Ministry of Labour, Families, Prevention, Social Affairs and Sport
- Schleswig-Holstein: the local offices of the Landesamt für Soziale Dienste (state social services)

Further information on parental benefit is provided in a German-language brochure, 'Elterngeld und Elternzeit' ('Parental Benefit and Parental Leave'). This is available free of charge from Publikationsversand der Bundesregierung, Postfach 48 10 09, 18132 Rostock, Germany. Email: publikationen@bundesregierung.de

The legal framework for parental benefit and parental leave is the Federal Parental Benefit and Parental Leave Act (Bundeselterngeld- und Elternzeitgesetz). Information on this is set out in a German-language brochure, 'Elterngeld und Elternzeit' ('Parental Benefit and Parental Leave'). Further information is available by calling the service line run by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, on 030 20179130 (9 am to 6 pm).

Protection of working mothers

Mutterschutz

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

Overview

As a working expectant mother, you enjoy special protection from workplace hazards and are protected from dismissal from the beginning of your pregnancy to four months after the birth. Statutory maternity leave of six weeks before and eight weeks after confinement means you can dedicate yourself to your family and recover without the added burden of employment. The statutory period of maternity leave is extended to 12 weeks after a multiple birth and longer after a premature birth (e.g. birth weight under 2,500 g) (the portion of leave 'lost' due to a premature birth is added to the 12 week extension period). The eight-week statutory leave period is also extended by the portion of leave lost through an early delivery.

Under certain circumstances, you may receive maternity benefit and the employer's contribution to maternity benefit during this period. Eligibility for maternity benefit depends on the type and scope of your health insurance cover. From the birth of the child, parents can claim parental benefit and parental leave (at the same time if so desired). For more information on this topic, please see the Child Benefit, Federal Parental Benefit, Parental Leave, Maintenance Advance and Supplementary Child Allowance chapter.

With the exception of maternity benefit and the employer's maternity benefit top-up payment, statutory benefits for the child are provided as of the birth. If you find yourself in need while pregnant, visit your nearest pregnancy advice centre (Schwangerenberatungsstelle), where you can apply for help from the national mother and child foundation, Bundesstiftung Mutter und Kind (help is conditional on a the application being made before the birth).

Your rights under the Protection of Working Mothers Act

Protection from dismissal

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

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

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

Only the employer is prevented from giving notice. You yourself are free to terminate your employment at any time during pregnancy and the statutory period of maternity leave after the birth. You do not have to serve a notice period, and the termination of employment is effective from the end of the statutory leave period. If you want to terminate your employment at an earlier or later date, however, you must observe the statutory or agreed period of notice.

You have further protection from dismissal if you take parental leave at the end of the statutory leave period. This protection begins eight weeks before parental leave starts – or on the notice date if you notify the employer less than eight weeks in advance – and ends with your parental leave. Exceptions may be allowed in special circumstances. You yourself can terminate your employment in either of two ways:

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

Workplace facilities

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

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

Protection has priority

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

The Act lists a number of generally prohibited activities.

Generally, expectant and nursing mothers may not:

- Perform heavy physical work
- Perform tasks that expose them to health risks from noxious substances, radiation, dust, gases, vapours, heat, cold, dampness, vibration or noise
- Do piecework
- Do any other work where pay is linked to working speed
- Do assembly-line work involving a set working speed
- Perform tasks that involve
 - Regularly moving or transporting loads over 5 kg, or occasionally moving or transporting loads over 10 kg, without mechanical aid
 - Frequent and considerable stretching or bending
 - Continual squatting or stooping
 - Heightened risk of accident from slipping, tripping or falling
 - Exposure to risks of occupational disease
- Work on machinery or equipment (such as foot-operated machines) whose operation places heavy strain on the feet
- Work more than 8½ hours a day or 90 hours in any two consecutive weeks
- Work at night (between 8 pm and 6 am)
- Work on Sundays or public holidays

There are exceptions to the general ban on night and Sunday working (see 'Special provisions', below).

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

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

A ban on medical grounds is different from a sick note. You will not lose any pay, because you are entitled to maternity pay from your employer (not to be confused with maternity benefit and the employer's contribution to maternity benefit during the statutory period of maternity leave), which in most cases is at the same rate as your average take-home pay. Your employer is refunded this expenditure (pay during maternity leave and the employer's contribution to maternity benefit) out of contributions paid by all employers.

Who is entitled to protection?

The Protection of Working Mothers Act covers all (expectant) mothers; that is:

- Full-time workers
 - Part-time workers
 - Home helps
 - Home workers
 - Public service part-time employees
 - People in marginal employment
 - Trainees
- Your nationality is irrelevant. The only requirement is that your place of work must be in Germany. Housewives and self-employed women are not entitled to protection under the Act (though they can claim maternity benefit at the same rate as sickness benefit if they have paid sufficient voluntary contributions into a statutory health insurance fund). Housewives and self-employed women can, however, claim parental benefit (see the Child Benefit, Federal Parental Benefit, Maintenance Advance and Supplementary Child Allowance chapter). Special provisions apply for tenured civil servants and soldiers.

The law

The law on the protection of working mothers is set out in the Protection of Working Mothers Act (Mutterschutzgesetz) and in Book V of the Social Code (SGB V). The Farmers Health Insurance Act (Gesetz über Krankenversicherung für Landwirte) also has provisions on maternity benefit. These laws are implemented by state supervisory authorities.

Information

A German language pamphlet on the protection of working mothers (Leitfaden zum Mutterschutz) is available from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, and can be downloaded from the ministry's website at www.bmfsfj.de. Information on protection of working mothers is also available by calling the service line operated by the Federal Ministry for Family, Senior Citizens, Women and Youth, on 01801 907050 from Monday to Thursday (9 am to 6 pm).

A German-language pamphlet on the protection of working mothers (Leitfaden zum Mutterschutz) is available free of charge from: Publikationsversand der Bundesregierung, Postfach 48 10 09, 18132 Rostock, Germany. Further information is Available at: www.bmfsfi.de

If you are not insured, please contact the Bundesversicherungsamt (Federal Insurance Office), Friedrich-Ebert-Allee 38, 53113 Bonn; Tel. 0228 619-1888. If you are unemployed, your local employment agency (Agentur für Arbeit) is available to provide information and advice.

Depending on your income, you may be able to claim help under the legal aid system from the local court (Amtsgericht).

Promotion of employment

Arbeitsförderung

Book III of the German Social Code

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

Tasks and benefits

The main tasks of the Federal Employment Agency are:

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

The Federal Employment Agency provides services both to employees and employers.

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

Advice and placement

Careers guidance

Careers guidance targets both young people and adults. It involves the provision of advice and information concerning career choice, occupations and the respective requirements, funding options for vocational education and training, important developments in the working world, the situation and expected trends in the jobs market, and finding a training place or permanent job.

For young people wanting to study at college or university, the careers advice officers at local employment agencies provide a specially designed advisory service for those leaving school with a certificate of higher education (Abitur). They advise on choosing a course of academic study, explain the acceptance requirements and what is expected of students on particular courses, outline the job opportunities and go through the various funding options. They work with young people to identify their personal goals, employment options and possible alternatives.

Career orientation

Systematic career orientation can help people in choosing an occupation and thus positively influence the career paths of young and old alike. It can also aid the careers guidance process by providing in-depth information on issues concerning career choice, occupations, job requirements and opportunities, routes into a chosen career path, funding for vocational training and education, and work-related developments in business, local administrations and the jobs market in general. The service includes visits to schools to talk with 12th and 13th graders, career orientation events in careers information centres (Berufsinformationszentren, or BIZ) and online and print media published by the Federal Employment Agency (BA).

Labour Market Advisory Service

The labour market advisory service provided by the local employment agencies targets employers and is designed to support them in filling trainee places and vacant positions. Employers are informed about the current situation in the labour market, expected trends and available occupations. They are schooled in job structuring, employment conditions, working hours, on-the-job training and education, and integration of hard-to-place trainees and employees.

Vocational training and work placement

Anyone seeking work can use the services of an employment agency, whether they are unemployed, are about to lose their job or are looking for a career change. Young people seeking vocational training are also entitled to assistance. Work placement is the employment agencies' main task. The remaining benefits and assistance services for employment promotion are only provided where long-term integration into the labour market or the vocational training market cannot succeed without them.

As soon as you know when your current employment will come to an end, you are automatically required to register in person at your local employment agency. Registration must take place at least three months before your employment is due to end. If the time between receiving your notice and your last day of work is shorter than three months, you must report to the employment agency no later than three days after receiving your notice. To comply with the deadline, you may register by telephone on the condition that you make an appointment to register personally afterwards.

Placement assistance

Placement budget

Placement guidance and assistance provided via the placement budget take a flexible, targeted and needs-oriented approach to removing potential obstacles while also taking account of the specific needs of people looking for work or vocational training. It is designed to help people looking for a training placement, those facing unemployment and those out of work to find and take up insurable employment. The placement budget thus offers broad scope in promoting individual employment or training prospects to ensure the right type of assistance is provided in each case. Accordingly, rather than applications for assistance being governed by detailed legal requirements, placement and advisory staff look at each case individually to assess the specific type of support and assistance that can be applied for from the placement budget.

Conditions under which placement assistance may be approved:

- You are facing unemployment, seeking work or are unemployed and wish to take up insurable employment
- You are looking for a training placement that provides insurable vocational training
- You are receiving basic security benefits for job-seekers and are wanting to improve your educational qualifications
- You are eligible to receive assistance
- You need help in overcoming obstacles in seeking and taking up insurable employment or vocational training
- The amount claimed from the placement budget is commensurate with the services provided
- The employer does not provide similar assistance
- Other public agencies are not legally obliged to provide similar services
- You apply for placement assistance before costs are incurred
- You understand and acknowledge that placement assistance is a discretionary service to which you have no legal right

Guidance and placement assistance may also be provided to help in searching for or taking up a training placement or offer of work in another EU member state, in a Signatory State to the Agreement on the European Economic Area (EEA) or in Switzerland. This is based on the condition of a minimum of 15 hours of training or work per week.

Improving prospects for integration

These measures include training courses and practical activities that aim to improve the prospects of those seeking vocational training, the unemployed and those facing unemployment and seeking new work for integration into the labour market. They can be used to assess a person's readiness and ability to work, to identify, alleviate and reduce obstacles to their entering the labour market, to place them in an employment relationship in which they pay compulsory contributions, assist them in becoming self-employed or stabilise their employment prospects.

Costs of taking part in the measures are paid for up to a reasonable amount. Unemployment benefit continues to be paid if the person is entitled to it.

The duration of the measures provided must be commensurate with their purpose and content. The measures may also be provided by employers, either in whole or in part, up to a maximum period of six weeks.

Participation is proposed or approved by the local employment agency. The employment agency can commission providers to carry out measures directly or issue the entitled person with an activation and placement voucher. The decision is made by the employment agency based on the aptitude and personal circumstances of the entitled individual and the measures available in the local area. In some circumstances, unemployed persons are entitled to an activation and placement voucher allowing them to use a private job placement service at the employment agency's expense.

Help becoming self-employed

Start-up grants

How to claim

Workers who end their unemployment by taking up self-employment as a main occupation may receive a start-up grant (Gründungszuschuss) to cover living expenses and social insurance contributions for the first few months of self-employment.

The start-up grant can be made available to workers who still have at least 150 days' entitlement to unemployment benefit on entering self-employment. To qualify for the grant, applicants must demonstrate that they have the necessary knowledge and skills to carry out the occupation concerned. They must also present to the employment agency a statement from a knowledgeable authority that their self-employment is potentially sustainable. This statement can be provided by various bodies, including chambers of commerce, guilds, industry associations and banks.

A start-up grant is not made available if there are or would be grounds for the applicant's entitlement to unemployment benefit to be suspended under sections 156-159 of Book III of the German Social Code (SGB III). Claimants who reach pensionable age for a standard old-age pension while still receiving the grant cease to receive it from the beginning of the next month. The grant is not available for 24 months after the end of a grant of assistance with entering into self-employment under SGB III.

Amount and duration

The start-up grant is paid out in two phases. For the first six months, self-employed start-ups can receive a grant matching their last unemployment benefit to cover living expenses plus €300 a month for social insurance. The €300 a month for social insurance can be paid for a further nine months if the claimant can demonstrate that they are actively trading and working for the business on a self-employed basis as their main occupation.

Initial financial support

Individuals who are entitled to assistance and claim basic security benefits for job-seekers under Book II of the Social Code (SGB II) can receive initial financial support (Einstiegsgeld) to help them enter self-employment as a primary occupation or an employment relationship in which they pay compulsory contributions. The support is provided by the local job centre.

How to claim/amount

The initial financial support can be granted as a supplement to basic security benefits for job-seekers on taking up self-employment as a primary occupation or an employment relationship in which compulsory contributions are paid. There must be reasonable grounds to expect that the employment or self-employment will remove the need for assistance.

The amount of initial financial support is based on factors such as the length of unemployment and the size of the claimant's household. The amount therefore varies from case to case. The grant is made for a maximum of 24 months. There is no legal entitlement to initial financial support.

Other assistance for self-employed individuals

Individuals who are entitled to assistance and who take up self-employment as a primary occupation can also receive loans or grants for the purchase of material resources (grants are limited to a maximum of €5,000). The material resources must be necessary and reasonable for the form of self-employment in question. Individuals who are entitled to assistance and are self-employed can also receive assistance for external advice and training in order, for example, to place the self-employed business on a more stable footing or to effect a change in focus. The assistance is, however, subject to the self-employment being economically viable. There is no legal entitlement to the assistance.

Choice of occupation and vocational training

Promotion under Book III of the Social Code (SGB III)

Choosing the right occupation is a difficult challenge for young people. Support in the choice of career is therefore decisive in ensuring a successful transition from school to vocational training and work. Initial vocational training in particular is becoming increasingly important in the jobs market due to the sharp drop in the number of jobs available for unskilled and semi-skilled workers. Employment promotion policies thus offer a variety of opportunities to assist young people in their search for vocational training:

Career orientation events

Events can be held to provide secondary schools students with in-depth career orientation and help with preparing to choose a career. At least 50 percent of the cost must be met from another source. For four weeks in the school holidays, students can gain a detailed insight into the various occupations, what they require and their prospects. When planning the events, it must be ensured that they meet requirements for students with special educational needs and severe disabilities.

Integration support

Seamless transition from school to vocational training is the best start to working life. Providing one-on-one support, integration assistants help secondary school students with support needs for a period beginning two years prior to the date of school leaving exams and usually ends six months after vocational training begins. If the transition into training takes longer, the support is extended up to a maximum of 24 months after the student leaves school. To enable as many young people as possible to make this transition, the German government's Act to Improve the Chances of Integration in the Labour Market (Gesetz zur Verbesserung der Eingliederungschancen am Arbeitsmarkt) makes an integration programme initially run as a pilot scheme at some 1,000 secondary schools available nation-wide and part of an indefinite service to be provided under Book III of the Social Code. The program is now established as a transition aid for secondary school students with support needs.

In light of the fact that responsibility for integration support is shared between the Federal and Länder (state) governments, third-party co-financing in the amount of 50 percent will be needed in future, whereby the German states will be largely responsible in this regard.

Pre-vocational training schemes (BvB)

Young people who are unable to enter into vocational training for whatever reason can be given grants by employment agencies to take part in pre-vocational training schemes. These serve career orientation, career choice and targeted preparation for vocational training.

In future, co-financing of small-scale, production-oriented measures will be available for pre-vocational training schemes.

Under the pre-vocational training scheme, young people who have left school have a right to receive support in pursuing further education to attain a school leaving certificate (Hauptschulabschluss).

Entry qualifications

Entry qualifications received in initial practical training give young people with limited placement opportunities new perspectives for entering into vocational training. They also build bridges for young people who do not yet have the skills required for entry into a vocational training or who have learning difficulties or are socially disadvantaged.

Type of scope of promotion

Under the programme, employers who take on young workers in a pre-vocational training position for between six and twelve months receive €216 per month plus a combined amount for social insurance.

Vocational training grants (BAB)

Requirements

Young people taking part in pre-vocational training schemes and those in vocational training may receive a vocational training grant if the resources they need to cover their living expenses are not already provided elsewhere. This support is similar to Federal Education Assistance (BAföG) but is financed from social insurance contributions. The Federal Employment Agency offers vocational training grants (Berufsausbildungsbeihilfe) to trainees who are unable to live at home with their parents during their training because the training venue is too far away.

Under certain circumstances, vocational training grants (BAB) may be provided for a subsequent course of vocational training where it is considered appropriate. Despite having completed their vocational training and possessing the associated qualifications, some young people still lack employment opportunities in their chosen occupation. A second course of vocational training that would improve their employment prospects should not be jeopardised because a young trainee or apprentice lacks the financial means to cover their living expenses.

Since 1 January 2009, foreigners who have a temporary suspension of deportation ('Duldung') and are resident in Germany may receive assistance while receiving on-the-job vocational training with an employer provided that they have been in the country either legally or subject to permission to remain ('Aufenthaltsgestattung') or to temporary suspension of deportation for at least four years without interruption.

Type and scope of promotion

The amount of the grant depends on the type of accommodation involved, the amount of pay the trainee receives and the annual income earned by the trainee's parents, spouse or civil partner. In some cases, living expenses, travel expenses, child care costs and outlay for educational materials and working clothes can be taken into consideration on a lump-sum basis.

Vocational training grants are also used to promote participation in pre-vocational training schemes. In such cases, course costs, travel expenses, child care costs and outlay for educational materials and working clothes are reimbursed directly regardless of how much the trainee earns.

Educational support

In certain circumstances, trainees can receive additional educational support in the form of additional tuition or social education assistance during vocational training in a company or while working towards entry qualifications.

Vocational training in training institutes

Young people who for reasons relating to their own person are unable to enter into a traineeship with a company can receive additional help in commencing and even completing vocational training in a state-recognised training occupation at a training institute and thus gain a recognised vocational qualification.

Promotion of further vocational training

How to claim

If you take part in further training activities, you can claim a vocational training grant if

- You are unemployed and further vocational training will assist your integration into the labour market, is necessary to avoid possible unemployment or if it becomes apparent that training is needed to compensate for a lack of initial vocational training.
- You have taken part in an advisory session at the employment agency prior to training
- The training measures are approved and the training provider is accredited.

Type and Scope of Promotion

Education vouchers (Bildungsgutschein) are issued to all entitled workers. The voucher is usually allocated for a specific educational goal and is limited to a particular geographic area. It allows anyone interested in further training to choose an accredited training provider offering the appropriate form of training. The employment agency provides information on available occupational training measures (for example via the KURSNET online database). Selection of the actual accredited training provider lies solely with the voucher holder. The education voucher must be handed over to the training provider who bills the employment agency directly.

If you enter into further training, the employment agency can assume the following costs:

- Course costs (course fees, including the costs of educational materials, working clothes, exam fees for state or generally recognised interim and final exams, partial exams) and any costs arising from having to take part in aptitude testing (say a health check) prior to starting the training course.
- Travel expenses
- Accommodation and meals expenses at a training centre that is too far away for you to live at home.
- Child care costs (€130 per child).

Special vocational training schemes are also in place for people already in work.

1. Further on-the-job training for low-skilled and older workers (WeGebAU) is available for:

- Low-skilled workers with no school qualifications or with school qualifications but who were either trained on the job or perform unskilled work and have done so for at least four years and can no longer work in the job they originally trained for. Periods in unemployment, child-rearing or caring for a relative are taken into account.
- Workers aged 45 and over who are employed by an employer with a workforce of less than 250 provided that the employer continues to pay wages for the duration of the training.
- Until the end of 2014, all other workers who are employed by an employer with a workforce of less than 250 provided that the employer both continues to pay wages and also meets at least 50 percent of the cost of the training.

Further training measures can involve those which:

- Provide knowledge and skills which can generally be used in the employment market
- Lead to a recognised occupation
- Conclude with a certified partial qualification or a cross-industry or cross-sectoral qualification

Employees wishing to take advantage of the scheme receive education vouchers which allow them to choose from recognised further education and training courses.

Assistance takes the form of the cost of training being met in full or part. In the case of low-skilled workers who are released from work with full pay, the employer receives a grant to help cover the employee's pay.

2. Training while receiving transfer short-time allowance

The Federal Employment Agency can make use of European Social Fund resources to meet the cost of participation in training for workers receiving transfer short-time allowance. The facility is provided for claimants of transfer short-time allowance who are registered with their local Employment Agency as seeking work and for whom skills deficits have been identified in measures to determine integration prospects.

The cost of training courses is funded provided it is reasonable and the employer makes a suitable contribution towards funding. If travel costs are incurred, trainees can be granted a travel allowance of €3 each per day of training provided that the employer/transfer entity takes charge of accounting and payout.

Further information about this training scheme is available from the employers' service office at local employment agencies.

Labour market support for people with migrant backgrounds

All forms of integration assistance under Book II and Book III of the Social Code are generally available to people with migrant backgrounds provided the legal requirements are met for being allowed to take up employment. To provide people with migrant backgrounds with better access to labour market policy instruments, the Federal Ministry of Labour and Social Affairs, the Federal Ministry of Education and Research and the Federal Employment Agency began in mid-2011 to expand the "Integration durch Qualifikation (IQ)" ("Integration through Training") funding programme into a national structure of regional networks. One of the main tasks of the regional networks is to provide training to enhance the intercultural and immigration-related skills of counselling staff at local services (such as employment agencies and job centres) and to link up the various forms of assistance available in each region into a process chain. The regional networks also provide a supporting framework for implementation of new legislation to improve the assessment and recognition of foreign occupational qualifications that entered into force on 1 April 2012. This involves the creation of regional points of contact to provide initial information, to help people seeking recognition of their qualifications find the recognition authority responsible for them, and to refer them to other local advice services.

Advancing the labour market participation of people with disabilities

Under Book III of the German Social Code, people with disabilities are individuals whose prospects of participating or continuing to participate in the labour market are substantially impaired, other than temporarily, on account of a disability as defined in Section 2 (1) of Book IX of the German Social Code and who consequently need help participating in the labour market, including people with learning disabilities. People at risk of disability with like consequences are deemed equivalent to people with disabilities. Under Section 2 (1) of Book IX of the German Social Code, a person has a disability if their physical ability, mental capacity or psychological health is likely to be impaired for longer than six months to the extent that they deviate from that typical for the person's age and thus hinder their participation in society. They are deemed at risk from disability if such impairment is anticipated.

The range of general support provided under SGB III with regard to labour market participation of people with disabilities comprises:

- Activation and occupational integration assistance
- Pre-training and vocational training support, including vocational training grants

- Occupational further training support
- Help becoming self-employed

Provision is also made for special measures promoting the participating of disabled people in working life where needed due to the nature or severity of disability or to ensure that integration is successful. For example, initial and further vocational training can be provided in specially equipped rehabilitation centres. Under Book III of the German Social Code, promotion of initial and further vocational training may also take place in a workshop for the disabled.

Employers can receive support in helping disabled and severely disabled people to integrate:

- Integration subsidy (see the Integration Subsidies section) and subsidies to reimburse the costs of vocational training
- Trial or pre-employment
- Work aids

With Germany's Supported Employment Act of 22 December 2008, a new instrument was introduced to promote the integration of disabled and severely disabled persons into the jobs market.

Individuals who because of their disability and despite making use of all available support to compensate for their disadvantages are unable to enter into vocational training, supported employment can result in them being placed in work. Under supported employment, disabled persons with special assistance needs are placed in new job opportunities that meet their abilities and leanings. In line with the principle of 'placement first, training second', they are trained and supported on the job with the ultimate aim of them becoming permanently employed with the respective employer. This provides new opportunities on the general employment market.

The benefits and services governed by Section 38a SGB IX take in individual in-house training and supported employment. In-house training is possible for a period of two and no more than three years. The provision of non-work-related learning materials, key skills and measures towards personal development are integral components of the training provided. Participants are covered under the social insurance scheme. Contributions are paid by the integration services, usually the employment agency. If continued support is necessary following integration into an employment relationship in which the employee pays compulsory contributions, it is usually provided by the integration offices in the form of supported employment.

Wage replacement benefits

Unemployment Benefit

To receive unemployment benefit (Arbeitslosengeld), you must:

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

be actively seeking work and be available for work.

You are classed as unemployed if you have no work at all or if you work for less than 15 hours a week for an employer or on a self-employed basis.

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

To complete the qualifying period, you must accumulate at least twelve months (360 days) of Federal Employment Agency contributions, either by working or otherwise (for example, by claiming sickness benefit), within the timeframe of the last two years.

From 1 February 2006, anyone who provides home nursing care for a dependant, is self-employed for at least 15 hours per week or is employed outside Germany in a non-EU country or in a country not associated with the EU, may make voluntary unemployment insurance contributions. This gives people

who are not required to pay mandatory contributions the opportunity to pay a voluntary contribution to safeguard their entitlement to unemployment benefit. The applicant must, however, have paid mandatory contributions at an earlier date.

The amount of unemployment benefit you receive is based on your average weekly pay on which statutory insurance contributions were levied in the last year before becoming eligible to claim (the assessment period).

The resulting gross earnings figure (gross assessed earnings) is then subject to deductions at a fixed rate. These deductions take the form of social insurance contributions in an amount of 21 percent of your gross assessed earnings, income tax and solidarity tax.

Your unemployment benefit is 67 percent of your net assessed earnings (gross assessed earnings after deductions) if you have at least one child who you can claim tax relief for, and 60 percent if you do not.

How long you can claim unemployment benefit for depends on your age and how long you have been in contributory employment within the reference period (which has been extended by three years) and your age at the time you became unemployed.

Entitlement periods:

Minimum time paying contributions	Age	Period of entitlement
12 months		6 months
16 months		8 months
20 months		10 months
24 months		12 months
30 months	50	15 months
36 months	55	18 months
48 months	58	24 months

Any entitlement to unemployment benefit expires if you complete another qualifying period. Any remaining entitlement is then added to the new entitlement, up to the maximum period for your age.

While you are drawing unemployment benefit, the employment agency pays your statutory health insurance, long-term care insurance and pension contributions. The benefit is transferred at the end of each month onto a bank account you specify.

Short-time allowance

If an employer temporarily cuts working hours and puts the workforce on short time because business is slack or due to an unavoidable event, the local employment agency pays a short-time allowance (Kurzarbeitergeld) subject to the meeting of statutory requirements. The main purpose of short-time allowance is to keep workers in employment and avoid redundancies despite a lack of work.

You can claim the short-time allowance if:

- You are on reduced pay or receive no pay at all due to a cut in working hours
- The cut in working hours is temporary and substantial
- Personal requirements have been met (especially in the case of non-terminated, insurable employment)
- The employer or works council reported the cut in hours in writing without delay to the local employment agency

A cut in working hours is deemed substantial if:

- It is caused by economic reasons, such as an economic slowdown, or an unavoidable event (such as flooding)
- It is temporary
- It is unavoidable

- During the period of eligibility (the current calendar month), at least one-third of the employees in the company concerned received 10 percent less pay due to a cut in working hours. The loss of pay can also amount to 100 percent of the monthly gross wage.

A cut in working hours is temporary if there is a certain probability of a return to full-time working within the period for which the allowance is granted.

A cut in working hours is deemed avoidable if:

- It is normal for the sector or workplace or is seasonal, or is solely for organisational reasons
- It can be avoided by granting paid leave, provided that it does not conflict with higher-priority employee preferences regarding when to take leave
- It can be avoided by exploiting flexible working hours arrangements permitted at the workplace in question

The allowance is usually paid out by the employer and refunded by the local employment agency on application by the employer or works council.

The size of the short-time allowance is based on the amount of pay lost, net of deductions. You normally receive 60 percent of the net pay lost. If at least one child lives in your household, the short-time allowance is 67 percent of the net pay lost. The difference in net pay is calculated on the basis of the gross pay that would have been received had there not been a cut in working hours and the actual gross pay received as a result of short-time work and in line with the provisions of applicable law (Verordnung über die pauschalierten Nettoentgelte für das Kurzarbeitergeld). The difference between both net amounts is paid out as short-time allowance in amount of 67 or 60 percent. The calculation does not take account of any changes in the agreed working hours made under collectively bargained guaranteed working hour agreements.

The allowance is granted for a statutory period of six months. This can be extended by order of the Federal Ministry of Labour and Social Affairs. For claims submitted on or before 31 December 2013, the period of entitlement is 12 months.

How to claim

Short-time allowance is paid at the request of the employer or the works council. The application must be submitted to the responsible Employment Agency within a period of three months. The three-month period begins at the end of the calendar month (entitlement period) containing the days for which short-time allowance is claimed.

Insolvency allowance

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

You can claim insolvency allowance if you are owed pay from the last three months you worked: before insolvency proceedings started, before a petition to start insolvency proceedings was dismissed on account of insufficient assets, or if your employer has not filed for insolvency and manifestly does not have sufficient assets to do so, before your employer finally ceased trading in Germany.

Insolvency allowance covers outstanding net pay if your gross earnings do not exceed your gross assessed earnings (2013: €5,800 in western Germany and €4,900 in eastern Germany). The employment agency also pays outstanding mandatory social insurance contributions (health, pension and long-term care insurance) and unemployment contributions for the last three months.

Insolvency allowance must be applied for at the relevant local employment agency within a limitation period of two months after before insolvency proceedings started, before a petition to start insolvency proceedings was dismissed on account of insufficient assets, or if your employer has not filed for insolvency or before your employer finally ceased trading.

Seasonal short-time allowance: Promoting all-year work in the building trade

Seasonal short-time allowance can be claimed by employees during the bad-weather season (1 December to 31 March) if:

- They work for a building and construction company
- The reduction in working hours is significant
- Both company and individual requirements for eligibility are met
- The cut in working hours has been reported to the responsible Employment Agency

A building and construction company is a company which primarily provides commercial building and construction services in the building and construction sector. Building and construction services are all services involved in the construction, maintenance, repair, modification and demolition of buildings and other structures. Eligible companies and non-eligible companies are listed in the regulations on winter employment in the building and construction sector (Baubetriebe-Verordnung). Eligible companies include the primary building and construction trade, the roofing trade, the scaffolding trade and the landscape gardening trade.

To be eligible, a company must employ at least one employee.

A cut in working hours is deemed significant when it is of temporary nature and cannot be avoided due to bad weather, economic reasons or an unexpected event beyond the company's control.

Avoidable cuts in working hours include:

- Those caused solely as a result of business administration
- Those which could be avoided by granting paid holiday where the employee's primary holiday plans remain unaffected
- Those which could be avoided if the company made use of authorized fluctuations in working hours

If, since the last bad weather season, credits on flexible working hour accounts which are less than a year old have been used for other purposes than to compensate for loss of pay due to a cut in working hours caused by bad weather or because an employee was released from work for training reasons, cuts in working hours equal to the amount accrued on the flexible working hour account are deemed unavoidable. Cuts in working hours which are customary in the industry or the company or are weather-related are deemed unavoidable.

Weather-related cuts in working hours occur when the cut is exclusively caused by serious weather events and at least one hour of regular working time is lost in a given working day.

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

Seasonal short-time allowance is paid for the duration of the cut in working hours during the bad weather season (1 December to 31 March), meaning for a maximum period of four (4) months.

Periods in which an employee receives seasonal short-time allowance are not counted towards the period of eligibility for short-time allowance. Nor are they counted as a break which would lead to the start of a new eligibility period.

The amount of seasonal short-time allowance is subject to the provisions which apply to short-time allowance.

Seasonal short-time allowance is paid out on application from the employer or works council. Applications must be submitted within three months to the responsible Employment Agency. The three-month period begins as soon as the month containing the days for which seasonal short-time allowance is claimed has expired. Seasonal short-time allowance should ideally be claimed no later than the 15th of the following month. Applications must be submitted to the Employment Agency in the district in which the employer's payroll office is located.

Apart from an entitlement to seasonal short-time allowance, employees may also claim supplementary benefit in the form of an additional winter allowance (Zuschuss-Wintergeld) and a winter expenses allowance (Mehraufwands-Wintergeld). Building and construction workers may claim a refund of the employers' social insurance contributions where such payments are made from a transfer fund. The supplementary benefits are not paid from contributions to the unemployment insurance fund, and are only paid in relation to employment relations that cannot be terminated on grounds of bad weather during the bad weather season. This means that supplementary benefits may be paid to trade employees, but not to white-collar workers or polishers.

