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Social Code Book XIV – Social Compensation

(Sozialgesetzbuch Vierzehntes Buch – Soziale Entschädigung, SGB XIV)

**(sections 1–24, 29–38, 41–53, 57–59, 62–76, 82–122a, 137–141
and 149–153)**

Book Fourteen of the Social Code of 12 December 2019 (Federal Law Gazette I, p. 2652),
as last amended by Article 11 of the Act of 22 December 2023 (Federal Law Gazette 2023 I
No. 408)

Official short title introduced by Article 10 no. 0 of the Act of 22 December 2023 (Federal
Law Gazette 2023 I No. 408) with effect from 1 January 2024. This statute was adopted by
the Bundestag with the approval of the Bundesrat as Article 1 of the Act of 12 December
2019 (Federal Law Gazette I, p. 2652). Pursuant to Article 60 (7) of that Act, it enters into
force on 1 January 2024. Pursuant to Article 60 (3) no. 1 of that Act, sections 38, 40, 91, 109
and 113 (6) enter into force on 20 December 2019. Pursuant to Article 60 (5), section 2,
sections 31 to 37, sections 111 to 112, sections 115 to 116 and section 138 (7) enter into
force on 1 January 2021.

Chapter 1

General provisions

Section 1

Purpose and ambit of social compensation

(1) Social compensation supports people who have suffered damage to their health as a
result of an event causing damage for which the state community bears particular
responsibility when it comes to dealing with the consequences thereof.

(2) "Events causing damage" means

1. violent crimes within the meaning of Chapter 2 Division 2 Subdivision 1,
2. the effects of both world wars within the meaning of Chapter 2 Division 2
Subdivision 2,
3. incidents in connection with the performance of civilian service within the
meaning of Chapter 2 Division 2 Subdivision 3 and
4. vaccinations or other specific prophylactic measures within the meaning of
Chapter 2 Division 2 Subdivision 4

which have caused damage to health.

(3) Events causing damage may be limited in time, may be recurrent or may extend over a
period of time.

Section 2

Persons entitled to social compensation

- (1) "Persons entitled" means persons suffering health damage and their family members, surviving dependants and close persons.
- (2) "Persons suffering health damage" means persons who have directly suffered damage to their health as a result of an event causing damage as defined in this Book.
- (3) "Family members" means spouses and the children and parents of persons suffering health damage. "Children" also means stepchildren and foster children within the meaning of section 2 (1) sentence 1 no. 2 of the Federal Child Benefits Act (*Bundeskindergeldgesetz*) who are living in the household of a person suffering health damage.
- (4) "Surviving dependants" means
1. the widow, widower and orphans,
 2. the parents and
 3. persons entitled to child maintenance
- of a person who died of the consequences of health damage suffered. "Orphans" includes stepchildren and foster children within the meaning of section 2 (1) sentence 1 no. 2 of the Federal Child Benefits Act who are living in the household of a person who died of the consequences of health damage suffered.
- (5) "Close persons" means siblings and persons cohabiting in a situation similar to marriage with persons suffering health damage.

Section 3

Benefits and services under social compensation scheme

Social compensation encompasses the following:

1. case management services and trauma outpatient clinic services rendered in the form of rapid assistance within the meaning of Chapter 4,
2. medical treatment under the social compensation scheme within the meaning of Chapter 5,
3. participation benefits and services within the meaning of Chapter 6,
4. benefits and services for persons in need of long-term care within the meaning of Chapter 7,
5. benefits and services for persons who are blind within the meaning of Chapter 8,
6. compensation payments within the meaning of Chapter 9,
7. compensation for loss of earnings within the meaning of Chapter 10,
8. special benefits and services in individual cases within the meaning of Chapter 11,
9. benefits in connection with the transportation of a deceased person's remains and burial within the meaning of Chapter 12,
10. compensation in hardship cases within the meaning of Chapter 13,
11. benefits and services for persons whose place of residence or habitual residence is abroad within the meaning of Chapter 14 and
12. benefits and services provided in accordance with the provisions on acquired rights as set out in Chapter 23.

Chapter 2
Claim to benefits and services under social compensation scheme

Division 1
General qualifying conditions

Section 4
Claim to benefits and services of persons suffering health damage

(1) Persons suffering health damage have a claim to benefits and services under the social compensation scheme because of the recognised health and economic consequences of damage to health causally resulting from an event causing damage. Whether the qualifying conditions referred to in sentence 1 are fulfilled is to be determined upon application.

(2) A claim as referred to in subsection (1) also exists in the case of damage to health which

1. was caused by an accident which persons suffering health damage were involved in

a) on route to or from a place which they have to take to avail themselves of the benefits and services set out in this Book,

b) when availing themselves of the benefits and services set out in this Book to which they are entitled or

c) when immediately reporting a criminal offence or on route to or from doing so,

2. a person sustains in an accident within the meaning of no. 1 when necessarily accompanying a person suffering health damage.

(3) A claim as referred to in subsection (1) also exists in the case of damage to or the loss of aids worn in or on the body.

(4) The likelihood that there is a causal link is sufficient for a health disorder to be recognised as a consequence of health damage. A causal link is deemed to exist where, in accordance with the current state of medical science, there is more that speaks in favour of than against a causal link.

(5) In the case of mental health disorders, the likelihood that there is a causal link is presumed to exist in the individual case where there are medical facts which, on the basis of experience gained in medical science, establish a causal connection between an event causing damage which is suitable on account of its nature and severity and the damage to health and the consequence of that health damage, and this presumption is not rebutted by any other causality.

(6) If the likelihood required for recognition of a health disorder as a consequence of health damage is not deemed to exist merely on account of the uncertainty within medical science as to the cause of the health disorder, then the health disorder may be recognised as a consequence of health damage with the approval of the Federal Ministry of Labour and Social Affairs. In the cases set out in Chapter 2 Division 2 Subdivision 4, the approval of the competent highest *Land* authority takes the place of the approval of the Federal Ministry of Labour and Social Affairs. Such approval may be given generally.

Section 5
Degree of impairment, authorisation to issue statutory instruments

(1) The degree of impairment is to be assessed across all areas of life on the basis of the general effects of physical, mental, psychological or sensory impairments caused by those health disorders which have been recognised as a consequence of the health damage. It is to be assessed in increments of 10, ranging from 10 to 100. A degree of impairment of up to five degrees lower than a particular increment is rounded up to the next highest increment. No account is to be taken of temporary health disorders. A period of up to six months is considered to be “temporary”. In the case of children and youth who have suffered health

damage, the degree of impairment is to be assessed in line with the degree applicable to adults with the same health disorder, unless children and youth would be placed at a disadvantage as a result.

(2) The Federal Ministry of Labour and Social Affairs is authorised to issue a statutory instrument, with the approval of the Bundesrat,

1. laying down the principles which are relevant when it comes to assessing the degree of impairment as per subsection (1),
2. laying down the principles which are relevant when it comes to recognising a health disorder as a consequence of health damage as set out in section 4 (4) to (6) and
3. regulating the procedure for establishing and developing the principles referred to in nos. 1 and 2.

Section 6

Claim to benefits and services of family members, surviving dependants and close persons

(1) Family members, surviving dependants and close persons receive rapid assistance in accordance with the provisions of Chapter 4 and special psychotherapeutic services in accordance with section 43 (2) no. 1 in conjunction with section 43 (4).

(2) In addition, surviving dependants receive workforce participation benefits and services as set out in section 63 (3), compensation payments to surviving dependants as set out in Chapter 9 Division 2, benefits and services to secure a livelihood as set out in section 93 (1) sentence 2 and educational assistance as set out in section 94.

Section 7

Claim to benefits and services of foreign nationals

Foreign nationals have a right to claim the same benefits and services as German nationals.

Section 8

Concurrent claims

(1) Persons entitled only have those claims as set out in this Book against the federation or the *Länder* which result from an event causing damage as defined in this Book. The currently applicable versions of provisions concerning accident welfare benefits pursuant to civil service law apply, however. Where there is concurrence between a claim to compensation as a result of an event causing damage as set out in Chapter 2 Division 2 Subdivision 1 and a claim for damages owing to negligent breach of official duty, the claim under the terms of section 839 (1) of the Civil Code (*Bürgerliches Gesetzbuch*) is not ruled out on account of the fact that the conditions in respect of the claim for compensation are met.

(2) Where there is concurrence between claims resulting from several events causing damage as defined in section 1 (2), a unitary degree of impairment is to be determined. This also applies where there is concurrence between claims under this statute and claims under other statutes which provide for the application, accordingly, of this statute.

(3) Claims under Book Seven, under the Military Pensions Act (*Soldatenversorgungsgesetz*) or accident welfare benefits pursuant to civil service law are given priority over claims under this Book if both claims are based on the same cause. The claim to benefits and services under this Book rests in the amount of provision by the statutory accident insurance fund or under the Military Pensions Act and in the amount of the difference between provision made under general civil service law and in the form of accident welfare benefits pursuant to civil service law if both claims are based on the same cause.

Section 9

Preclusion of attachability of claims

Claims to compensation payments as set out in Chapter 9 and the cash benefit as referred to in section 144 are not attachable.

Section 10

Need to file application

- (1) Benefits and services under the social compensation scheme are provided upon application, unless otherwise provided in this Book.
- (2) Special benefits and services in individual cases within the meaning of Chapter 11 are provided ex officio. This does not apply to educational assistance as set out in section 94.
- (3) The following may be provided ex officio:
1. medical treatment services within the meaning of Chapter 5,
 2. workforce participation benefits and services within the meaning of section 63,
 3. educational participation benefits and services within the meaning of section 65 and
 4. social participation benefits and services within the meaning of section 66.
- (4) Where persons suffering health damage have statutory health insurance, applications for services as set out in Chapter 5 are also regarded as applications for the corresponding benefits and services to be provided by their health insurance fund, and applications for benefits and services provided by their health insurance fund are also regarded as applications for the corresponding services as set out in Chapter 5.
- (5) It is sufficient for an application for trauma outpatient clinic services to be made immediately following the second counselling session. Where case management contacts persons who may possibly be entitled, it is sufficient for an application to be made after contact has been made.
- (6) An application for benefits and services under the social compensation scheme by the victim of a violent crime within the meaning of Division 2 Subdivision 1 may also be made via an assisting authority in another Member State of the European Union as defined in Article 3 (1) of Council Directive 2004/80/EC of 29 April 2004 on compensation for crime victims (OJ L 261, 6.8.2004, p. 15).