Additional winter allowance (Zuschuss-Wintergeld) is paid in amount up to €2.50 per lost hour of work if the employee's flexible working time account is used to compensate for the lost hours and a claim for seasonal short-time allowance is avoided

Winter expenses allowance (Mehraufwangs-Wintergeld) is paid in an amount of €1.00 for each eligible working hour worked by trade employees working at a weather-dependent location between 15 December and the last day of February. Up to 90 working hours can be claimed in December, and up to 180 hours in January and February.

The employees' contribution to social insurance for recipients of seasonal short-time allowance may be reimbursed upon application. The supplementary benefits are paid on application by the employer or the works council. The period of eligibility begins immediately the calendar month containing the days for which supplementary benefits are claim has expired. Supplementary benefits should ideally be claimed on or before the 15th of the following month. Applications should be submitted to the Employment Agency in the district in which the employer's payroll office is located.

Transfer benefits

Transfer benefits provide support during workforce adjustments following changes in a business. The purpose of transfer benefits is to improve the prospects of finding new employment for employees affected by layoffs. The aim is preferably a transfer directly from job to job without an intervening period claiming unemployment benefit.

The decision to deploy transfer payments is the responsibility of the employer and the works council, and is taken in negotiations on a reconciliation of interests or social plan. Generally, the purpose of a social plan is to agree on financial compensation for the losses to employees resulting from changes in a business (severance pay etc.).

Transfer benefits aim to incentivise employers, alongside severance payments, to take an active part in the process of reintegrating employees at risk of unemployment. Employment promotion policies make provision for two types of support for this purpose: Transfer programmes and transfer short-time allowance.

Entities administering transfer programmes and transfer companies in which transfer-short-time allowance is paid must obtain authorisation as providers of benefits under Book II of the Social Code by or before 1 January 2013. Employers who establish an internal transfer company under their own administration do not need this authorisation.

Transfer programmes

Use is made of the notice period to prepare employees affected by a change in their employer's business for transfer to subsequent employment. Transfer programmes include aptitude assessment, outplacement advice, application training, short training courses, and advice and support for becoming self-employed.

Workers at risk of unemployment due to a change in their employer's business or on completion of vocational training are entitled to funding to take part in a transfer programme if:

- The employer and the works council have obtained advice from the employment agency before deciding to establish a transfer programme
- The programme is carried out by a third party and the employer makes a suitable financial contribution

- The purpose of the programme is to help integrate workers into the labour market
- It is ensured that the programme will be put into effect

The employer's commitment to provide funding can be made under a social plan or by other collective or individual agreement. Support is generally provided for all employees, with no minimum size restriction on the establishment in which they are employed.

A grant is made in the amount of 50 percent of necessary and appropriate programme costs up to a maximum of €2,500 per case. Other forms of active employment promotion assistance with similar objectives cannot be granted during participation in a transfer programme. From 1 April 2012 to 31 December 2014, programme costs can include a lump-sum success fee for placement in employment that lasts at least six months and in which mandatory contributions are payable. The success fee cannot exceed €1,000 and is payable only once per supported employee.

Transfer short-time allowance

The objective of transfer short-time allowance (Transferkurzarbeitergeld) is to enable workers to be transferred from their existing employment to other employment without an intervening period of unemployment.

Transfer short-time allowance can generally be granted with employees remaining under the same employer or under an external (transfer) company (Transfergesellschaft). For reasons concerning labour law, the external solution is usually preferred. Employees affected by layoffs are brought under a transfer company under a three-party contract.

While claiming transfer short-time allowance, the transfer company or employer must offer the employees other work opportunities and if appropriate must take action to improve their integration opportunities (for example by providing training). The cost of training measures may be subsidised with the aid of the European Social Fund (ESF).

The amount of transfer short-time allowance is the same as that of short-time allowance. The maximum period of entitlement is 12 months. Transfer short-time allowance is generally paid out by the transfer company or employer and refunded by the responsible employment agency on application from the employer or works council.

General requirements

Workers are entitled to transfer short-time allowance if:

- A major change in their employer's business causes them to suffer a sustained unavoidable loss of working time and pay
- Certain organisational and individual requirements are met
- The employer and the works council have obtained advice from the employment agency before deciding to claim transfer short-term allowance
- The sustained loss of working time is reported to the employment agency by the employer or works council

There is no entitlement if employees are merely temporarily brought under an organisationally independent unit before occupying a position in the same or another workplace belonging to the same enterprise or, if the enterprise is part of a group, in a workplace belonging to another group company. Public-sector employees are also excluded with the exception of employees of enterprises incorporated as independent entities and run on a for-profit basis.

Individual requirements

Workers are only entitled to transfer short-time allowance if:

- They are under threat of unemployment

- After commencement of the loss of working time and pay, they continue an employment relationship in which they pay mandatory contributions or take up such employment at the end of their vocational training
- Are not excluded from claiming short-time allowance
- Before being transferred to an organisationally independent unit, have registered with the employment agency as looking for work and have taken part in a measure to assess their integration prospects

Organisational requirements

The organisational requirements are met if:

- The change in the business results in adjustments to the workforce
- The affected workers are brought under an organisationally separate unit (usually a transfer company) and taken out of the production process
- The organisationally independent unit is organised and provided with resources such that it is probable the integration objective will be achieved
- A quality assurance system is applied. If the organisationally separate unit is operated by a third party, that party must be licensed.

Worker integration

Integration subsidy

How to claim

Employers can receive wage subsidies to help integrate workers who are difficult to place on grounds of their personal circumstances. The subsidy is based on the extent to which a worker's productivity is impaired and the needs of the workplace.

Integration subsidy is paid against the regular payments employers make in accordance with collective agreements or locally accepted wage rates and a fixed amount for social insurance contributions. One-off wage payments are not covered by the subsidy.

Amount and duration of subsidy payments

The amount of the integration subsidy may not normally exceed 50 percent of the subsidisable wage and may be paid for no longer than twelve months. The subsidy may be paid for up to 36 months in the case of employees over the age of 50.

Special provisions apply with regard to the amount and duration of payments for disabled and severely disabled people. In departure from the rule above, the amount can be up to 70 percent of the subsidisable wage and the duration up to 24 months. For severely disabled people with special needs, the amount can be up to 70 percent of the subsidisable wage and the duration up to 60 months. The duration can be up to 96 months for severely disabled people with special needs who are aged 55 or older.

The decision as to the duration of the subsidy must take reasonable account of any other subsidised employment with the same employer. The decision as to both the amount and the duration also includes consideration of whether the disabled person was employed other than by statutory obligation or in a manner that exceeds the employment obligations set out in Part 2 of Book IX of the German Social Code.

Funding

Most Federal Employment Agency funding comes from contributions, though additional funds come from pay-as-you-go levies on employers and their liability funds. The contributions are paid by employers as well as employees (white and blue-collar workers, people employed on vocational training schemes, and people who work from home). Their respective share of the contributions depends on the current

contribution rate (3 percent of gross pay since 2012). The maximum contribution is set by a contribution assessment limit. The monthly limits in 2013 are €5,800 in western Germany and €4,900 in eastern Germany.

The law

The law on employment promotion is set out in Book III of the Social Code.

The law is implemented by the Federal Employment Agency in Nuremberg (www.arbeitsagentur.de) together with its regional directorates, employment agencies and other agency offices. The Federal Employment Agency is a self-governing public agency.

Information

For further information please contact your local employment agency. You can also find a wide range of information at <http://www.arbeitsagentur.de>.

Basic security benefits for job-seekers (Unemployment Benefit II/Social Benefit) Grundsicherung für Arbeitsuchende

Basic security benefits for job-seekers (Grundsicherung für Arbeitsuchende) under Book II of the Social Code (SGB II) is a tax-funded system designed to provide people who are capable of earning with full and rapid help and support to help themselves.

The benefits are mainly geared towards integration into employment. Anyone who is unable to find work despite making a full effort to seek a job or who does not earn enough from their employment to live from, and is in need of assistance, has a legal entitlement to unemployment benefit II, which is also grantable as an income supplement or top-up.

Basic security benefits for job-seekers are assessed on a household basis. This means that social benefit (Sozialgeld) is payable to any individuals in need of assistance who are not capable of earning but live in a joint household with someone who is capable of earning and is entitled to assistance.

Assistance to empower and encourage

The objective of basic security benefits for job-seekers is to empower those who are in need and entitled to assistance, together with others in their joint household, and to help them live by their own means and working capacity. The benefits aim to support individuals in need and entitled to assistance in taking up employment and covering their living expenses to the extent they are unable to do so themselves by other means. The aim of the support in taking up employment is to ensure that those in need are placed in suitable work as quickly as possible. Under basic security benefits for job-seekers, individuals in need and entitled to assistance are given access to necessary advice, placement and integration services. Recipients of Unemployment Benefit II may make use of the full range of services provided under SGB III alongside the specific integration assistance under SGB II. There is also the option of taking part in a publicly funded employment scheme. Support from personal advisers ensures that individual services to empower those in need are used to full effect. An integration agreement is entered into with job-seekers containing a binding commitment to working together towards their integration into employment while giving due regard to the individual circumstances of those in need and entitled to assistance together with their dependants.

Unemployment benefit II is paid out of tax revenue, that is from public funds. It is therefore in the public interest for job-seekers not merely to be provided with the best-possible integration assistance, but also that they be expected to take the initiative and actively work at finding employment. Support and empowerment thus go hand in hand.

Recipients of unemployment benefit II are expected to do all in their power to end their reliance on state aid and the associated financial burden on society as soon as possible.

Providers of basic benefits for job-seekers

The basic benefits for job-seekers are provided by local job centres. These are the point of contact for those entitled to assistance; they pay out the benefits and provide the assistance needed.

In a job centre, a local employment agency and the local municipality generally work together as the agencies ultimately responsible for the benefits. Local employment agencies are responsible for payment of the standard rate of assistance towards living expenses and integration assistance. Municipalities are responsible for providing appropriate levels of assistance for housing and heating and for one-off grants, for example to set up home. They also have responsibility for providing additional education and participation assistance (the educational package) and supplementary forms of integration assistance (debt and addiction counselling; childcare). Job centres pay assistance towards living expenses in the form of unemployment benefit II (standard rate plus suitable housing assistance), normally in a single monthly amount. A total of 67 administrative and urban districts cover all of the responsibilities involved as approved municipal providers.

Entitlement to unemployment benefit II

Individuals entitled to assistance who are between ages 15 and the age ceiling, which will gradually be raised in line with changes to the official retirement age, and under 65 receive unemployment benefit II (Arbeitslosengeld II). Capability of earning is defined as the ability to work at least three hours a day under normal conditions prevailing on the general labour market. Need of assistance is defined as the inability to meet their own necessary living expenses or those of members of their shared household, either out of their own resources (income and assets) or with their earning capacity (by working), or with help from others.

Individuals entitled to assistance who are not capable of earning but live in a joint household with someone entitled to unemployment benefit II receive social benefit (Sozialgeld).

The two benefits (unemployment benefit II and social benefit) are equivalent in their basic components, are paid monthly in advance and are generally granted for six months at a time.

Young people's entitlement to basic security benefits for job-seekers

Young people aged under 25 receive special support to give them the best chances of entering the labour market. Anyone under 25 who applies for unemployment benefit II has a right to be placed without delay in an apprenticeship, a job, a training course, or vocational training.

Provided that they are in need of assistance, young people over 15 who are capable of earning receive unemployment benefit II by way of assistance towards living expenses. In determining whether a young person is capable of earning (see above), what matters is that they are theoretically able to take up gainful employment – it does not matter if there are circumstances preventing them from doing so, such as having to attend school.

Integration assistance

A range of services are available to provide (re)integration assistance in the search for employment or training:

- Placement guidance and assistance provided via the placement budget
- Measures to activate and secure integration into the jobs market
- Support in taking up further education and training, including repeating the lower secondary leaving school leaving exam (Hauptschule)
- Assistance to promote participation in the jobs market
- Assistance for employers
- Support to help employed persons take up further education and training
- Careers and training guidance
- Community integration support (such as childcare services, substance abuse and debt advisory services)
- Integration benefit
- Assistance in taking up self-employment
- Opportunities to work
- Support to foster employment relations

Reasonable employment

In principle, any employment is considered reasonable. This is stipulated in Section 10 of SGB II. Exceptions are allowed, for example on physical, mental or psychological grounds or where pay rates are so low as to be deemed immoral. Care of children under the age of three or care of dependants may also be given as grounds for rejecting an offer of employment. Other compelling reasons can also be taken into account – in particular, attendance of a school of general education.

Anyone who rejects a reasonable offer of employment, apprenticeship, opportunity to work or place on an integration scheme can expect to have their unemployment benefit II reduced and then, if offers are repeatedly rejected, stopped altogether.

In such cases, the amount of benefit can be reduced to begin with by 30 percent of the standard rate – about €100 a month – for three months. Claimants who fail to comply three times in a year lose all entitlement to unemployment benefit II. Stronger sanctions apply for claimants under 25, whose benefit is stopped if they fail to comply twice. If an individual capable of earning and entitled to assistance subsequently agrees to fulfil his or her obligations, the sanctions can be reduced. For young people, this means the benefits for housing and heating may be reinstated or the period without benefit may be shortened to six weeks, taking the circumstances of the specific case into account.

If benefits are reduced by more than 30 percent, the job centre may provide supplementary non-cash benefits or vouchers. The provision of such benefits is mandatory if the entitled individual shares a joint household with minors.

Amount, duration and payment of unemployment benefit II

Unemployment benefit II is assessed entirely as a needs-based welfare benefit. This means benefits from other providers must be claimed first and any entitlement to unemployment benefit II is reduced by income and assets that must be taken into account (excluding exempt income and exempt assets).

Ultimately, the amount of unemployment benefit II depends on the specific needs of the individual capable of earning and entitled to assistance and the needs of any others (spouse/partner and any children under 25) living with them in a joint household.

Individuals capable of earning and entitled to assistance receive unemployment benefit II in the form of the standard rate plus possible assistance towards living expenses, including a reasonable amount for accommodation and heating.

The standard rate for individuals capable of earning and entitled to assistance covers food, bodycare, household effects and everyday personal necessities, plus expenditure on maintaining contacts with the outside world and on taking part in cultural life. It is intended to cover both recurring and non-recurring items of expenditure. Costs of electricity, bus and car travel must also be met out of the standard rate of benefit.

The German Federal Ministry of Labour and Social Affairs runs a citizens' information line on labour market policy and promotion. Tel. 01805 6767-12, Mondays to Thursdays, 8 am to 8 pm. Calls from the German telephone network cost €0.14 per minute.

Under legislation on the determination of standard rates of benefit and amending Book II and Book XII of the Social Code (cited as BGBI. 2011 Teil I Nr. 12 and dated 29 March 2011), the levels of assistance towards living expenses (standard rates) are transparently and verifiably derived from a 2008 income and consumption survey.

From 1 January 2013, the standard rate for singles, single parents and job-seekers whose partner is under 18 is €382 per month. If both partners are of age, the standard rate is €345 per month each.

For children and young adults, the standard rate is determined by age group. It is €224 for children up to six years old, €255 for ages 6 to 13, €289 for ages 14 to 17 and €306 for ages 18 to 24.

From 1 January 2011, in addition to the standard rates for children and young adults, various types of education and participation assistance are also provided (the educational package).

The educational package consists of the following types of assistance:

- Actual expenses incurred for single-day and multiple-day school/daycare centre outings
- Assistance for personal school supplies (€70 on 1 August and €30 on 1 February each year)
- Costs of pupils' transportation to/from school, where necessary and if not already met from other sources
- Assistance for learning support in specific circumstances
- Additional cost of communal meals at school or in a daycare centre
- Monthly budget totalling €10 for participation in social life

These forms of assistance are also made available for children for whom supplementary child allowance or housing benefit is granted.

In this way, those entitled to the benefit receive a lump-sum amount to cover all needs.

Additional expenditure not covered by the standard rate may be covered in certain situations and circumstances:

1. For expectant mothers from the thirteenth week of pregnancy
2. For single parents regardless of the ages and number of children
3. For people with disabilities to assist their integration into the jobs market
4. For food (subject to documentary proof that an expensive diet is medically necessary)
5. For ongoing special needs that are unavoidable in the individual case (hardship clause)
6. For individual water heating (gas or electric boiler) where necessary

Total additional expenditure for living expenses under headings 2 to 4 must not exceed the standard rate.

The monthly benefit provides a budget which recipients must manage independently. If the amount received fails to cover immediate needs, supplementary loans may be considered in certain circumstances.

In addition to the standard rates, non-recurring assistance may be provided:

1. For setting up a household, including the purchase of appliances
2. For initial outfitting with clothes, and initial outfitting with maternity and nursing needs
3. For the purchase and repair of orthopaedic footwear and for repair or rental of therapeutic equipment

Even if they are not entitled to assistance towards living expenses because they are not considered to be in need, claimants may still be entitled to non-recurring assistance if their income is not sufficient to pay for special needs in full.

Housing costs: It is no longer necessary to apply for housing benefit when applying for unemployment benefit II. The municipal providers meet reasonable accommodation and heating costs for a claimant's entire joint household as part of unemployment benefit II/social benefit. These include hot and cold water supply and sewage charges. A loan may also be provided for rent arrears if homelessness otherwise threatens. The municipal providers are responsible for deciding what is reasonable and appropriate.

Rent for unreasonably large or expensive accommodation is paid for a maximum of six months unless it is possible and reasonable to expect that the claimant either move before then or reduce the rent, for example by taking in a lodger. A decision whether to reduce payments to the amount deemed reasonable is made on a case by case basis at the end of the six months.

In individual instances, the municipal provider can insist that a claimant move, but will then meet the costs of obtaining new accommodation and of the removal, and will pay any deposit. These costs are also met if a move becomes necessary for other reasons and alternative accommodation cannot otherwise be found within a reasonable period of time.

Standard rates of benefit

Single persons and single parents	Other members of a joint household				
	Children to age 6	Children from age 7 to 14	Children from age 15 to 18	Young adults from age 19 to age 25	Partners age 18 or over
€382	€224	€255	€289	€306	€245

Social security contributions

Unless already insured through another family member and unless they are privately insured, individuals capable of earning and entitled to assistance are compulsorily insured in the statutory health insurance and social long-term care insurance schemes. Privately insured individuals entitled to assistance receive a subsidy towards insurance contributions. Recipients of social benefit are generally covered by family health and long-term care insurance.

Prevention of need with supplementary child allowance

Parents capable of covering their own living expenses but not their children's upkeep can receive supplementary child allowance (Kinderzuschlag). This is to prevent parents from having to apply for unemployment benefit II/social benefit solely for the children's upkeep.

The maximum allowance is €140 per child per month. It is applied for at the family benefits department (Familienkasse), which also pays out child benefit. Up to what level of income families can receive the allowance depends on the amount of rent they pay and any entitlement for additional expenditure.

If the parents' income exceeds their own needs, 50 percent of the excess is not deductible. The remaining 70 percent of the excess is deducted from the supplementary child allowance. The allowance is paid for a maximum of six months per child. Subsequent payments are possible if the applicable criteria are fulfilled. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) website has a calculator function which recipients can use to calculate the amount of supplementary child allowance they can expect to receive (<http://www.bmfsfj.de/Kinderzuschlagrechner>).

Further information is provided in a German-language leaflet, Grundsicherung für Arbeitsuchende – Fragen und Antworten – SGB II (Basic Security Benefits for Job-Seekers: Questions and Answers), published by the Federal Ministry of Labour and Social Affairs.

Labour law

Arbeitsrecht

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

Labour law is divided into two sub-categories. Individual labour law governs relations between single employers and their single employees. Collective labour law applies to legal relations between unions and employer associations at company level and at supra-company level.

Collective labour law aims to create uniform working conditions and encompasses the law relating to freedom of association, collective bargaining, conciliation and arbitration, industrial disputes, employee representation and co-determination.

What individual labour law covers

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

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

Your employment contract may also lay down other rights and duties that go to make up your overall working conditions. Both you, as an employee, and your employer may be affected by these rights and duties. A number of different laws ensure that you are entitled to certain minimum employees' rights. These include the Federal Holidays Act and the Continuation of Pay Act which entitles you to sick pay from your employer for up to six weeks if you are absent due to illness, the Act on Part-Time Work and Fixed-Term Employment Contracts (Teilzeit- und Befristungsgesetzes, or TzBfG), and the Home and Institutional Care Act (Pflegezeitgesetz, or PflegeZG). Under certain circumstances, the TzBfG allows employees to reduce their working hours; its provisions designed to prevent part-time workers from being treated differently to full-time employees unless there are justified grounds for doing so. The PflegeZG makes it easier to reconcile demands of work and family care by allowing employees in certain circumstances to look after close relatives in need of nursing care at home for up to six months. The General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz, or AGG) also provides minimum protection against discrimination at work by prohibiting discrimination on account of race or ethnic origin, gender, religion or world view, disability, age or sexual identity.

The minimum statutory rights can be enhanced by an individual contract of employment or by a collective agreement (see ‘Collective Bargaining Law’ in the next section) laying down an entitlement to more paid holiday than the minimum requirement.

Periods of notice are also stipulated by law. Employees and employers alike always have to observe the basic period of notice of four weeks, either to the 15th or to the end of a calendar month. The longer you have worked for the same establishment, the more notice it will have to give you to terminate your contract. Once you have worked there for two years when over 25 years of age, the minimum period of notice is one month to the end of a calendar month. The statutory period increases by one month each time you complete your 5th, 8th, 10th, 12th and 15th year working for the same employer. The final increase, from six to seven months' notice to the end of a calendar month, comes when you have completed 20 years of service.

Any individual employment contract may include longer—but not shorter—periods of notice if the parties agree, and a collective agreement may include either longer or shorter periods.

According to the Unfair Dismissal Protection Act (Kündigungsschutzgesetz), an ordinary dismissal (with correct period of notice) is socially justified and legal if it is issued for reasons to do with the individual or his or her behaviour or is necessary for operational reasons that do not allow the individual's continued employment. Whether the Unfair Dismissal Protection Act applies to an employment relationship depends on the size of the company (or the administration) and the commencement date of the employment contract.

- From 1 January 2004, the Unfair Dismissal Protection Act applies to workplaces with a workforce of ten or more.
- Employees with contracts commencing on or before 31 December 2003 at workplaces with a workforce of five or more continue to enjoy protection from dismissal. Based on the Act's prior application thresholds, the latter retain their protection from dismissal as long as the establishment has more than five employees who were already on the workforce on 31 December 2003. Employees hired after 31 December 2003 are not counted.

Annual holiday entitlements		
1880	-	
1903	3 days	Metalworking industries and breweries only
1930	3–15 days	Depending on the industry and length of service
1946	12 workdays	Statutory minimum holiday entitlement
1963*	15–18 workdays	Statutory minimum holiday entitlement
1974*	18 workdays	Statutory minimum holiday entitlement
1995	24 workdays	Statutory minimum holiday entitlement
* In former West Germany		

When determining the number of employees, part-time employees are counted in proportion to their working hours, and trainees are ignored.

Application of the Unfair Dismissal Protection Act requires that the employee had been employed for more than six months continuously prior to receiving notice (waiting period).

An employment contract can be summarily terminated (that is, terminated without notice) in circumstances such that it would be unreasonable for either side to continue the contractual relationship.

If employees wish to contest the validity of the social or other grounds given for termination with notice or the reasons for summary dismissal, they must bring a legal action with the labour court (Arbeitsgericht) of competent jurisdiction within three weeks of the notice being served.

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

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

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

What collective labour law covers

Collective labour law can be subdivided into two levels:

- Collective bargaining law—the level dealing with relations between trade unions, employers' federations and individual employers.
- The law on labour relations at the workplace—the level dealing with relations between employer and workforce in individual establishments.

Your obligations

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

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

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

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

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

Collective bargaining law

The right of trade unions and employers' federations to negotiate pay and conditions without state interference (their 'collective bargaining autonomy') is protected by the German constitution. The two sides of industry thus take their own responsibility for the pay and other agreements they reach. The pay and conditions for most jobs in Germany are covered by such collective agreements. This in itself shows how important collective bargaining autonomy is in this country.

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

1) Protective

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

2) Organizational

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

3) Preserving industrial peace

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

Typical conditions laid down in collective agreements include:

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

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

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

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

Agreed working week, classified by working hours							
Working hours	Percentage of workers						
	2008	2007	2005	1998	1995	1980	1975
35	19.7	20.1	20.5	19.8	18.8	–	–
36	2.7	2.7	2.8	2.3	0.9	–	–
36.5	0.5	0.4	0.4	0.6	0.3	–	–
37	6.0	6.8	6.8	6.8	9.0	–	–
37.5	13.0	12.3	12.5	12.7	12.6	–	–
38	10.9	10.6	11.0	10.0	6.9	–	–
38.5	21.9	22.4	23.7	21.1	20.6	–	–
39	14.3	13.2	13.4	17.0	18.3	–	–
39.5	0.2	0.2	0.7	0.2	0.2	–	–
40	8.6	8.9	9.0	9.2	12.3	94.0	90.6
41	0.2	0.2	0.2	0.2	0.1	1.4	1.6
41.5	–	–	–	–	–	–	0.7
42	–	–	–	–	–	3.5	1.5
42.5	–	–	–	–	–	0.4	0.4
43	–	–	–	–	–	0.7	1.6
44	–	–	–	–	–	–	2.7
45	–	–	–	–	–	–	0.9
Average working hours	37.59	37.57	37.64	37.65	37.80	40.12	40.27

The law on labour relations at the workplace

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

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

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

- As rights of co-determination
- Or as rights of information and consultation.

The German Federal Ministry of Labour and Social Affairs runs a citizens' information line on labour law. Tel. 030 221911004, Mondays to Thursdays, 8 am to 8 pm.

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

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

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

The law

- The laws and acts of parliament governing labour law include the following:
- The Civil Code
- Protection against Unfair Dismissal Act
- Federal Holidays Act
- Protection of Working Mothers Act
- Continuation of Pay Act
- Documentation of Employment Conditions Act
- Working Hours Act
- Protection of Minors at Work Act
- Trade Regulation Act
- Collective Bargaining Act
- Part-time and Limited-term Employment Contracts Act
- Works Constitution Act
- Senior Management Representative Committees Act
- Coal, Iron and Steel Industry Co-determination Act
- One-Third Participation Act
- Co-determination Act
- Home and Institutional Care Act
- Posting of Workers Act
- Minimum Working Conditions Act
- General Equal Treatment Act

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

Industrial democracy Betriebsverfassung

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

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

A 2001 law reforming the Works Constitution Act and bringing workplace industrial relations into line with today's working and business environment ensured the continuing effectiveness of the workplace industrial relations model to the benefit of employers and employees alike. The reforms create adaptable, modern employee representative structures, make it easier to constitute works councils, extend representation to special forms of employment such as temporary work, improve the working conditions for the works council itself and for youth and trainee representatives, strengthen works council co-determination rights in job security and training issues, simplify the election procedure in establishments with up to 50 employees (or up to 100 in agreement with the employer) who are entitled to vote, promote equal opportunities for women in the workplace, and abolish the outdated distinction between blue-collar and white-collar workers.

The works council represents all employees

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

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

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

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

Important: If a works council has three or more members, whichever gender is in the minority among the workforce must make up at least the same percentage of the works council as it does in the establishment as a whole. If the works council has nine or more members, it must also appoint an operational committee (Betriebsausschuss) to manage its everyday business. In certain circumstances, delegates of the trade unions operating at the workplace may also take part in works council meetings.

Your rights

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

- Demand to be informed of what impact technical innovations will have on your job

- View your employee file
- Have the assessment of your performance explained
- Have the way your pay is calculated explained

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

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

What establishments have a works council?

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

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

A central works council must be established if a company has several operating locations that each have their own works council; a group works council if the company is part of a larger group.

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

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

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

The right to vote for the works council

All employees aged 18 and over have the right to vote for the works council. However, employees are not eligible to stand for membership until they have spent at least six months working for the same establishment, or elsewhere in the same company or group.

Since the Act Reforming the Works Council Act (Gesetz zur Reform des Betriebsverfassungsgesetzes) came into force, temporary employees have the right to vote in works council elections in the hiring company provided they have worked there for more than three months.

Under an amendment to Section 5 of the Works Constitution Act, civil servants, public-sector employees and members of the armed forces are now normally considered employees as defined in the Act when employed in an establishment belonging to a private-sector enterprise. The rule governing classification as a senior managerial employee under Section 5 (3) of the Act likewise applies to civil servants and members of the armed forces employed in a private-sector enterprise. This introduces general provision for civil servants and public-sector employees to stand for election and be elected onto works councils, supervisory boards and executive committees in private-sector enterprises.

The works council election is a key element of industrial democracy, which is why employers are required by law to provide for works council elections and ensure they are properly conducted. Thus, any attempts to obstruct or unlawfully influence the election are subject to prosecution. A breach of election provisions can lead to the election being appealed before the labour courts. If the election is declared null and void, a new election must take place.

Tasks of the works council

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

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

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

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

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

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

Once the scope of the planned changes are known, the works council representative can implement a social plan to compensate for or alleviate the financial disadvantages employees would face as a result of the change. The final decision lies with the labour courts.

The Works Council must be consulted prior to terminating an employment contract. If the employer fails to do so, the termination is declared null and void.

If the employer plans structural changes in the workplace (such as cutbacks, closing down or relocating operations), they must inform the works council representative without delay, discuss the planned changes with them prior to making a final decision and attempt to reach an agreement that considers all needs.

Once the scope of the planned changes are known, the works council representative can implement a social plan to compensate for or alleviate the financial disadvantages employees would face as a result of the change.

In certain circumstances defined by law, the works council is entitled to refuse its consent. If the employer still wishes to implement a measure the works council has legally rejected. The final decision lies with the labour courts.

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

- New appointments
- Gradings
- Regradings
- Transfers

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

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

Furthermore, the works council has the right to contest routine dismissals. If, for example, your employer has given you due notice of dismissal, the works council has contested this on one of a number of legally admissible grounds, and you have filed an action for unfair dismissal, your employer will initially be forced by the law to keep you on in your job if you so demand. Only the labour court can relieve your employer of this duty to keep you on.

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

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

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

Works Agreement

The works agreement is the most important instrument of the works constitution. It is agreed in writing between the employer and the works council and serves primarily in implementing co-determination rights. The provisions contained in the works agreement apply directly and bindingly for all employees and for the employer.

Pay, salary and other work conditions governed or which are usually governed by collective bargaining agreements may not be governed by a works agreement.

Arbitration committee

The arbitration committee is a works constitution body which handles and mediates in-house disputes. It comprises an equal number of employer and works council representatives, plus a neutral chairperson on whom both sides agree. The arbitration committee only acts if the two sides request it and are thus agreed that such action is needed. In cases where this is required by law (e.g. in co-determination matters), the committee's decision can be replaced by an agreement between the employer and the works council. The arbitration committee can then act upon the request of one or other party.

Industrial democracy in Europe

The 1996 Act on European Works Councils transposed the EU Directive on European Works Councils into German law. It provides for cross-border information and consultation of employees in community-scale enterprises and groups of companies that have operations in two or more EU member states or the

European Economic Area. The Act's scope of application takes in such enterprises and groups that operate in Germany, have at least 1,000 employees in the member states and of those at least 150 employees each in two different member states.

The European Works Council (EWC) is a transnational employee representation body which is responsible for informing and consulting employees in transnational enterprises and groups of companies. It supplements national-level employee representations (works council, central works council, group works council) without affecting their area of jurisdiction.

The establishment of the EWC and the structuring of cross-border information and consultation of employees is primarily the responsibility of central management and the special negotiating body, comprising employee representatives from the respective EU member states, in accordance with a voluntary agreement. The EU Directive gives both employer and employee representatives the broadest possible scope as regards company-specific structure and organisation of the EWC. The EU Directive and Germany's Act on European Works Councils do however provide a set of rules for guidance. This requires that the agreements set out the responsibilities and work performed by the EWC, the procedure to be used in informing and consulting employees, the place, frequency and duration of meetings, and the financial and material resources allocated to it.

Only when it is clear that no agreement can be reached on the establishment of an EWC does the EU Directive and the German Act on European Works Councils prescribe that an EWC be established by law and sets out the specific responsibilities and the procedure to be used in informing and consulting employees.

The minimum requirement for mandatory establishment of an EWC calls for the EWC to be informed and consulted once per calendar year about the business developments and prospects of the enterprise or group. This includes details of the economic and financial situation, the expected trends in business, production and sales, workforce levels, investments, relocation of production sites, mergers, downsizing or closure of companies, operations or significant portions of operations, and mass redundancies. This is largely in line with the provisions laid down in Section 106 (3) of Germany's Works Constitution Act.

Apart from these regular meetings, the EWC must be informed and, upon request, consulted on extra-ordinary cross-border activities where these have an impact on the workforce and significantly affect employee interests (e.g. relocation of production sites, works closures, mass redundancies). This means that if extra-ordinary circumstances arise, central management must inform the EWC, provide it with the necessary documentation without delay and consult it if requested to do so by the EWC itself. The EWC must normally be consulted in a timely manner to ensure its proposals and concerns are taken into account before a business decision is reached.

The Directive on European Works Councils was recast in 2009 in close consultation with unions and employers' associations. Changes include definitions of the terms 'information' and 'consultation' ensuring that an EWC is given timely notification prior to any corporate decisions involving any transnational restructuring. In the main body of the Directive, EWCs are assigned competence for transnational issues. Additionally, among other things, it is clarified that EWCs must be provided with the means to represent the workforce collectively under the Directive, that the agreement establishing an EWC must be renegotiated on any major restructuring of the company or group of companies concerned, and that members of the EWC must be provided with necessary training. The new provisions were transposed into national law with the revised Act on European Works Councils and came into effect on 18 June 2011.

The law

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

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

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

Co-determination Mitbestimmung

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

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

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

Your rights

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

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

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

- Appoint or dispense with the services of top executive managers (who sit on the lower-tier, executive board). This does not apply in a partnership limited by shares (KGaA).
- Gather comprehensive information on all of the company's business affairs
- Impose a requirement that important corporate decisions, on matters such as large capital projects or rationalisation measures, must have the supervisory board's approval.

Composition of the supervisory board

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

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

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

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

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

Co-determination in large companies under the Co-determination Act

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

How employee board representatives are chosen

All employee representatives on the supervisory board are elected either in a direct ballot or via delegates (the process depends on the size of the workforce) to an electoral college, regardless of whether they come from inside the company or are external, trade union representatives.

Election of shareholder representatives

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

Election of the chairperson

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

Important: If a candidate does not attain the necessary majority, a second ballot is held. This time round, the shareholder representatives elect the chairperson, and the employee representatives the vice-chairperson – the majority of votes cast being decisive in each case.

The executive board

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

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

The executive board also includes a labour relations director who has equal status with the other board members. The labour relations director's area of responsibility primarily covers personnel and employee welfare matters.

Co-determination in smaller companies under the One-Third Participation Act

Employee representatives have to make up one third of the membership of the supervisory board in incorporated firms with 501 to 2,000 employees.

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

Co-determination in the coal, iron and steel industries

Co-determination in the coal, iron and steel industries not only has the longest tradition but is also more extensive than anywhere else. In these industries, the rules apply to any incorporated firm with more than 1,000 employees.

In these industries, too, the supervisory board is composed of equal numbers of members representing shareholders and employees. However, it also includes one additional, 'neutral' member. Supervisory boards in the coal, iron and steel industries normally have 11 members, but the number may increase to 15 or 21 in larger companies.

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

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

The law

In the coal, iron and steel industries, the key pieces of legislation are the Coal, Iron and Steel Industry Co-determination Act of 1951 and the Supplementary Co-determination Act of 1956.

Co-determination in a European company under the Act on Employee Participation in European Companies (SEBG)

With the German Act on the Introduction of European Companies (SEEG) which entered into force on 29 December 2004, the EU Regulation on the Statute for a European Company (SE) and the supplementing Directive on involvement of employees were transposed into German national law. The SE is a new legal form under EU law and lines up alongside the legal forms of Aktiengesellschaft and GmbH allowed under German law. The introduction of the SE aims to simplify the establishment of cross-border mergers within the European Community. The establishment of an SE can take four main forms: transformation, merger and establishment of either a holding company or a subsidiary.

Organisational structures

The SE may be organised under either a two-tier system with a management board, a supervisory board and a general meeting or – following the example of many of our neighbouring EU Member States – a single-tier system. In contrast to the two-tier system in which the supervisory board monitors the management board, the single-tier system combines the two functions into a single administrative board. The single-tier system is new to German company law.

Employee participation in an SE

Employees' rights to participate in a European company are set out in the German Act on Employee Participation in European Companies (SEBG). Like the SE Directive, the SEBG is based on the following fundamental structures:

- Employee rights in force before the establishment of SEs should provide the basis for employee rights of involvement in the SE (the 'before and after' principle).
- Employee involvement is categorised into information and consultation rights and also participation in SEs. This is largely in line with the differentiation applied under German co-determination laws.
- The procedures for employee involvement in an SE should be agreed between the employer and the employees. The employees are represented by a special negotiation body (BVG).
- In the absence of an agreement, a set of standard rules are applied. This ensures to a large extent that employees retain their existing participation rights in the founding company.

Negotiation procedures

The SE treads new ground with regard to co-determination because in an SE, employee involvement is determined through negotiation. The result of the negotiations affords those involved broad negotiation freedom.

On the employer side, the negotiations are conducted by management or administrative bodies of the founding businesses. On the employee side, the special negotiation body representing the employees must be formed to represent employees from all founding businesses. The provisions of the SE Directive require that employees in each EU Member State be given one seat on the special negotiation body for each 10 percent or fraction thereof of the total workforce. To reduce the level of effort involved in appointing members of the special negotiating body, no general election or delegates election is held. Rather, an election is held by an election committee using the existing works council structures. The elected employee representatives at the respective highest levels (works council, central works council, group works council) should decide on the domestic members to be appointed to the special negotiation bodies. If multiple company groups are involved, their representatives form a joint election committee. The maximum number of members on the special negotiation body is 40. Only in exceptional circumstances – in the absence of an employee representation – may the workforce elect the domestic members of the special negotiation body directly.

Standard rules

If no agreement is reached on employee involvement, a set of standard rules apply. These comprise two parts which largely match the distinctions applied under German co-determination law.

SE works council

The transnational information and consultation of employees in an SE is ensured by the formation of a European/SE works council. The representative body is proportionally comprised of representatives from the Member States in which the SE employees are employed. SE Works Council members from Germany are elected by an election committee.

Participation in the supervisory or administrative board

Employee involvement in SEs is subject to the statutory standard rules which follow the 'before and after principle'. The number of employee representatives in the supervisory or administrative board is based on the highest proportion of employee representatives from one (or multiple) founding companies. This applies where an SE is created as a result of a merger if at least 25 percent of the employees from the founding companies or their subsidiaries have co-determination rights. If a holding SE or a subsidiary SE is to be created, at least 50 percent of the employees in the participating companies and subsidiaries must have co-determination rights. When an SE is created through transformation, the existing co-determination arrangements are upheld. If the percentage thresholds stated earlier are not achieved, the special negotiating body representing the employees must pass a special resolution to approve the highest proportion of employee representatives in one (or multiple) founding companies.

Members of the supervisory or administrative boards who come from Germany are elected by an election committee.

Co-determination in a European cooperative society (SCE) under the Act on Employee Participation in European Cooperative Societies (SCEBG)

The SCE Implementation Act (SCEAG) and the SCE Employee Participation Act (SCEBG) transpose EU provisions on European cooperative societies into German law. The SCEBG governs employee participation in an SCE.

The SCE is modelled on the SE. The two acts are near-identical in the arrangement and substance of their provisions. Employee participation rights are secured by the same principles in an SCE as in an SE (the 'before and after' principle, negotiation procedures and standard rules). As the implementing acts

largely contain the same provisions (in particular regarding the election committee, composition of special negotiation bodies and negotiation procedures), the rules on co-determination in a European company apply as described above.

The main differences between an SE and an SCE are contained in the provisions for its initial establishment. Unlike an SE, an SCE's founding membership can be made up wholly or partly of individuals.

Employee participation in the event of cross-border mergers of limited companies under the Act on Employee Participation in the Event of Cross-Border Mergers (MgVG)

The MgVG transposes the labour law provisions of the Directive on Cross-Border Mergers of Limited Liability Companies (the Tenth Company Law Directive) into German law. After the European Company (SE) and the European Cooperative Society (SCE), this represents a further key step in the modernisation of European co-determination law. The company law provisions has been transposed into German law by revisions to the law on business transfers.

The MgVG resembles the SEBG and the SCEBG not only in the arrangement of its sections; in many instances, its provisions are identical in wording or at least in substance. This is particularly the case as concerns the formation and composition of special negotiating bodies and the negotiation procedures. The rules for SEs and SCEs apply with regard to these points as described above.

Despite the many common features, there are a number of important differences relative to the provisions on SEs and SCEs:

Focus on participation in corporate decisionmaking

Unlike with SEs and SCEs, the Tenth Directive and the MgVG only cover employee participation in corporate decisionmaking. They do not cover cross-border employee information and consultation, which are provided for with regard to SEs and SCEs.

National law or negotiated solution

As the outcome of a cross-border merger under the Tenth Directive is not a new form of European legal entity but a company incorporated under the national law of a member state, employee participation is by default governed by national law. In departure from this general rule, employee participation is determined by negotiation or, if negotiations fail, by standard rules if any one of the following exceptions applies:

- One of the companies involved in the cross-border merger operates an employee participation system and its average workforce exceeds 500 in the six months before publication of the draft merger terms.
- National law applicable to the company resulting from the cross-border merger does not provide for at least the same level of employee participation as is operated in the merging companies.
- National law applicable to the company resulting from the cross-border merger does not give employees of units in other member states the same entitlement to exercise participation rights as is enjoyed by employees in the member state where the company has its registered office.

These requirements are such that one or other of them (often the third) will be found to apply in most cross-border mergers, as a result of which employee participation will normally be determined by negotiation.

Modified standard rules

If negotiations fail, standard rules take effect to safeguard existing employee participation rights. For a company established by cross-border merger, however, the Tenth Directive sets the threshold for automatic application of the standard rules at one-third (compared with 25 percent for SEs and SCEs). That is, participation in corporate decisionmaking must have covered at least one third of the workforce prior to registration of the merged company. Below this threshold, the special negotiating body can decide to introduce employee participation in the merged company by special resolution.

Application of the standard rules without prior negotiation

Under the law governing SEs, the standard rules apply if the parties agree that they should or if negotiations to determine employee participation rights fail. In line with European law, the MgVG provides a further opening for application of the standard rules. The managements of the companies involved in a cross-border merger can choose without prior negotiation to be subject to the standard rules for employee participation from the merger registration date. Management does not have this unilateral option under the law governing SEs and SCEs.

Safeguarding employee participation in the event of subsequent domestic merger

The basic principle of protecting established rights continues to apply to the company resulting from a cross-border merger if it subsequently becomes party to one or more domestic mergers. This protection of employee participation rights ends without exception three years after registration of the cross-border merger. Once this three-year period has elapsed, national employee participation rules apply.

The Law

The following laws form the legal basis for co-determination:

- Co-determination Act of 1976
- One-Third Participation Act
- Coal, Iron and Steel Industry Co-determination Act
- Supplementary Co-determination Act
- Act on Employee Participation in European Companies
- Supplementary Co-determination Act
- Act on Employee Participation in European Companies
- SCE Employee Participation Act
- Act on Employee Participation in the Event of Cross-Border Mergers

Minimum Wage Mindestlohn

In certain circumstances, individual employees have a statutory right to receive a minimum wage from their employer. This is laid down in the Posting of Workers Act (Arbeitnehmer-Entsendegesetz, or AEntG) and the Minimum Working Conditions Act (Mindestarbeitsbedingungengesetz, or MiArbG). Both of these acts make possible the setting of sector-specific minimum wage levels. The Posting of Workers Act was recast and the Minimum Working Conditions Act modernised in 2009.

Your rights

In certain sectors, you have a right as an employee to be paid a minimum wage by your employer. The amount of the minimum wage may differ according to the type of work, your level of training and the region where you are employed.

Posting of Workers Act

The Posting of Workers Act provides a legal framework for setting binding sector-specific minimum wages for all employees in a sector, regardless of whether the employer or temporary employment agency is based in Germany or in another country.

Minimum wages under the Posting of Workers Act are restricted in applicability to sectors covered by the Act.

The sectors covered are:

- Construction and related trades
- Industrial cleaning
- Letter mail services
- Security services
- Special mining services (in coal mines)
- Laundry services (business to business)
- Waste management services including street cleaning and gritting
- Training services under Book II or Book III of the Social Code
- Care sector (care of the elderly and non-residential nursing care)

A further requirement is that a collective minimum wage agreement must be in place and extended to the entire sector by declaration or ministerial order.

Minimum wages can be set for the care sector by ministerial order on recommendation of a commission of eight sectoral representatives.

The minimum wage stipulations only apply for enterprises and self-contained parts of enterprises whose main business consists of providing the sector-specific services in question. Whether the main business of an enterprise or a self-contained part of an enterprise consists of providing certain services is determined according to whether provision of those services accounts for the majority of the workforce's total annual working hours. The extended collective agreement may impose further restrictions.

Minimum Working Conditions Act

Under the Minimum Working Conditions Act, minimum wages can be stipulated for sectors in which the applicable collective agreement is binding for less than 50 percent of the sector. The decision concerning whether to lay down minimum wages for a specific sector is made by experts of the main committee on minimum wages set up by the Federal Ministry of Labour and Social Affairs. The minimum wage levels are set by a committee of sector representatives. At the suggestion of the Federal Ministry of Labour and Social Affairs, the minimum wages set by the sectoral committee can be made binding by government order for all sector employers and employees.

Temporary Employment Act

If proposed by the collective bargaining parties for temporary employment, the Federal Ministry for Labour and Social Affairs (BMAS) can determine a binding minimum wage independent of whether, in their capacity as the employer, the temporary employment agency is domiciled in Germany or in another country. Temporary employees are entitled to payment of amounts which at minimum equal the minimum determined wage. If a collective bargaining agreement on temporary employment provides for payment which is less than the minimum determined wage, the employees affected are entitled to be paid in an amount equal to that paid to comparable permanent employees in the hiring company (Entleihbetrieb). The First Ordinance on a Minimum Wage for Temporary Employees (erste Verordnung zur Festsetzung einer Lohnuntergrenze in der Arbeitnehmerüberlassung) entered into force on 1 January 2012.

Minimum wage levels

Minimum wage levels are not set in the acts themselves, but in the declarations and orders issued under them. The minimum wage levels are published and regularly updated on the website of the Federal Ministry of Labour and Social Affairs (www.bmas.de) and that of the German customs service (www.zoll.de).

Claiming the minimum wage

Employees have an enforceable claim against employers to be paid their minimum wage. In case of dispute, employees can file action with a labour court to claim their minimum wage.

Time limits for claims

Claims under a contract of employment are subject to the normal three-year statute of limitations. The right to be paid a minimum wage cannot be forfeited. It can only be waived in a court settlement. Under the Posting of Workers Act, time limits for claiming a minimum wage are only admissible if they are permitted under the applicable collective agreement and amount to six months or longer; under the Minimum Working Conditions Act, such time limits are not permitted.

Compliance monitoring

The customs and excise authorities are authorised to verify that employers comply with the conditions of employment under the Posting of Workers Act, the Minimum Working Conditions Act and the Temporary Employment Act. Failure to comply with the obligation to pay a minimum wage is an administrative offence and subject to fines of up to €500,000.

The law

The laws governing minimum wages are:

- Posting of Workers Act
- Minimum Working Conditions Act
- Temporary Employment Act

Health and safety at work **Arbeitsschutz, Unfallverhütung**

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

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

Health and safety at work affects the following interrelated areas:

- *The workplace, including workplace hygiene*
- *Tools, machinery, plant and equipment*
- *Hazardous substances*
- *Prescribed working hours*
- *Protection of specific groups*
- *Organisation of workplace health and safety*
- *Preventive occupational health care*
- *Load handling*
- *Biological agents*
- *Noise and vibration*
- *Artificial optical radiation*

Your rights

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

Children and young people enjoy special protection under the Protection of Minors at Work Act. By law, only young people aged between 15 and 17 (i.e. they have not yet reached their 18th birthday) may go to work.

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

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

Legal foundations

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

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

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

Some typical health and safety laws

Health and Safety at Work Act

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

Company Doctors, Safety Engineers and Other Occupational Safety Officers Act (Safety at Work Act)

The Safety at Work Act (Arbeitssicherheitsgesetz) places employers under a duty to appoint appropriately qualified officers to support them in occupational health and safety matters, including ergonomic workplace design. The duties of the occupational health and safety experts include advising employers in the entire range of health and safety factors in the working environment. This begins with the planning of operating facilities and the purchasing of equipment, and extends to advising employers in the assessment of working conditions. Among other things, company doctors perform medicals and advise employees in work-related health matters. The Act is further defined by accident prevention rules drawn up by the statutory accident insurance funds (such as Berufsgenossenschaften for the non-agricultural private sector). Accident prevention regulations for company doctors and occupational health and safety officers (Betriebsärzte und Fachkräfte für Arbeitssicherheit, or BGV A 2; from 1 January 2011: DGUV Regulation 2) provide small and very small businesses with flexible and realistic rules that focus on actual risk potential. The standard provision for workplaces with more than ten employees was improved with effect from 1 January 2011. This now consists of basic provision with set availability times and workplace-specific provision that can be tailored to workplace needs. The list of services to be provided reflects modern needs. Public-sector accident insurance funds were involved in the reform of DGUV Regulation 2, resulting in the first joint accident prevention regulation for Berufsgenossenschaften and accident insurance funds.

Your obligations

Not all hazards and sources of danger can be eliminated or avoided by technical or organisational means. There will always be hazards in any workplace. This places you as an employee under an obligation to be safety-conscious and support your employer with regard to safety precautions.

Accident prevention regulations too include rules on conduct for all employees who use tools, plant and equipment. As an employee, you are also required to observe rules of conduct specifically devised by your employer for your workplace. In case of health problems in the workplace you have the right to preventive occupational healthcare.

Working Hours Act

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

Protection of Minors at Work Act

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

Protection of Working Mothers Act

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

Product Safety Act

Only equipment that meets various safety and other requirements may be marketed and sold in Germany. This is governed by the Product Safety Act (Produktsicherheitsgesetz) and its subordinate ordinances, and applies both to consumer goods and to products used by employees in the workplace. The Act also provides the basis for national implementation of European regulations that allow only safe products to be sold within the European Community.

Consumer goods and technical equipment must not create risk of accidents or a threat to human health. Responsibility for ensuring this lies with all who place products on the market – producers, importers and distributors alike. These must ensure the products they make and sell do not pose a danger to user health and safety.

Occupational Health Regulations

Occupational health provision serves to inform and advise employees about interactions between their work and their health and is an important back-up to technical and organisational work health and safety measures. It helps prevent work-related illness and maintains individuals' ability to work. The regulations govern employer and physician obligations, guarantee employee rights, provide transparency regarding the need for mandatory and optional health examinations, and encourage employees to request medical check-ups. They prescribe the separation of work-related health examinations and aptitude physicals, which may be required under employment and data protection law. These new regulations (Verordnung zur arbeitsmedizinischen Vorsorge) aim to improve not-yet-adequate services on things like muscular-skeletal disorders. The new Occupational Health Committee (Aussschuss für Arbeitsmedizin) plays a key role in these endeavours.

The Occupational Health Committee's responsibilities include drawing up rules that correspond to the current state of knowledge in occupational health, making recommendations on preventive occupational health care, and formulating the regulations in more concrete terms.

Personal Safety Equipment Regulations

The personal safety equipment regulations (PSA-Verordnung) mainly relate to the selection, provision and use of personal safety equipment in all sectors. Employers must also ensure that employees are instructed in the proper use of such equipment.

Load Handling Regulations

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

Construction Site Health and Safety Regulations

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

Video Display Workstation Regulations

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

Work Equipment Regulations

The Workplace Safety Regulations (Betriebssicherheitsverordnung) set out objectives and provisions to ensure that the use of tools and machinery does not endanger employees' health and safety. The regulations also govern the broad measures in place to protect employees and third parties in the use of equipment that requires supervision. Such equipment includes steam boilers, pressurised containers and elevators.

Workplaces Regulations

The workplaces regulations (Arbeitsstättenverordnung) specify how factories, workshops, offices and administrations, warehouses and shops must be equipped and operated to prevent risk to employees' health and safety. The regulations cover things like dimensions, ventilation, lighting and temperatures.

Hazardous Substances Regulations

In force since 2010 following a major revision, the hazardous substance regulations (Gefahrstoffverordnung) provide a modern, flexible instrument with which to protect employees in the use of hazardous substances and especially hazardous chemicals.

The regulations provide employers with additional scope in the selection of works-specific protective measures because only they know the full extent of the working conditions at their facilities. Rules on assessing the degree of harmfulness and on implementing safety measures graded to hazard levels help employers in deciding what needs to be done. Placing greater responsibility with employers is coupled with clearly worded requirements on the procedures that need to be in place. In cases where more detailed stipulations are required than the regulations provide, the Hazardous Substances Committee (AGS) drafts Technical Rules on Hazardous Substances (TRGS). Compliance with the regulations is presumed if these rules are followed. Nevertheless, employers still have the freedom to implement measures other than those contained in the technical regulations as long as they are appropriate, adequate and justifiable.

The regulations contain a number of annexes which set out detailed rules for special areas requiring particular attention with regard to work safety.

Biological Agents Regulations

The biological agents regulations (Biostoffverordnung) provide a cross-sectoral legal framework to protect employees who come into contact with biological agents (microorganisms). By categorising biological agents that arise in the workplace into four risk groups, protective measures can be defined to protect employees against infection and any sensitising or toxicological effects.

The regulations protect some five million workers who come into contact with biological agents (pathogens) in their work in biotechnical product research and in the food, agriculture, waste disposal, waste water and health care sectors. To cover this wide area, the regulations take the form of uniform and flexible basic rules so that employers can define and implement protective measures to deal with the specific hazards that apply in each case. The regulations are further defined in the associated technical regulations (TRBA) drawn up by the Biological Agents Committee (ABAS)

Issues such as bird flu and H1N1 (swine flu) are making the protection of employees who come into contact with such pathogens a focal point of everyday activity.

Noise and Vibration in the Workplace

The Ordinance on the Control of Noise and Vibration in the Workplace (Verordnung zu Vibrationen und Lärm an Arbeitsplätzen) transposes the EU Physical Agents (Vibration) Directive (2002/44/EC) and the ILO Working Environment (Air Pollution, Noise and Vibration) Convention, 1997 (No. 149) into national law. The Ordinance serves to improve health and safety conditions for employees in the workplace.

The legislation is designed to prevent noise-induced hearing loss (one of the most frequent work-related disorders), muscular and skeletal disorders and neurological defects that can arise from long periods of exposure to strong vibration.

Occupational Safety Regulations on Artificial Optical Radiation

The new Occupational Safety Regulations on Artificial Optical Radiation (Arbeitsschutzverordnung zu künstlicher optischer Strahlung) transpose European health and safety directive 2006/25/EC into German law. The focus is on protecting employees from risks of artificial optical radiation at work.

Harmful effects, notably to the eyes and skin, of exposure to artificial optical radiation are to be avoided by observing stipulated exposure limits. Artificial optical radiation can cause harm including thermal skin burns, erythema from exposure to ultraviolet light, phototoxic reactions, epithelial and conjunctival damage to the eye, and thermal damage to the retina. Long-term ultraviolet and infrared exposure increases the risk of cataract. Long-term ultraviolet exposure can also result in genetic damage. In consequence, even very minor exposures can have delayed effects in the form of skin cancer.

Harmful artificial optical radiation notably arises in welding, glass and quartz processing, metal manufacture and processing, and in laser applications that are coming into increasingly frequent use. Exposure to optical radiation from artificial sources (such as laser or ultraviolet/infrared radiation) can lead to serious eye and skin damage and is therefore a health and safety hazard to many employees at work. Short-run harm may take the form of skin burns and epithelial, conjunctival and retinal damage to the eye. Long-term exposure to intense ultraviolet radiation can have delayed effects in the form of skin cancer.

Preventive measures under the Regulations aim both to improve employee health and safety and to reduce costs of social security systems.

Book VII of the Social Code

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

Federal Ministry of Labour and Social Affairs Programme of Model Projects to Combat Occupational Diseases

The Federal Ministry of Labour and Social Affairs has specifically funded model projects relating to occupational health and safety since 1993. The model projects assist employers in practical implementation of work safety measures and in structuring working conditions at their facilities. By publishing and distributing available knowledge, the projects contribute to reducing work-related health risks and disease in Germany's production, crafts and trades and services sectors. They thus boost the competitive standing of German business. The focus of funding in 2010 was on demographic change in the construction industry. This involved the development, testing and long-term implementation of best-practice examples for maintaining people's working capacity and employability.

New Quality of Work Initiative

After 10 years of intensive effort surrounding the New Quality of Work Initiative (INQA), the Federal Ministry of Labour and Social Affairs plays a key role in its implementation and in talks with major stakeholders, providing stimulus for the initiative's further advancement and refinement. The aim was to restructure and refocus the INQA to enhance its impact, and to broaden its reach and audience in the business environment. The realignment was initiated against the backdrop of businesses having to tackle the social and business-related challenge of demographic change, which will become more readily apparent in the near future. Workforces are ageing, with up to half the number of employees having attained middle-age. As this group will age 'en mass', they will all go into retirement within then next 10 to 15 years. There is already evidence of a swing in the jobs market: It is becoming less employer-dominated and more employee-driven. Thus, companies are called upon to improve their innovativeness and their attractiveness as an employer by adopting new methods of recruitment and providing new employment opportunities. In light of the trends in employee potential, an approach that focuses more on existing potential and on supporting existing employees to help them remain in their jobs into old age.

The INQA focuses on the findings described above. Its main aim is to heighten awareness of these issues among employers, and especially to give small and medium-sized businesses (SMEs) guidance on how they can prepare for the challenges ahead. Under the INQA, 'businesses of the future' are those which declare their commitment to maintaining employees' workability and promoting their employability. They strive to build a workforce-focused corporate culture based on fair, health-oriented employment conditions. They do so to provide the basis for lasting business viability – healthy, competent and motivated employees – to remain competitive in recruiting skilled workers and winning market share.

The following shows the four-pillar model developed by Professor Illmarinen which illustrates the key human resources activities for businesses of the future.

Business of the Future			
HR Management	Equal Opportunities & Diversity	Health	Knowledge & Skills
Leadership and Communication	Work-Life Balance	Physical and Mental Health	HR Development
Participation and Motivation	Demography		Lifelong Learning
Work Organisation and Working Hours	Inclusion	Organisational and Individual Resilience	Knowledge Transfer
	Women in the Workplace		
Fair and Reliable Working Conditions			

Source: BMAS table (after Illmarinen and Tempel, 2002)

The model takes in:

- Human Resources management which promotes a workforce-focused corporate culture
- The achievement of equality and diversity within the company to provide opportunities for employees regardless of their age, gender or ethnic origin, foster their creativity and willingness to perform, and opens up new career paths.
- Adopts a systematic approach to maintaining the health, workability and employability so necessary to tackle the issues of an ageing workforce and a lack of skilled workers
- Pro-active, targeted knowledge and skills management based on the principle of life-long learning to make use of and further develop employees' potential, knowledge and abilities.

These activities serve in giving structure to company-provided content, information and advisory services, project promotion, and so on.

Apart from refocusing INQA activities, structural changes were also carried out. A Steering Committee was established whose responsibilities include:

- Determining the main focus of INQA activities. This is done at the end of a year for the following year

- Reviewing proposals from researchers and experts, evaluating project design documents as part of the public announcement process
- Making recommendations on projects requiring funding, which must be approved by the BMAS.

The Steering Committee comprises the key INQA sponsors, with representatives from the BMAS and the following associations and institutions, and responsible others:

- Members of industry: The Confederation of German Employers' Associations (Bundesvereinigung der Deutschen Arbeitgeberverbände (BDA), the Federation of German Employers' Associations in the Metal and Electrical Engineering (M+E) industries (Gesamtmetall), the Federation of German Employers in the Chemicals Industry (BAVC), the German Confederation of Skilled Crafts (Zentralverband des Deutschen Handwerks (ZDH), and the Association of German Chambers of Industry and Commerce (DIHK).
- Employee representations: German Confederation of Trade Unions (DGB), German Metalworkers Union (Industriegewerkschaft Metall (IGM), Industrial Mining, Chemicals and Energy Unions (IG Bergbau, Chemie, Energie (IG BCE)), United German Services Unions (ver.di), and Food and Restaurant Workers' Union (Gewerkschaft Nahrung, Genuss, Gaststätten (NGG).
- The Länder Conferences of Labour and Social Affairs Ministers (ASMK)
- The Federal Employment Agency (BA)
- Four topic ambassadors as experts on the four Human Resources areas
- Two special INQA representatives, one from the industry associations (Professor Randolf Rodenstock) and one from the unions (Alfred Löckle).

Companies that are committed to the four pillars of the Business of the Future model (see above) invest in their competitiveness, their attractiveness for skilled workers and thus in their future. The BMAS believes that Germany lacks small-scale services which are especially tailored to the (advisory) needs of SMEs in order to help them on their way to becoming future-ready businesses. In an effort to change the situation, a range of services have been developed as part of the INQA initiative. Three main services are now in place to assist businesses (especially SMEs) to overcome the challenges involved in demographic and structural change in the working world:

- In the INQA 'Guter Mittelstand' Business Check, employers can complete an online self-analysis to identify how well their company is placed in terms of demographic change and market-related demands. The analysis identifies specific business and HR policy needs and provides either solution approaches or names potential advisers.
- The voluntary INQA 'Business of the Future Audit' offers a professional support process to help boost corporate culture, innovativeness and competitiveness. It provides employers with clarity on how future-focused their business and the HR policies are and where there is scope for improvement.
- The INQA 'Deutschlands Bester Arbeitgeber' competition (Germany's best employer) combines a company survey (which includes employees) on workplace culture with a benchmarking component in which companies can measure their performance against one another and boost their image as an attractive employer.

Alongside the above measures, the ESF program, 'unternehmensWert: Mensch' (people: a business asset), which targets SMEs with up to 249 employees, assumes up to 80 percent of related advisory costs.

Another aim of the initiative involves a regionalisation strategy which is designed to highlight the importance and objectives of the issues in question, and raise public awareness to them. BMAS will also continue to fund projects, albeit with greater focus on transfer and model projects designed to develop business-related approaches and instruments to maintain workability and enhance employability.

In other words, after 10 years intensive effort, the New Quality of Work Initiative (INQA) has been realigned while maintaining 'business as usual'. In conjunction with key partners, thematic initiative groups and business networks, the INQA supports the achievement of a 'new quality of work' which focuses both on employees' workability and employability, and on companies' competitiveness in the face of demographic change.

Information

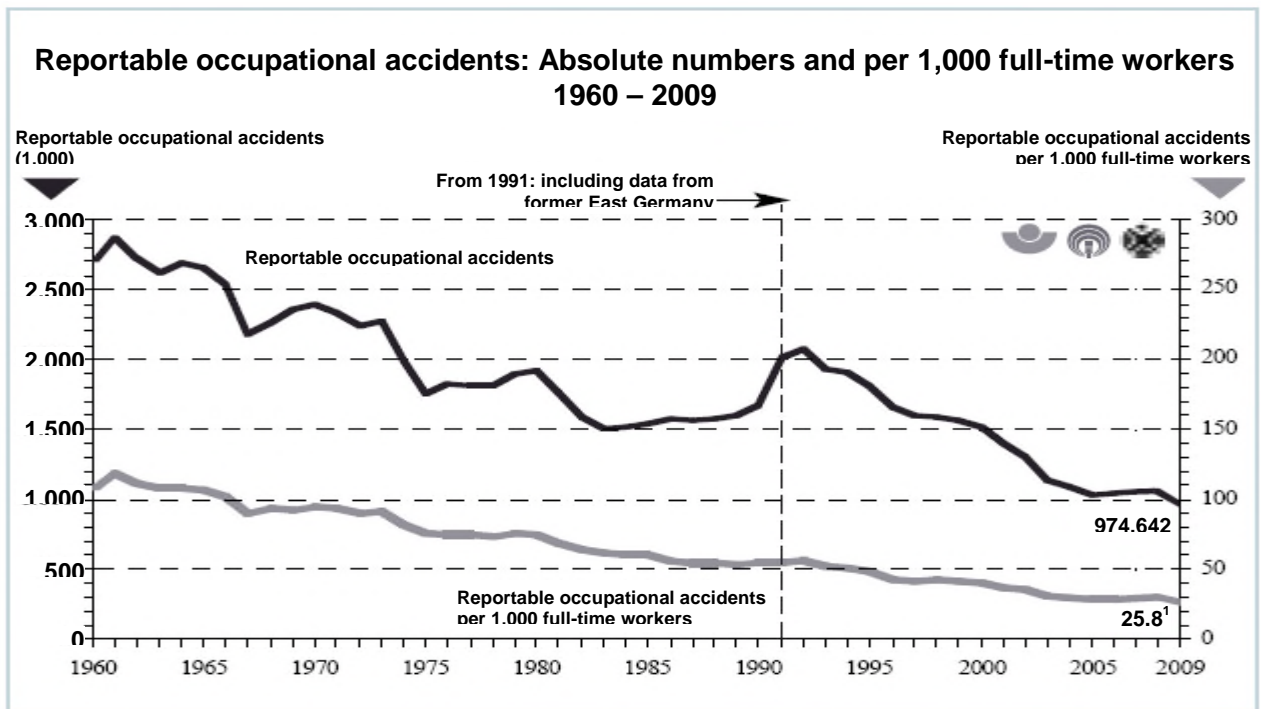
If you have questions about health and safety or accident prevention you can contact Arbeitsschutz und Arbeitsmedizin (Federal Institute of Occupational Safety and Health) several places for advice:

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

The Bundesanstalt für Health and Safety) offers an information line on health and safety at work, available Mondays to Fridays 8 am to 4.30 pm on 0180 3214321 (€0.09 per minute within Germany).