Section 11

Start of provision of benefits and services, allocation of costs of first use of rapid assistance

- (1) Benefits and services which are provided upon application are to be provided from that month in which the conditions for their use are met, at the earliest from that month in which the application for those benefits and services is made.
- (2) In derogation from subsection (1), benefits and services are to be provided for periods of time before an application was made if the application was made within one year after the event causing damage. Where persons entitled to claim are prevented from making the application through no fault of their own, this period is extended by the period in which they were prevented from making the application.
- (3) Benefits and services which are provided ex officio are to be provided at the earliest from that month in which the competent authority became aware of the facts on which the benefit or service is based.
- (4) Rapid assistance services are not provided in relation to periods before an application was made. This does not apply where persons attend the first two counselling sessions in a trauma outpatient clinic and where case management contacts persons who may possibly be entitled.
- (5) The costs of the first two counselling sessions in a trauma outpatient clinic and initial contact by case management are paid even where no claims exist under this Book, not even as regards the simplified procedure within the meaning of section 115.

Section 12

Assumption of costs of interpreters, translators and communication aids

(1) When providing benefits and services under the terms of this Book and in the context of administrative procedures, the necessary costs of interpreters and translators are assumed by the social compensation agency if a person entitled or an applicant has had their habitual residence within the territorial scope of this Book for less than five years. In the case of trauma outpatient clinic services and psychotherapeutic services as set out in Chapter 5, this period is 10 years.

(2) Where an applicant or person entitled has his or her habitual residence abroad, the necessary costs of translators in connection with the application as required by this Book are assumed by the social compensation agency.

(3) When providing benefits and services under the terms of this Book and in the context of administrative procedures, the necessary costs of communication aids in accordance with section 9 of the Equal Opportunities for Persons with Disabilities Act (*Behindertengleichstellungsgesetz*) in conjunction with the Ordinance on Communication Aids (*Kommunikationshilfenverordnung*) are met.

Division 2 Grounds for compensation

Subdivision 1 Violent crimes

Section 13 Victims of violent crimes

(1) Where the conditions of section 4 (1) are met, anyone who has suffered damage to their health in Germany or on a German vessel or aircraft owing to

1. an intentional, unlawful direct assault against their person (physical violent crime) or lawfully defending themselves against such an assault or
2. other intentional, unlawful serious conduct aimed directly against a person's free will (psychological violent crime)

receives benefits and services under the social compensation scheme as a victim of a violent crime.

(2) Conduct within the meaning of subsection (1) no. 2 is, as a general rule, serious if it fulfils the statutory definition of sexual abuse (sections 174 to 176d of the Criminal Code (*Strafgesetzbuch*)), sexual assault, sexual coercion, rape (sections 177 and 178 of the Criminal Code), human trafficking (sections 232 to 233a of the Criminal Code), stalking (section 238 (2) and (3) of the Criminal Code), hostage-taking (section 239b of the Criminal Code) or extortion with use of force or threat of force (section 255 of the Criminal Code), or if it is at least of a comparable severity.

Section 14 Equality of status

(1) The following are equal to a violent crime:

1. the intentional administration of poison,
2. a violent crime which goes awry, as a result of which it affects a person other than the intended victim,
3. an attack carried out in the erroneous assumption that there are grounds for its justification,
4. the at least negligent causation of danger to the life and limb of another by the commission of a serious criminal offence (*Verbrechen*) using means which constitute a public danger,
5. the significant neglect of children and

6. the production, dissemination and making available to the public of child pornography as defined in section 184b (1) sentence 1 nos. 1, 3 and 4 of the Criminal Code.

(2) Persons suffering damage to their health as a consequence of witnessing an act or of discovering a victim are equal in status to the victims of violent crimes. Persons suffering damage to their health on account of delivering the news of the victim's death or serious injury are also equal to the victims of violent crimes if there is a close emotional relationship between these persons and the victim within the meaning of section 13 or subsection (1). Such a relationship generally exists with family members and close persons.

Section 15

Claim to benefits and services in case of violent crimes abroad

Upon application, persons suffering health damage as defined in sections 13 and 14 as a result of an event causing damage abroad receive benefits and services as set out in section 102 because of the health and economic consequences if they

1. have their habitual and lawful residence within the territorial scope of this statute and
2. were, at the time of the commission of the act, staying outside the territorial scope of this statute for a temporary period of six months at most.

The period referred to in sentence 1 no. 2 is extended to one year where a person is staying abroad for the purpose of attending school or university, undergoing vocational training or undertaking voluntary service within the meaning of section 32 (4) sentence 1 no. 2 letter (d) of the Income Tax Act (*Einkommensteuergesetz*).

Section 16

Preclusion of claims, benefits and services

- (1) Anyone who occasioned the event causing damage has no claims under this Book.
- (2) Benefits and services are to be provided in such a manner that they do not economically benefit the person who occasioned the event causing damage.

Section 17

Denial of benefits and services

- (1) Benefits and services are to be denied where it would be inequitable to provide benefits and services under the social compensation scheme for reasons which are down to the applicant's own conduct.
- (2) Benefits and services may be denied in full or in part if the person suffering health damage has failed to do everything in his or her power and which is reasonable to contribute to clarifying the facts and prosecuting the offender.

Section 18

Claim in case of use of vehicles

The benefits and services for which provision is made in this Book are provided where a violent crime within the meaning of section 13 is committed using a vehicle or trailer.

Section 19

Preclusion of claims of and benefits and services for family members, surviving dependants and close persons, concurrent claims

- (1) Family members, surviving dependants and close persons have no claims for which provision is made in this Book if they or the person suffering health damage fulfil the conditions of section 16.
- (2) Section 18 applies accordingly.

Section 20

Denial of benefits and services to family members, surviving dependants and close persons

- (1) Family members, surviving dependants and close persons are to be denied benefits and services if they or persons suffering health damage fulfil the conditions of section 17 (1).
(2) Family members, surviving dependants and close persons may be denied benefits and services in full or in part if they or persons suffering health damage fulfil the conditions of section 17 (2).

Subdivision 2

Effects of both world wars

Section 21

Victims of effects of both world wars

Anyone who has suffered damage to their health in Germany owing to the effects of hostilities in connection with the two world wars which have left behind a hazardous area peculiar to war receives benefits and services under the social compensation scheme if the conditions of section 4 (1) are met.

Section 22

Denial, withdrawal and reduction of benefit or service

- (1) Benefits and services under the social compensation scheme are to be denied if the person suffering health damage violated the principles of humanity or the rule of law during the National Socialist regime. In particular, indications that a person suffering health damage was a voluntary member of the SS will necessitate an especially intensive review of whether, based on his or her individual conduct, that person violated the principles of humanity or the rule of law.
(2) Benefits and services are to be withdrawn in full or in part with effect for the future if there is a ground for refusal as referred to in subsection (1) and, in view of the severity of the infringements committed, there is no overriding interest in protecting the person suffering health damage's reliance on the continued provision of benefits and services in the individual case.
(3) Where, in cases as referred to in subsection (2), the immediate withdrawal or reduction of benefits and services causes inequitable hardship, such withdrawal or reduction is, as a rule, to be made after a reasonable transitional period.
(4) Subsections (1) to (3) apply accordingly to benefits and services from claims deriving from persons suffering health damage within the meaning of subsection (1).

Subdivision 3

Events in connection with performance of civilian service

Section 23

Persons suffering health damage caused by events in connection with performance of civilian service

- (1) Anyone who has suffered damage to their health in connection with the performance of civilian service owing to an activity, accident, attack against their person or in another manner ("person suffering health damage whilst performing civilian service") receives benefits and services under the social compensation scheme if the conditions of section 4 (1) are met.
(2) There is likewise a connection to the performance of civilian service if damage to health was caused
1. on the direct route to and from the place of work,
 2. on the direct route to and from starting and ending civilian service,
 3. on a route which deviates from the direct route for the purpose of

- a) placing a child who is living in the household of a person performing civilian service in the care of another owing to that person performing civilian service or
 - b) sharing the use of a vehicle with others performing civilian service, other employed persons or persons who have statutory accident insurance,
4. on route to and from a permanent family home if, owing to the distance between the family home and place of work or owing to the obligation to live in official accommodation, the person performing civilian service has accommodation at his or her place of work or in its vicinity.
- (3) There is likewise a link to the performance of civilian service in the case of damage to health caused in connection with the treatment of or use of benefits and services in relation to health damage suffered in the performance of civilian service.

Subdivision 4
Vaccinations or other specific prophylactic measures

Section 24
Persons suffering health damage following vaccinations or other specific prophylactic measures

Anyone who has suffered damage to their health following a vaccination as defined in section 2 no. 9 of the Infection Protection Act (*Infektionsschutzgesetz*) or another specific prophylactic measure as defined in section 2 no. 10 of the Infection Protection Act which was

- 1. publicly recommended by a competent *Land* authority as required by section 20 (3) of the Infection Protection Act and administered within its purview,
- 2. administered on the basis of a claim set out in a statutory instrument as referred to in section 20i (3) of Book Five or, in the case of a vaccination, was administered to a person who has private health insurance to the extent covered by an entitlement under a statutory instrument as referred to in section 20i (3) of Book Five,
- 3. administered for free by public health offices in accordance with section 20 (5) of the Infection Protection Act or
- 4. ordered on the basis of a statutory instrument in accordance with section 20 (6) or (7) of the Infection Protection Act or otherwise prescribed on a statutory basis

which exceeds the normal reaction to a vaccination or other specific prophylactic measure receives benefits and services under the social compensation scheme if the conditions of section 4 (1) are met. This likewise applies if the vaccination was administered using propagatable pathogens and a person other than the vaccinated person suffered damage to his or her health.