The occupational accident insurance funds each have their own technical inspectorates.

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



1)A change in the estimated number of full-time workers covered by statutory accident insurance and prevention institutions for the agricultural sector resulted in a major change in accident rates from 2008.

Occupational accident insurance **Unfallversicherung**

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

Who is insured?

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

Statutory occupational accident insurance also covers:

- Farmers
- Children attending nursery school or in the care of suitable day-care providers
- Children in school
- Students
- People helping at the scene of an accident
- Civil defence and emergency rescue workers
- Blood and organ donors
- Home carers
- In some voluntary activities, volunteers

If you have a business or are self-employed and are not already required to carry insurance by law or under the rules of the employers' liability insurance funds, you can obtain insurance coverage on a voluntary basis for yourself as well as your spouse if he or she works with you. Special occupational accident insurance provisions apply to tenured civil servants (Beamte).

Benefits and conditions

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

In addition, it contributes towards the prevention of occupational accidents, occupational illnesses and job-related health hazards.

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

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

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

Your insurance covers you as long as you are carrying out an insured activity or are travelling to or from work. If you are in a car pool, you are also covered on the way to and from work, even if your pooling route is not the most direct one to your place of work.

If you are insured, you can claim:

Medical treatment

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

You will not be required to pay patients' contributions for drugs, remedies and aids or a consultation fee (Praxisgebühr). As before, your accident insurance will meet all costs.

Injury benefit

You receive injury benefit as long as you are unable to work and your employer is not paying you. Injury benefit is 80% of the pay before deductions you lose as a result of your accident, up to a maximum of your pay after deductions. Injury benefit is granted for a maximum of 78 weeks.

Occupational integration assistance

If you are unable to return to your present employment because of an accident at work or occupational illness, you can claim occupational assistance. This primarily comprises help allowing you to retain your present employment or to obtain new employment. If this does not succeed, you can undergo retraining. You will then receive a transitional allowance. This is reduced by the amount of any income from employment you earn at the time.

Social integration assistance and supplementary assistance

These benefits include financial assistance to modify your car or home to meet your needs, domestic help, psychosocial counselling and rehabilitative sport. They are granted in addition to medical treatment and occupational integration assistance if the nature and severity of your injury or illness makes them necessary.

Pension for insured persons

You will receive a pension if an accident at work or an occupational illness reduces your earning capacity by at least 20% for 26 weeks (at least 30% in the case of farmers, their spouse or civil partner and family members who work on the farm). The amount of this pension depends on the extent to which your earning capacity has been reduced and on the amount you earned during the 12 full calendar months prior to your occupational accident or illness.

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

Nursing care allowance

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

Funeral allowance

If you die from an accident at work or an occupational illness, your surviving dependants will receive a funeral allowance which is equal to one seventh of the reference income level at the time of your death (the reference income level is the average level of income from employment assessable for statutory pension insurance).

Surviving dependant's pension

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

- You are 45 or older and your spouse dies before 1 January 2012
- You have reduced earning capacity, are occupationally disabled or are an invalid
- You have at least one child who is entitled to an orphan's pension

For deaths that occur after 31 December 2011, the age limit of 45 will be raised to 47 as part of a phased process; this is in line with the raising of the age limit for surviving dependant's pension under the state pension scheme.

If you are not yet 45 (47) and have no children, your annual pension entitlement is 30% of your deceased spouse's annual income before deductions, payable for two years. The entitlement extends beyond two years for an unlimited period (unless and until you remarry) in the case of deaths before 1 January 2002 and in the case of couples married before 1 January 2002 where one partner was at least 40 years old at the time.

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

Orphan's pension

If you die as the result of an accident at work or an occupational illness, any children you have who are under 18 years of age will receive an orphan's pension. Occupational accident insurance will pay a pension equal to 20% of your annual income before deductions to your children when they still have one parent, and 30% when they have lost both parents.

Orphans' pensions are paid even beyond the age of 18 (the usual cut-off age). Such pensions are paid up to age 27 for orphans who are:

- Attending school or in vocational training
- Doing a year of voluntary social or voluntary environmental work under legislation governing voluntary work by young people or service under the Federal Voluntary Service Act
- Unable to provide for themselves because of a physical, mental or psychological disability

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

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

Lump-sum settlement

If it is not to be expected that your earning capacity will significantly recover, you can apply to have your pension paid out as a lump-sum. The procedure differs according to whether your earning capacity is reduced by less than or more than 40%. Up to 40%, the settlement is principally for life; that is, your entire pension claim is settled with a single lump-sum payment. No further pension is paid, unless your health deteriorates so much as a result of your accident or occupational illness that you would be entitled to a larger pension. The size of the settlement is determined in accordance with a federal government order, taking into account your age and the time since the accident.

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

Funding

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

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

The law

The legal framework for statutory occupational accident insurance is contained in Book VII of the Social Code (SGB VII).

Other applicable laws and regulations, include:

- Social Code, Book IX
- Regulations on occupational illnesses

Information

Further information is available from the employers' liability insurance funds (Berufsgenossenschaften) and public-sector occupational accident insurance funds (such as municipal accident insurance associations). Occupational accident insurance providers offer a nationwide information line on industrial accidents, work-related accidents while travelling and occupational illnesses, available Mondays to Fridays 8 am to 6 pm on 0800 6050404 (free within Germany).

You may also call the Federal Ministry of Labour and Social Affairs helpline from Mondays to Thursdays between 8 am and 8 pm on 01805 676711 (€0.14 per minute within Germany).

Additional information is available from various sources on the Internet, including:

– www.dguv.de

Information on occupational accident insurance is provided in the following German-language brochures available from the Federal Ministry of Labour and Social Affairs, Referat Information, Publikation, Redaktion, Postfach 500, 53107 Bonn, Germany:

- Zu Ihrer Sicherheit – Unfallversichert im Ehrenamt (on occupational accident insurance for volunteers; order no. A 329)
- Zu Ihrer Sicherheit – Unfallversichert bei häuslicher Pflege von Angehörigen (on occupational accident insurance for people providing nursing care for relatives in the home: order no. A 401)
- Zu Ihrer Sicherheit – Unfallversichert in der Schule (on occupational accident insurance in schools: order no. A 402)

What you have to do

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

Rehabilitation and integration of people with disabilities **Rehabilitation und Teilhabe von Menschen mit Behinderung**

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

The German Federal Ministry of Labour and Social Affairs runs a citizens' information line on disabilities. Tel. 030 221911006 (text telephone service for the deaf or hard of hearing), Mondays to Thursdays from 8 am to 8 pm, or e-mail at info.gehoerlos@bmas-bund.de. A sign-language telephone service is also available Mondays to Thursdays from 8 am to 8 pm. To use it, you need either a SIP/IP video phone or a PC with Softclient and a webcam. gebaerdentelefon@sip.bmas.buergerservice-bund.de

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

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

Benefits and conditions

If you have or are at risk of a physical, mental or psychological disability, you are entitled to assistance, regardless of the cause of your disability. You may need such assistance to:

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

This assistance is provided to help you secure your place in the community – and this includes helping you find a suitable place of work that suits your interests and abilities.

Integration assistance

The following benefits can be provided:

Medical rehabilitation assistance

Medical rehabilitation assistance includes:

- Medical and dental treatment
- Pharmaceuticals and dressing materials
- Therapies, including physiotherapy, kinesiotherapy, speech therapy and occupational therapy
- Artificial limbs, orthopaedic and other aids including any alterations, repairs and replacements required and training in the use of the aids provided

- Work tolerance testing and work therapy

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

Occupational integration assistance

Occupational integration assistance includes:

- Assistance to help you keep your job or obtain a job, including advice and placement, training and mobility assistance.
- Pre-training measures including any basic training made necessary by your disability (for example in the case of blindness)
- Refresher courses, vocational training, further training, or any school-level qualifications required for admission to such courses
- Other forms of employment and vocational promotion assistance aimed at making it possible for you to find and retain adequate and suitable employment or self-employment

Since 2004, employers have had an obligation to offer workplace integration management for employees who have been ill for a substantial length of time. The aim of this system is to restore and sustain the employability of employees who have fallen ill, thus avoiding job loss.

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

Social integration assistance

This includes:

- Special education for pre-school children
- Measures to assist the individual's ability to communicate
- Measures to promote independent living in sheltered accommodation
- Assistance with taking part in social and cultural life

Maintenance and other supplementary benefits

Depending upon which fund is responsible, you will generally receive either sickness benefit, sickness benefit for war victims, injury benefit or a transitional allowance to ensure that you have enough income to cover your living expenses while receiving medical rehabilitation assistance. Sickness benefit is equal to 70% of your income from employment or self-employment on which contributions are assessed. Sickness benefit may not exceed 90% of the income net of deductions you forego during your treatment. If the pension insurance fund is responsible, you will be paid a transitional allowance equivalent to 68% of your last net earnings instead of sickness benefit. This amount rises to 75% of your last net earnings when you have dependants.

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

Personal budget

To secure them the greatest possible degree of independence and control over their own lives, people with disabilities and in need of care can apply in place of the various non-cash benefits to receive regular or once-only payments or vouchers so that they can organise and pay the services they need themselves. The personal budget can also be paid out as an overall budget for all services provided by all

agencies. For a trial phase, the agencies could decide whether to grant personal budgets at their discretion; since 1 January 2008, claimants have had a legal right to personal budgets.

Facilities

Vocational youth training centres

These work in conjunction with firms and regions throughout the country to provide initial vocational training for young disabled persons. Young people who require special assistance are trained in vocational youth training centres by qualified staff and are supported by a range of different services (doctors, psychologists and teachers) with the aim of fostering their personal and vocational development.

Vocational retraining centres

These also work together with firms and regions throughout the country to provide retraining and further training for disabled adults who can no longer perform either the work they are qualified to do or the job they have held so far. As social service providers, they provide qualified staff and support services (doctors and psychologists, for example) to enhance individuals' vocational and personal skills and abilities.

Vocational training centres

Vocational training centres are special occupational integration centres for people with psychological disabilities. They aim to help people realistically assess their job perspectives so that they can rejoin the mainstream jobs market, go on to a course of training or retraining, or return to employment. Vocational training centres have training places which correspond to workplace conditions and requirements.

Vocational rehabilitation clinics

These are special rehabilitation centres which cater for specific types of condition or disability and which take a fully integrated approach to providing medical rehabilitation and occupational integration assistance ('phase II'). There are currently 23 such clinics, which are members of a federal association of phase II vocational rehabilitation centres.

Sheltered workshops

These special workshops offer suitable vocational training and jobs for persons who are permanently or temporarily unable to find employment on the open job market due to the nature or severity of their disability. These workshops provide disabled persons with an opportunity to develop, increase or regain their ability to work productively and to earn money while doing so.

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

Special provisions for people with severe disabilities

If your level of disability is at least 50% (your disability level is generally determined by the Versorgungsamt – the war pensions office), special employment protection provisions apply.

The special employment provisions mostly relate to protection from dismissal. As a severely disabled person you are also entitled to additional paid leave (usually five working days).

Any public or private-sector employer with more than 20 jobs to fill is required to reserve 5% of them for severely disabled persons. Some federal agency employers are required to reserve up to 6% of jobs. Jobs occupied by trainees are not included when calculating the number of reserved places. Severely disabled trainees count as occupying two reserved places. In addition, local employment agencies can treat a severely disabled person as occupying three reserved places if his or her integration into working life presents severe difficulties.

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

- €105 a month for compliance rates of 3% or greater but less than 5%
- €180 a month for compliance rates of 2% or greater but less than 3%
- €260 a month for compliance rates of less than 2%.

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

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

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

- Tax concessions (in particular, the standard allowance for disabled persons)
- Free public transport
- Reduced vehicle taxes
- Special parking facilities
- Exemption from radio and television licence fees

Severely disabled person's pass

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

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

Free public transport

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

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

Equal treatment of disabled and severely disabled people

Important: If your level of disability is between 30 and 50%, under certain circumstances you could be classed as severely disabled. The employment agency decides whether your disability is equivalent to a severe disability. The requirement is that you would not be able to find a job or keep your present job if you were not granted the same treatment as a severely disabled person. If you are classed as a severely

disabled person, you can claim the same assistance to foster your integration into employment that is granted to severely disabled persons (though this excludes additional annual leave and free transport).

Who provides assistance

In addition to their other duties, each fund in Germany's social system is also responsible for a particular aspect of rehabilitation and integration:

- Health insurance provides medical rehabilitation assistance for persons who are insured. The cost of medical rehabilitation is covered by the following:
 - Local health insurance funds
 - Company health insurance funds
 - Guild health insurance funds
 - The maritime insurance fund
 - Alternative statutory funds for wage and salary earners
 - The federal insurance fund for miners
 - Agricultural workers' health insurance funds
- Germany's pension insurance schemes are responsible for providing medical rehabilitation and occupational integration assistance for their members. These costs are covered by the following:
 - Deutsche Rentenversicherung Bund (national level)
 - Regional Deutsche Rentenversicherung funds (regional level)
 - Deutsche Rentenversicherung Knappschaft-Bahn-See (miners, railway and maritime)
- The occupational accident insurance funds are responsible for providing medical rehabilitation, occupational integration and social integration assistance following an accident on the job or an occupational disease. These costs are covered by the following:
 - Industrial employers' liability insurance funds
 - Agricultural employers' liability insurance funds
 - Public-sector occupational accident insurance funds (occupational accident funds and municipal occupational accident insurance associations)
- The funds responsible for compensation benefits for disabilities suffered for example by war victims, persons during the course of military service or victims of violent crime provide entitled persons with medical rehabilitation, occupational integration and social integration assistance. These costs are covered by the following:
 - War pensions offices
 - Local integration offices

Integration offices offer additional assistance when persons who are either disabled or severely disabled face employment-related difficulties. If no other fund is responsible, these offices have the authority to grant financial incentives to employers to provide employment for severely disabled persons.

- The Federal Employment Agency, its regional directorates and local employment agencies provide occupational integration assistance if no other fund is responsible. Occupational integration assistance for job seekers who are able to work and in need of assistance is provided by the benefit agencies serving job seekers under Book II of the Social Code.
- Social assistance and youth welfare agencies come into play in all areas of rehabilitation and integration, though only when no other body is responsible. In such cases, the local social services office and youth welfare office are the main points of contact.

It is not always easy to know who is responsible for what. So that this does not place disabled people at a disadvantage, the various agencies responsible for rehabilitation are required to work closely with each other. The agencies have also set up joint service centres in almost all urban and other districts. The joint service centres cover all agencies and provide information on responsibilities and on criteria for receiving benefits and services and administrative procedures, and help with completing applications. The establishment of joint service centres supports coordinated provision close to home and one-stop support for people with disabilities or at risk of disability. The agencies are also required to clarify responsibilities within 14 days and to ensure that decisions are made quickly and unbureaucratically.

War pensions offices and integration offices

Germany's war pensions offices, employment services and integration offices are among the agencies that carry out the tasks arising from Book IX of the Social Code. War pensions offices are responsible for determining a person's disability, the degree of disability and any further health conditions that are a

requirement for claiming handicap benefits. These offices also issue the severely disabled person's pass. The Federal Employment Agency provides incentives for hiring severely disabled persons and monitor compliance with the statutory obligation to employ severely disabled people. Special protection against dismissal, supportive assistance in employment and collection of compensation contributions all come under the purview of integration offices.

The law

The main legislation on this topic can be found in the following:

- The Social Code
- Federal War Victims Relief Act (Bundesversorgungsgesetz)

Information

A key feature of Book IX of the Social Code is the obligation on rehabilitation funding bodies to establish joint service centres. The local joint service centres offer comprehensive help and advice independent of any specific fund or provider. Their services include:

- Providing information about the assistance available and the conditions that must be satisfied to receive it
- Supporting those affected in the identification of rehabilitation needs
- Identifying which rehabilitation fund is responsible
- Help with making applications
- Accepting applications and forwarding them to the appropriate fund
- Support in claiming assistance
- Preparing each application to the point that a decision can be made
- Ongoing support until a decision is made, and coordinating and mediating between the various funds and parties involved

Important: Any authority involved with funding rehabilitation must accept your rehabilitation application – a specific form is not required – and if necessary forward it to the responsible authority. The latter must then give you a decision. Only in very exceptional cases can an application be forwarded a second time, and then only if it is assured that the authority to which it is forwarded will give a decision.

The Federal Ministry of Health and Social Security service for the deaf and hard of hearing can be contacted on 01805 9966-04, Mondays to Thursdays, 8 am to 8 pm. Calls from the German telephone network cost €0.12 per minute.

The 'Jobs Without Barriers' initiative

Jobs ohne Barrieren

Aims and objectives

'Jobs Without Barriers' (Jobs ohne Barrieren) is an initiative launched by the Federal Ministry of Labour and Social Affairs in cooperation with employers, unions, disability associations and organisations, the Federal Employment Agency, agencies responsible for funding rehabilitation, the Council for the Integration of People with Disabilities and other organisations. In operation since mid-2004, the initiative aims to enable disabled and severely disabled people to be integrated into the jobs market and take better advantage of opportunities to participate in working life. Although occupational integration of disabled and severely disabled people in Germany has improved in recent years, their situation on the mainstream labour market remains unsatisfactory.

The German government and parliament have created a legal framework in recent years to secure severely disabled men and women equal opportunities in working life while taking into consideration the changing situation on the labour market.

Targeting the training and employment of disabled people along with workplace prevention measures, the Federal Ministry of Labour and Social Affairs coordinated the Jobs Without Barriers initiative to help bring about real improvements in the situation of disabled and severely disabled people as regards participation in working life.

The Jobs Without Barriers initiative disseminated information about the legal framework for promoting the training and employment of disabled and severely disabled people and for promoting workplace prevention, and presented best practice examples to help achieve three objectives in public and private-sector workplaces:

Promoting the training of disabled and severely disabled young people

- Improving the employment chances of people with severe disabilities, especially in small and medium-sized enterprises
- Furthering workplace prevention through the introduction of company-level integration management policies

Accomplishments under the initiative up to and including 2006:

- 41 projects were given funding grants, some from the national rehabilitation fund and some from the European Social Fund.
- 42 activities were not granted funding but were presented under the initiative as best practice examples.
- 130,000 orders were received for the brochure on the initiative and 20,000 for the DVD on the initiative.
- Almost 3,500 people have taken part in thirteen events held around the country to date.

As part of a follow-up initiative, four projects have been started and 15 best-practice activities presented. Another four events were held and the brochure on the 'Jobs Without Barriers' initiative has been revised and reprinted several times. A new brochure on integrated vocational training (Verzahnte Ausbildung – Ein Überblick für Unternehmen und Berufsbildungswerke) was also been published and is now in its second, heavily revised edition.

Started in 2004, the initiative ended on 31 December 2006. An evaluation was published on 30 June 2007 as part of the government's report on the effects of employment and prevention under Section 160 (2) of the Ninth Book of the Social Code (SGB IX).

Building on experience gained through 'Jobs Without Barriers', a follow-up initiative, 'job' (2007 to 2010) commenced in autumn 2007. This takes account of the high demand for information, particularly from employers, about the legal framework for training and employing people with disabilities, and the need for

Further information on the initiative

Additional information on the initiative is available (in German) at www.jobs-ohne-barrieren.de. The wide range of information provided includes brief descriptions of activities and projects coming under the initiative and how to get involved. Questions can also be directed in writing to the Federal Ministry of Labour and Social Affairs, 'job-Projekt', Gruppe Rehabilitation, Rochusstrasse 1, 53123 Bonn, Germany.

model integration projects that can be replicated elsewhere to assist disabled and severely disabled people enter the mainstream labour market.

The following projects are funded as part of the initiative:

- From September 2008: "Integratives Beratungsnetzwerk Betriebliches Eingliederungsmanagement" (Integrated advice network on workplace integration management; project funding agency: Deutsche Rentenversicherung Bund)
- From October 2008: "Motiviert integriert II – Beschäftigung schwerbehinderte Menschen sichern und Fördermittel nutzen" (Motivate and Integrate II: Securing the employment of severely disabled people and making use of available sources of funding; project funding agency: Sozialverband VdK)
- From October 2008: "Entwicklung eines betrieblichen Ausbildungsgangs für schwerbehinderte Jugendliche zum/zur Fachpraktiker/in in sozialen Einrichtungen" (Development of a workplace training course for severely disabled young people, leading to a vocational qualification for manual work in social establishments; project funding agency: Gesellschaft zur Förderung nachhaltiger Lebensqualität e.V.)
- From November 2008: "Automobil: Ausbildung ohne Barrieren" ('Automobile': Barrier-free vocational training; project funding agency: University of Cologne and cooperation partners)
- From May 2009: "Medizinische Tastuntersucherin" (Mammary palpation by blind examiners; project funding agency: Berufsförderungswerk Düren and cooperation partners)
- From June 2009: "Werkzeugkasten Eingliederungsmanagement" (Integration management toolbox; project funding agency: BIT Berufsforschungs- und Beratungsinstitut für interdisziplinäre Technikgestaltung e.V. and cooperation partners)
- From April 2010: "Evaluation der Einführung des Ausbildungsgangs 'Fachpraktiker/in in sozialen Einrichtungen'" (Evaluation of the introduction of a vocational qualification for manual work in social establishments; project funding agency: Emden University of the Applied Sciences)

The 'job' initiative covers 17 activities, including five large companies: Bertelsmann AG, Daimler AG, E.ON AG and Siemens AG. One activity, "Verzahnte Ausbildung mit Berufsbildungswerken" (Integrated vocational training with vocational training centres) also features significant involvement by the METRO Group.

Nine events have been staged on focus topics with some 300 participants in each event, notably personnel managers from industry.

A publication, "job – Leistungen an Arbeitgeber, die behinderte oder schwerbehinderte Menschen ausbilden oder beschäftigen" (on assistance for employers who train or employ disabled or severely disabled people) has been reissued several times. The publication is the only one of its kind to present a full description of the assistance available to employers who train or employ disabled people. Also available is a DVD of the initiative ("Barrierefreiheit"). Among other things, the DVD presents the model project on mammary palpation by blind examiners.

The projects carried out under the initiative will be evaluated in the first half of 2011 and the findings publicised at a closing event and online.

Job4000

The Job4000 programme was launched on 1 January 2007, partly based on experience so far with projects and activities under the Jobs Without Barriers initiative. The programme aims to promote the occupational integration of severely disabled people in the mainstream labour market. It also supports the Federal Employment Agency in carrying out their statutory responsibilities concerning the occupational integration of people with disabilities.

Grant funding

A total of €30 million is provided by the Federal Ministry of Labour and Social Affairs from the national rehabilitation fund. The sixteen German Länder provide an additional €20 million.

Focus areas

Employment

Employers receive financial assistance from the integration office if they additionally take on a severely disabled person with special difficulties. The amount and duration of the assistance is determined individually. There is scope for an average of €600 a month for up to five years. The target group includes seriously disabled people who have not completed vocational training or who have a mental or psychological handicap. At least 1,000 new jobs are to be created for this group.

Training

The integration office pays employers a premium of up to €3,000 a year if they provide a severely disabled young person with an additional vocational training place. A further premium of up to €5,000 is available on completion of the training if the person is given employment subject to social insurance contributions. The aim is to create at least 500 new vocational training places for severely disabled young people.

Support

Integration services are available to support the training and employment of severely disabled people. These primarily target severely disabled school leavers. The integration services receive up to €250 a month for each support case. The programme aims to fund at least 2,500 support cases.

Responsibility

The Job4000 programme is carried out independently by the German Länder. Integration offices serve as points of contact for employers.

Health insurance and the electronic health card **Krankenversicherung und elektronische Gesundheitskarte**

Statutory health insurance (Krankenversicherung) safeguards you and your family in case of illness. It pays for necessary medical treatment. The only exceptions are benefits you claim after an occupational accident or because of an occupational illness. In these cases you are covered by statutory accident insurance. It pays sickness benefit if your employer does not continue to pay your wage or salary while you are unable to work.

Until the end of 1995, which health insurance scheme you were in depended on your profession or who you worked for. As of 1 January 1996, anyone in a local, company, guild or other statutory health insurance fund is free to choose which fund they wish to be insured with (company and guild funds can only be chosen if they have changed their statutes to accept outsiders). The Miners Social Security Fund (Knappschaft) can be chosen from 1 April 2007. Special conditions apply for entry into health insurance funds for the farming, forestry and gardening sectors.

What statutory health insurance covers

As an insured person you can claim:

- Measures for the prevention and early detection of certain diseases (children in the first six years of their life and at the beginning of puberty; adults every two years from the age of 35). Women from the age of 20 and men from the age of 35 are entitled to annual cancer screening)
- Preventive dentistry and in particular individual and group prophylactic measures to prevent dental disease
- Preventive inoculations recommended by the German Standing Vaccination Committee (STIKO) at the Robert Koch Institute and prescribed by the Federal Joint Committee on the basis of that recommendation
- Orthodontic treatment, as a rule up to age 18
- Medical and dental treatment, with free choice among panel doctors and dentists, medical care centre (MVZ), non-panel doctors or dentists authorised to treat members of statutory health insurance schemes (ermächtigter Arzt/Zahnarzt), and dental clinics and other health care facilities (Eigeneinrichtung) operated by statutory health insurance schemes
- Medicines, dressings, therapies, and aids such as hearing aids and wheelchairs
- Medically necessary provision of dentures and crowns
- Hospital treatment
- Some or all the cost of necessary preventive and rehabilitation treatment
- Sickness benefit (Krankengeld): Normally, your employer will continue to pay your wage or salary for six weeks when you are unable to work. After that your health insurance will pay 70% of your regular wage or salary before deductions up to the contribution assessment limit, though not more than 90% of your most recent take-home pay. You can claim sickness benefit for a maximum of 78 weeks in a given three-year period. If you are a farmer, you will receive an upkeep allowance instead of sickness benefit, though agricultural health insurance funds also pay sickness benefit to seasonal workers who are insured with them.
- Sickness benefit for up to ten days a year for each insured child under 12 who you have to care for, subject to presentation of a doctor's note and provided that no other person living in your household is able to supervise, care for or look after the child. If you are a single parent, your entitlement doubles to a maximum of 20 days. If you have several children, your entitlement is limited to a total of 25 working days, or as a single parent 50 working days per calendar year. The entitlement extends beyond the age of 12 for sick children who are disabled and in need of help.
- Home help if you have to go into hospital or undergo in-patient or rehabilitation treatment or treatment in the home, you are unable to look after your home as a result, and have a child living in your household which has not reached the age of 12 when home help begins or which is disabled and in need of help
- Home nursing care if this helps avoid or shorten a stay in hospital or aids your medical treatment
- Home nursing care or home help for women when needed because of pregnancy or childbirth

- Social therapy for insured persons who have a severe mental affliction that prevents them from accepting or taking medical treatment
- Maternity benefit (Mutterschaftsgeld) and maternity allowance (Mutterschaftshilfe) during pregnancy and after childbirth. As a member of a health insurance fund you usually receive child benefit for six weeks before and six weeks after the birth (the statutory period of maternity leave), extended to twelve weeks after the birth in the case of multiple or premature births. The amount depends on your average wage over the last three months, or the last 13 weeks before the benefit period. Your health insurance pays a maximum of €13 a day. Your employer pays the difference between this and your average take-home pay for the duration of the benefit period.

Who is insured

As an employee you are compulsorily insured if your regular income before deductions does not exceed €450 per month and remains below a set annual limit (Jahresarbeitsentgeltgrenze). The annual income limit up to which employed people are automatically and compulsorily insured officially ceased to be linked to pension insurance on 1 January 2003 and now consists of a general annual income limit or a special reduced annual income limit. The general annual income limit for 2013 is €52,200 and thus remains at 75% of the pension insurance contribution assessment limit for blue and white-collar workers in western Germany. For reasons of fairness, a reduced annual income limit of €47,250 in 2013 applies for workers who were exempt from compulsory health insurance because they exceeded the contribution assessment limit on 31 December 2002 and switched to an alternative private health insurance fund. This amount is identical to the annual income limit applied in the state health insurance scheme.

The rule on when you cease to be subject to compulsory insurance on account of exceeding the annual income limit has changed under new legislation on the financing of the statutory health insurance system. With effect from 31 December 2010, the rule has reverted to the annual income limit only having to be exceeded for a single year in order for compulsory membership of the statutory health insurance scheme to cease.

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

- Students at state and state-approved universities
- People on work experience or in second-chance education
- Old-age pensioners who have been in a statutory health insurance scheme or insured as a family member for most of the latter half of their working life
- Disabled people employed at an approved workshop or on employment promotion schemes
- Unemployed people receiving benefits from the Federal Employment Agency (Arbeitslosengeld, or under certain conditions Arbeitslosengeld II)
- Farmers
- Members of farming families who are primarily employed on the farm and are at least 15 years old or are in training
- Retired farmers who have claimed Altenteil (the right to continue living on the farm after making it over to their children)
- Artists and members of the publishing professions as provided in the Artists Social Insurance Act (Künstlersozialversicherungsgesetz)

You can within a period of three months join a state health insurance scheme voluntarily if you:

- Have been a compulsory member, your membership is terminated and you have certain qualifying insurance periods
- Are severely disabled (subject to certain other requirements)
- Have been insured through a family member for a specific minimum period and this insurance has expired

Individuals who are voluntarily insured in the statutory health insurance system, for example employees whose pay exceeds the annual ceiling (Jahresarbeitsentgeltgrenze), civil servants and self-employed persons, may opt for private health cover with a private health insurer. In doing so, they should give careful consideration to which of the two systems is the best given their personal circumstances, and take into account that once they have switched to a private health insurer, a return to the statutory health insurance system is only possible in very exceptional circumstances.

No patients' contributions are payable for early detection screening, inoculations, other preventive measures or dental prophylaxis. Health insurance funds can also grant members partial or full exemption from paying patients' contributions, for example for certain types of treatment.

According to German health insurance law, anyone living in Germany receives health insurance cover in either the statutory or private health insurance system but has no entitlement to other types of insurance cover.

From 1 April 2007, anyone lacking other provision for the event of illness and who has previously been in the statutory health insurance system is made a compulsory member (Section 5 (1) 13 of Book V of the Social Code/SGB V). You become a compulsory member of your previous statutory health insurance fund or its legal successor, beginning on the day you cease to have other provision for the event of illness within Germany or on 1 April 2007, whichever is the later. The same applies for anyone who has never had statutory or private health cover and comes under the statutory health insurance system. Please seek advice on this from a statutory health insurance fund.

In accordance with Section 193, paragraph 3 sentence 1 of the German Insurance Contract Act (Versicherungsvertragsgesetz, or VVG), as of 1 January 2009 anyone living in Germany who is neither insured under the statutory system or by other means must have private health insurance which covers at minimum out-patient and in-patient medical treatment. The annual deductible is limited to a maximum €5,000.

Full-time self-employed persons are not subject to compulsory statutory health insurance and must thus have private health insurance cover unless they were insured under the statutory system before entering self-employment.

Since 1 January 2009, anyone exempt from the requirement to have insurance cover, especially civil servants, pensioners and others who may claim state contributions towards the cost of health care (Beihilfe) and who have no supplementary insurance to cover healthcare costs, are not covered by the statutory health insurance system even if they were covered by that system previously. Since 1 January 2009, these individuals are required to have private health insurance to cover healthcare costs not covered by the amount covered by Beihilfe received. This requirement for private insurance also applies for employees who are exempt from the requirement to have insurance cover, i.e. blue-collar and white-collar workers whose regular annual pay exceeds the compulsory insurance ceiling.

The requirement for insurance cover can be met with a basic premium insurance contract. Private health insurance carriers have been required to offer this type of contract alongside existing policy options.

The following applies with regard to provision for recipients of social assistance in case of illness:

For anyone in receipt of regular assistance provided under Chapter 3, 4, 6 or 7 of Book XII of the Social Code (SGB XII) since 1 April 2007 or before, the social assistance agency that provides that assistance will also provide assistance in the event of illness. Under section 264 of SGB V, the medical treatment is generally paid for by a statutory health insurance fund and then refunded by the social assistance agency. The continued responsibility of social assistance agencies for such recipients of social assistance in the event of illness after 1 April 2007 is expressly laid down in section 5 (8a) of SGB V. It is unaffected by a interruption in entitlement to the regular social assistance of less than one month, irrespective of whether the social assistance agency deregisters a person from the procedure under section 264 of SGB V – the sole requirement is that the person was in receipt of regular assistance provided under Chapter 3, 4, 6 or 7 of SGB XII and remained in receipt of that assistance without an interruption in excess of one month.

Anyone in receipt of regular assistance provided under Chapter 3, 4, 6 or 7 of Book XII of the Social Code since 1 April 2007 and subject to insurance on a subordinate basis on that date (section 5 (1) 13 of SGB V) remain members of the statutory health insurance scheme.

Anyone solely in receipt of assistance in the event of illness provided under Chapter 5 of SGB XII will become subject to compulsory statutory health insurance if they come within the scope of statutory health insurance and, with effect from 1 April 2007 or since, satisfy the requirements for being subject to compulsory insurance on a subordinate basis in the absence of any other entitlement to provision in the event of illness (section 5 (1) 13 of SGB V). Being subject to compulsory insurance on a subordinate

basis, such individuals also remain members of the statutory health insurance scheme if they later receive regular assistance towards living expenses (assistance under Chapter 3, 4, 6 or 7 of SGB VII).

Voluntary members who wish to switch to a private insurer should consider the fact that a later return to the state health insurance scheme is only possible in very exceptional circumstances and should seek advice from their state health insurance fund.

Family insurance

State health insurance also covers your family at no extra charge. Your spouse or civil partner and, up to a certain age, your children are covered by your insurance, provided among other things that their collective income does not exceed €385 a month and they do not have their own insurance (figures for 2013). If you are in marginal employment, the allowable collective income is €450.

All members of state health insurance schemes should report changes in their working, financial and personal circumstances to their health insurance fund. Those receiving unemployment benefit (Arbeitslosengeld and Arbeitslosengeld II) must also report the changes to the local employment agency to prevent any inadvertent loss of insurance cover.

Patients' contributions

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

Patients' contributions in statutory health insurance	
Benefits	Patients' contributions from 1 January 2004
Drugs	10% of the pharmacy counter price minimum €5 and maximum €10
Dressings	As above*
Travel expenses	10% of the travel expenses minimum €5 and maximum €10 per journey*
Therapies	10% of the counter price plus €10 per prescription*
Aids	10% of cost minimum €5 and maximum €10*
Consumable aids	10% of cost maximum €10 per month
Hospital treatment	€10 per day for a maximum of 28 days within a calendar year
Outpatient rehabilitation treatment	€10 per day
Inpatient preventive treatment and rehabilitation treatment	€10 per day
Post-hospital rehabilitation treatment	€10 per day for a maximum of 28 days within a calendar year, minus contributions paid towards hospital treatment
Preventive and rehabilitation treatment for mothers and fathers	€10 per day
* Not exceeding the actual cost	

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

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

Exemption from patients' contributions

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

Contribution limit

The limit for patients' contributions is 2% of assessed gross disposable income (1% for people with chronic illnesses). The assessed income figure is arrived at by deducting an exempt amount for each family member from family gross income and so depends on how many people are in the same household and live off the income total. Larger amounts are deducted for children than for adults. The deduction of exempt amounts from family gross income means that the contribution limit varies according to the size of the household. The exempt amount for the first dependant living in the same household is 15% of an annual reference figure and comes to €4,851 in 2013. The exempt amount for each subsequent dependant is 10% of the same reference figure, or €3,234 in 2013. The amount for each child is €7,008. The older 10% rule for other dependants now applies in health insurance for farmers only.

Family gross income means family disposable income before deductions: the sum of all income that accrues to the insured and any live-in dependants and is available for meeting living expenses. This includes rental income and capital gains – types of income on which compulsory members of a health insurance scheme do not pay any contributions.

Health insurance law is founded on the gross income principle. That is, a person's ability to pay into the system is generally measured by looking at their income before deductions. A person's health insurance contributions likewise depend on their income before deductions. Accordingly, the same measure, rather than net income, is used to set the limit for patients' contributions.

The insured and the insured's spouse or civil partner and any children for whom the insured can claim must keep a record of all patients' contributions paid over each year. If the contribution limit is reached in a given year, the health insurance fund must issue the insured with an exemption note for the remainder of the year.

The contribution limit applies for all patients' contributions, including those paid for hospital treatment, in-patient preventive care and rehabilitation.

Concessions for chronically ill patients

Special rules apply for chronically ill patients in acknowledgement of their special situation.

Patients in ongoing treatment for the same illness have a lower contribution limit of 1% of annual income before deductions. The Federal Joint Committee of medical practitioners and health insurance funds is required by law to issue directives defining what constitutes a chronic illness. According to prevailing regulations on chronic illness, an illness is deemed a serious chronic illness if it is medically treated at least once a quarter for at least a year and at least one of three criteria is met:

- The patient requires Level II or III care.
- The patient has at least a 60% disability under severe disability law/pensions law or at least a 60% incapacity to work under accident insurance law.
- Continuous medical care is required (medical or psychotherapeutic treatment, drug treatment, technical nursing, and provision with therapies and aids) without which, on a professional medical appraisal, a life-threatening worsening of the illness, a reduction in life expectancy or a lasting impairment of quality of life is to be expected as a result of the illness.

The task of deciding if a patient has a serious chronic illness as defined in the directive falls to the health insurance fund. The exemption from patient contributions applies for all family members living in the same household.

Concessions for social assistance recipients and other groups

Recipients of welfare benefits under the Twelfth Book of the Social Code (SGB XII: Social Assistance) or war victims welfare benefits are more favourably placed than other insured persons. For these individuals, their household assessable gross disposable income for the purpose of establishing their contribution limit is equated with only the standard

The law

State health insurance is the oldest part of the social insurance system. The relevant law is set out in various acts. For example:

- Book V of the Social Code
- The Second Farmers Health Insurance Act

benefit rate for the head of a household as specified in the Regelsatzverordnung – the ministerial order in which the standard benefit rates are laid down (Book V of the Social Code (SGB V), Section 62(2)).

Such benefit recipients must pay the patients' contributions matching the standard benefit rate themselves. The standard benefit rate is €4,368 a year. The corresponding patients' contributions to be paid for the household by social assistance recipients each year are as follows:

- 1% contribution limit (chronic illness): €45,84
- 2% contribution limit (without chronic illness): €91,68

This concession also applies for people whose costs of accommodation in a home or similar establishment are met by a social assistance agency or war victims support fund, and for the groups named in SGB V, Section 264 (social assistance recipients for whom healthcare is provided by the statutory health insurance scheme and recipients of regular benefit payments under Section 2 of the Asylum Seekers Benefits Act (Asylbewerberleistungsgesetz)). That is, gross disposable income for the entire household is equated with only the standard benefit rate for the head of a household as specified in the Regelsatzverordnung.

For social assistance recipients living in homes, a standard statutory procedure has been put in place (in an amendment to the law integrating social assistance law into the Social Code) for helping in cases of – temporary – hardship. Under the new provisions, the social assistance agency grants the affected individuals a loan in the amount of the applicable contribution limit and pays it out directly to the responsible health insurance fund.

The latter issues the affected pocket-money recipients a note exempting them from patients' contributions.

The pocket-money recipients repay the loan to the social assistance agency in fixed amounts over the entire calendar year.

Special hardship clause for dentures

For dentures, there is a sliding scale in case of hardship based on patients' monthly gross income before deductions. Please contact your health insurance fund to ask whether you are entitled to partial or complete exemption from the requirement to contribute to the cost of your dentures.

Information

For further information, please contact your health insurance fund. They will also give you a receipt book for payments you make towards the cost of treatment.

Funding

A uniform general and a uniform reduced contribution rate apply in the statutory health insurance scheme since January 2009.

These contribution rates were laid down by the German government in secondary legislation on the basis of an appraisal panel at the Bundesversicherungsamt (Federal Insurance Office). Since 1 January 2011 they are laid down by law.

The general contribution rate, which applies for contributions from earnings, pensions, etc., is 15.5 percent. It is made up of a contribution rate of 14.6 percent that is financed half each by employer and employee or pension insurance fund and pensioner, and a supplementary contribution of 0.9 percentage points that is paid entirely by health insurance scheme members.

The reduced contribution rate, which normally applies for members without entitlement to sickness benefit, is 14.9 percent. This rate likewise includes a 0.9 percentage point contribution that is paid entirely by members.

Contributory income is calculated and flows together with tax revenue into the new statutory healthcare fund.

The German Federal Ministry of Health and Social Security runs a citizens' information line on health insurance. Tel. 01805 9966-02, Mondays to Thursdays, 8 am to 6 pm. For questions about insurance cover call 01805 9966-01. Calls from the German telephone network cost €0.14 per minute. Rates for calls from mobile phones may differ.

To cover their expenditure, the statutory health insurance funds receive lump-sum allocations from the statutory healthcare fund. These allocations are paid per patient together with additional age, risk and gender-adjusted supplements. This approach takes account of differing patient profiles and incidences of illness in the insured population.

If a health insurance fund receives allocations that exceed its own funding requirements, it may pay out bonuses to its patients as long as it keeps adequate funding reserves. If a health insurance fund is unable to meet its expenses from the allocations it receives, it must tap into efficiency reserves; if these are not sufficient, the fund requires members to pay additional contributions that are not income-linked. At the same time, a social equalisation mechanism across all health insurance funds ensures socially equitable funding. The social equalisation mechanism ensures that statutory health insurance members do not face an unreasonable burden. If the average additional contribution charged by health insurance funds exceeds two percent of earnings subject to contributions, the social equalisation mechanism is applied by employers and pension funds. The average additional contribution charged by health insurance funds in 2011 was zero. The social equalisation mechanism was consequently not triggered in 2011. The same applies for 2012 and 2013.

Statutory health insurance members also have the option, within the framework of the statutory rules on termination, of switching to another health fund to avoid additional contributions. If they do not do this, they must pay the additional contributions themselves.

In the case of compulsorily insured employees, the employer also pays half of the portion of the contribution that is equally divided between employer and employee.

Employees who are voluntary members of a statutory health insurance fund pay their health insurance contributions themselves. In certain circumstances, however, they may receive a subsidy from their employer. For example, voluntarily insured employees who are only exempt from being statutorily insured because their annual income exceeds the income limit receive a subsidy equal to the amount that the employer would have to pay for a compulsorily insured employee.

Old-age pensioners who are voluntarily insured in the statutory health insurance scheme receive a contribution supplement to assist with health insurance costs from their respective pension insurance fund.

When calculating contributions, the contribution assessment limit (Beitragsbemessungsgrenze) must be taken into account (€3,825 in 2012). This is the maximum amount used to determine an insured person's contribution, even if their actual income is higher.

From 1 January 2013, there is an additional concession for employees with a monthly income between €450,01 and €850. Special rules now apply under social security law for employees who fall within this income band. If your income is within the band, the new rules provide for part of it to be exempt from social insurance contributions. Employers are still required to pay their normal contribution on the amount you earn.

Information on the electronic health card (as of 10 January 2012)

Germany's statutory health insurance funds started issuing members with new electronic health cards in October 2011. The aim is for everyone insured under the statutory system to be in possession of an electronic health card by the end of 2013. The organizations responsible for introducing the new card must do so by a certain cut-off date after which only electronic health cards will be accepted as proof of insurance cover.

The electronic health card serves to improve patient healthcare. The quality of medical treatment depends on whether the physician has all necessary medical history information. The electronic health card and the associated telematics infrastructure being established by the healthcare sector provides treating physicians with secure and speedy access to patient data. Issuing the cards, which are the key to practical and secure exchange of medical data, is just the first step. The ultimate aim is to improve the quality of medical treatment, empower patients and cut healthcare costs.

The new cards mean no change for patients when they visit their doctor. The electronic health card is scanned in the same way as the old insurance card. To ensure a smooth transition to the new system, doctors, dentists and hospitals have been equipped with modern card readers which were financed by the health insurance funds. The card-reading terminals can be used to scan both health insurance cards and the new electronic health card.

In contrast to the old health insurance card, the electronic health card features a photograph of the bearer. Exceptions exist for patients under 15 and for those who were unable to provide a photograph because they are in full-time care or are immobile.

The photograph prevents potential mix-ups regarding data and also reduces misuse and false claims for medical treatment. The health insurance funds write to their members, asking them to provide a photograph. In many cases, patients can upload their photograph online. Some funds also offer their members the opportunity to have their photograph taken at the health insurance office.

The vast number of participants and the various requirements regarding the electronic health card and the telematics infrastructure make its introduction highly complex, which is why its features and functions will be implemented in a phased approach. At present administrative data is stored on the card, such as the patient's name, date of birth and address, and information regarding the health insurance fund, health insurance number and insurance status (member, family member or pensioner). A new feature involves data regarding a patient's gender. This and the card bearer's photograph are designed to prevent mix-ups. The back of the electronic health card can be used as the 'European Health Insurance Card', thus allowing unbureaucratic provision of medical treatment within the European Union.

In subsequent phases, the system will provide for online comparison of the insurance data contained on the health card with that held by the respective health insurance fund along with the storage of data for use in emergencies. The system also has the potential to allow storage of data regarding medication and inoculations, and to act as an online patient file. One prerequisite for country-wide implementation is that the system stands up to tests in practice and that the strict security provisions are observed.

Patients decide for themselves whether and to what extent they wish to make use of the healthcare options provided by the electronic health card. Use of features such as the storage of data for use in emergencies is voluntary. Patients also have the right to view the data, receive a print-out of it or ask for it to be deleted. As with the existing insurance card, patients' administrative data are the only information which must be stored on the card by law.

Data privacy and practicability are the foremost priorities and are provided for both by law and via the telematics infrastructure. This means, for example, that medical data stored using the electronic health card can only be accessed with the approval of the patient and the treating physician. Such approval is given by the patient sliding their electronic health card and the physician sliding their physician's ID card into the card reader (dual control principle). The patient must then enter a PIN number to allow access to their medical data. Exceptions occur in cases of emergency, with access being possible without the patient's PIN number. The physician's ID card is required in all cases.

Long-term care insurance **Pflegeversicherung**

Providing help where it is needed most

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

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

A few numbers to illustrate the magnitude of the problems related to long-term care: Today, some 2.42 million people in Germany require long-term care. This figure is larger than the population of Hamburg. About 0.75 million of these people live in nursing homes. The remaining 1.67 million are cared for at home by a host of relatives, neighbours, volunteers or professional carers who are often self-sacrificing and deserve great praise for their efforts to care for people who cannot take care of themselves.

What you have to do

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

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

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

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

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

In addition, other groups of individuals who receive health insurance in accordance with certain laws or special systems must have long-term care insurance with either a statutory health insurance fund or with a private health insurance carrier as appropriate in the individual's particular circumstances.

Dependent children, spouses and non-married partners are insured free of charge as family members under the family insurance provisions of the statutory health insurance system providing their regular monthly income does not exceed €385 or €450 for anyone in marginal employment.

Benefits and conditions

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

Who is eligible for long-term care?

According to the law, you are eligible for long-term care if, because of a physical, mental or psychological illness or disability, you require frequent or substantial help with normal day-to-day activities on a long-term basis (that is, for an estimated six months or longer).

The normal, routine day-to-day activities that are covered:

1. Personal hygiene: washing, showering, bathing, dental hygiene, combing your hair, shaving, going to the bathroom
2. Eating: eating, and preparing food so that it is bite-sized and ready to eat
3. Mobility: getting out of and going to bed, dressing and undressing, walking, standing, climbing stairs, leaving and getting back to your home
4. Housekeeping: shopping, cooking, cleaning, dishwashing, changing and washing linen and clothing, heating your home

Assistance may consist of someone helping you to carry out routine activities of daily life, helping you to perform these tasks at least partly on your own, or supervising and guiding you when doing them. Assistance is aimed at helping you regain your ability to do these tasks by yourself.

The different care levels

Depending on the type of care needed, three levels of care apply (I, II or III). A Care Level O also exists. The care level determines the amount of care provided. If you require extreme care and are classed under Care Level III, you may qualify as a hardship case.

Care Level O

No matter how old you are, if you have a dementia-related incapacity, a mental disability or a physical disability, your everyday activities could be severely restricted even if your basic care and home-help needs do not qualify for Care Level I.

Care Level I: Considerable need of care

Considerable need of care arises when you need help at least once a day with a minimum of two activities from one or more types of activity (personal hygiene, eating or getting around). You also need help several times a week with household chores. You require an average of at least 90 minutes of help every day of the week for basic care and household chores. Your carer must spend more than 45 minutes of this time providing basic care.

Care Level II: Severe need of care

Severe need of care arises when you need help at least three times a day with basic care (personal hygiene, eating or getting around). In addition, you need help several times a week with household chores. You require an average of at least three hours of help every day of the week for basic care and with household chores. Your carer must spend at least two hours of this time providing basic care.

Care Level III: Extreme need of care

Extreme need of care arises when you need round-the-clock help every day. You also need help several times a week with household chores. You require an average of at least five hours of help every day of the week for basic care (personal hygiene, eating and getting around) and household chores. Your carer must spend at least four hours of this time providing basic care.

Hardship cases

If you meet the requirements for Care Level III and require an extraordinary level of care, you may qualify as a hardship case and thus for additional care. A hardship case exists when:

- You need at least six hours of help every day, a minimum of three of which must be during the night. If you reside in a full-time care home, the time spent providing medical care will be taken into account.
- You receive basic care during the night from several carers at once. At least one activity during the day and one during the night requires both a professional healthcare and an additional carer who must not necessarily be employed by a care agency (a family member, for example). This provision is designed to prevent several carers from a care agency attending you at the same time.

Each of the two required activities meets the standards for qualitative and quantitative care that exceeds the usual level of care provided at Care Level III. An additional requirement is that you need constant help to complete household chores.

How to claim

Claims for assistance under long-term care provisions must be submitted to your long-term care insurance fund, which is an arm of your health insurance fund. Claims may also be made on your behalf by family members, neighbours or close friends if you authorise them to do so. Once the claim is received by the long-term care insurance fund, the fund then asks the medical service of the German health insurance funds (Medizinische Dienst der Krankenversicherung, or MDK) to assess your care needs.

The approval process

The legally prescribed processing period for long-term care claims is five weeks. If you are in hospital or in a rehabilitation clinic, in a hospice or receiving out-patient palliative care, the MDK assessment must take place within one week if the assessment will be used to determine the level of care you need from then on or if the claim involves a notification to an employer regarding a period of home nursing care. If you are at home and not receiving palliative care and a period of home nursing care as been notified to an employer or a period of family care has been agreed with an employer, the processing time for claims is two weeks.

It must be remembered that if the long-term care insurance fund fails to respond to a claim in writing within five weeks of receipt or if the shorter assessment periods are not observed, the insurance fund is required to pay the claimant an amount of €70 for each week of delay begun after the deadline. This does not apply if the long-term care insurance fund is not responsible for the delay or if the claimant is in institutional care and is already officially classified as in need of considerable care (Care Level I).

The insured person may appeal against the insurance fund's decision.

Determining care needs

The long-term care insurance fund asks the MDK (or the social medical service (SMD) for those insured with sectoral insurance funds) to produce an assessment report for use in evaluating the level of care needed and the effort involved. This usually happens with the assessor (a care or a doctor) visiting your home, having given advance notice. The assessor identifies your needs in terms of basic care (personal hygiene, eating and getting around) and of help needed with household chores. If you are privately insured, you submit your claim to your private insurance fund and the assessment is conducted there by MEDICPROOF medical service assessors.

For children, the assessment of care needs should ideally be performed by specially trained medical service assessors who are qualified healthcarers or children's healthcarers or pediatricians. When determining the level of care needed, the child in need of care is compared with a healthy child of the same age. However, for babies and small children, the assessment is not, however, based on the amount of care needed relative to the child's natural age but on the amount of additional care needed.

Home care and institutional care

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

Home care

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

Home care benefits are scaled according to the care level. People in need of long-term care can choose between non-cash benefits (care provided by an agency under contract to your long-term care insurance scheme, such as a social services agency or home care service) and cash benefits (which you would use to ensure that you receive appropriate care, for example with the help of relatives). As of 1 January 2013, it is also possible for people with considerable restrictions on their everyday activities to be classified as Care Level O and receive either non-cash or cash benefits. They may also receive a combination of non-cash and cash benefits. As a result, your care can be tailored to your individual needs. A group of individuals in need of care, for example those living in new forms of housing, may pool their home care entitlements and share the benefits to be had from efficient management of available resources – particularly as regards nursing care services.

Additional benefits provided under long-term care insurance:

- Nursing aids that facilitate long-term care, such as a special bed.
- Allowances to pay the cost of modifying your home to accommodate your nursing care needs. A maximum of €2,557 can be granted for each project if there are no other means of financing it. People classified as Care Level O who face considerable restrictions in their everyday activities may also receive this allowance. The allowance can be paid in an amount up to four times €2,557 – meaning a maximum of €10,228 – if a group of individuals in need of care or who face permanent restrictions on their everyday activities live together.
- Free nursing care courses for relatives and volunteer carers.

Statutory long-term care insurance benefits are halved for holders of statutory long-term care insurance entitled to part-payment (Beihilfe) or full payment (Heilfürsorge) of healthcare, childbirth, long-term care and funeral costs under the laws or principles applicable to tenured civil servants (Beamte). The insurance contributions are halved in this instance. In the case of tenured civil servants with private long-term care insurance, the private insurance company provides a share of the above benefits proportionate to the Heilfürsorge entitlement.

Allowance for groups cared for in the home

People in need of care and who are classified as Care Level I, II or III, who receive cash benefit and/or non-cash benefit, and who live with others in need of care in a shared home in which they all receive out-patient care and in which a carer organises, manages and provides the care, also receive an additional monthly allowance of €200. To be eligible for this allowance, at least three people in need of care must live together as a group for the purposes of pooling their care services, and they must decide independently on the services to be provided to them and on the care agency to provide them.

Arrangements for holiday stand-ins

If the person who provides your care at home goes on holiday or is otherwise unable to care for you, you are entitled to a stand-in for a maximum of four weeks a year, with costs being covered up to a maximum of €1,550 per year. If the stand-in is a close relative who is not employed for the purpose, the costs incurred by the statutory long-term care insurance may not exceed the care benefit for the respective long-term care category. This can be increased up to €1,550 to cover any documented necessary costs

(e.g. travel costs or loss of earnings) incurred by your stand-in. If you are classified as Care Level O, meaning you face considerable restrictions on your everyday activities, you may claim preventive care assistance, whereby for a period of four weeks per calendar year, you receive an amount equal to half of the care benefit you already receive.

Part-time institutional care and short-term care

In the event that it is not possible to obtain sufficient care in your own home, or if there is a need to supplement and augment your home care, you can receive part-time institutional care in a facility that provides day and night care. If this is not enough to cover your needs, you can enter a short-term care facility. In such cases, your long-term care insurance will cover indefinitely the costs of basic care, social services and treatment in a day and night nursing care facility, up to €450, €1,100 or €1,550 a month depending upon the level of care you require, and up to €1,550 for a maximum of four weeks' short-term care in a calendar year.

Apart from the entitlement to day and night care, you retain a fifty percent entitlement to home care services or care benefit. If you only use fifty percent of your entitlement to day and night care, you are also entitled to receive full care services or the full amount of care benefit.

During a period of short-term care, half of the care benefit already received is paid for up to a maximum of four weeks in a calendar year. Short-term care is available for children in need of full-time care up to the age of 25 in facilities for the disabled or other suitable facilities.

Supplementary allowance for people in need of significant care

If they are cared for at home, people with significantly reduced abilities (mental illness, disability or dementia) are entitled to a supplementary allowance of up to €100 per month (basic benefit) or up to €200 per month (increased benefit), or up to €1,200 or €2,400 per year. People classified in Care Level O may also receive this supplementary care allowance.

This group may also make use of six-monthly advisory visits. These visits may also be conducted by recognised providers; to be officially recognised, no proof of nursing care expertise is needed.

The supplementary care allowance is to be used solely for the purpose of hiring quality-assured care services as prescribed by law. It serves to reimburse expenses incurred by the patient when hiring day or night nurses, short-term care, recognised care providers (provided that the expenses relate to special services of general supervision and care rather than to basic care and housekeeping) or low-level care recognised under Länder law (e.g. care groups for dementia sufferers, help groups who stand in on an hourly basis to relieve relatives providing care in the home, daycare in small groups, individual care provided by recognised helpers, and family support services).

Institutional care

Additional care and enabling services are available for people with significantly reduced abilities who are looked after in nursing homes. Additional carers can be deployed for such full-time and temporary residents of care homes. The rule is one additional carer for 24 nursing home occupants suffering dementia. The costs are met in full by the statutory and private long-term care insurance funds in accordance with agreed arrangements. Those in need of care and agencies providing social assistance are not required to meet any of the costs.

Social security insurance for carers

Home care places heavy burdens on carers, most of whom are women. Carers often have to give up their normal job or cut back on the number of hours they work in order to meet these demands. In response to this situation, new legislation has improved the treatment of carers in social security matters. Carers also come under statutory accident insurance for the time during which they are providing care (information on a brochure on statutory accident insurance for carers is provided in the occupational accident insurance chapter).

If you provide non-paid nursing care for another person for a minimum of 14 hours a week in that person's home and are not employed or work no more than 14 hours a week, you are now covered by statutory pension insurance if the person in need of care is entitled to assistance from the statutory or private long-term care insurance funds. Time spent caring for two or more people in need of care can be calculated together. Your contributions are paid by the long-term care insurance fund. Your contribution rate depends upon the level of care you provide and the amount of time you must consequently spend providing care. If you take a holiday to give you a break from providing nursing care, your pension contributions will be paid by the long-term care insurance fund for the duration of your absence.

Contributions to unemployment insurance are only paid by the long-term care insurance fund for the period in which you provide nursing care. With effect from 1 February 2006, and having fulfilled certain criteria, you may opt to be voluntary insured and thus retain your entitlement to unemployment insurance. Contact your local Employment Agency for further information on this.

Reconciling family care and work

Care leave

Care in the home is also promoted by the Home and Institutional Care Act (Pflegezeitgesetz) which safeguards the interests of the relatives of a person in need of home nursing care and takes special account of the differing care-related situations and types of care needed. The Act's provisions rest on two pillars to ensure care is provided in all situations:

- When a particular care situation occurs unexpectedly, employees have the right to take up to ten days off work (temporary absence). They are thus given the opportunity to respond to an emergency situation, inform themselves of the care services available and make arrangements for their provision. The right to temporary absence from work should only be used to ensure that a person in need of care who cannot immediately be accommodated in a suitable nursing home after a stay in hospital can be looked after by relatives at home in the interim. The right to temporary absence from work applies to all employees regardless of the size of the regular workforce.
- Employees who providing nursing care for a dependent relative at home or wish to care for a terminally ill relative are also entitled to be released from work for a maximum of six months (care leave). Employees may choose between full-time and part-time care leave.

The entitlement to care leave may be exercised if the employer has a workforce of fifteen or more. It is coupled with the right to return to work under the same terms following a period of care leave (special protection against dismissal). This ensures that anyone who is willing to care for a dependent relative is safeguarded against losing their job. The option for part-time care leave and the right to return to full-time employment also prevent any disadvantages as regards upward mobility.

Necessary social security cover is maintained during care leave. Care leave is deemed as a qualifying period and the long-term care insurance fund pays contributions to the unemployment insurance fund. Under the health insurance and long-term care insurance schemes, long-term care insurance provides for a supplement to help with contributions to pay for voluntary insurance in cases where there is no other insurance provision, for example in the absence of family insurance. This supplement is equal to the actual amount payable. As was the case before the introduction of care leave, the pension insurance scheme covers compulsory contribution periods for stints of non-employed care at home if the care is provided for a minimum 14 hours per week and the person in need of care receives services and benefits from the long-term health insurance fund. Employees may not work more than 30 hours per week during care leave taken in the form of part-time leave. The contributions to the state pension insurance fund are assumed by the long-term care insurance fund regardless of the care category involved and the scope of the care provided.

Family care

Family care periods provide another opportunity to reconcile work with caring for a family member. With effect from 1 January 2012, Germany's Family Care Leave Act (Familienpflegezeitgesetz) provides for employees to care for a close relative by reducing their working week to as much as 15 hours for a period of up to 24 months. During this family care period, employees are protected against dismissal and their

pay is supplemented in an amount equal to half of the reduced pay received as a result of working part-time to care for a family member. This supplement takes the form of an advance of pay paid by the employer. When the family care period expires and the carer returns their normal working week, the employee continues to receive the reduced amount of pay until the pay advance is cancelled out. Employees have no legal entitlement to family care periods. Instead they must reach a written agreement with their employer.

For further information, see: www.familien-pflege-zeit.de (in German only).

Institutional care

If you require institutional care, your long-term care insurance will pay expenses for basic care, social services and treatment according to the level of care you require: €1,023 for Level I, €1,279 for Level II, or €1,550 for Level III care. To avert hardship, up to €1,918 in expenses will be covered if you require Level III care. As with home nursing care, you are responsible for paying your costs for food and board.

Long-term care insurance cannot meet more than 75 percent of the actual amount paid to the nursing home. This means that patients must pay at least 25 percent of their nursing home costs themselves.

Care advice and support facilities

People in need of long-term care have a legal right to care advice, meaning help and support from a care advisor at their statutory insurance fund or private insurance carrier. The advisor's services include:

- Identifying and analysing the level of care needed, taking account of the MDK assessment
- Drawing up a personal care plan which includes the necessary social and healthcare services – preventive, curative, rehabilitative and other medical and nursing care – and welfare services
- Developing the necessary measures to allow implementation of the personal care plan, including its approval by the respective service providers
- Monitoring implementation of the personal care plan and, where necessary, adapting it to a change in needs
- Evaluating and documenting the care process in extremely complex cases

Long-term care advice must include all parties involved in care provision.

Where care support facilities exist, the advisory services offered there cover all long-term care, medical and social services. The facility provides a common roof under which employees from the long-term care and health insurance funds, senior citizens' services and social services organizations can coordinate care provision and advise the individual involved.

The German Association of Top Health Insurance Funds (Spitzenverband Bund der Pflegekassen) has published a set of recommendations on both the number and the qualifications of long-term care advisors.

When requested, long-term care advice may also be provided free of charge in the home of the person in need of care. After receiving an initial application for long-term care advice and support, the long-term care insurance fund must:

- Either offer an advisory appointment at a date no later than two weeks after receipt of the application and name a point of contact
- Or issue an advisory services voucher, naming independent, neutral advisory services where the voucher can be redeemed at the insurance fund's cost within two weeks from receipt of the application

If the applicant wishes the advisory appointment may arranged at a later date.

Also, the long-term care insurance fund must inform applicants that they are entitled to receive a copy of the assessment and the separate rehabilitation plan completed by either the MDK or another expert commissioned by the insurance fund.

Anyone who is privately insured should contact their insurance carrier or the German Association of Private Health Insurers (Verband der privaten Krankenversicherung e.V.), Guastav-Heinemann-Ufer 74c, 50968 Köln. Private long-term care insurers provide long-term care advice via a centralised hotline run by the agency COMPASS Private Pflegeberatung. The hotline is available Mondays to Fridays from 8 am to 6 pm, and from 10 am to 4 pm on Saturdays (0800 1018800). Care advice may also be provided by a care advisor who visits the person in need of care at home, in a residential care home, in hospital or in a rehabilitation clinic.