Chapter 4
Rapid assistance

Division 1
Rapid assistance services

Section 29
Services and service type

- (1) Rapid assistance services comprise case management services and trauma outpatient clinic services.
- (2) Rapid assistance services constitute a separate service type.

Division 2
Case management

Section 30

Case management services

- (1) “Case management” means that a case manager takes on an activating and coordinating role to support persons entitled through the application process and the system of benefits and services.
- (2) Case management services are provided with the consent of the person entitled, which covers any necessary data collection. Such consent is to be documented in writing.
- (3) Persons entitled may receive case management services.
- (4) Persons suffering health damage are, as a rule, to receive case management services if
 1. the event causing damage was a criminal offence against life or sexual self-determination or
 2. they were minors at the time of the event causing damage.
- (5) Case management in particular includes the following:
 1. an assessment of the possible need for assistance arising owing to the event causing damage, taking account of the particular circumstances of the individual case,
 2. the provision of information about which social security benefits are available,
 3. the provision of support to persons entitled with the aim of ensuring that benefits and services are provided more swiftly and in a coordinated manner, insofar as persons entitled have, or might have, a claim to benefits and services from other social service agencies in accordance with Chapters 5, 6, 7 and 11,
 4. the provision of support during the application process and of information about starting and the course of the social compensation process and
 5. the provision of support throughout the social compensation process.
- (6) Case management may involve contacting persons who may possibly be entitled.
- (7) Where a needs assessment and participation plan procedure are to be conducted in accordance with Chapters 2 to 4 of Book Nine, case management services are supplementary thereto.

Division 3

Trauma outpatient clinic

Section 31

Trauma outpatient clinic services

- (1) Trauma outpatient clinics offer psychotherapeutic interventions to prevent a mental health disorder or its chronification.
- (2) Psychotherapeutic interventions are only offered in trauma outpatient clinics with which the social compensation agencies have concluded an agreement as described in section 37.

Section 32

Early psychotherapeutic intervention

- (1) Persons suffering health damage are, as a rule, to receive early psychotherapeutic intervention in a trauma outpatient clinic if the first counselling session is held within 12 months following the event causing damage or after learning thereof.
- (2) Family members, surviving dependants and close persons are, as a rule, to receive early psychotherapeutic intervention in a trauma outpatient clinic if the first counselling session is held within 12 months after they learned about the event causing damage.

Section 33

Psychotherapeutic intervention in other cases

Persons suffering health damage and family members, surviving dependants and close persons are, as a rule, to receive psychotherapeutic intervention in a trauma outpatient clinic

if an event causing damage which occurred more than 12 months previously has led to acute psychological stress and the first counselling session is held within 12 months after that acute stress emerges.

Section 34

Eligibility conditions and scope

- (1) Persons suffering health damage and family members, surviving dependants and close persons have a claim to a total of up to 15 counselling sessions in a trauma outpatient clinic in accordance with the following subsections if the conditions of section 32 or 33 are met. Children and youth have a claim to a total of 18 counselling sessions.
- (2) In particular, the first five, in the case of children and youth the first eight counselling sessions, serve the investigation of the need for psychotherapeutic treatment, diagnostic purposes and any necessary acute measures. They can be used even if no decision has yet been given under the simplified procedure pursuant to section 115.
- (3) Persons suffering health damage and family members, surviving dependants and close persons have a claim to up to an additional 10 counselling sessions if these are necessary and their claim to trauma outpatient clinic services has been established. The claim to up to an additional 10 counselling sessions also exists if the competent authority has not given a decision within two weeks following receipt of an application and the trauma outpatient clinic has indicated, in advance, that there is an urgent need for treatment and that it plans to conduct the additional counselling sessions.

Section 35

Further need following counselling in trauma outpatient clinic

- (1) Where persons who have received counselling in a trauma outpatient clinic require further psychotherapeutic treatment thereafter, the social compensation agency provides them with information about additional psychotherapeutic services available.
- (2) The trauma outpatient clinic is obliged to notify the competent authority as soon as possible of any such further need. The authorities competent under *Land* legislation determine in agreements as referred to in section 37 the consequences of a breach of the duty of information in sentence 1.

Section 36

Costs of travel

- (1) The necessary costs of travelling to the nearest trauma outpatient clinic are assumed. The same applies to the necessary costs of travel of a necessary accompanying person and for children who need to be taken along because no other childcare is available. The necessary costs of caring for family members requiring care or supervision are likewise assumed, both for the person entitled and for any persons needed to accompany children and youth.
- (2) "Costs of travel" means the amount to be paid for transportation in the lowest class of that means of public transportation which is most suitable. In the case of transportation using other means of transportation, the costs of travel equal the kilometre allowance as set out in section 5 (1) sentence 2 of the Federal Travel Expenses Act (*Bundesreisekostengesetz*).

Section 37

Agreements with trauma outpatient clinics

- (1) The authorities competent under *Land* legislation conclude agreements with trauma outpatient clinics which meet the conditions set out in this Division. This does not affect the validity of agreements concluded on or before 1 January 2021 for the duration of the term of such agreements.
- (2) Such agreements must set out the key requirements made of the trauma outpatient clinic and key service features. They must stipulate that the trauma outpatient clinic undertakes to provide persons entitled in accordance with sections 32 and 33 with psychotherapeutic

counselling as part of the agreed range of services provided. Moreover, such agreements at a minimum make provision concerning

1. the group of people to be given psychotherapeutic counselling,
2. the type and purpose of the service provided,
3. the requirements in respect of staffing and staff qualifications,
4. the obligations incumbent on the trauma outpatient clinic in connection with the provision of these services,
5. data protection and
6. remuneration for the services offered by the trauma outpatient clinic.

Section 38

Authorisation to issue statutory instruments

Further provision regarding the agreements as referred to in section 37 is made in a statutory instrument to be issued by the Federal Ministry of Labour and Social Affairs, with the approval of the Bundesrat, and which enters into force on 1 January 2024. At a minimum, the statutory instrument is to make provision concerning

1. the qualifications of the staff providing the counselling sessions in the trauma outpatient clinic,
2. the length of individual counselling sessions,
3. the trauma outpatient clinic's availability and the period within which those affected must be given an appointment there, taking the local situation into account,
4. documentation requirements,
5. the billing procedure, including the resulting data transmission channels,
6. release from professional confidentiality and
7. confidentiality.

Chapter 5

Medical treatment under social compensation scheme

Division 1

Services and obligation to produce supporting documents

Section 41

Claim to medical treatment services under social compensation scheme

(1) Persons suffering health damage have a claim to medical treatment services under the social compensation scheme in accordance with the provisions of this Chapter for recognised consequences of health damage.

(2) Where a health disorder has been recognised as an exacerbation of a condition as a consequence of the health damage, in derogation from subsection (1), persons suffering health damage have a claim to medical treatment services under the social compensation scheme for their health disorder as a whole. This does not apply where the health disorder which has been recognised as a consequence of health damage has no influence on the condition necessitating the medical treatment services.

Section 42

Medical treatment

(1) Persons suffering health damage receive

1. medical treatment services in accordance with Chapter 3 Division 5 Title 1 and Division 7 of Book Five and

2. further medical treatment services in the areas referred to in no. 1 in accordance with the respective statutes of that health insurance fund which is competent in accordance with section 57 (2) or (3)

for recognised consequences of health damage. The principles of service provision under the law of statutory health insurance apply.

(2) Persons suffering health damage with a degree of impairment of 50 or more may receive services in line with Chapter 3 of Book Five for health impairments which are not recognised as being a consequence of the health damage if they have no other insurance cover in the case of illness or they are unable to continue paying such insurance owing to the consequences of health damage and the denial of services would constitute inequitable hardship.

(3) The family members, as defined in section 2 (3), and close persons, as defined in section 2 (5), of persons suffering health damage who have a degree of impairment of 50 or more may receive services in line with Chapter 3 of Book Five if they have no other insurance cover in the case of illness or they are unable to continue paying such insurance owing to the consequences of health damage and the denial of services would constitute inequitable hardship.

(4) Surviving dependants, as defined in section 2 (4), may receive services in line with Chapter 3 of Book Five if they have no other insurance cover in the case of illness or they are unable to continue paying such insurance owing to the consequences of health damage and the denial of services would constitute inequitable hardship.

(5) Subsection (1) applies unless otherwise provided for in this Book.

Section 43

Supplementary medical treatment services

(1) Upon application, persons suffering health damage receive services which are supplementary to the medical treatment services set out in section 42 for the recognised consequences of health damage if these are necessary taking account of the nature and severity of the individual case and the specific needs of the person suffering health damage. The health insurance funds are, as a rule, to notify the competent administrative authorities of cases in which the competent administrative authority is required to provide a supplementary medical treatment service.

(2) "Supplementary medical treatment services" in particular means

1. special psychotherapeutic services which
 - a) go beyond the recognised treatment procedures listed in Book Five,
 - b) exceed the maximum permissible number of hours allocated for the respective procedure and a treatment frequency of once per week or
 - c) are provided by physicians providing psychotherapeutic services or psychotherapists who are not part of provision by registered contract physicians or by non-medical practitioners who have a psychotherapeutic qualification,
2. special dental, implantological, maxilo-facial and orthodontic services and additional dental prosthesis services,
3. special curative educational services for persons over the age of 18,
4. special prescription medicines or special non-prescription, pharmacy-only medicines,

5. special physician and non-physician services as part of inpatient treatment which go beyond the general services provided by hospitals.

(3) The costs of the services referred to in subsection (2) no. 2 which go beyond what is necessary in terms of their scope, materials or provision owing to the health damage caused are to be assumed by the persons suffering health damage themselves.

(4) Upon application, family members, surviving dependants and close persons receive the special psychotherapeutic services referred to in subsection (2) no. 1 if these

1. are necessary to compensate for mental impairments which can be directly attributed to the event causing damage,
2. are not covered by specific insurance in the case of illness, or not to a sufficient degree, and
3. are necessary to achieve or ensure treatment success.