Long-term care for residents of care homes for the disabled

Young disabled persons who require nursing care are entitled to all the benefits described above. Long-term care insurance will also provide a flat-rate allowance to help cover the cost of treatment at facilities that primarily focus on helping disabled people integrate into society, as opposed to providing nursing care. Residents of long-term care homes for the disabled are also entitled to the full amount of long-term care benefit for the days they are cared for in their own home.

Funding

Statutory long-term care insurance is financed through contributions that are scaled according to income. The contribution assessment limit that applies to health insurance also applies to long-term health insurance: €3,937.50 a month in both western and eastern Germany in 2012.

As of 1 January 2013, the contribution limit is 2.05 percent of assessable income.

Contributions are paid following the same method used for statutory health insurance payments: Your employer deducts your contributions directly from your wages and transfers them to your health insurance fund. To compensate employers for the additional costs arising from long-term care insurance, the Buss- und Betttag holiday (the Wednesday eleven days before Advent) was eliminated except in the state of Saxony. German employers bear half the contributions to long-term care insurance in return for this additional working day. In other words, employees pay a rate of 2.05 percent and employers 1.025 percent. In Saxony, which kept Buss- und Betttag, employees pay 1.525% and employers 0.525%.

As of 1 January 2005, childless contribution payers—irrespective of the reason for their childlessness— are required to pay a supplement of 0.25%, raising the contribution share paid by, for example, a childless employee from 1.025% to 1.275%. This complies with a decision of the Federal Constitutional Court requiring a difference in contribution rates between contributors with and without children. Childless contribution payers born before 1 January 1940 are exempt from the supplement, as are children and young people up to age 23, recipients of Unemployment Benefit II, and young men on military or civilian service.

Pensioners' contributions paid from their pensions and contributions towards annuities and income from self-employment are paid by the pensioners themselves.

For employees who pay voluntary contributions to the statutory health insurance fund, the employer pays an amount equal to half of the employee's income-related contribution to long-term care insurance. Employees with private long-term care insurance also receive an employer contribution which is limited to half of the amount the employee pays for their private long-term care insurance.

Contributions for recipients of unemployment benefit or cost-of-living allowance are paid by the Federal Employment Agency or the authorized municipal provider (for rehabilitation recipients the rehabilitation provider, for residents of care homes for the disabled the home, and for recipients of other welfare assistance towards the cost of living, the responsible welfare services agency).

pays the supplements for recipients of unemployment benefit, cost-of-living allowance, short-time allowance, training allowance, transitional allowance and, to the extent the Agency is required to pay contributions for them, vocational training grants (Berufsausbildungsbeihilfe) under the Third Book of the Social Code (SGB III), in the form of a €20 million annual lump sum to a statutory long-term care insurance equalisation fund maintained by the Federal Insurance Office. Individual members do not have to pay any supplement, but the law makes provision for the Federal Employment Agency, subject to approval from the Federal Ministry of Labour and Social Affairs, to reclaim contributions paid on their behalf.

Private long-term care insurance

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

The premiums are the same for men and women. The private long-term care insurance rate for married couples where only one spouse works, or where both work but one of their incomes is low enough to qualify as marginal employment, may not be more than 150% of the maximum rate for statutory long-term care insurance. The married couple rate does not apply for those who took out private health insurance after the introduction of compulsory private long-term care insurance on 1 January 1995. Children receive free cover, as they do under statutory long-term care insurance.

Further information

The German Federal Ministry of Labour and Social Affairs runs a citizens' information hotline on long-term care insurance. Tel. 030 340606602, Mondays to Thursdays, 8 am to 6 pm, and Fridays from 8 am to 3 pm. The Ministry also provides free advisory brochures entitled *Ratgeber zur Pflege* (Advice on Long-Term Care), *Pflegen zu Hause* (Long-Term Care at Home) and *Wenn das Gedächtnis nachlässt* (Dealing With Dementia).

Information on health insurance and long-term care insurance abroad is provided on a case-by-case basis by *Deutsche Verbindungsstelle Krankenversicherung/Pflegeversicherung – Ausland* (DVKA), Pennefeldsweg 12c, 53177 Bonn. Telephone: 0228 95300. The DVKA became a member of the German Association of Top Health Insurances (*Spitzenverband Bund der Krankenkassen*) on 1 July 2008.

Information on involving disability (including issues regarding health and long-term insurance) may also be addressed to the local rehabilitation services agency (*Gemeinsame Servicestelle der Rehabilitationsträger*).

Advice and support can also be sought from the local authorities responsible for old-age benefit.

Pension insurance **Rentenversicherung**

Welfare and pension insurance go hand in hand. For decades now, pension insurance has played an important role in providing people with the financial security they need in old age.

Who is insured?

With few exceptions, all employees pay compulsory contributions to the state pension fund – as do trainees, disabled people employed at sheltered workshops, people on military or civilian service, and people doing a year of voluntary community or environmental service.

The contribution assessment limit for 2013 is €5,800 a month in western Germany and €4,900 in eastern Germany. This is not the limit for compulsory membership of the state pension fund; that is, even if you earn more, you must still pay contributions. The contribution assessment limit is the maximum amount from which your contributions to the state insurance fund are calculated, even if you earn more.

Special provisions on contribution payments apply for employees with low earnings from 1 January 2013. The 'progression band' contribution scale reduces employee contributions in line with earnings and is applied automatically. With the increase from 1 January 2013 of the mini-job ceiling of €400 to €450, the progression band rules apply for earnings ranging from €450.01 to €850. Within the progression band, the employee share of total social insurance contributions (health, pension, long-term care and unemployment insurance, currently averaging 21% in total) increases linearly with earnings from about 4% at the bottom end of the progression band (€450.01) to the full employee share at €850. The employer continues to pay the employer's share of the total social insurance contributions for the full amount of the employee's pay. These provisions do not apply to trainees.

Important: As pensions are always calculated on the basis of the (lower) amount of pay for which contributions are paid in, employees can sign a declaration and submit it to their employer in which they opt to pay contributions matching their full pay. They then pay full employee contributions even in the progression band and their full pay is taken into account when determining their pension.

Not all self-employed people have to pay compulsory contributions. Those who must include self-employed teachers, lecturers, child carers, nursing carers and midwives. Self-employed tradespeople also pay compulsory contributions, although they may opt out after 18 years. Self-employed artists and members of the publishing professions have to pay contributions under the Artists Social Welfare Act if their annual income exceeds a set minimum, and until they have been five years in the profession – though they pay only half the contributions themselves. Contributions are subject to a minimum annual income of €3,900 generated through self-employment, but which those new to the respective professions are not required to attain. The Artists' Social Welfare Fund (Künstlersozialkasse) in Wilhelmshaven decides who must pay contributions and also sets the rate.

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

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

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

Self-employed people who are not required to pay compulsory pension contributions can apply to be made compulsory members of the pension fund within five years of becoming self-employed. They then have the same rights and obligations as other compulsory contributors.

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

Carers: You are automatically insured without having to pay contributions if you look after a relative who qualifies as being in considerable need of care. Your contributions are paid by the long-term care insurance fund.

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

Who is exempt from insurance?

Marginal permanent employment

If you are in marginal employment, you are exempt from paying social insurance contributions. Short-term employment is characterised by the fact that your employment relationship tends to be limited to a maximum of two months or 50 working days in a calendar year (as predicted from the type and scope of the work) or is limited by prior contractual agreement (for example under a fixed one-year framework employment contract). How much you earn from it does not affect whether your employment is considered short-term. The employment must not be a regular occupation or, if it is, must not exceed €400 a month. If you are in short-term employment, you are exempt from pension insurance and your employer is not required to pay a lump-sum pension contribution.

Who can pay voluntary contributions?

From 2013, low-paid workers in full-time indefinite employment may request to be made exempt from paying social insurance contributions if their monthly income does not regularly exceed €450. Up to the end of 2012, this ceiling was set at €400 per month and employees with incomes up to this amount were automatically exempt. Your employer pays a 15% flat-rate pension insurance contribution. A lower flat rate of 5% applies for marginal work in a private household, which is classed as a special form of marginal employment.

You are then required to top up the flat-rate employer's share to make up the full contribution (the full contribution in 2013 is 18.6%, so people in marginal employment in private households have to top up the 5% flat rate by a further 13.9% and all others in marginal employment have to top up the 15% flat rate by a further 3.9%). This gains you entitlement to all statutory pension benefits, including rehabilitation treatment, reduced earning capacity pensions, credit months for an early-retirement pension, and 'Riester' pension supplements. Employees on less than €175 a month pay a minimum contribution based on €175, on which the employee's share is credited.

In contrast to the existing requirement for you to be insured, if you are exempt from paying social insurance contributions and entitlements accrue in the form of one month for every month of employment, you may only accrue a marginal number of qualifying period months. Also, if your marginal employment makes you exempt from paying social insurance contributions, you are not entitled to a pension and pension entitlements are less than they would be if you were required to have insurance.

Multiple employment relationships

If you have several marginal or several short-term employment relationships, the employment relationships in each category are added together. If you exceed the above exemption limits as a result, you are required to pay all contributions for all forms of social insurance and have no legal right to exemption from the statutory pension insurance system.

The following applies if you have one or more marginal employment relationships as well as a main employment relationship subject to compulsory contributions:

If you have one marginal permanent employment relationship besides your main employment on which you pay compulsory contributions, the two are not counted together to make the marginal employment subject to contributions as well. If you have any further marginal employment relationships, they do count together with your main employment on which you pay compulsory contributions and are subject to full contributions (except for unemployment insurance) themselves. Short-term and marginal permanent employment relationships are not counted together in this way, and a short-term employment relationship does not count together with your main employment on which you pay compulsory contributions.

Exceptions are made for certain groups such as trainees and people with disabilities, who still have to pay contributions even if they come under the criteria for marginal employment.

Individual assessments regarding social insurance contributions are performed by local health insurance funds, and in the case of people engaged in marginal employment by the Deutsche Rentenversicherung Knappschaft-Bahn-See pension fund as a central collection agency (www.minijobzentrale.de). This and other social insurance agencies also provide information and advice.

Who can pay voluntary contributions?

If you do not pay compulsory contributions, as a rule you can pay voluntary contributions to the general pension funds. This option is mainly intended for self-employed people and housewives.

Rehabilitation

German pension law expressly puts rehabilitation before a pension wherever possible. The pension insurance funds examine all applications for reduced earning capacity pensions to see if rehabilitation is a viable alternative and would remove the need for a pension.

Who can claim a pension?

To claim a pension, you must have paid contributions and satisfy certain legal and personal conditions. Statutory pension insurance provides:

- Old-age pensions
- Reduced earning capacity pensions
- Surviving dependants' pensions (pensions on account of the insured person's death)

Qualifying periods as a basic condition for entitlement

You can only claim a pension if you have been insured for a minimum period. This is known as the qualifying period (Wartezeit). The general 5-year qualifying period can be made up with contribution periods and substitute qualifying periods and is a basic condition for claiming a standard old-age pension, a reduced earning capacity pension or a surviving dependants' pension. The 15-year qualifying period for drawing an old-age pension on account of unemployment or after partial retirement or an old-age pension for women can likewise be made up of contribution periods and substitute qualifying periods. The 35-year qualifying period for a long service pension or severe disability pension can additionally be made up with exempt periods, and certain child-raising periods are taken into account. The exceptionally long-service pension has a 45-year qualifying period. Compulsory contributions for employment subject to insurance contributions (excluding periods claiming unemployment benefit) and credit periods are taken into account. Exempt periods include some periods of education and training and periods of illness or unemployment.

The German Federal Ministry of Health and Social Security runs a citizens' information line on pensions. Tel. 030 221911001, Mondays to Thursdays, 8 am to 8 pm..

Early qualification

As a rule, the five-year qualifying period must be completed to claim a reduced earning capacity pension or a surviving dependant's pension, but earlier qualification is possible on reduction in earning capacity or death following an occupational accident or an injury on military or civilian service. Insured persons can also claim a full reduced earning capacity pension, or surviving dependants on the insured person's death, within six years of completing education or training if compulsory contributions were paid for at least one of the two years before the reduction in earning capacity or death. This two-year period extends, up to a maximum of six years, by the duration of school education from age 17.

Old-age pensions

Only the insured person can claim an old-age pension. You must have reached a set age (the minimum age limit). Depending on the type of pension, certain other conditions may also have to be fulfilled.

Pensions from age 67

Under a law aiming to adjust the minimum pensionable age in line with demographic change and to place the statutory pension insurance systems on a sounder financial footing (the Rentenversicherungs-Altersgrenzenanpassungsgesetz), the minimum age for a standard pension in Germany is to be gradually increased from 65 to 67 between 2012 and 2029; the minimum ages for other pensions are to increase accordingly. Planning security is given in that the rise in the minimum pensionable age decided in 2007 only began in 2012 and involves very gradual phases. By stretching its implementation over a period of several years, employees and employers are given ample time to plan accordingly.

The adjustment affords particular planning security for people born in or before 1954 if they signed a binding partial retirement agreement prior to 1 January 2007. Also, amendments to the employee protection provisions under labour law in Book VI of the Social Code ensure that employees with limited contracts that end on a given date within which they are entitled to old-age pension prior to reaching the minimum pensionable age are allowed to continue working in accordance with the gradual increase in up to age 67.

Information on these changes is given below under the heading 'Pensions from age 67'.

1. Standard old-age pension

You can claim the standard old-age pension (Regelaltersrente) when you reach the current pensionable age of 65 if you have completed the 5-year general qualifying period. There is no limit on the amount that can be earned on top of a standard old-age pension.

(See under the heading 'Pensions from age 67' regarding people born 1947 or later.)

The pensionable age at which standard old-age pension can be claimed will be gradually raised to 67 for anyone born in or after 1947. The gradual phases involve one month per birth year (standard pensionable age from 65 to 66) and then two months per birth year for people born in 1959 or after (standard pensionable age from 66 to 67). For those born before 1947, the standard pensionable age remains at 65. The standard pensionable age of 67 applies for anyone born from 1964 onwards.

People born in 1948 reach the standard pensionable age in 2013, aged 65 and two months.

2. Long service pension

With the start of the gradual raise in pensionable age on 1 January 2012, a new long service pension was introduced. Insured persons can claim long service pension in full upon reaching age 65 if they have paid compulsory contributions for a minimum of 45 years, either through insurable employment, self-employment, long-term care or periods of childrearing until a child reached is ten years old.

3. Reduced Old-age pension

Insured persons can claim a reduced old-age pension if they:

- Have reached the age of 63
- Have completed the 35-year qualifying period

The age limit for reduced old-age pension will rise gradually for people born in 1949 or after, from 65 to 67. The earliest age at which reduced old-age pension can be claimed remains at 63. The plan under existing law to reduce the earliest age at which old-age pension may be claimed to 62 will not go into effect. The reduced old-age pension amounts to 0.3 percent of the pension for each month early retirement pension is claimed.

4. Old-age pension for people with severe disabilities

Insured persons can claim an unreduced severe disability pension (Altersrente für schwerbehinderte Menschen) if they:

- Have reached the required age
- Are recognised as having a severe disability
- Have completed the 35-year qualifying period

The pensionable age for people with a severe disability will be gradually raised from 63 to 65 for anyone born in 1952 or after, and from 60 to 62 for the earliest age at which pension may be claimed. Reducing pension amounts to 0.3 percent of the pension for each month early retirement is claimed. This represents a maximum reduction of 10.8 percent.

Planning security is provided for:

- People born in 1954 or after if they signed a binding early retirement agreement before 1 January 2007
- Were recognised as having a severe disability in accordance with Section 2 (2) of Book IX of the Social Code.

For this group, the pensionable age of 63 or 60 will not be raised if they claim early retirement.

For reasons of fairness, an unreduced severe disability pension can be claimed from age 60 by insured persons who were 50 before 16 November 2000 and were recognised at that time as having a severe disability under Section 2 of Book IX of the Social Code (SGB IX) or as having an occupational disability or reduced earning capacity under prevailing law.

People are recognised as having a severe disability if their degree of disability is at least 50 and their place of residence is in Germany or a member state of the European Union. The degree of disability is assessed by the war pensions office (Versorgungsamt). People who do not have a severe disability may be entitled to a severe disability pension if they were born before 1 January 1951 and have an occupational disability or reduced earning capacity under prevailing law as applicable since 31 December 2000.

5. Old-age pension on account of unemployment or after partial retirement

Insured persons born before 1 January 1952 can claim an unreduced old-age pension on account of unemployment or after partial retirement (Altersrente wegen Arbeitslosigkeit oder nach Altersteilzeitarbeit) if they:

- Have reached the minimum age limit
- Have completed the 15-year qualifying period
- Have paid compulsory contributions in employment or an activity subject to pension insurance for at least eight of the ten years before payments are due to begin
- Are unemployed when payments are due to begin and have been unemployed for at least 52 weeks since reaching the age of 58 years and six months or have been in partial unemployment for at least 24 months when payments are due to begin

An exception is made for insured persons who before 1 January 2004 entered into a binding agreement terminating their employment relationship (such as a partial retirement or severance agreement) or were already unemployed or without work on that date. The minimum age limit for claiming the pension is 60.

The minimum age of 60 (with planning security) or 63 (without planning security) for early retirement pension and the age limit of 65 for claiming standard old-age pension on account of unemployment or after a period of part-time retirement remains unchanged and will not rise in line with the rise in pensionable age.

The 10-year period in which there must be eight years of compulsory contributions is extended in favour of the insured person in certain circumstances, for example when the 10 years include credited periods and in particular periods of unemployment not subject to compulsory contributions.

Partial retirement is defined as at least 24 months in a partial retirement arrangement; it does not matter whether the partial retirement is partly funded by the employment agency.

A certificate from the employment agency is generally required as proof of unemployment.

6. Old-age pension for women

The old-age pension for women (Altersrente für Frauen) can be claimed – with reductions – by women born before 1952 who have:

- Reached the age of 60
- Completed the 15-year qualifying period
- Paid compulsory contributions in employment or an activity subject to pension insurance for more than ten years since age 40.

The age limit of 60 for claiming early retirement pension and 65 for standard old-age pension remains unchanged for women and will not be raised in line with the raise in the minimum pensionable age.

Reduced earning capacity pensions

A reduced earning capacity pension (Rente wegen verminderter Erwerbsfähigkeit) makes up for lost earnings if your earning capacity is reduced or you can no longer work at all. To claim, you need to have paid compulsory contributions for at least three of the five years preceding the loss of earning capacity (including credited periods and child-raising periods that are taken into account), and to have completed a five-year general qualifying period before your loss of earning capacity – unless your reduced earning capacity results from circumstances that exempt you from the qualifying period.

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

A reduced-earning-capacity pension is paid until you reach pensionable age. You can then claim the standard old-age pension in at least the same amount.

The individual pension benefits are as follows:

1. Partial reduced earning capacity pension (Rente wegen teilweiser Erwerbsminderung): Insured persons who are prevented by a reduction in earning capacity due to health reasons from doing at least six hours of paid work a day under the conditions usual on the general labour market are considered to have partial reduced earning capacity. The partial reduced earning capacity pension is paid at half the rate of a full reduced earning capacity pension.
2. Full reduced earning capacity pension (Rente wegen voller Erwerbsminderung): Insured persons who are prevented by a reduction in earning capacity due to health reasons from doing at least three hours of paid work a day under the conditions usual on the general labour market are considered to have full reduced earning capacity. Insured persons who can work at least three but not more than six hours a day but because of unemployment are unable to turn the additional earning capacity into earnings likewise receive a full reduced earning capacity pension. The amount of a full reduced earning capacity pension is the same as a severe disability pension claimed early.

3. Partial reduced earning capacity and occupational disability pension (Rente wegen teilweiser Erwerbsminderung bei Berufsunfähigkeit): This is paid out to insured persons born before 2 January 1961 who have are prevented by a reduction in earning capacity due to health reasons from doing at least six hours of paid work a day in their existing occupation or in other work they can reasonably be expected to accept.

4. Full reduced earning capacity and disability pension (Renten wegen voller Erwerbsminderung für Behinderte): Insured persons who were classed as having full reduced earning capacity before completing the five-year qualifying period and have remained so since can claim a full reduced earning capacity pension after a qualifying period of 20 years. Alternatively, this pension entitlement can be made up with voluntary contributions.

Fixed-term pensions

Pensions on account of reduced earning capacity are generally paid on a fixed-term basis. They are paid on an indefinite basis, however, if:

- The pension entitlement does not depend on the situation on the labour market
- The reduction in earning capacity is unlikely to be reversed; this is assumed to be the case after a total of 9 years of fixed-term pension payments

Supplementary income

Statutory pensions make up for lost earnings or maintenance payments. Up to the minimum age for a standard pension (age 65 for those born 1946 or later), any additional earnings on top of a pension that is claimed early are subject to supplementary income limits. Supplementary income includes income from employment, self-employment and comparable sources. Income from employment does not include income received by a carer from a person in need of nursing care provided it is not more than the applicable nursing-care allowance, nor does it include income received by disabled people in a sheltered workshop. Pensions received on account of reduced earning capacity are subject to a certain amount of earnings replacement benefit being counted as supplementary income.

A. Old-age pensions

The supplementary income limits for old-age pensions depend on whether you have reached the minimum age for a standard pension and whether a full or partial pension is claimed.

1. Standard old-age pension

There is no limit on supplementary income with the standard old-age pension. If you begin claiming an old-age pension before reaching the minimum age, you will likewise cease to be subject to any limits on supplementary income when you do reach that age.

2. Old-age pensions prior to reaching the minimum age

Supplementary income limits apply to old-age pensions claimed before reaching the minimum age for a standard pension. If you receive a full pension, you may earn up to €450 a month in supplementary income before deductions. You are allowed to exceed this monthly limit and earn up to double the limit amount twice in each calendar year (for example because of holiday and Christmas bonuses). Exceeding the limit does not automatically mean losing your pension. The pension can be turned into a partial pension with a higher supplementary income limit.

Regardless of how much you earn, your old-age pension is paid as a partial pension in an amount equal to two-thirds, half or a third of the full pension amount. The amount of supplementary income you are allowed to earn is based on your income in the last three calendar years prior to claiming old-age pension. If you had no income or only a marginal income in the previous year, a general minimum supplementary income limit applies which amounts to 50 percent of the national average income.

If you are not yet drawing a pension, you can ask your pension insurance fund about the supplementary income limit ('Hinzuverdienstgrenze') that applies to you.

If you are already drawing a pension, the supplementary income limit that applies is shown in the notice stating the size of your pension ('Rentenbescheid'). You are required to notify your pension fund if you exceed the supplementary income limit.

B. Reduced earning capacity pensions

Recipients of reduced earning capacity pensions can likewise earn supplementary income up to a certain limit. In 2008, if you receive a full reduced earning capacity pension in the maximum amount, you may earn up to €450 a month in supplementary income before deductions. Partial pensions are subject – like old-age pensions – to a personal limit that depends on the last year's income you paid contributions on, and a general supplementary income limit, which is a minimum limit for all. You are allowed to exceed the monthly limit and earn up to double the limit amount twice in each calendar year (for example because of holiday and Christmas bonuses).

If you receive a reduced earning capacity pension, you are under a duty to notify your health insurance fund of any employment you take on. If you work because your health condition has fundamentally improved, the insurance fund must review your situation to see if the criteria for payment of the pension are still met. A reduced earning capacity pension may be withdrawn if the health impairment which led to the pension award no longer exists. The decision lies with the pension insurance fund.

Surviving dependants' pensions

1. Widow's or widower's pension

Widows and widowers are entitled to a statutory widow's or widowers pension (Witwen-/Witwerrente) if the deceased spouse completed the general qualifying period and they have not remarried since the spouse passed away. The general qualifying period is five years. The maximum widow's or widower's pension (grosse Witwen-/Witwerrente) is paid at 55% of the deceased spouse's full statutory pension (under previous law it was 60% of the deceased spouse's pension minus the child supplement) if the widow or widower has reached the age of 45 or has reduced earning capacity or is rearing a child under 18 or cares for a dependent child who for reasons of physical, mental or psychological disability is unable to fend for him or herself. The age limit of 45 for the maximum widow's or widower's pension will gradually rise from 45 to 47 in line with the raise in minimum pensionable age. The rules on claiming this pension will, however, remain unchanged in respect of current childrearing periods or reduced earning capacity.

A widow's or widower's pension supplement of 3.6360 additional earning points is paid for the first child raised and of 1.818 earnings points for each additional child. If none of the above criteria are met, the minimum widow's or widower's pension is paid at 25% of the deceased spouse's full statutory pension for a maximum period of 24 months (there was no time restriction under previous law). The surviving spouse's other income in excess of an exempt amount is deducted from the widow's or widower's pension.

The general rules remain valid for couples who married before 1 January 2002 and where one of the spouses was born before 2 January 1962.

Equivalent entitlements apply for civil partnerships.

2. Orphan's pension

The orphan's pension (Waisenrente) is paid up to the age of 18 to the dependent children of a deceased insured person. Children still in vocational training or who have a severe disability may claim orphan's pension up to the age of 27. Claims made by older children will only be considered in cases where they are in an interim period not exceeding four calendar months between two phases (for example, vocational training and military service or civilian service or voluntary service) or are serving a voluntary social or environmental year or are unable to fend for themselves due to physical, mental or psychological disability. Orphans who have lost both parents receive one fifth and orphans who have lost one parent receive one tenth of the full pension plus a supplement. From age 18, other income above an exempt amount is deducted from the orphan's pension.

3. Child-raising pension

A further surviving dependants' pension is the child-raising pension (Erziehungsrente). It is an independent source of income for people who are divorced and are raising children, and aims to replace child maintenance lost on the death of a divorced spouse.

You can claim child-raising pension if:

- Your divorced husband or wife has died
- If you are raising a child of your own or a child of your former husband or wife
- You have not remarried
- You yourself completed the general qualifying period before the death of your divorced partner
- You were legally divorced (western Germany: divorces after 30 June 1977 only; eastern Germany: divorces after 31 December 1991).

The child-raising pension is calculated in the same way as old-age pension. It is paid out of the surviving claimant's own pension credit periods and the transferred entitlements after pension splitting. Other income above an exempt amount (as for the widow's or widower's pension) is deducted from the child-raising pension.

4. Income deduction

40% of any other income (from employment, earnings replacement benefit or capital gains) above an exempt amount is deducted from a surviving dependants' pension. The same applies with regard to civil partnerships. The general income deduction rules under previous law (income from employment or earnings replacement benefit) remain valid for couples who married before 1 January 2002 and where one of the spouses was born before 2 January 1962. The exempt amounts for widow's or widower's pensions and child-raising pensions are currently as follows:

Western Germany: €741.05

Eastern Germany: €657.89

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

Western Germany: €157.19

Eastern Germany: €139.55

The exempt amounts for orphan's pensions from age 18 are as follows:

Western Germany: €494.03

Eastern Germany: €438.59

These amounts are linked to current pension amounts and are thus dynamic.

5. Splitting pensions between spouses

To improve women's ability to provide for their old age, young married couples now have the option to split the pension entitlements accrued during marriage. In place of the traditional provision for married and widowed couples (each receiving his or her own statutory pension while alive and when one of the spouses dies, the survivor receives a supplementary widow's or widower's pension in addition to his or her own pension), married couples may jointly declare that the pension entitlements accrued during their marriage be split between them (pension splitting). Splitting usually comes into effect while both spouses are still alive (when the second spouse claims full old-age pension upon reaching pensionable age). Pension splitting gives women higher pension entitlements in their own right which are exempt from income deduction and are not forfeited in the event of remarriage. The right to opt for pension splitting may only be exercised by married couples who have satisfied the pension credit requirements for 25 years.

Equivalent entitlements apply for civil partnerships.

How pensions are calculated

Contribution periods

The amount of your pension mainly depends on the income from employment or self-employment on which your insurance contributions are paid. Periods you spend raising children or providing unpaid home nursing care also count as contribution periods.

How much each contribution period counts towards your pension depends on how your annual income before deductions compares with the average income of all insured persons. Of course, there are times in life when your income and hence your contributions are lower. Special rules apply, for example for periods in vocational training, raising children, providing unpaid home nursing care.

Substitute periods

Substitute periods are part of the social compensation arrangements built into the statutory pensions system. They aim to prevent people from being penalised for having missed paying contributions due to events of the war. They also include periods of political incarceration in former East Germany.

Periods providing home nursing care

Since the introduction of long-term care insurance (Pflegeversicherung) on 1.4.1995, periods spent providing unpaid home nursing care (for at least 14 hours a week) are automatically credited as full contributions. Such contributions improve pension entitlements and increase the amount of pension paid out. The contributions are calculated based on the degree of care needed by the person receiving the care and on the type of home nursing care provided. Long-term care insurance covers the contributions to the statutory pension fund for people who provide unpaid home nursing care for a dependant. This also applies to people who provide unpaid home nursing care and whose official employment does not exceed 30 hours a week. Long-term care insurance contributions are not covered for certain groups who are exempt from paying into the long-term insurance scheme, e.g. people who receive a full old-age pension upon reaching pensionable age. The monthly pension accrued for providing one year of home nursing care can amount at a maximum to around €22 in western Germany and €19 in eastern Germany.

Child-raising periods

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

Child-raising periods improve pension status and increase pension amounts. This means that, among other things, they are credited to pension entitlements on grounds of reduced earning capacity or age. Thus, for children born before 1992, women who have raised 5 children or raised 2 children and paid 3 years' contributions also receive an old-age pension. For children born from 1992 onwards, raising 2 children is sufficient to meet pension entitlement criteria.

In pension terms, such periods are credited as if full contributions had been paid from earned income, and from 1 July 2006 as if the child-raising parent earned exactly the average income of all insured persons. At present, this amounts to a pension payment of around €28 in western Germany and around €25 in eastern Germany for each child-raising year. Periods spent raising children are also taken into account.

Child-raising periods that are taken into account

Periods spend raising children are credited from the day a child is born through to the day it reaches the age of ten. They do not directly affect the amount of pension received and so do not have the same effect as other pension entitlement periods. Child-raising periods are important as they make it easier for long-term insurance holders to fulfil the 45-year eligibility criteria for long service pension, 35 years for early retirement pension, provide for greater insurance cover in cases of reduced earning capacity, and help in the calculation of total pension entitlements for exempt periods, etc.

Pension entitlements are upgraded for parents who work during the first 10 years of their child's life but are forced to work part-time due to child-care commitments and thus earn below average income. For periods from 1992, this amounts to a 50% increase in pension payments up to a maximum 100% of the average income of all insured persons in cases where a total of 25 years' pension contributions have been paid (including child-rearing periods taken into account).

Parents who raise two children under ten receive pension credits in the form of 0.33 earnings points per year for child-rearing periods not taken into account. This applies for periods from 1992 onwards where a total of 25 years of pension contribution periods have been completed (including child-rearing periods taken into account).

For parents who provide home nursing care for their child, pension contributions are upgraded from the time the child is four until it reaches the age of 18. Contributions paid out of statutory long-term care insurance are upgraded by 50% to a maximum 100% of the average income of all insured persons. This also applies for periods from 1992 onwards where a total of 25 years of pension contribution periods have been completed (including child-rearing periods taken into account).

Credited periods

Credited periods mostly apply where individuals are prevented from paying contributions for reasons beyond their control. They primarily include periods when incapacitated, unemployed or in search of a training place or in full-time education from the 17th birthday onwards up to a maximum of eight years.

Added periods

Added periods apply to reduced earning capacity and surviving dependants' pensions. The younger the insured person at the time of reduced earning capacity or death, smaller the accumulated pension entitlement. Added periods secure adequate provision for the insured person or the surviving dependants. Pensions are calculated as if the insured person had been employed and paying contributions up to age 60.

Minimum income pension

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

Upgrading of certain compulsory contribution periods

Vocational training

Periods of actual vocational training are accounted for at a minimum on the basis of actual earnings and, for a maximum of three years, are upgraded from that level to match either the average for all periods credited over the individual's insurance career or 75% of the average earnings of all insured persons, whichever is lower.

Reduced compulsory contributions for people with disabilities

The minimum contribution assessment basis for contributions paid by people with disabilities working in state-approved workshops and similar institutions is 80% of the fixed reference figure. The reference figure is revised on an annual basis. For 2013, it is €2,695 in western Germany and €2,275 in eastern Germany.

Compulsory contributions during military and civilian service

During military and civilian service, compulsory contributions are paid by the federal government based on hypothetical earnings equal to 60% of the reference figure.

The pension formula

The guiding principle behind income-based, or rather contribution-based, pensions is that the amount of your pension mainly depends on the amount of earned income you insure through contributions over your

The pension formula

Three factors determine the amount of a pension:

P Personal earnings points
Insured income (up to the contribution assessment limit) for each calendar year, divided by the average income of all insured persons, then totalled over the individual's insurance career, and multiplied by the age factor.

T Pension type factor
A factor depending on what the pension is intended to provide for.

V Current pension value
The monthly pension that an average earner would receive after paying contributions for one calendar year (currently €28.07 in western Germany and €24.92 in eastern Germany).

Monthly pension

$$= P \times T \times V$$

working life. The income from insurance and self-employment that you insure through contributions each year is converted into earnings points. You are also credited with earnings points during exempt periods, at a rate that depends on the income you paid contributions on at other times.

Next, a pension type factor determines the insured amount of the respective pension in comparison with the standard old-age pension.

If you claim an old-age pension early or do not start claiming it upon reaching pensionable age, any loss or gain resulting from the longer or shorter pay-out period is compensated by an age factor.

The current pension value is the monthly pension that an average earner would receive after paying contributions for one year. It is also part of the pension formula.

Total entitlement

Exempt periods and periods of reduced contributions are also credited towards a pension. Exempt periods include credited, added and substitute periods. A period of reduced contributions exists when a compulsory period (e.g. during employment) and an exempt period (e.g. during maternity leave) fall in the same calendar month. For exempt and reduced contribution periods, your entitlement is calculated as the average of all (compulsory and voluntary) contribution periods. Although gaps in your contribution history reduce your total entitlement, exempt periods or periods of reduced

contributions do not. Child-raising periods that are taken into account increase the value of exempt periods and periods of reduced contributions.

Pension adjustment

Pensions are regularly adjusted on 1 July each year in line with changes in the current pension value for western or eastern Germany (as applicable). The total monthly pension amount is determined by multiplying the current pension value with the other factors in the pension formula.

Pension adjustments are based on trends in the income (before deductions) of the active working population, including their expenditure on statutory and private provision for old age. Adjustments also include a sustainability factor to take account of the trend in the ratio of pensioners to contributors. If there is a decrease in the number of contributors, pension increases tend to be lower. If the number of contributors rises, pension increases are generally higher as well. With the sustainability factor, pensioners share part of the extra burden resulting from greater life expectancies and the impact of birth rate and employment trends on the funding of statutory pension insurance.

A safety clause ensures that the factors curbing pensions growth (personal pension expenditure, the sustainability factor, and negative wage trends) never result in the total monthly pension amount ever being adjusted downwards.

The cumulative downward adjustment not applied due to the safety clause will be offset by halving any pension increases from 2011 onwards until the postponed adjustment is made good.

Pension information

Insured persons receive an annual pension statement from age 27. Pension statements enhance transparency regarding individual pension entitlements and provide people with a solid base on which to plan for their old age. They are generated on the basis of the pension insurance periods recorded in the individual's insurance account, and include projected pension entitlements at the minimum age for a standard pension, with and without pension adjustments. From age 55, people receive pension statements once every three years rather than annually. These statements contain more detailed information on the individual's insurance history.

Pension credits obtained abroad

Under the law on pension credits obtained abroad, individuals in certain clearly defined categories (in particular including recognised displaced persons and repatriated individuals of German ancestry) are treated as if they had spent their working lives in Germany.

Organisation

From 1 October 2005, pension insurance institutions will be classified as federal institutions and regional institutions. These institutions have names beginning with Deutsche Rentenversicherung (literally, 'German pension insurance fund'). The remainder of the name reflects the institution's area of responsibility. The federal institutions are Deutsche Rentenversicherung Bund (primarily for salary earners) and Deutsche Rentenversicherung Knappschaft-Bahn-See (miners, railway and maritime). An example of a regional pension institution is Deutsche Rentenversicherung Westfalen, covering the Westphalia region. New entrants to the pension insurance system will be told which institution is responsible for them when they are assigned an insurance number. The same applies in the event of changes in responsibility.

Pension insurance institutions are supervised by the state.

Funding

Pension payments are mainly funded out of contributions. Employers and employees each pay half of the current contribution rate (18.9% of the employee's monthly pay before deductions as of 1 January 2013), up to a contribution assessment limit of €5,800 a month in western Germany or €4,900 in eastern Germany. Pension payments are also partially subsidised by the state.

Information

Information is available from the insurance offices at town, district and municipal administrations and from insurance funds' information and advice services. You may also approach the insurance funds' elected representatives for the insured (Versichertenältesten).

Information on pensions legislation is provided by the Federal Ministry of Labour and Social Affairs, Referat Information, Publikation, Redaktion, Postfach 500, 53107 Bonn, Germany. The German Federal Ministry of Labour and Social Affairs additionally runs a citizens' information line on pension law. Tel. 030 221911011, Mondays to Thursdays, 8 am to 8 pm. Calls from the German telephone network cost €0.14 per minute (mobil max. cost Euro 0,42 per minute)

Self-employed artists and members of the publishing professions are subject to compulsory insurance under the Artists Social Insurance Act (Künstlersozialversicherungsgesetz). The income threshold for compulsory insurance is €2,900 in 2004. All artists and members of publishing professions are subject to compulsory insurance, regardless of their income, in the first five years of their career.

Since 1 January 1995, most self-employed farmers have been subject to compulsory insurance in the farmers' old-age pension fund. The established agricultural sector insurance system of western Germany was introduced in eastern Germany as part of the 1995 agricultural sector welfare reform.

Promotion of additional provision for old age Förderung der zusätzlichen Altersvorsorge

The average age of the population continues to rise. The state pension system is confronted with fewer contributors and growing numbers of pensioners. To avoid overburdening younger generations, pensions can no longer be allowed to rise at past levels. Additional provision is therefore needed to ensure that people can maintain their accustomed living standards into old age. Provision will have to be more evenly spread across three pillars: statutory old age pensions, company pension plans and personal forms of provision for old age. The state provides tax relief and allowances to aid in the establishment of additional fully funded pensions.

The German Federal Ministry of Labour and Social Affairs runs a citizens' information line on pensions. Tel. 030 221911011, Mondays to Thursdays from 8 am to 8 pm.

I. Company pension plans

Company pension plans have traditionally been something that employers provide on a voluntary basis. Since 2002, however, employees have a right to have part of their earnings paid into to a company pension plan. Employers must comply with this wish. How they organise company pensions for employees is a matter for agreement, often at company level or on a collective bargaining basis. If there is no agreement, each employee is entitled at a minimum to have part of their earnings paid into a life assurance policy (an arrangement known in Germany as direct insurance).

Company pensions – the 'second pillar' of old-age provision – have a number of advantages over personal provision:

- They are often more cost-effective, as transaction and administration costs are spread across a larger group ('bulk discount' effect).
- It is easier to manage from the employee standpoint because they do not need to choose a provider – that is up to the employer – and avoid a lot of paperwork.
- Employers often contribute financially to pension provision for employees (this is often laid down in collective agreements).

State incentives

The state promotes the use of company pension plans by making earnings paid onto them exempt from tax and social security contributions. In 2013, €4,584 can be paid into a plan tax-free. The portion of earnings paid into the plan, up to a maximum €2,784, are also exempt from social security contributions.

As with private pension arrangements, company pension plans can also be made subject to 'Riester' incentives in the form of financial subsidies and extra tax relief.

II. Personal forms of provision for old age

Since 2002, the state has provided incentives for the establishment of fully funded private pensions. The 'Riester' incentives, named after the former Federal Minister of Labour and Social Affairs, take two forms: financial subsidies (supplements) and extra tax relief on personal pension savings (as an additional tax-deductible amount). The options are as follows:

- Bank savings plans
- Private pension insurance
- Investment fund savings plans
- Home-ownership pension (Eigenheimrente: see below)

If you choose a bank savings plan, private pension insurance or a fund savings plan, be sure the product bears the number of the certifying agency and the words: "Der Altersvorsorgevertrag ist zertifiziert worden und damit im Rahmen des §10a des Einkommensteuergesetzes steuerlich förderfähig" ("Certified pension plan subject to preferential tax treatment under Section 10a of the Income Tax Act"). This means that the product complies with statutory requirements. Note that certification does not indicate how much the pension plan will pay out and does not constitute a guarantee of high returns.

Bank savings plans are particularly well suited to older investors with a shorter saving period and for people with a need for greater security. Private pension insurance is particularly well suited to security-

conscious younger investors. Funds with a high proportion of shares in their investment portfolio are more suited to younger people who are willing to accept the risks involved because they have sufficient time to make up temporary market losses. A common feature of all products is an undertaking by the provider that at least the amounts paid in (amounts saved plus supplements paid by the state) will be available at the beginning of the disbursement phase. There is therefore no risk of loss of the nominal amount.

Apart from your age and attitude towards risk, it is important to consider the following when choosing a pension product:

- The cost factor:
Products with entry costs are more cost-effective the longer the investment period.
- The risk factor:
Think about whether you want to insure yourself against the risk of reduced earning capacity or whether you want to make provision for your spouse and your children in the event of your death.
- The disbursement phase:
The supplementary pension must guarantee life-long benefits. Depending on the provider and product, 30 percent of the capital may be paid out in a lump sum at the beginning of the disbursement phase.
- Bequeathing your savings:
With bank savings plans and fund savings plans, the amount saved can be bequeathed up to the residual annuity phase (from age 85). This is not the case with private pension insurance. You may however agree a guaranteed period in which the pension must be paid out. State incentives usually have to be paid back if a pension is inherited, although there are exceptions for the surviving spouse: The state incentives do not need to be paid back if the inherited retirement savings are transferred to the surviving spouse's own Riester plan.

State incentives for private pensions are also available to anyone compulsorily insured in the statutory pension system or in the farmers' pension fund, tenured civil servants (Beamte), certain holders of public office and recipients of reduced earning capacity pensions. Married couples are also eligible: if either spouse fulfils the requirements, the other automatically receives the incentives. For this purpose, the other spouse enters into his or her own retirement savings plan and pays a contribution of at least €60 a year.

The state incentives

The main incentive for private pensions is the pension supplement, which is made up of a basic supplement for each entitled individual and, where applicable, a child supplement. If a personal pension agreement is signed, spouses are each entitled to the supplement as well if they pay a minimum of €60 per year.

Entitlement to the pension supplement is conditional upon a certain minimum own contribution (see table). If this is not paid in full, the supplement is reduced. Additionally, the amount saved towards a 'Riester' pension plan can be claimed up to a maximum amount as special expenditures for which tax relief can be granted (see table).

With the switch over to taxation upon receipt in 2005, the tax concessions for payments made into pension plans were substantially improved. This allowed self-employed people in particular the opportunity to make provision for their old age (in the form of 'Basis' or 'Rürup' pension plans).

<p>Taxation upon receipt Taxation upon receipt means that income from pension is taxed only when it is paid out to the tax payer – in old age. The contributions paid into pension plans during working life thus remain exempt from tax up to a maximum amount per year.</p>

The Privately Owned Home Pension Act (Eigenheimrentengesetz) of 2008 improved the conditions for incorporating owner-occupied residential property into state-subsidised private supplementary pension schemes. The Act introduced the following incentives for the purchase of owner-occupied housing:

Subsidies and tax relief on payments of principal on certified mortgages

During the accumulation phase, the ability to withdraw eligible retirement savings accumulated so far provided they are used directly for the purchase or construction of owner-occupied residential property. At the beginning of the disbursement phase, the ability to withdraw the accumulated retirement savings to pay off a mortgage on owner-occupied residential property

The first two incentives apply to property taken into residential occupation after 31 December 2007. The third incentive is also available for property purchased or completed before 2008.

The eligible (withdrawn) funds are taxed in a notional disbursement phase (deferred taxation). Taxpayers have a choice as to how and when the tax is paid:

1. Taxation on an annual basis for between 17 and 25 years (depending when the disbursement phase starts; this must be between the taxpayer's 60th and 68th birthday).

2. Lump-sum taxation on 70 percent of the eligible amount invested in the property.

Further information in German is available online:

http://www.bundesfinanzministerium.de/DE/Buergerinnen__und__Buerger/Alter__und__Vorsorge/Altersvorsorge

Information
For further information, please visit the following websites:
www.deutsche-rentenversicherung.de
www.bundesfinanzministerium.de
www.warentest.de
www.vzbv.de

Information

You should always keep sight of both company pensions and private pensions and weigh up which option is most advantageous in your personal situation. It is possible to use both options, having part of your earnings paid into a company pension plan exempt from tax and contributions while accumulating pension savings with Riester incentives in the form of supplements and additional tax-deductible amounts. Whether the Riester incentives are worthwhile in your particular case depends on various factors including your personal situation. Generally speaking, however, families with children and employees in lower income brackets do particularly well out of them.

Further information is available from your pension insurance institution. Information about company pensions is provided by employers, works councils and unions.

Germany's FINANZtest consumer magazine regularly compares a wide range of products and recommends those that fare best. It is also wise to obtain independent advice from a consumer advice centre (Verbraucherzentrale).

Riester incentives	
Tax-deductible amount (in addition to pension provision)	up to €2,100
Basic supplement	€154
Child supplement, per child	€185
	€300 ²
Minimum own contribution net of supplements	4% minus supplements ³
Maximum	€2,100 minus supplements
¹ Lump-sum bonus for people under 25 entering the jobs market for the first time ² For children born since 1 January 2008 ³ No less than €60 (minimum contribution)	

Compensation and assistance for war victims **Soziale Entschädigung und Kriegsoferversorgung**

In the German social welfare system, if you suffer damage to your health in circumstances for which the state takes responsibility, you are entitled to victim's compensation. Victims' surviving dependants may also claim compensation subject to certain requirements being met.

Compensation benefits are provided for:

- War victims (who currently make up the largest group of people to receive benefits under the Federal War Victims Relief Act)
- Victims of violent crime
- People injured in the course of military or civilian service
- People whose health has been damaged through inoculation-related complications
- People who were imprisoned on political grounds after 8 May 1945 in the Soviet occupational zone, the Soviet sector of Berlin or in any area specified in Article 1, Para. 2 (3) of the Federal Displaced Persons Act and whose health was impaired as a result
- People who were imprisoned on the basis of an unlawful sentence under the SED regime (the regime of the Socialist Unity Party of the former German Democratic Republic) and who suffer lasting disability as a result of their imprisonment

The law

The most important legislation regarding compensation benefits can be found in the following:

- Federal War Victims Relief Act
- Soldiers Pensions Act
- Civilian Service Act
- Released Prisoners Assistance Act
- Crime Victims Compensation Act
- Protection against Infection Act
- Rehabilitation (Criminal Law) Act
- Rehabilitation (Administrative Law) Act

The two sections that follow deal with pensions and related benefits for war victims and victims of violent crime.

Pensions and related benefits for war victims

Benefits and conditions

Upon application you will receive benefits to compensate for damage to your health and financial losses arising from an injury suffered as a result of:

- Military or equivalent service
- An accident that occurred in the performance of such service
- Conditions typical of such service
- Periods of imprisonment as a prisoner of war
- Direct effects of war (such as when civilians are injured during an air raid) or violent acts by members of occupying forces (such as physical injury or rape).

As an injured person covered by compensation law, you are entitled to medical treatment for recognised conditions arising from your injury:

- Out-patient medical and dental treatment
- Hospital treatment
- Provision of drugs, dressing materials and therapies
- Provision of aids

- Provision of dentures
- Benefits to supplement the provision of aids (such as subsidies for buying and/or modifying a car)
- Balneological treatment at a health resort
- Domestic help and benefits
- Special gymnastic exercises for people with disabilities

Important for people with severe disabilities

If you have a recognised 50% level of disability, you will also receive medical treatment for any further illnesses, provided that it is not already covered by another fund. You are not however entitled to treatment of subsequent illnesses when your earnings exceed the income limit for statutory health insurance (€4,125 a month throughout Germany in 2011).

You are also entitled to sickness benefits if you are unfit for work as a result of injury, and medical treatment including rehabilitation benefits and preventive health care, unless these benefits are provided by other funds.

You are entitled to these benefits

- As a severely disabled person, for your spouse, children and other dependants
- As a recipient of nursing care allowance, for people who care for you without pay
- As a surviving dependant

You also have an entitlement to occupational integration benefits helping you to enter, re-enter or continue working in a suitable occupation. You will receive a transitional allowance or maintenance allowance for the duration of your occupational integration assistance.

Pensions are paid to injured persons, widows and widowers, civil partners, orphans and parents. The amount of the injury pension (Beschädigtenrente) you receive is scaled according to the degree by your recognised level of disability (LOD). Your LOD must be at least 25% for you to qualify for an injury pension. Benefits include:

- A basic pension scaled according to your loss in earning capacity (LOD*). The basic pension paid to severely injured persons increases at age 65
- A supplementary allowance for extremely severe injuries, scaled in six grades
- A nursing care allowance for helpless persons, likewise scaled in six grades
- An allowance to replace clothing and underwear subject to additional wear and tear
- An blind person's allowance to help cover the cost of a guide
- Compensation for loss of income arising from a partial or total inability to pursue your former or intended occupation as a result of your injury
- Compensatory pension and a married dependant's supplement for severely injured persons to ensure that they can cover their living expenses. The injured person's income – minus certain deductions – is taken into account when setting the amount of the pension and supplement.
- Widows and orphans of a person who has died as a result of injury receive a basic pension. A compensatory pension is also paid to ensure that they can cover their living expenses. Any existing income – less certain deductions – is taken into account when setting the amount of the compensatory pension.
- A widow will receive compensation for lost income if her income, including basic and compensatory pensions and any compensatory nursing care allowances, is less than half the income her late husband would have earned had he not been injured.
- In the event that the injured person's death was not caused by his or her injury, the dependants may claim widow's, widower's or orphans' assistance provided they fulfil certain requirements.
- The parents of an injured person who died as a result of his or her injury will receive a parents' pension, provided that they are in need and over 60 years of age, or are invalids. This also applies to adoptive, step and foster parents and, under certain circumstances, grandparents. Any income the parents may have – less certain deductions – is taken into account when setting the amount of the parents' pension.

Supplementary benefits provided under the war victims' welfare scheme include the following:

- Nursing care assistance
- Domestic help
- Help for the elderly
- Convalescence assistance
- Assistance granted under special circumstances, such as integration assistance for people with disabilities
- Occupational integration assistance for injured persons
- Supplementary assistance towards living expenses

Certain benefits are provided under war victims' welfare schemes and are secondary to benefits falling under the Federal War Victims Relief Act. They constitute special assistance and are provided on an individual basis to supplement primary benefits. The amount is calculated taking existing income and assets into account, except in cases where the applicant's need is due exclusively to his or her injury.

The law

The law on compensation and welfare for war victims is set out in the Federal War Victims Relief Act.

Information

Compensation for war victims is the responsibility of war pensions offices. Claims can be submitted to these, to local authorities, social insurance providers and diplomatic missions of the Federal Republic of Germany abroad. You may also appeal against a decision at no cost in the social court (Sozialgericht).

War victims' welfare is the responsibility of local and regional welfare providers.

Decisions relating to war victims' welfare may be appealed against at administrative court level.

Financial benefits for war victims (from 1 July 2009)

Recipients	LOD* (%)	Former West	Former East
		Germany (per month) €	Germany (per month) €
Blind (travel supplement)		147	130
Basic pension for injured persons**	30	123	109
	40	168	149
	50	226	200
	60	286	254
	70	396	351
	80	479	425
	90	576	511
	100	646	673
Age supplement on basic pension	50, 60	25	22
	70, 80	31	28
	90, 100	38	34
Severe disability supplement	Level I	74	66
	Level II	154	137
	Level III	229	203
	Level IV	306	271
	Level V	382	339
	Level VI	460	408
Compensatory pension for injured persons	50, 60	396	351
	70, 80	479	425
	90	576	511
	100	646	573
Married dependants' supplement		71	63
Care allowance	Level I	272	241
	Level II	466	413
	Level III	661	586
	Level IV	849	753
	Level V	1.104	979
	Level VI	1.357	1.204
Basic pension for widows		387	343
Compensatory pension for widows		429	381
Basic pension for orphans			
- having lost one parent		110	98
- having lost both parents		204	181
Compensatory pension for			
- having lost one parent		192	170
- having lost both parents		266	236
Parental pension for			
- 2 parents		525	466
- 1 parent		366	325
Supplement under BVG 51(2) for			
- 2 parents		96	85
- 1 parent		71	63
Supplement under BVG 51(3) for			
- 2 parents		297	263
- 1 parent		215	191
Funeral allowance: full		1.560	1.384
Funeral allowance: half		781	693
Clothing grant		1,843	1,635

Victims of violent crime

Benefits and conditions

If your health has been damaged as a result of a violent crime that was committed in the Federal Republic of Germany or aboard a German ship or aircraft, you are entitled to the same benefits as a victim of war. This also applies to nationals of any other country that provides similar compensation to Germans who fall victim to violence within its borders. This reciprocal treatment does not, however, apply to citizens from other European Union member states.

The Second Act Amending the Crime Victims Compensation Act (1993) has extended these benefits to provide adequate coverage of other foreigners who have been legally resident in the Federal Republic for a longer period. Compensation is determined in part by how long the applicant has lived here – in other words, by the level of his or her integration into German society. Compensation is also granted to foreigners whose presence in the Federal Republic is deemed lawful on humanitarian or significant public interest grounds. There is a hardship clause for tourists and visitors. Under the Third Act Amending the Crime Victims Compensation Act (2009), Germans and legal aliens living in Germany may also receive compensation if they fall victim to a violent crime after 1 July 2009 while abroad for a period of less than six months. As the emphasis here is on looking after the victim rather than any specific responsibility of the German state, victims in such circumstances are only paid compensation if none is paid in the country where the crime is committed and if no other welfare system applies. Victims receive medical treatment for any injury or health impairment suffered as a result of the crime, and victims or their surviving dependants receive lump-sum compensation. The Federal Ministry of Labour and Social Affairs provides support in applications for compensation for crimes committed in countries which are member states of the European Union (see p. 6).

The law

The Crime Victims Compensation Act came into force on 16 May 1976. In most cases, it applies only to injuries arising from acts of violent crime committed after that date. If you suffered an injury through violent crime between 23 May 1949 and 15 May 1976, compensation is granted in the form of a hardship allowance only under certain conditions.

Foreigners, who have been protected under the Act since the Second Act Amending the Crime Victims Compensation Act came into force, receive compensation for crimes committed after 30 June 1990. Compensation can also be paid on compassionate grounds for injuries suffered by foreigners as a result of crimes committed before this date.

Information

You may apply for the above benefits at your local war pensions office (Versorgungsamt, any social security agency or, if you live abroad, a diplomatic mission of the Federal Republic of Germany in another country.

Important: Decisions taken by administrative authorities may be appealed against free of charge in a social court (responsible for social security and related matters). In the event that the benefits correspond to those granted under the war victims welfare scheme, appeals must be made to an administrative court.

Note: Compensation for thalidomide victims is not governed by compensation benefit law. Such cases fall under the Act on the Establishment of an 'Assistance for the Disabled' Foundation. Further information is available from the Federal Ministry for Family Affairs and Senior Citizens, Rochusstr. 8-10, 53123 Bonn, Germany.

Social assistance

Sozialhilfe

Social assistance (Sozialhilfe) provides a last safety net to protect people from poverty, social exclusion and hardship; it helps individuals and households who are unable and lack the resources to meet their own needs and have insufficient entitlement under other insurance and welfare systems that come before it.

The legislation on social assistance was comprehensively reformed in 2003 and now makes up Book Twelve of the Social Code (SGB XII). This came into force (with limited exceptions) on 1 January 2005. The main points and new features are described in the following.

Aims of the new legislation and principles underlying social assistance

Social assistance is provided so that everyone entitled to it can live in human dignity. This objective is enshrined in the opening words of SGB XII. Where income and savings fall short, social assistance covers the human minimum needed to maintain a socially acceptable living standard. It also aims to compensate as necessary for other impediments such as disabilities, need of nursing care or other exceptional social difficulties so that people can take part in community life as fully as possible. Reflecting its two main forms, social assistance used to be divided into assistance towards living expenses and assistance in special circumstances. This two-way division has now been replaced by a division into seven chapters covering assistance in specific sets of circumstances.

A further key thrust of social assistance is helping people to help themselves. According to the second sentence of SGB XII, the assistance aims to empower people to be non-dependent on it as far as possible, and claimants must contribute towards achieving this to the extent of their abilities. Claimants and social assistance agencies are also expected to cooperate in attaining this goal.

The general principles governing the provision of assistance are as follows:

- Assistance is tailored to individual needs, taking into account claimants' circumstances, wishes and abilities (SGB XII, Section 9).
- As a subordinate benefit, social assistance is not usually granted until all other resources have been exhausted – such as use of the income and assets of claimants and where applicable anyone required to support them, claimants' own earning capacity, and entitlements under other insurance and welfare systems that take precedence (SGB XII, Section 2).
- Social assistance does not have to be applied for. It is granted automatically as soon as it becomes known to a social assistance agency that the criteria for assistance have been met. The only exception is needs-based pension supplement in old age and in the event of reduced earning capacity under Chapter 4 (SGB XII, Section 18).
- Assistance is provided in the form of services, benefit payments and benefits in kind (other than services), with benefit payments generally taking priority over benefits in kind (SGB XII, Section 10). Provision of assistance is not restricted to benefits, however, and always includes advice, help in being an active member of the community, and other forms of support towards achieving non-dependence on social assistance (SGB XII, Section 11).
- Various provisions give increased priority to non-institutional over institutional assistance. For example, institutional forms of assistance are granted subject to an assessment of needs, available alternatives (including non-institutional support) and cost. Similarly, pregnant women and people with disabilities or in need of nursing care are excepted from a rebuttable presumption under Section 36 of SGB XII that a claimant's needs are met by others in a shared household.
- The provision of additional services in the form of comprehensive advice, education and support (establishing contacts, accompanying claimants on visits to social services, generating opportunities for more in-depth consultation) helps people to help themselves and take an active part in the community.

The social assistance reform: New challenges and legislative reorganisation

When the Federal Social Assistance Act came into force in 1962, its aim was to provide temporary emergency support for specific groups such as senior citizens on low pensions. Poverty among senior citizens did decline over subsequent years, but other problems took on increased urgency:

- Mass unemployment: Long-term unemployed, low-skilled foreign workers and unemployed young people without benefit entitlements increasingly needed assistance towards living expenses
- The decreasing stability of family units: For many single parents, assistance towards living expenses makes up for insufficient maintenance payments
- Immigrants making up new groups of claimants: Asylum-seekers, civil war refugees, 'resettlers' from Eastern European countries and unemployed foreign workers
- Demographic change: Increased numbers of people in need of dependent on assistance towards nursing care
- Increasing numbers of people with disabilities

This shifting pattern of circumstances necessitating social assistance prompted a two-fold legislative response, comprising amendments to bring the Federal Social Assistance Act into line with the changed social situation and various new pieces of legislation taking specific groups and circumstances outside the scope of social assistance. An act governing benefits for asylum-seekers thus came into force in 1993, and another introducing long-term care insurance in 1995. In 2001, Book IX of the Social Code expressly reclassified social assistance agencies as rehabilitation agencies, but did not aim to establish separate assistance legislation or to reduce the burden on social assistance. Needs-based pension supplement from age 65 and in the event of reduced earning capacity between ages 18 and 64 was introduced as a separate primary benefit from January 2003 and now forms Chapter 4 of SGB XII governing social assistance.

In parallel with the incorporation of social assistance as SGB XII, a separate Book II of the Social Code (SGB II) was created for job-seekers able to work and aged between 15 and 64. Members of this group now receive the new basic security benefits for job-seekers and (under SGB XII, Section 21) cannot claim assistance towards living expenses under Chapter 3 of SGB XII.

Separate laws have been passed over the years for specific groups (asylum-seekers in 1993 and recipients of old-age and reduced earning capacity pensions in 2003) and specific circumstances (need of nursing care in 1995), taking them outside the scope of social assistance. Claimants (within the meaning of Section 8, SGB II) capable of earning and aged 15 to 64, together with their dependants, now cease to come under social assistance and instead can claim benefits under SGB II (basic security benefits for job-seekers). Needs-based pension supplement in old age and in the event of reduced earning capacity now forms Chapter IV of SGB XII.

Like social assistance, the basic security benefits for job-seekers encompass services, cash benefits and non-cash benefits other than services. Their provision likewise takes claimants' individual circumstances into account. Precedence is given to overcoming the situation by integration into the labour market (using employment promotion policy instruments) or job-creation schemes with reimbursement of additional expenses. If they are not otherwise covered, individuals capable of earning who are between ages 15 and 64 and in need of assistance receive Unemployment Benefit II to meet their costs of living (SGB II, Section 19); any individuals in the household who are not capable of earning are entitled to social benefit (Sozialgeld) (SGB II, Section 28). Both types of benefit correspond in amount and structure to assistance towards living expenses under SGB XII but have to be applied for (SGB II, Section 37). Stipulations made in a Federal Constitutional Court decision of 9 February 2010 have been complied with in legislation on the determination of standard rates of benefit and amending Book II and Book XII of the Social Code (cited as BGBl. 2011 Teil I Nr. 12 and dated 29 March 2011).

In response to the decision, the standard rates for children and adolescents – which determine the standardised subsistence-level benefit rates – are set directly at different levels according to age group. The rates are no longer defined as a percentage of the former reference rate (now standard rate 1).

Types of social assistance

In its new form, social assistance covers:

- Assistance towards living expenses (SGB II, Sections 27-40)
- Needs-based pension supplement in old age and in the event of reduced earning capacity (Sections 41-46)

- Assistance towards healthcare (Sections 47-52)
- Integration assistance for disabled persons (Sections 53-60)
- Assistance towards nursing care (Sections 61-66),
- Assistance in overcoming special social difficulties (Sections 67-69)
- Assistance in other circumstances (Sections 70-74)

Each of these is provided together with advice and support as necessary.

Outline of the sectoral chapters in SGB XII and of the changes compared with the Federal Social Assistance Act

Chapter 3: Assistance towards living expenses (SGB XII, Sections 27-40)

Assistance towards living expenses (Hilfe zum Lebensunterhalt) is mostly paid out to individuals living at home; a cohabiting spouse or civil partner and any under-age children living in the same household are deemed part of the recipient's joint household. Under Section 27 of SGB XII, necessary living expenses include food, accommodation, clothing, bodycare, household effects, heating, and everyday personal necessities. The latter include reasonable expenditure on maintaining contacts with the outside world and on taking part in cultural life. This definition shows that over and above securing a physical subsistence level, social assistance also provides for a minimum human standard of living to enable participation in the community.

The former two-way division of social assistance into assistance towards living expenses and assistance in special circumstances has been replaced by a division into seven chapters, each covering assistance in specific sets of circumstances.

Assistance towards living expenses is paid where possible as a cash benefit. The potential recipient's needs are assessed first, and then their income and assets are brought into account (as stipulated in Chapter 11 of SGB XII). The needs assessment for assistance towards living expenses is made up as follows:

- New standard rates apply from 1 January 2011. The euro amounts as of 1 January 2013 are as follows:
 - Standard rate 1: €382:
For an adult entitled to assistance running his or her own household as a single person or a single parent, including if the household is shared with one or more additional adults who come under standard rate 3.
 - Standard rate 2: €345:
For each of two adults entitled to assistance running a shared household as a married couple, as civil partners or in an equivalent relationship.
 - Standard rate 3: €306:
For an adult entitled to assistance who neither runs his or her own household nor runs a shared household as a spouse, civil partner or in an equivalent relationship.
 - Standard rate 4: €289:
For an adolescent entitled to assistance from 15 to 18 years of age.
 - Standard rate 5: €255:
For a child entitled to assistance from 7 to 14 years of age.
 - Standard rate 6: €224:
For a child entitled to assistance up to six years of age.
- New education and participation rates for children and adolescents secure them a human minimum standard of living and participation in the community for school pupils. These rates are recognised independently of the standard rate so that targeted assistance can be provided for better integration of children and adolescents in need into the community.
- Accommodation in the amount of reasonable rent; if this is found to be 'unreasonably high' it is paid while a move to less expensive accommodation remains impossible or unreasonable (usually up to a maximum of six months) (SGB XII, Section 35).
- Heating costs in the amount of actual expenses incurred, provided they are reasonable. Costs of centrally supplied hot water are paid in the actual amount incurred; a lump sum for hot water is no longer deducted from the standard rate. If water is heated in the living unit (e.g. by a boiler), the additional cost is recognised (SGB XII, Section 30 (7)).
- Supplementary assistance is recognised for additional costs not covered by the standard rate in certain situations and special circumstances provided that the individual requirements are met (see box on next page).