Section 44

In-kind services principle, contribution to costs

(1) Medical treatment services are rendered in the form of in-kind services, unless otherwise provided for in this Book, Book Five or Book Nine.

(2) Persons suffering health damage receive in-kind services without having to contribute to the costs thereof. This does not apply to in-kind services in accordance with section 42 (2).

Section 45

Obligation to produce supporting documents

Section 15 (2) to (6) of Book Five applies accordingly as regards producing supporting documents as proof of entitlement to receive medical treatment services under the social compensation scheme in accordance with section 42. In derogation from sentence 1, persons entitled who are not in possession of an electronic health card as referred to in section 291 of Book Five prove their identity by presenting medical treatment vouchers. These are issued to persons entitled by that health insurance fund which is competent under section 57 (3) or (4).

Section 46

Provision of aids, lump sum for excessive wear and tear of clothes and underwear

(1) For the recognised consequences of health damage persons suffering health damage receive

1. the aids referred to in section 31 (1) of Book Seven and
2. a lump sum for excessive wear and tear of clothes and underwear. Dental prostheses are not regarded as aids.

(2) The type and scope of aids provided and the lump sum comply with

1. the statutory instrument referred to in section 31 (2) of Book Seven, as amended, and
2. the joint guidelines of the associations of accident insurance companies concerning the provision of aids in the field of statutory accident insurance as set out in section 31 (2) sentence 2 of Book Seven.

The principles concerning the provision of benefits and services under the law of statutory accident insurance apply.

Section 47

Sick pay under social compensation scheme

(1) Persons suffering health damage receive sick pay under the social compensation scheme in line with the rules on sick pay set out in Book Five and in accordance with

subsections (2) to (9) in the case of the incapacity for work owing to a recognised consequence of health damage or in the case of inpatient treatment which is necessary on account of a recognised consequence of health damage.

(2) Sick pay under the social compensation scheme is also paid to

1. persons who are self-employed as their main occupation who have not availed themselves of the option provided for in section 44 (2) sentence 1 no. 2 of Book Five,
2. employees who have not availed themselves of the option provided for in section 44 (2) sentence 1 no. 3 sentence 1 of Book Five and
3. people in marginal employment (*geringfügig Beschäftigte*) whose employment does not entail the obligation to pay insurance in accordance with section 5 (1) of Book Five and those who are co-insured as family members in accordance with section 10 of Book Five.

(3) “Incapacity for work” within the meaning of section 44 (1) of Book Five also means persons suffering health damage who, even though they are not incapacitated for work, are unable to engage in full-time employment on account of undergoing a medical treatment measure under the social compensation scheme.

(4) Sick pay under the social compensation scheme is 80 per cent of the normal pay of the person suffering health damage, although it may not exceed the regular net pay lost. Account is taken of normal pay up to the amount of the benefits assessment ceiling applicable in each case. The benefits assessment ceiling is the 360th share of the annual contribution assessment ceiling under the statutory pension scheme.

(5) Where persons suffering health damage receive sick pay, a sickness allowance under the assistance to war victims scheme, injury benefit or a transitional allowance from another rehabilitation provider and they are thereafter to be paid sick pay under the social compensation scheme, the sick pay is to be calculated on the basis of that pay which was previously used as a basis of calculation.

(6) Those persons who are insured under the Artists’ Social Insurance Act (*Künstlersozialversicherungsgesetz*) and those insured persons who have availed themselves of the option provided for in section 44 (2) sentence 1 no. 2 of Book Five have a claim to sick pay under the social compensation scheme for the periods defined in section 46 sentence 1 of Book Five. Section 46 sentences 2 to 4 of Book Five does not apply.

(7) In derogation from section 49 (1) no. 7 of Book Five, the claim to sick pay under the social compensation scheme does not rest for the first six weeks of the incapacity for work if insured persons have availed themselves of the option provided for in section 44 (2) sentence 1 no. 3 of Book Five.

(8) Sick pay under the social compensation scheme does not end before inpatient treatment ends.

(9) Sick pay under the social compensation scheme is to continue to be paid up to the start of workforce participation benefits and services or a further medical measure if the workforce participation benefits and services or further medical measure

1. are necessary following the conclusion of medical treatment and
2. cannot be immediately provided thereafter for reasons for which persons suffering health damage are not responsible.

Sentence 1 only applies where persons suffering health damage are incapacitated for work and have no claim to sick pay as set out in Book Five or they cannot be found reasonable employment after regaining their capacity for work.

(10) A child who is sick owing to a recognised consequence of health damage and consequently requires supervision, care or long-term care has a claim to sick pay under the social compensation scheme for the parent caring for him or her. Section 45 of Book Five

applies accordingly, with the proviso that the sick pay under the social compensation scheme,

1. in derogation from section 45 (2) sentence 3 of Book Five, is 100 per cent of the lost net pay of the parent caring for the child, although it may not exceed the 360th share of the annual contribution assessment ceiling under the statutory pension scheme,
2. in derogation from section 45 (2) sentence 4 of Book Five, is 80 per cent of the regular earned income of the parent caring for the child up to the 360th share of the annual contribution assessment ceiling under the statutory pension scheme and
3. in the cases referred to in section 45 (4) of Book Five, is calculated in accordance with subsection (4).

Section 48

Financial assistance in case of significant adverse effect on means of livelihood

- (1) Where necessary outpatient or inpatient treatment for a recognised consequence of health damage has a significant adverse effect on the means of livelihood of the person suffering health damage, he or she may receive financial assistance.
- (2) Financial assistance may also be given to a person suffering health damage if, as a result of an existing unavoidable financial obligations, his or her income, including sick pay under the social compensation scheme, is not sufficient to cover his or her necessary living expenses. It is ruled out if such financial burdens are based on an obligation which goes against the principles of an economic lifestyle.
- (3) An appropriate amount of financial assistance is to be paid. It is, as a rule, not to exceed the 720th share of the annual reference value set out in section 18 (1) of Book Four per day.
- (4) The financial assistance stops being paid, at the latest, when the sick pay under the social compensation scheme is no longer paid. If no sick pay under the social compensation scheme is paid because the person suffering health damage has earned no income, the financial assistance stops being paid, at the latest, at that point in time when the sick pay under the social compensation scheme would have ended if the person suffering health damage had earned an income.

Section 49

Allowances for dental prostheses

Instead of being provided with a dental prosthesis, persons suffering health damage may be paid an appropriate allowance to purchase a dental prosthesis owing to the recognised consequences of health damage if

1. they have an enhanced dental prosthesis made on account of losing a further tooth for reasons which are not linked to the health damage suffered and
2. the extended dental prosthesis is a non-divisible service.

Section 50

Reimbursement of costs of self-procured medical treatment

- (1) Where costs arise to persons suffering health damage for the self-procured, necessary treatment of the consequences of health damage before their claim to benefits and services under the social compensation scheme has been recognised, they are reimbursed appropriate costs. This also applies where, once medical treatment is completed, there is no longer a health disorder. Costs are deemed to be “appropriate” if they would have arisen if the person suffering health damaged had availed himself or herself of in-kind services.
- (2) Where costs arise to persons suffering health damage for the self-procured, necessary treatment of the consequences of health damage in the period in which they may receive benefits and services in accordance with section 11 (2) before they are able to claim benefits and services under the social compensation scheme, they are reimbursed the costs arising.

This also applies where persons suffering health damage were prevented, owing to circumstances beyond their control, from filing a claim before the treatment started.

(3) Where costs arise to persons suffering health damage for the self-procured, necessary treatment of the consequences of health damage after their claim to benefits and services under the social compensation scheme has been recognised, they are reimbursed the costs arising if

1. the service could not be delayed and could not be provided in time by the competent health insurance fund, the competent *Land* accident insurance fund or the competent administrative authority or
2. the competent health insurance fund, the competent *Land* accident insurance fund or the competent administrative authority wrongly refused the service.

(4) The costs of self-procured medical rehabilitation services as provided for in Book Nine are reimbursed in accordance with section 18 of Book Nine.

(5) Where costs are reimbursed to persons suffering health damage in accordance with subsection (1), (2), (3) or (4), they have a claim to sick pay under the social compensation scheme if the conditions of section 47 are met.

Section 51

Reimbursement of costs of medical treatment when temporarily staying abroad

(1) When temporarily staying abroad, persons suffering health damage are reimbursed the costs of the necessary medical treatment of recognised consequences of health damage. The claim to reimbursement exists up to that amount of remuneration which the health insurance funds would have to carry if the in-kind services were provided in Germany.

(2) In derogation from subsection (1), the costs may be reimbursed up to the amount of the actual costs arising if

1. treatment equivalent to the generally recognised state of medical knowledge is not possible in Germany or
2. the need for treatment was urgent.

(3) When reimbursing costs in accordance with subsection (1) or (2), other necessary costs arising for persons suffering health damage in connection with the medical treatment and for a necessary accompanying person may be reimbursed in full or in part.

(4) Where costs are reimbursed to persons suffering health damage in accordance with subsection (1) or (2), they have a claim to sick pay under the social compensation scheme if the conditions of section 47 are met.

(5) Persons suffering health damage may avail themselves of inpatient hospital services abroad if the competent administrative authority has previously consented thereto. Such consent may only be denied if the same treatment or treatment which is equally as effective in persons suffering health damage and corresponds to the generally recognised state of medical knowledge can be provided in time by a contractual partner of the competent health insurance fund in Germany. If the inpatient medical treatment provided abroad was urgent, persons suffering health damage may not be held accountable for the lack of prior consent if and as long as they were prevented from obtaining that consent.

Section 52

Employment promotion, statutory pension insurance and old-age provision contributions

(1) The following contributions are paid for persons suffering health damage whilst they are receiving sick pay under the social compensation scheme:

1. employment promotion contributions in cases where they are obliged to pay such insurance as required by section 26 (2) no. 1 of Book Three and

2. statutory pension contributions in cases where they are obliged to pay such insurance as required by section 3 sentence 1 no. 3 of Book Six.

(2) Persons suffering health damage who are not obliged to pay pension insurance contributions or who are exempt from paying pension insurance contributions are, upon application, reimbursed their expenditure for old-age provision whilst they are receiving sick pay under the social compensation scheme. "Expenditure for old-age provision" in particular means

1. voluntary contributions paid in to the statutory pension scheme,
2. contributions paid in to public-law occupational insurance and benefit schemes and
3. contributions paid to public or private insurance companies on the basis of life insurance contracts serving old-age provision.

The maximum amount reimbursed equals the statutory pension insurance contributions which would have to be paid whilst sick pay under the social compensation scheme is paid if persons suffering health damage were obliged to pay pension insurance contributions.

(3) In the cases referred to in section 47 (10),

1. in derogation from subsection (1), the contributions are paid for that parent for whom the child suffering health damage has a claim to sick pay under the social compensation scheme or
2. in derogation from subsection (2), the expenditure for old-age provision is reimbursed to that parent for whom the child suffering health damage has a claim to sick pay under the social compensation scheme if that parent is not obliged to pay pension insurance contributions or is exempt from paying pension insurance contributions.

(4) The health insurance fund

1. on a quarterly basis provides the competent administrative authority with the names of those persons who are receiving sick pay under the social compensation scheme,
2. on a quarterly basis provides the competent administrative authority with those details which are necessary so that the contributions can be paid and
3. on request provides the competent authority with supporting documents proving that the notifications referred to in nos. 1 and 2 have been made.

Section 53

Travel expenses

(1) Persons entitled have a claim to the costs of travel and other travel expenses arising in connection with a medical treatment service being assumed. Persons entitled are reimbursed necessary travel expenses, including for the transportation of luggage, and the costs of board and lodging in the appropriate amount for themselves, a person who needs to accompany them and for children who need to be taken along because no other childcare is available. The definition of "appropriate" under the Federal Travel Expenses Act applies. There is no right to claim reimbursement of travel expenses where inpatient treatment is discontinued without compelling reasons.

(2) Where a treatment measure lasts more than eight weeks, necessary travel expenses for, in the general case, two trips to the family home per month or two trips per month by a family member to visit the person entitled may be reimbursed.

(3) Where an accompanying person is needed, reimbursement is made for his or her lost earnings in an appropriate amount if the person entitled is obliged to reimburse the person accompanying him or her.

Division 3
Competence and data transmission

Section 57
Competence

(1) The competent administrative authority is responsible for the delivery of medical treatment.

(2) In the case of persons suffering health damage who have health insurance or are co-insured as family members in accordance with section 10 of Book Five, their health insurance fund is responsible for the delivery, on behalf of the competent administrative authority, of

1. medical treatment in accordance with section 42,
2. sick pay under the social compensation scheme in accordance with section 47 and
3. the benefits referred to in section 53 which are linked to the use of one of the main services as set out in section 42.

(3) Persons suffering health damage who neither have health insurance nor are co-insured as family members in accordance with section 10 of Book Five choose a health insurance fund from amongst the choices listed in section 173 of Book Five which is responsible for the delivery, on behalf of the competent administrative authority, of

1. medical treatment in accordance with section 42,
2. sick pay under the social compensation scheme in accordance with section 47 and
3. the benefits referred to in section 53 which are linked to the use of one of the main services as set out in section 42.

The choice of health insurance fund in accordance with sentence 1 must be made within two weeks following notification of the decision concerning the claim to benefits and services under the social compensation scheme. If this option is not exercised in time, the procedure under section 175 (3) sentence 2 of Book Five applies accordingly. Section 175 (4) sentences 1 to 5 of Book Five applies accordingly. Persons suffering health damage for whom a health insurance fund is already responsible on the basis of section 264 (1) sentence 2 or (3) of Book Five have no right to choose a health insurance fund. The health insurance fund which is already responsible is obliged to provide the benefits and services referred to in sentence 1.

(4) The right to choose a health insurance fund as referred to in subsection (3) applies accordingly to family members, surviving dependants and close persons who receive services in accordance with section 42 (3) or (4).

(5) The competent *Land* accident insurance fund is responsible for the provision, on behalf of the competent administrative authority, of aids in accordance with section 46 (1) sentence 1 no. 1. This includes fulfilling the obligations under the law on medicinal products. It also provides the benefits referred to in section 53 which are linked to the use of one of the main benefits referred to in section 46 (1) sentence 1 no. 1.

(6) All other benefits and services are provided by the competent administrative authority. Section 18 (6) sentences 2 and 3 of Book Nine remain unaffected.

Section 58
Competence to decide on objections

That authority responsible for dealing with objections which is responsible for the competent administrative authority decides on objections against administrative acts issued within the context of the provision of benefits and services by the health insurance funds in accordance

with section 57 (2), (3) and (4) and by the *Land* accident insurance funds in accordance with section 57 (5).

Section 59 **Data transmission**

(1) The providers of medical treatment services are obliged to transmit to the competent health insurance fund or to the competent administrative authority the data referred to in sections 294, 294a, 295, 295a (3), sections 298, 300, 301, 302 and 303 of Book Five to the extent that this is necessary for the fulfilment of the tasks of the competent health insurance fund or the competent administrative authority.

(2) The providers of medical treatment services are obliged to transmit to the competent *Land* accident insurance fund the data referred to in sections 201 and 203 of Book Seven to the extent that this is necessary for the fulfilment of the tasks of the competent *Land* accident insurance fund.

Chapter 6 **Participation benefits and services**

Section 62 **Scope**

“Participation benefits and services” means

1. workforce participation benefits and services as well as benefits and services to secure a livelihood and other supplementary benefits and services,
2. educational participation benefits and services,
3. social participation benefits and services and
4. medical rehabilitation benefits and services.

Where the benefits and services referred to in sentence 1 nos. 1 to 3 involve the provision of aids, these are provided in accordance with section 46 (1) sentence 1 no. 1 and (2). Sections 56 and 57 (5), sections 58 and 59 (2) and section 61 apply accordingly. The benefits and services referred to in no. 4, including the necessary benefits and services to secure a livelihood and other supplementary benefits and services, are provided as part of medical treatment services in accordance with Chapter 5.

Section 63 **Workforce participation benefits and services**

(1) Persons suffering health damage receive, as workforce participation benefits and services,

1. benefits and services in accordance with sections 49 to 55 of Book Nine,
2. benefits and services as part of the workforce entry procedure and in relation to vocational training in a recognised workshop for persons with disabilities in accordance with section 57 of Book Nine,
3. benefits and services in relation to the work area of a recognised workshop for persons with disabilities as set out in section 58 of Book Nine, including an employment promotion allowance in accordance with section 59 of Book Nine,
4. benefits and services delivered by other providers in accordance with section 60 of Book Nine,
5. a work budget in accordance with section 61 of Book Nine and
6. an education and training budget in accordance with section 61a of Book Nine.

(2) Workforce participation benefits and services include benefits and services in relation to the operation, maintenance, garaging and parking of a vehicle.

(3) Surviving dependants receive workforce participation benefits and services if the application is made within five years following the death of the person suffering health damage.

Section 64

Benefits and services to secure livelihood and other supplementary benefits and services

(1) Persons suffering health damage and surviving dependants who receive workforce participation benefits and services in accordance with section 63 also receive the following benefits and services to secure a livelihood and other supplementary benefits and services:

1. a transitional allowance in accordance with section 65 (3), (4) and (7) of Book Nine and as set out in sections 66 to 72 of Book Nine or a maintenance allowance under the conditions of subsection (3),
2. travel expenses in accordance with section 73 of Book Nine and
3. a home or farm help and childcare costs in accordance with section 74 of Book Nine.

No transitional allowance as referred to in sentence 1 no. 1 is paid where benefits and services are provided in relation to work done in a recognised workshop in accordance with section 63 (2) of Book Nine or in relation to benefits and services received in accordance with section 63 (3) sentence 2 of Book Nine.

(2) When calculating the transitional allowance to be paid whilst someone is receiving workforce participation benefits and services, the benefits assessment ceiling within the meaning of section 67 (4) of Book Nine is the 360th share of the annual contribution assessment ceiling under the statutory pension scheme.

(3) Persons suffering health damage and surviving dependants who are not gainfully employed before starting to receive workforce participation benefits and services receive a maintenance allowance instead of a transitional allowance. Section 71 (3) and (4) sentence 1 of Book Nine applies. Section 93 applies accordingly when assessing the maintenance allowance, with the proviso that, where persons remain in their own accommodation, the monthly standard needs rate is double the relevant standard needs rate in the Annex to section 28 of Book Twelve.

(4) Persons suffering health damage and surviving dependants who are not obliged to pay pension insurance contributions or who are exempt from paying pension insurance contributions are reimbursed their expenditure for old-age provision whilst they are receiving a transitional allowance. The maximum amount reimbursed equals the statutory pension insurance contributions which would have to be paid whilst persons suffering health damage and surviving dependants receive a transitional allowance if the persons suffering health damage and surviving dependants were obliged to pay pension insurance contributions. "Expenditure for old-age provision" in particular means

1. voluntary contributions paid in to the statutory pension scheme,
2. contributions paid in to public-law occupational insurance and benefit schemes and
3. contributions paid to public or private insurance companies on the basis of life insurance contracts serving old-age provision.

(5) Section 64 (2) sentence 1 of Book Nine applies accordingly to persons suffering health damage and surviving dependants.

Section 65

Educational participation benefits and services

Persons suffering health damage who belong to the group of persons who have a claim to assistance as defined in section 99 of Book Nine receive educational participation benefits and services in accordance with Part 2 Chapter 5 of Book Nine.

Section 66

Social participation benefits and services

(1) Persons suffering health damage who belong to the group of persons who have a claim to assistance as defined in section 99 of Book Nine owing to the consequences of health damage receive social participation benefits and services in accordance with Part 2 Chapter 6 of Book Nine.