- Certain groups are deemed to need supplementary assistance (SGB XII, Section 30); these groups are essentially as defined in the Federal Social Assistance Act, except that additional assistance is now provided for single parents. The supplementary assistance is provided by adding a percentage to the standard rate.
- Non-recurring assistance is provided for setting up a household, initial outfitting with clothes (including maternity needs) and school outings of two days or longer. Assistance is granted as a loan in the case of undeniably necessary special items normally covered by the standard rate (SGB XII, Section 37).
- Health and long-term care insurance can be paid, as can pension contributions (SGB XII, Sections 32 and 33).
- Rent arrears are paid to prevent eviction (SGB XII, Section 34).

The standard rates and non-recurring assistance are paid on a flat-rate basis. Other assistance towards living expenses is generally paid in the amount of the actual cost incurred.

- Non-recurring assistance is provided for only three purposes: Setting up a household, initial outfitting with clothes, initial outfitting with maternity and nursing needs, for the purchase and repair of orthopaedic footwear, and repair and rental of therapy equipment.
- The flat-rate supplementary assistance is now limited to 36% but is based on an increased standard rate that largely includes non-recurring assistance. A slightly more favourable supplementary rate applies for single parents. The end amount for other groups is the same as before. Single parents with a child aged 7 or older now receive a supplement (of 12%).
- Payment of unreasonably high rent in cases where a move is impossible or unreasonable is limited to six months.
- Social assistance agencies are allowed to pay a flat rate for accommodation and heating costs in certain circumstances.
- Non-recurring assistance is no longer available for other undeniably necessary special items normally covered by the standard rate; such items are now paid for with a loan, repayment of which begins while still in receipt of assistance towards living expenses.
- The pocket money for individuals in institutional accommodation is currently the minimum permitted rate.
- The availability of assistance for German citizens living abroad has been further restricted and is reduced to a small range of emergency circumstances.

Assistance towards living expenses is also paid in institutional accommodation. Besides furnishings, it then generally includes clothing and pocket money for personal use; for adults, this is 27% of standard rate 1 (SGB XII, Section 27b).

German citizens living abroad cannot receive assistance towards living expenses unless they are in an 'exceptional emergency' and there are specific reasons preventing their return (SGB XII, Section 24).

Chapter 4: Needs-based pension supplement in old age and in the event of reduced earning capacity (SGB XII, Sections 41-46a)

The new education package (assistance for education and participation) for pupils attending general education or vocational schools includes:

- Costs of one-day school/daycare centre outings
- Assistance for multiple-day school trips
- Assistance for personal school supplies (€70 for the first and €30 for the second half of the school year)
- Costs of pupils' transportation to/from school, where necessary and if not already met from other sources
- Assistance for learning support in specific circumstances
- Additional costs of communal school meals
- Monthly budget of €10 for participation in social life

The assistance for participation in the social and cultural life of the community naturally also applies on a supplementary basis for people with disabilities, as part of integration assistance.

Under Chapter 4 of SGB XII, all individuals from age 65 and individuals from age 18 who have suffered complete loss of earning capacity solely through medical causes are entitled to pension supplement if they are in need and their normal place of residence is in Germany. The pension supplement is equal in amount to non-institutional assistance towards living expenses (Chapter 3); unlike assistance towards living expenses, it has to be applied for. The supplement is generally granted for a year at a time. Income such as a pension and assets belonging to the claimant, to the claimant's spouse or civil partner (provided they do not live separately) or to the claimant's partner in a marriage-like relationship are taken into account as for social assistance, but no recourse is made to children or parents who would otherwise be legally required to support the claimant if their annual income is under €100,000.

Information

Information about needs-based pension supplement in old age and in the event of reduced earning capacity is provided by the social assistance agencies and statutory pension agencies – both for people with pension insurance and on request for all potentially entitled uninsured individuals.

Needs-based pension supplement in old age and in the event of reduced earning capacity was introduced as a primary benefit in January 2003 and now forms Chapter 4 of SGB XII. A concession under which no recourse is made to relatives who would otherwise be legally required to support the claimant remains in place, as does a similar provision in respect of the claimant's heirs. Also, claimants are not automatically presumed to receive help towards living costs from relatives or in-laws living with them in a joint household. Any such help actually received is taken into account as with assistance towards living expenses. All other arrangements are as for assistance towards living expenses.

Chapter 5: Assistance towards healthcare (SGB XII, Sections 47-52)

Assistance towards healthcare covers the same entitlements as those for statutory health insurance. This means that social assistance recipients without health insurance receive the same health care provision as those who pay into the statutory health insurance fund. The statutory health insurance funds assume the costs of medical treatment for non-insured recipients of social assistance and are then reimbursed.

Social assistance recipients lacking health insurance choose one of the health insurance funds authorised by the assistance provider. The health insurance fund provides social assistance recipients with health insurance cards to allow them to claim medical treatment as needed. Although they are not strictly members of the health insurance fund, doctors and other health care providers recognise and treat them as insured patients.

The competent social assistance office reimburses the health insurance fund for the costs of the health care services provided under the assistance towards healthcare rules. Equal treatment of non-insured social assistance recipients and insured patients means that social assistance recipients must also pay patients' contributions towards treatment within their assessed means.

Chapter 6: Integration assistance for disabled persons (SGB XII, Sections 53-60)

Integration assistance for people with disabilities is provided for the purposes of prevention, rehabilitation and integration. It aims to avert disabilities or to eliminate or relieve their consequences, and to integrate people with disabilities into the community (SGB XII, Section 53 (3)). Anyone who has or is at risk of a lasting physical, mental or psychological disability is entitled to assistance.

Essentially the same forms of integration assistance are provided under SGB XII as were previously available under the Federal Social Assistance Act and SGB IX. Section 92 of SGB XII limits the extent to which the income and assets of people with disabilities can be taken into account. In addition to the forms of assistance previously available, integration assistance can now also be provided as part of a cross-agency personal budget.

Chapter 7: Assistance towards nursing care (SGB XII, Sections 61-66)

Social assistance also supports people in need of nursing care by paying part or all of the costs of care.

The introduction of long-term care insurance (SGB XI) significantly reduced the burden of social assistance for nursing care. The new primary, insurance-based system has provided home care, part-time institutional care and short-term care benefits since April 1995 and institutional care benefits since July 1996.

Since the introduction of long-term care insurance, social assistance has mainly been responsible for people who do not meet the criterion of having 'considerable' need of care (Level I care under Section 15 of SGB XI), for cases of cost-intensive (extreme) care where long-term care insurance benefits are insufficient due to their upper limit, for meeting accommodation, food and investment costs for people in institutional care, and for people not covered by long-term care insurance.

All social assistance recipients without health insurance cover have the same entitlements as those covered by statutory health insurance and are treated accordingly. The costs of their treatment are generally assumed by the health insurance fund and are reimbursed to the fund by the social assistance provider.

Further progress has been made with the option of providing integration assistance for disabled persons as part of a 'cross-agency personal budget' (SGB XII, Section 57). A personal budget allows people with disabilities or who need nursing care to decide for themselves what assistance to claim, and in what form and from what agency to claim it.

The provisions on assistance towards nursing care are essentially the same as they were under the Federal Social Assistance Act. This is another area where assistance can be provided as part of a cross-agency personal budget.

Chapter 8, comprising Sections 67-69 of SGB XII, is identical in substance to Section 72 of the Federal Social Assistance Act, but is differently structured.

Chapter 9 is identical in substance to Sections 15, 27 (2), 67, 70, 71 and 75 of the Federal Social Assistance Act.

Chapter 8: Assistance in overcoming special social difficulties (SGB XII, Sections 67-69)

Assistance in overcoming special social difficulties is intended for people in exceptionally adverse circumstances with attendant social difficulties. This primarily includes people affected by homelessness and associated problems.

Chapter 9: Assistance in other circumstances (SGB XII, Sections 70-74)

Chapter 9 covers various forms of assistance: assistance with household upkeep (SGB XII, Section 70), assistance for the elderly (Section 71), assistance for the blind (Section 72), funeral expenses (Section 74) and, as a catch-all provision, assistance in circumstances not otherwise provided for (Section 73).

Other provisions

The remaining parts of SGB XII contain:

- Chapter 10: Facilities and services (SGB XII, Sections 75-81)
- Chapter 11: Accounting for income and assets; assignment of maintenance claims (SGB XII, Sections 82-96)
- Chapter 12: Responsibilities (SGB XII, Sections 97-101)
- Chapter 13: Repayment of costs of assistance; transfer charging between agencies (SGB XII, Sections 102-115)
- Chapter 14: Rules of procedure (SGB XII, Sections 116-120)
- Chapter 15: Statistics (SGB XII, Sections 121-129)
- Chapter 16: Transitional and final provisions

Information on the income deduction rules

Entitled individuals can retain 30% of their earnings from employment, where any employment is assumed under SGB XII to be for less than three hours a day since individuals capable of working more than this would come under SGB II, basic security benefits for job-seekers (although people with disabilities working in sheltered workshops are, as before, allowed to keep earnings equalling 12.5% of standard rate 1 plus 25% of their pay in excess of this amount).

Employment promotion benefit under SGB IX, Section 43, sentence 4 is now exempt from deduction from any form of social assistance and not solely from institutional integration assistance.

With regard to assistance under Chapters 5-9, SGB XII stipulates an income limit equal to 200% of standard rate 1 plus 70% of standard rate 1 for additional family members and accommodation costs.

If adults with disabilities or in need of nursing care have a claim to maintenance, the claim is automatically assigned (with limited exceptions) to the social assistance agency at a flat rate of up to €31.07 a month for integration assistance for people with disabilities and assistance towards nursing care, and up to €23.90 a month for assistance towards living expenses. As a rule, no recourse is made to relatives who would otherwise be legally required to provide maintenance in respect of needs-based pension supplement in old age and in the event of reduced earning capacity.

Some 23,408,512 people in pilot regions around the country can now use the 115 hotline to contact their local authorities and welfare services. Depending on the reason for their call, they may be transferred to another office, be it at local, regional or national level.

Reasons to dial 115

- Find out what social assistance is available in your area
- Who your point of contact is
- If other types of help and support are available

The 115 hotline is open Monday to Friday from 8 am to 6pm.

More and more regions will join the system as the program develops. A list of all 115 regions is available at www.d115.de (updated daily).

Housing benefit

Wohngeld

Good housing is expensive – too expensive for some people. This is why there is housing benefit (Wohngeld), an allowance that the state grants to help cover the cost of housing.

Tenants as well as homeowners can receive housing benefit if their rent or mortgage payments exceed their financial means. It does not matter whether your home is old or new, or whether it was built with the help of government subsidies or tax concessions or was entirely privately financed.

Housing benefit is called rent support (Mietzuschuss) when it is granted to tenants, and mortgage and home upkeep support (Lastenzuschuss) when granted to homeowners.

Housing benefit increase on 1 January 2009

A housing benefit reform entered into force on 1 January 2009 and brought significant benefit-related improvements. One new provision takes account of rising energy prices and makes heating costs an integral component of housing benefit. The heating portion of the benefit is calculated based on a fixed incremental amount relative to the size of the household and is added to the gross rent excluding utility costs.

Housing benefit has also been increased: the maximum amount of rent support and of mortgage and home upkeep support has been increased to match that for newly built homes and then increased again by 10 percent. The tabular values increased by 8 percent, and a non-recurring supplement was paid to households which received housing benefit for at least one month during the period October 2008 to March 2009.

Benefits and conditions

Rent support is available to people who:

- Rent a flat or a room
- Sub-rent a flat or a room
- Own a flat in a co-operative or a housing trust
- Have been granted a right of use or a permanent dwelling right equivalent to a tenancy
- Own a multi-unit dwelling (with three or more flats), provided they also live in it
- Live in a home they own

Mortgage and home upkeep support is available to people who own:

- A one or two-family house which they live in but is used primarily as a place of business or is part of a full-time farming operation
- An owner-occupied house or flat
- A heritable right to build,
- A permanent dwelling right equivalent to ownership
- A claim to be transferred title in a building or dwelling, or a claim to be transferred or granted a heritable right to build provided they live in the accommodation in question

Non-entitlement to housing benefit

Housing benefit is not granted to recipients of:

- Unemployment Benefit II and social benefit (Sozialgeld) under Book Two of the Social Code (SGB II)
- Assistance provided under Section 22 (7) of SGB II
- Transitional allowance equal in amount to unemployment benefit II under the first sentence of Section 21 (4) of SGB XI

- Injury benefit equal in amount to unemployment benefit II under Section 47 (2) of SGB VII
- Needs-based pension supplement in old age and in the event of reduced earning capacity under SGB XII
- Assistance towards living expenses under SGB XII
- Supplementary assistance towards living expenses and other assistance in a facility under the Federal War Victims Relief Act (Bundesversorgungsgesetz) or other legislation under which that act applies
- Assistance in special cases and basic assistance under the Asylum Seekers Assistance Act (Asylbewerberleistungsgesetz)
- Assistance under SGB VIII in households consisting solely of recipients of such assistance and their dependants taken into consideration in its assessment where the costs of accommodation are included

Applications for housing benefit may not be refused in cases where its provision would prevent or remove the need for social assistance and one of the above-mentioned benefits has either not been or will not be provided but ranks below the provision of housing benefit.

Legal entitlement

Housing benefit is not a form of government charity. Anyone who is able to claim housing benefit is also legally entitled.

Eligibility criteria

Several factors determine whether you receive housing benefit and the amount you receive. They include:

- The number of family members in your household (these include the person entitled to housing benefit, spouse, civil partner, partner in another relationship of shared responsibility, parents, children – including adopted and foster children – brothers and sisters, uncles, aunts, brother-in-law and sister-in-law)
- The amount of rent or mortgage payment that qualifies for support. However, a ceiling applies to the amount of rent or mortgage payments that can be taken into account depending on the number of members of your household eligible for consideration and the official table of maximum rents.
- Total family income

Calculation of total income

Housing benefit is based on annual income as defined under taxation law. This means taxable income within the meaning of Section 2 (1) and (2) of the German Income Tax Act (Einkommensteuergesetz). A catalogue of tax-exempted incomes is also used in the calculation.

The total income figure is the sum total annual income of all family members belonging to the household, minus certain deductions and exempt amounts. Applicants must provide proof of the income figures they state.

The annual income stated in an application is the amount that applicants expect to earn while receiving benefit.

Housing Benefit and Income Ceilings

Number of members of the household	Monthly total income limits in euros in accordance with the housing benefit formula in communities covered by the official table of maximum rents					
	I	II	III	IV	V	VI
1	780	790	800	820	840	860
2	1050	1070	1100	1120	1140	1170
3	1310	1340	1350	1380	1410	1430
4	1710	1750	1780	1810	1850	1880
5	1980	2010	2040	2080	2110	2150

What you have to do

Make an application

To receive housing benefit, you have to submit an application to the competent local authority housing benefit office and produce proof of eligibility.

The entitlement period

Housing benefit is usually granted for 12 months at a time. It may however run for a shorter or longer period. When you decide to apply, please remember that, at the earliest, housing benefit is paid beginning with the month your application is received.

Should you continue to need housing benefit after your entitlement period has ended, you will have to reapply. If possible, you should submit your application two months in advance to avoid a possible interruption in payments.

The law

The underlying legislation can be found in the Housing Benefits Act as supplemented by the Housing Benefits Ordinance.

Information

Staff at the local housing benefit office have a legal duty to advise you on your rights and obligations under the Housing Benefit Act.

More detailed information about housing benefit law is available online on the Federal Ministry of Transport, Building and Urban Affairs website (<http://www.bmvbs.de/en/dokumente/-,1872.962035/Artikel/dokument.htm>).

International social security

Internationale Sozialversicherung

According to German social security law, benefits are to be provided in many cases only in Germany. But our lives are becoming increasingly international. Today, millions of people work in other countries or visit them as tourists. And this trend makes it important for social benefits to be paid across borders or provided in other countries.

Which is why the European Union (Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Germany, Greece, Finland, France, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the UK) has a legal framework that enables payment of benefits to entitled persons across borders and ensures that they and their families have, for example, necessary health care in all EU member states.

The agreement on the European Economic Area (EEA) extended this legal framework to include Norway, Iceland and Liechtenstein. It also applies in Switzerland.

Similar agreements have been concluded with a number of countries with which Germany has signed social security agreements. These include:

- Australia
- Bosnia-Herzegovina
- Brazil (pensions only)
- Canada (pensions only)
- Chile (pensions only)
- China (secondment)
- Croatia
- India (secondment)
- Israel
- Japan (pensions only)
- Macedonia
- Montenegro
- Morocco
- Serbia
- South Korea (pensions only)
- Tunisia
- Turkey
- USA (pensions only)

The social insurance agreements with China and India cover the avoidance of double contribution payments when an employee from one country works in the other.

None of these agreements is concerned with harmonising security systems. Their emphasis is on coordination.

General

The European Union provisions and some of the social security agreements are very comprehensive. The most important provisions involve benefits provided in the event of illness, invalidity and old age, and those granted to surviving dependants and to people who have suffered an industrial accident or occupational illness.

The international agreements are based on two assumptions:

1. That all persons covered by them enjoy the same status regarding their rights in social welfare matters.
2. That residence in one EU country or contracting state can generally be accorded equal status with residence in another EU member country or contracting state.

Important: The international agreements cover not only compulsory insurance but voluntary insurance under the applicable terms as well. The EU provisions apply to you for example if you are or have been insured in accordance with the regulations of one or more EU member states. You must also be a citizen of an EU member state, a third-country national, a stateless person or a refugee, and you must live in an EU member state.

Bilateral agreements (those with non-EU states) apply primarily to:

- German nationals
- Nationals of the other contracting state
- Refugees
- Stateless persons

The law

Regulation (EC) No 883/2004 provides the basis for social security coverage within the European Union, the European Economic Area (EEA) and Switzerland. The above listed social security agreements apply elsewhere.

Health insurance

Benefits and conditions

If you have moved to another EU country or a contracting state to work, you will have health insurance coverage there as well and receive any necessary benefits from the appropriate funds.

You are also entitled as a tourist in any EU member state to medical treatment that cannot be postponed until your planned return. If you go to an EU member state to obtain medical treatment, your German health insurance is required to refund your expenses up to the amount you would have incurred for the same treatment in Germany. In the case of hospital treatment, the prior consent of your health insurance is required. This does not apply in Australia, Canada, Chile, China, India, Israel, Japan, Morocco, South Korea or the USA.

If you are a foreign national and work in Germany while your family is living in, say, Turkey, your family will enjoy full health insurance coverage in Turkey as well, just as if you were employed there.

What you have to do

If you plan to travel abroad as a tourist, you should take a European Health Insurance Card (EHIC) from your health insurance fund with you. If you are going to Bosnia-Herzegovina, Montenegro, Serbia, Turkey or Tunisia, you should obtain a special claim certificate (Anspruchsbescheinigung). This is also accepted outside the EU in Croatia and Macedonia.

This certificate also lists whom you must contact where you are travelling should you require health insurance benefits.

If your employer sends you to work in another country, you will continue to be insured in your own country and pay your contributions there. In such cases, you should take a relocation certificate (Entsendebescheinigung) with you. It entitles you to claim benefits in the other country and protects you against having to pay insurance there as well.

Under a decision of the European Court of Justice, long-term care insurance must be paid out to German policyholders and their co-insured family members in all EU and European Economic Area states and Switzerland.

Information

Advice and information is provided by your health insurance fund and by GVK-Spitzenverband, Deutsche Verbindungsstelle, Krankenversicherung-Ausland (DVKA) (the German liaison office for health insurance abroad), Postfach 200 464, 53134 Bonn.

Occupational accident insurance

Benefits and conditions

Take the following example: You are a German national and have been working in France for a French company and are now returning to Germany after having suffered an accident at work. Your French insurance fund will pay a disability pension to you in Germany. You will also be entitled to receive the medical treatment you need in either country.

If you were to have a fatal accident while working abroad, the insurance fund in that country would pay a pension to your surviving dependants, even if they live in Germany.

What you have to do

If you want to apply for benefits, you should contact your insurance fund in Germany or, if you are abroad, the foreign insurance fund in the country you are in.

Information

Information and advice is provided by the Deutsche Gesetzliche Unfallversicherung (DGUV) (German Statutory Accident Insurance), Alte Heerstrasse 111, 53757 Sankt Augustin, Germany.

Pension insurance

Benefits and conditions

If you have worked in various EU member states or contracting states during the course of your working life, the respective periods during which you were covered by pension insurance will be added together and applied toward your qualifying period. If you qualify for a pension, it will be paid to you even if you live in another EU member state or contracting state. As a rule, each insurance fund will pay a part of the pension proportionate to the periods during which you were insured with it. Survivors' pensions are paid on the same basis.

What you have to do

If you live abroad and are a member of a German insurance fund, you will continue to pay your contributions as usual. Should you require benefits, you should apply to the insurance fund in the country where you live. You can also receive benefits from abroad by applying to the fund in the respective country or to the German fund.

Information

Information and advice regarding EU and EEA member states are provided by the following:

- Deutsche Rentenversicherung Bund (www.deutsche-rentenversicherung-bund.de)
- Deutsche Rentenversicherung Knappschaft-Bahn-See, (www.deutsche-rentenversicherung-knappschaft-bahn-see.de)

And by Deutsche Rentenversicherung's regional agencies:

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

- For Denmark, Estonia, Finland, Great Britain, Ireland, Latvia, Lithuania, Norway, Sweden, China, Canada and the USA; Nord (www.deutsche-rentenversicherung-nord.de)
- For Austria; Bayern-Süd (www.deutsche-rentenversicherung-bayernsued.de)
- For Portugal, Romania and Turkey; Nordbayern (www.deutsche-rentenversicherung-nordbayern.de)
- For Australia; Oldenburg-Bremen (www.deutsche-rentenversicherung-oldenburg-bremen.de)
- For Belgium, Spain, Chile and Israel; Rheinland (www.deutsche-rentenversicherung-rheinland.de)
- For France and Luxembourg; Rheinland-Pfalz (www.deutsche-rentenversicherung-rheinland-pfalz.de)
- For Italy, Malta, Morocco and Tunisia; Schwaben (www.deutsche-rentenversicherung-schwaben.de)
- For the Netherlands and Iceland; Westfalen (www.deutsche-rentenversicherung-westfalen.de)

Child benefit

Benefits and conditions

If you are unconditionally required to pay tax or are gainfully employed in Germany, you can receive child benefit (Kindergeld) for children living in certain other countries. Child benefit is paid in full for children living in other EU states, in Liechtenstein, Switzerland, Norway and Iceland. Agreed rates are paid for children living in other countries, such as Turkey.

If you work in one of these countries but weren't sent there by your German employer, you will normally receive family allowance (child benefit) according to the provisions that apply in the country where you work.

What you have to do

Submit an application for benefits to your local family benefits department (Familienkasse) or to your employer if it is a public body. If you have a foreign claim, you should contact the competent foreign agency. Further information is available in special leaflets.

Information

Information and advice are provided by the local family benefits department (Familienkasse).

Unemployment insurance

Benefits and conditions

If you are unemployed and move to another EU country or to Norway, Iceland, Liechtenstein or Switzerland in order to seek employment there, you may continue to receive German unemployment benefits under certain circumstances for a maximum period of three or at the outside six months. Your payments continue in Germany if you return there within this period. If you are unemployed, were previously employed in Germany and are now in Bosnia-Herzegovina, Croatia, Serbia, Montenegro or Macedonia, in certain circumstances you can receive benefits from that country's insurance fund.

What you have to do

You must fulfil the following requirements in order to continue receiving German unemployment benefits after moving to another EU state: Before your departure, you must have been registered with the German employment services as an unemployed person and have been available for work for at least four weeks after becoming unemployed. You are also required to register as a job seeker with the employment services in the EU member state you have moved to within seven days of your arrival.

Information

Information and advice are provided by your local employment office (*Arbeitsamt*) and by Federal Employment Services (*Bundesanstalt für Arbeit*) in Nuremberg.

The social courts

Sozialgerichtsbarkeit

Social security and legal protection by the social courts go hand in hand. The social courts ensure that anyone can have their rights under social welfare law reviewed and enforced through the courts.

Jurisdiction of the social courts

The social courts mostly judge disputes involving social insurance matters. These include health insurance, occupational accident insurance and pension insurance, and also unemployment insurance, social compensation law with the exception of compensation and assistance for war victims, and the law relating to severe disabilities. Since 1 January 2005, the social courts have also been the courts of responsible jurisdiction for disputes about basic security benefits for job-seekers ('Hartz IV' benefits) and social assistance.

Organisation of the social courts

The social courts are organised in three levels. The social courts of first instance are known as Sozialgerichte. Länder social courts (Landessozialgerichte) – one for each of the sixteen German states – adjudicate in the second instance. The final instance is the Federal Social Court (Bundessozialgericht). Each first-instance social court has a number of chambers, each dealing with specific areas of law within the social court jurisdiction. A chamber comprises a professional presiding judge and two lay assistant judges. The Länder social courts take appeals against decisions of the first-instance social courts. Their senates – corresponding to the chambers at the first-instance courts – comprise a presiding judge, two additional professional judges and two lay judges. The senates of the Federal Social Court, which decides appeals on points of law, likewise consist of a presiding judge, two additional professional judges and two lay judges.

The lay judges have the same rights and duties as the professional judges. Lay judges appointed to social court chambers and senates are selected for their particular experience as practitioners in the applicable area of law.

Filing a complaint

Complaints must be filed with the court in writing or dictated into the record. 'Dictated into the record' means that complainant files a complaint by describing the matter at dispute to the clerk of the court, who puts the complaint in writing. The complaint must name the complainant and the respondent. It must also state the remedy sought. The complaint should state the social assistance agency or public authority decision notice, if any, that it is directed against; the notice should be filed with the complaint. Facts and evidence supporting the complaint must also be given.

Complaints must be filed with the first-instance social court of local jurisdiction for the complainant's place of domicile at the time.

Before filing for reversal of an administrative decision or for the granting of a refused administrative decision, complainants must generally first lodge an administrative appeal against the decision or refusal with the competent authority or social assistance agency. Such appeals must be lodged in writing with or notified for documentation to the office that issued the decision or refusal, within one month of its issue. The authority or social assistance agency then reviews the lawfulness and expediency of the decision or refusal in an administrative appeal procedure. If an authority or agency finds an administrative appeal to be justified, it reverses the disputed decision and if applicable grants the decision sought. If not, the authority or agency responsible for taking the administrative appeal issues a notice rejecting it and affirming the decision or rejection. In this event, a complaint can be filed with a social court.

There is a time limit for bringing complaints: A complaint must be filed with the competent social court within one month of the notice rejecting the administrative appeal.

Court proceedings

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

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

Parties to social court proceedings can be represented by someone who has their power of attorney. This is only absolutely necessary before the Federal Social Court, however, and is not a requirement for first-instance and Länder social courts. Such representation might be provided by a lawyer, or a member or employee of a union or employer's association.

Court proceedings normally end with a decision. This is usually announced at the session in which the oral hearing is held and brought to conclusion.

Judicial review of social court decisions

Two types of appeal are possible: an appeal on the merits of the case (Berufung) and an appeal on a point of law (Revision). An appeal on the merits can in principle be lodged against any decision of a first-instance social court; an exception is where the amount at dispute is less than €750, for which an appeal on the merits can only be lodged if the first-instance court expressly gives leave to appeal. The amount at dispute is the difference between what the appellant received in the proceedings before the first-instance social court and what he or she seeks on appeal. In an appeal on the merits, the competent Länder social court reviews all factual and legal aspects of the case.

A decision handed down by a Länder social court can be contested by an appeal to the Federal Social Court on a point of law. Unlike an appeal on the merits, an appeal can only be taken to the Federal Social Court if the Länder social court expressly gives leave to appeal. Leave must be granted first and foremost if the issue is of fundamental significance – for example because it is one on which the Federal Social Court has not yet handed down a decision or it affects the public interest – or if the Länder court decision is at variance with a decision of the federal court. If a Länder social court denies leave to appeal, a complaint can be filed against the denial. In an appeal on a point of law, the Federal Social Court does not review the factual aspects of a case, focusing instead on the legal point at issue.

An appeal on the merits of the case or an appeal on a point of law must be filed within one month of the decision being served.

Cost of social court proceedings

Proceedings before the social courts are free of charge to insured persons in the statutory insurance system, except in cases involving exceptionally long court proceedings. Complainants not in any of these groups – for example social assistance agencies – must pay a flat-rate fee. If neither the claimant nor the respondent is in any of the three exempt groups, court fees are levied according to the amount at dispute as with other types of court.

Social security data protection

Sozialdatenschutz

Principles of social security data protection

Guaranteeing social welfare rights through social security systems unavoidably entails the **handling of personal data (social security data)** on the citizens concerned. However, the collection, processing and use of often highly sensitive personal data, for example on people's health conditions, must generally be regarded as an **infringement of the individual's constitutional right of informational self-determination**. In view of this, particularly strict rules apply.

The constitutional requirement for laws safeguarding social security data as a class of personal data in **particular need of protection** has been met with the provisions on **social security confidentiality in Section 35 of Book I of the Social Code ('SGB I'), social security data protection (SGB X, Chapter 2, Sections 67-85a) and supplementary data protection provisions** in other parts of the social code. Under these provisions, it is **everyone's right that social security data pertaining to them are not collected, processed or used by social welfare agencies without authorisation (social security confidentiality)**. The rules on social security confidentiality and social security data protection apply whether the Social Code is implemented by federal or by Länder authorities.

Social security data are individual items of information about the person or effects of a specific or identifiable individual that are collected, processed or used by, for example, a social welfare provider in the performance of its duties under the Social Code. **Business and trade secrets** are equivalent to social security data before the law. Special rules apply in some cases for particularly sensitive personal data such as health data.

Collection, processing and use of social security data is only lawful if there is statutory authorisation allowing it or if the individual concerned gives their consent (**prohibited subject to consent**). The law must, therefore, define the type of personal data that may be collated, stored and transferred by social security providers. Also, in the collation of personal data, the principle applies whereby the data may only be collected, processed and used if the responsible agency **needs** them to fulfil its duties. These are usually a social assistance provider, such as a pension insurance fund or a health insurance fund. For example, health insurance funds may only collect personal data if they are needed to determine an individual's insurance status and membership of the fund. Key data include the person's name, address, family status and employment status. The data may only be processed and used for the purpose for which it is collected (the principle of purpose).

The provisions regarding social security secrecy and data protection and privacy apply independent of the prevailing national or Länder (state) Social Code.

Examples

(1) An employers' liability fund provides a pension fund with information on an injury pension so that the pension fund can assess whether, and if applicable in what amount, it is allowed to deduct pension benefits under SGB VI, Section 93.

(2) If a benefits agency is planning to prosecute someone for benefit fraud or for withholding and embezzling wages, it is allowed to pass on social security data to the law enforcement authorities. The same would apply, for example, for a health insurance fund taking action to collect unpaid contributions, because such measures are deemed appropriate for upholding payment discipline.

Communication of data

Communication of social security data is a particular form of data use and is only lawful with the **consent** of the individual concerned or if there is **statutory authorisation** to communicate the data under the Social Code. In the statutory definition, communication means making social security data stored or acquired by data processing known to a third party by way of the data being passed on to the third party or the third party viewing or retrieving data made available for viewing or retrieval.

Common circumstances in which data are communicated:

- Communication of specific enumerated data such as name or address for the work of the police, public prosecutors, etc.
- Communication for the performance of social welfare responsibilities
- Communication for occupational health and safety purposes
- Communication for the performance of special statutory responsibilities and notification powers
- Communication of social security data for research and planning

- Communication to supranational and international agencies abroad

Communication for the performance of social welfare responsibilities is particularly important in practice.

Rights of the affected individual

Protection of social security data provides for a range of individual rights. If an individual believes that their rights have been breached in the collection, processing and use of their social security data, they may appeal to the Federal Commissioner for Data Protection (Bundesbeauftragten für den Datenschutz) or the responsible agency as defined by Länder (state) law (usually the regional commissioner for data protection). Also, Book X of the Social Code provides information-related opportunities for affected individuals: for example, they are entitled to have erroneous social security data corrected.

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Germany

Email: publikationen@bundesregierung.de
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Email: info.gehoerlos@bmas.bund.de

Text telephone: 01805 676716

Fax: 01805 676717

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telephone: gebaerdentelefon@sip.bmas.buergerservice-bund.de

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