(2) In derogation from subsection (1), mobility benefits and services are paid in accordance with section 83 of Book Nine. These include benefits and services in relation to the operation, maintenance, garaging and parking of a vehicle.

Section 67

Concurrence of participation benefits and services and long-term care services provided in facilities or premises within the meaning of section 43a of Book Eleven in conjunction section 71 (4) of Book Eleven

Where participation benefits and services as set out in section 62 sentence 1 nos. 1 to 3 are provided in facilities or premises within the meaning of section 43a of Book Eleven in conjunction with section 71 (4) of Book Eleven, the service includes the long-term care service provided in these facilities or premises. Sentence 1 also applies to long-term care needs which are not the consequence of an event causing damage. Section 75 (3) applies in the cases referred to in sentences 1 and 2. Where a provider establishes that persons entitled are in need of such a level of long-term care that their long-term care cannot be provided in its own facilities or premises, the social compensation agencies and the competent long-term care insurance fund reach agreement with the provider to the effect that the service is to be delivered by another provider. Account is thereby to be taken of the legitimate wishes of persons entitled.

Section 68

Concurrence of participation benefits and services and long-term care services provided outside of facilities or premises within the meaning of section 43a of Book Eleven in conjunction with section 71 (4) of Book Eleven

(1) Where there is concurrence between participation benefits and services as set out in section 62 sentence 1 nos. 1 to 3 and social long-term care insurance services provided outside of facilities or premises within the meaning of section 43a of Book Eleven in conjunction with section 71 (4) of Book Eleven, section 13 (4) sentences 1 to 3 and (4a) of Book Eleven applies accordingly to the competent social compensation agency and the competent long-term care insurance fund.

(2) Where participation benefits and services are provided in accordance with section 62 sentence 1 nos. 1 to 3 outside of facilities or premises within the meaning of subsection (1) and, in addition, there is a claim to provision of care at home as set out in sections 64a to 64f, 64i and 66 of Book Twelve, the participation benefits and services as set out in section 63 sentence 1 nos. 1 to 3 include the benefits and services in relation to the provision of care at home in accordance with Book Twelve as long as the goals of participation can be achieved. Sentence 1 applies accordingly in those cases in which persons entitled claim temporary services as referred to in sections 64g and 64h of Book Twelve. Sentences 1 and 2 do not apply where persons entitled have not received any participation benefits and services as set out in section 62 sentence 1 nos. 1 to 3 before reaching statutory retirement age as defined in Book Six, unless the need for participation benefits and services was occasioned by an event causing damage which did not occur until after the person entitled reached statutory retirement age as defined in Book Six.

Section 69

Right of request and choice

When deciding which participation benefits and services to provide and when providing these benefits and services, account is to be taken of the legitimate wishes of persons entitled. Particular account is thereby to be taken of the nature and severity of the health damage suffered and the state of health and age of the person suffering health damage. For the rest, section 8 of Book Nine applies.

Section 70

Particularities in relation to assessment of benefits and services to be provided

The type, scope and duration of provision of social participation benefits and services are based on the particularities of the individual case as well as on the type of benefits and services needed.

Chapter 7

Benefits and services for persons in need of long-term care

Division 1

Claim to and need for long-term care

Section 71

Claim to benefits and services of persons in need of long-term care

(1) Persons suffering health damage have a claim to benefits and services for persons in need of long-term care if they are in need of long-term care owing to the recognised consequences of health damage.

(2) The claim to benefits and services for persons in need of long-term care also exists where

1. health disorders which are not the consequence of health damage in conjunction with recognised consequences of health damage give rise to the need for long-term care and
2. the effects of the consequences of health damage are approximately equal to the other health disorders when assessing the need for long-term care.

Section 72

Need for long-term care and care grade

(1) Chapter 2 of Book Eleven applies as regards the definition of “need for long-term care”, the assessment procedure for determining an individual’s care grade and his or her assignment to a specific care grade.

(2) If the long-term care insurance fund has given a decision on the applicable care grade, that decision is binding on the competent administrative authority. If no decision has yet been taken, the competent administrative authority works towards obtaining an immediate decision from the long-term care insurance fund.

(3) If a claim in accordance with Book Eleven is ruled out, the competent administrative authority assesses the care grade under its own responsibility. It may draw on the services of expert third parties therefor.

Section 73

Cost assumption before need for long-term care within meaning of Book Eleven

In the case of persons suffering health damage who, as a result of an event causing damage, are likely only to be impaired in terms of their independence or abilities for less than six months, meaning there is no need for long-term care within the meaning of Book Eleven, costs may be assumed within the scope of the benefits and services set out in Chapter 7 of Book Twelve. This does not apply where long-term care is provided under an employer model pursuant to section 76.

Division 2

Scope of benefits and services for persons in need of long-term care

Section 74

Benefits and services for persons in need of long-term care

Persons suffering health damage who are in need of long-term care within the meaning of Division 1 as a result of an event causing damage receive

1. benefits and services for persons in need of long-term care in accordance with Chapter 4 of Book Eleven,
2. supplementary benefits and services for persons in need of long-term care as set out in section 75,
3. benefits and services for persons in need of long-term care under the employer model pursuant to in section 76.

Section 75

Supplementary benefits and services for persons in need of long-term care

(1) Where needs arising as a consequence of health damage as defined in section 74 no. 1 are only partially met, any necessary and reasonable costs over and above the benefits and services referred to in Chapter 4 of Book Eleven are assumed. This applies to the following benefits and services:

1. in-kind long-term care services in accordance with section 36 of Book Eleven,
2. care at home where the person providing the care at home is absent in accordance with section 39 of Book Eleven,
3. nursing aids and home improvement measures in accordance with section 40 of Book Eleven,
4. day and night care in accordance with section 41 of Book Eleven,
5. respite care in accordance with section 42 of Book Eleven,
6. full-time institutional care in accordance with section 43 of Book Eleven.

(2) Where a combination of cash benefits and in-kind services is provided as set out in section 38 of Book Eleven, that percentage share of the costs is assumed which equals the costs attributable to the in-kind services.

(3) Where long-term care is provided in facilities or premises within the meaning of section 43a of Book Eleven in conjunction with section 71 (4) of Book Eleven, 15 per cent of the remuneration is assumed.

(4) In the case of persons suffering health damage who have a claim under section 4 (1), the competent administrative authority pays the contributions towards social security insurance for long-term care as long as they have long-term care insurance as required by section 21 of Book Eleven.

(5) Persons suffering health damage who are neither insured in accordance with Book Eleven nor have a claim to benefits and services for persons in need of long-term care pursuant to civil service law receive benefits and services as set out in Chapter 4 of Book Eleven and the benefits and services set out in subsection (1). Subsections (2) to (4) apply accordingly.

Section 76

Care at home under employer model

(1) Where persons suffering health damage ensure that care at home is provided by special nursing staff whom they themselves employ on the basis of an employment contract ("employer model"), they are reimbursed the necessary and reasonable costs therefor. The

long-term care allowance as provided for in section 37 of Book Eleven is to be deducted from the amount to be reimbursed. The costs of employing spouses and parents are reimbursed to persons entitled if proper long-term nursing care is guaranteed thereby.

(2) Persons suffering health damage are reimbursed the necessary and reasonable costs of special nursing staff for a period of up to three months during which they are undergoing inpatient treatment. Such costs may be reimbursed after the end of this period, taking account of the circumstances of the individual case.

(3) "Reasonable costs" include employer and employee social security and employment promotion contributions which are to be paid on the special nursing staff's wages.

(4) An appropriate amount of expenditure in relation to the fulfilment of the obligations of persons suffering health damage in their capacity as employer may be reimbursed. An amount of up to 35 euros per month is generally regarded as appropriate.

Chapter 8

Benefits and services for persons who are severely visually impaired, blind or deaf-blind

Section 82

Claim and scope

(1) Where a severe visual impairment pursuant to Part A no. 6 letter (d) of the Ordinance on Medical Care for Victims (*Versorgungsmedizin-Verordnung*) is a consequence of health damage, persons suffering health damage, regardless of their age, receive half of the amount set out in section 72 (2) of Book Twelve which is paid for persons over the age of 18 years who are blind.

(2) Where blindness pursuant to Part A no. 6 letters (a) to (c) of the Ordinance on Medical Care for Victims is a consequence of health damage, persons suffering health damage, regardless of their age, receive the amount set out in section 72 (2) of Book Twelve which is paid for persons over the age of 18 years who are blind. Section 72 (5) of Book Twelve applies accordingly.

(3) Where deaf-blindness pursuant to section 3 (1) no. 8 of the Ordinance on the Severely Disabled Person's Pass (*Schwerbehindertenausweisverordnung*) is a consequence of health damage, persons suffering health damage, regardless of their age, receive double the amount set out in section 72 (2) of Book Twelve which is paid for persons over the age of 18 years who are blind.

(4) The benefits referred to in subsections (1) to (3) are given priority over benefits under *Land* legislation which are paid to cover additional expenditure on account of blindness.

Chapter 9

Compensation payments

Division 1

Compensation payments to persons suffering health damage

Section 83

Monthly compensation payment

(1) Persons suffering health damage receive a monthly compensation payment of

1. 400 euros in the case of a degree of impairment of between 30 and 40,
2. 800 euros in the case of a degree of impairment of between 50 and 60,
3. 1,200 euros in the case of a degree of impairment of between 70 and 80,
4. 1,600 euros in the case of a degree of impairment of 90,
5. 2,000 euros in the case of a degree of impairment of 100.

(2) The monthly compensation payment as referred to in subsection (1) no. 5 increases by 20 per cent for persons suffering the most severe consequences of health damage.

(3) “The most severe consequences of health damage” refers to blind arm amputees or persons suffering health damage who have lost both arms at the upper arm and both legs at the thigh. The most severe consequences of health damage are likewise presumed in the case of

1. paraplegics with cysto-paralysis and rectal paralysis,
2. persons with brain damage with serious mental and physical disorders,
3. arm amputees who have lost both legs at the thigh,
4. blind double thigh amputees or
5. persons who are blind who have lost an entire upper limb and an entire lower limb

who have sustained an additional significant consequence of health damage as a result of which their degree of suffering is as commensurably extraordinary as that of persons suffering health damage referred to in sentence 1. Other persons suffering health damage with a degree of impairment of 100 can also be said to have the most severe consequences of health damage if their extraordinary degree of suffering is commensurable with that of persons suffering health damage referred to in sentence 1.

Section 84

Lump-sum compensation

(1) Persons suffering health damage who have a claim to a monthly compensation payment as set out in section 83 (1) nos. 1 to 5 receive lump-sum compensation upon application. The application is to be made within one year after the compensation payment has been approved.

(2) The lump-sum compensation is paid for five years in each instance and is 60 times the monthly compensation payment as set out in section 83 (1) nos. 1 to 5. Any monthly compensation payments which have already been made are deducted from the lump-sum compensation to be paid.

(3) Payment of lump-sum compensation discharges all claims to monthly compensation payments for a period of five years.

Division 2

Compensation payments to surviving dependants

Section 85

Monthly compensation payment to widows, widowers and cohabiting partners

(1) A monthly compensation payment in the amount of 1,055 euros is paid to the widow or widower of a person suffering health damage who dies of the consequences of health damage. That amount increases by 50 euros per month for each under-age child living in the household who receives the monthly compensation payment for orphans or the monthly amount referred to in section 144 (1), including a cash benefit as set out in section 45 (1) of the Federal War Victims’ Relief Act (*Bundesversorgungsgesetz*) in the version applicable on 31 December 2023.

(2) The monthly compensation payment referred to in subsection (1) is also paid to cohabiting partners in cases in which one partner dies of the consequences of health damage and the other partner cares for their child whilst foregoing gainful employment. This claim exists until the child reaches the age of three years.

(3) The claim to the monthly compensation payment expires if a widow, widower or surviving cohabiting partner marries.

Section 86

Lump-sum compensation for widows and widowers

- (1) Upon application, widows and widowers receive lump-sum compensation instead of the monthly compensation payment. An application therefor must be made within a year of the compensation payment being approved.
- (2) The amount of lump-sum compensation paid is 126,600 euros. Any monthly compensation payments which have already been made are deducted from the lump-sum compensation to be paid.
- (3) Payment of lump-sum compensation discharges all claims to monthly compensation payments.

Section 87

Monthly compensation payment to orphans

- (1) The orphans of a parent who dies of the consequences of health damage each receive a monthly compensation payment of 390 euros.
- (2) The orphans of parents who die of the consequences of health damage each receive a monthly compensation payment of 610 euros.
- (3) The monthly compensation payments are paid until orphans reach the age of 18 years.
- (4) After they reach the age of 18 years, orphans receive monthly compensation payments
 1. whilst they are undergoing education or training, at most until they reach the age of 27 years if the education or training occupies the majority of their working capacity and is not linked to payment of a salary, a wage or other payments in the corresponding amount or
 2. in the cases referred to in section 2 (2), with the exception of section 2 (2) sentence 1 no. 2 letter (a), of the Federal Child Benefits Act and in the cases referred to in section 2 (3) of the Federal Child Benefits Act, with the proviso that the orphan's 27th birthday takes the place of his or her 25th birthday.

Section 88

Monthly compensation payments to surviving parents

- (1) Where a person suffering health damage dies of the consequences of health damage, his or her parents receive a monthly compensation payment if they
 1. are fully incapacitated for work within the meaning of Book Six or
 2. are unable, for other compelling reasons, to engage in reasonable gainful employment or
 3. are over the age of 60 years,at the earliest, though, from that month in which the person suffering health damage would have reached the age of 18 years.
- (2) For each child who dies of the consequences of health damage, the monthly compensation payment to parents is
 1. 250 euros for one living parent,
 2. 150 euros each for two parents.
- (3) The following are equal to parents:
 1. stepparents and foster parents if they looked after the person suffering health damage without payment before the event causing damage occurred,
 2. grandparents if the person who died paid, or would have paid, them maintenance.

Chapter 10 **Compensation for loss of earnings**

Section 89 **Eligibility and amount**

(1) Where a person suffering health damage suffers a loss of earnings as a consequence of a health impairment, he or she receives monthly compensation for loss of earnings if

1. he or she has been recognised as having a degree of impairment of at least 30 and
2. medical rehabilitation benefits and services or workforce participation benefits and services
 - a) no longer promise success in his or her case or
 - b) can no longer be expected of him or her.

(2) “Loss of earnings” means the difference between a person’s current gross income from current or previous activities (“current income”) and the higher comparable income. If a pension paid under the statutory pension scheme is reduced because a person’s earned income was reduced owing to health damage suffered in a period in the past which is no longer than half of that person’s working life, then, in derogation from sentence 1, the pension reduction equals the loss of earnings. The reduction is determined using the pension calculated for persons suffering health damage on the basis of those earnings points which would accrue without account being taken of periods in which the earned income of persons suffering health damage is reduced as a consequence of the health damage.

(3) The comparable income is calculated as described in sentences 2 to 5. The average income is determined on the basis of the basic salaries of those pay groups included in the Ordinance on Federal Pay Schemes A (*Bundesbesoldungsordnung A*) in the three calendar years preceding the adjustment. Average income amounts of up to 0.49 euros are to be rounded down to the next full euro and amounts of 0.50 euros and over are to be rounded up to the next full euro. The arithmetic mean of these three years is to be adjusted by the percentage which is the sum of the rates of change in gross salaries and pay per employee relevant for the current year’s and the previous year’s pension adjustment (section 68 (2) in conjunction with section 228b of Book Six); the rates of change are each determined by reducing the factor for the change in gross salaries and pay per employee by 1 and converting that sum into a percentage by multiplying it by 100. The comparable income is reassessed each year on 1 July; if the comparable income calculated on the basis of sentences 1 to 6 is lower than the previous comparable income, it is not adjusted. It is to be determined by the Federal Ministry of Labour and Social Affairs and published in the Federal Gazette; the amounts are to be rounded up to full euro amounts.

(4) Compensation for loss of earnings as referred to in subsection (1) is the net comparable income (subsection (5)) minus the net income from current or previous gainful employment (subsection (6)).

(5) The net comparable income is calculated as a lump sum for the period up to the end of that month, at the latest, in which the person suffering health damage reaches statutory retirement age as defined in Book Six. In derogation from sentence 1, the lump sum is calculated for the period up to the end of that month in which the person suffering health damage

1. retires, or would have to retire, from gainful employment on account of reaching or retiring at the standard retirement age or
2. on the basis of a statute, a collective bargaining agreement, a works agreement or an agreement reached with the employer avails himself or herself of the possibility of

taking early retirement, thereby foregoing an earned income, and thus leaves, or would leave, gainful employment

even without suffering health damage or without any subsequently arising health impairments which are not linked to the original health damage suffered in accordance with subsection (8). Sentence 2 nos. 1 and 2 do not apply if the person suffering health damage substantiates that he or she would still be earning an income if he or she had not suffered the health damage. The lump sum is determined as set out in sentence 1 by reducing the comparable income

1. by 18 per cent in the case of persons suffering health damage who are married, by 36 per cent for any amount over 716 euros and by 40 per cent for any amount over 1,790 euros and
2. by 18 per cent in the case of persons suffering health damage who are not married, by 40 per cent for any amount over 460 euros and by 49 per cent for any amount over 1,380 euros.

In all other cases, 50 per cent of the comparable income is regarded as the net comparable income.

(6) The net income from current or previous gainful employment is calculated as a lump sum based on current gross income by

1. reducing the gross income from current gainful employment by the percentages referred to in subsection (5) sentence 1 nos. 1 and 2,
2. reducing pensions drawn from the statutory pension scheme, old-age pensions, pensions owing to reduced earning capacity and pensions for farmers giving up their holdings in accordance with the Farmers' Old-Age Provision Act (*Gesetz über die Alterssicherung der Landwirte*) by that percentage which applies when assessing the social long-term care insurance contribution (section 55 of Book Eleven) and by half of the percentage of the health insurance funds' general contribution rate (section 241 of Book Five); the contribution rates assessed on 1 January apply from 1 July of the current calendar year up to 30 June of the next calendar year,
3. taking account of other cash benefits from providers (section 12 of Book One) in relation to the net comparable income and
4. reducing the remaining gross income by the percentages referred to in no. 2 and, in addition, by 19 per cent for any amount over 562 euros; no. 2 half-sentence 2 applies accordingly.

In the cases referred to in subsection (8), the net amount of the average income determined as set out in subsection (5) takes the place of net income within the meaning of sentence 1.

(7) In the case of a pension reduction within the meaning of subsection (2) sentence 2, compensation for loss of earnings is only paid if those periods of a person's working life in which their gainfully earned income was not reduced on account of health damage suffered are covered by a statutory or equivalent old-age pension scheme.

(8) When calculating compensation for loss of earnings, no account is taken of an income reduction occasioned by a subsequently arising health impairment which is not linked to the original health damage suffered. "Subsequently arising health impairment which is not linked to the original health damage suffered" means any health damage which

1. is not damage to health as referred to in section 4 and
2. arises after the event causing the damage pursuant to section 4.

Unemployment and retirement on account of health damage or old age do not constitute a subsequently arising health impairment which is not linked to the original health damage suffered. Sentence 1 applies in the case of necessary occupational rehabilitation measures if

the person suffering health damage does not, without justified reason, take up gainful employment which would be possible thereafter or, if he or she is on parental leave, beyond that period in which he or she draws parental allowance.

(9) Persons suffering health damage as referred to in subsection (1) who share a household with their spouse, a relative or a stepchild or foster child, or who would do so if they had not suffered any health damage, receive compensation for loss of earnings of half of the necessary additional expenditure as a consequence of the health damage arising when running a shared household.

Section 90 Assessment

(1) Where a person has a fixed monthly income, the compensation for loss of earnings is to be finally assessed. Where a person has a non-fixed monthly income, the compensation for loss of earnings is to be provisionally assessed based on the income situation which is known at the time of disclosure of the notice and is then to be finally assessed with effect for the past. A reassessment is only done if a person's income changes by more than five euros.

(2) A person has a monthly fixed income if a specific monthly amount is paid on the basis of legislation, a collective bargaining agreement, an employment contract or another agreement.

(3) Special payments such as Christmas bonuses, additional monthly salary payments and incentive payments are accounted for as income in the month in which they are paid.

Section 91 Authorisation to issue statutory instruments

The Federal Ministry of Labour and Social Affairs is authorised, in agreement with the Federal Ministry of Finance, to determine the following by statutory instrument requiring the approval of the Bundesrat:

1. the basis for comparison and the manner in which it is to be used to determine the loss of income,
2. how the loss of income is to be determined where a person has sustained health damage before completing his or her school education or before starting vocational training,
3. how the compensation for loss of earnings is to be assessed if the person suffering health damage would have engaged in other occupational activities in addition to an occupational activity if they had not sustained any health damage or would have shared a household with others within the meaning of section 89 (9),
4. how the compensation for loss of earnings is assessed in the case of health damage suffered of which account can be taken following a subsequently arising health impairment which is not linked to the original health damage suffered within the meaning of section 89 (8) and of which income account is to be taken,
5. how, in special cases, net income is to be determined in derogation from section 89 (6) sentence 1 nos. 3 and 4.

Chapter 11 Special benefits and services in individual cases

Section 92 Claim and scope

(1) Persons suffering health damage receive special benefits and services in individual cases if and for as long as they are not, or not sufficiently, in a position to meet their

respective needs based on their income and assets and this inability is the consequence of health damage.

(2) Chapter 16 applies as regards the use of income and assets.

(3) A link between the consequences of health damage and the inability to meet recognised individual needs based on one's own income and assets is presumed unless the opposite is evident or proven. The link is always to be presumed in the case of persons under the age of 18 years who have suffered health damage and persons suffering health damage who receive compensation payments for a degree of impairment of 100 and compensation for loss of earnings in accordance with Chapter 10 or the benefits and services for persons in need of long-term care in accordance with Chapter 7.

(4) "Special benefits and services in individual cases" means the following:

1. benefits and services to secure a livelihood in accordance with section 93,
2. educational assistance in accordance with section 94,
3. benefits and services to continue running a household in accordance with section 95 and
4. benefits and services in other life situations in accordance with section 96.

(5) Special benefits and services in individual cases may be provided as a loan if this appears necessary, taking account of the goals of social compensation, to meet the established needs of the person suffering health damage given the circumstances of the individual case and if the eligibility conditions for payment of financial assistance are not met, or not fully met.

(6) Surviving dependants receive the benefits and services as referred to in subsection (4) nos. 1 and 2 if and for as long as they are not, or not sufficiently, in a position to meet their respective needs based on their income and assets and that inability is linked to the death of the person suffering health damage. A link between the death of the person suffering health damage and that inability is presumed unless the opposite is evident or proven. The link is always to be presumed in the case of surviving dependants who are fully incapacitated for work within the meaning of Book Six.

(7) Section 26 of Book Twelve applies accordingly.

Section 93

Benefits and services to secure livelihood

(1) Persons suffering health damage receive benefits and services to secure their livelihood. Surviving dependants receive benefits and services in accordance with sentence 1 for a period of up to five years following the death of the person suffering health damage. The provisions of Chapters 3 and 4 of Book Twelve apply accordingly, taking account of the specific circumstances of the person suffering health damage and of the surviving dependants. Benefits and services to secure a livelihood are only provided where that livelihood cannot be made on the basis of the other benefits and services for which provision is made under this statute.

(2) Where benefits and services to secure a livelihood need to be provided to persons suffering health damage and orphans whilst there is a need for the benefits and services referred to in Book Eight, the social compensation agency provides these in accordance with subsection (1), unless the public youth services agency is providing benefits and services as set out in section 39 of Book Eight.

(3) Claims arising under the Federal Educational Assistance Act (*Bundesausbildungsförderungsgesetz*) are given priority over claims under this Book. Where persons suffering health damage require further benefits and services to secure their livelihood whilst educational assistance is being provided under the Federal Educational Assistance Act, these are provided by the social compensation agency in accordance with the subsection (1).

(4) The claim to benefits and services to secure a livelihood cannot be assigned, transferred, pledged or attached.

Section 94 **Educational assistance**

(1) Where persons suffering health damage and orphans receive educational assistance under the Federal Educational Assistance Act in the form of a loan on account of health damage suffered, the social compensation agency repays the loan upon application.

(2) In the case of orphans, the need is deemed to be on account of health damage sustained where

1. a parent dies whilst they are still in education or
2. their education starts within five years following the death of a parent.

In the case referred to in sentence 1 no. 1, loans are deemed to be a consequence of the health damage as from the time of death.

(3) The application in the case of loans paid in accordance with section 17 (2) or (3) of the Federal Educational Assistance Act is to be made at the latest three months following disclosure of the Federal Office of Administration's notice as referred to in section 18 (9) of the Federal Educational Assistance Act. In the case of loans paid in accordance with section 17 (3) of the Federal Educational Assistance Act in the version applicable up until 31 July 2019, the application is to be made at the latest three months following receipt of the notification sent by the Kreditanstalt für Wiederaufbau (KfW) pursuant to section 18c (8) of the Federal Educational Assistance Act. The application must include the notice referred to in sentence 1 or the notification referred to in sentence 2. In the cases referred to in sentence 1, the application may be made prior to disclosure of the notice and in the cases referred to in sentence 3 [*sic*]* prior to receipt of the notification. Where, in the cases referred to in sentence 1, the notice is not yet available when the application is made, it must be submitted immediately following its disclosure. Where, in the cases referred to in sentence 2, the notification is not yet available when the application is made, it must be submitted immediately following receipt thereof.

(4) The social compensation agency immediately notifies the Federal Office of Administration when it has received an application made in accordance with subsection (3) sentence 1 or 2 for a loan paid in accordance with section 17 (2) or (3) of the Federal Educational Assistance Act and it immediately notifies the Kreditanstalt für Wiederaufbau (KfW) when it has received an application made in accordance with section 17 (3) of the Federal Educational Assistance Act in the version applicable up until 31 July 2019 to exempt the applicant from the obligation to repay the loan under the Federal Educational Assistance Act. In addition, it immediately notifies the agency which is competent as per sentence 1 of its decisions on such applications as soon as these are no longer appealable. The notification referred to in sentence 2 is made in order to end the exemption if the application to repay a certain amount of the loan is fully rejected or if the decision is given to repay a certain partial amount of the loan; in the case of the decision to repay the entire loan, this is only done for further loan administration purposes. The notifications referred to in sentences 1 and 2 are in each case issued stating the applicant's name and the relevant office-grant number.

(5) After learning that the notice referred to in subsection (3) sentence 1 is non-appealable and after its decision to repay the loan debt in full or in part is non-appealable, the social compensation agency pays the loan debt it is required to repay, in a single sum, to the Federal Office of Administration. Section 18 (10) of the Federal Educational Assistance Act does not apply. After learning of the receipt of the notification as referred to in subsection (3) sentence 2, the social compensation agency pays the loan debt it is required to repay, including interest in accordance with section 18c (2) sentence 1 of the Federal Educational Assistance Act, within three months, as a single sum, to the Kreditanstalt für Wiederaufbau (KfW).

* Translator's note: The German original here erroneously refers to "sentence 3" rather than to "sentence 2".

Section 95

Benefits and services to continue running household

(1) Persons suffering health damage who have their own household receive benefits and services to continue running that household if neither they themselves nor, if they are living together with other members of their household, the other members of the household are able to run the household and it is necessary to continue running the household. The benefits and services are, as a rule, only to be provided temporarily. Benefits and services are to be provided for an indefinite period if

1. provision of the benefits and services avoids or postpones placement in an inpatient facility or

2. it is unlikely that the inability to run the household can be remedied.

(2) The benefits and services include the provision of personal support to members of the household and any other activity which is necessary to continue running the household.

(3) Persons suffering health damage within the meaning of subsection (1) are to be reimbursed reasonable expenses for employing a person to run the household. Reasonable financial assistance may also be paid, as may reasonable old-age pension contributions for the person who is running the household if provision therefor is not made in another way. Where, in addition to or instead of continuing to run the household, it is necessary to bring in a specific person to run the household or it is necessary to counsel or give temporary respite to the person running the household, the reasonable costs thereof are to be assumed.

(4) The benefits and services may also be provided by assuming the reasonable costs of temporarily accommodating members of the household elsewhere if that is necessary in special cases in addition to or instead of continuing to run the household.

Section 96

Benefits and services in other life situations

Persons suffering health damage may also receive benefits and services in other life situations if, taking account of the goals of social compensation, they justify the use of public money.

Section 97

Right of request and choice

When deciding which special benefits and services to provide in an individual case and when providing those benefits and services, account is accordingly taken of the legitimate wishes of persons entitled. Particular account is thereby to be taken of the nature and severity of the health damage sustained and the state of health and age of the person suffering health damage. For the rest, section 8 of Book Nine applies.

Section 98

Particularities in relation to assessment of benefits and services to be provided

The type, scope and duration of provision of special benefits and services in individual cases are based on the particularities of the individual case as well as on the type of benefits and services needed.

Chapter 12

Transportation of deceased person's remains and burial

Section 99

Benefits for transportation of deceased person's remains and burial

(1) Where a person suffering health damage dies of the consequences of that health damage, the person who occasioned the transportation of the deceased person's remains has a claim to the transportation costs being assumed. This claim covers the actual costs of

transporting the deceased person's remains to the place of burial where these are necessary and reasonable.

(2) Where a person suffering health damage dies of the consequences of that health damage, the person who occasioned their burial has a claim to the burial costs being assumed. This claim covers the burial costs up to one seventh of the annual reference value referred to in section 18 (1) of Book Four which is applicable at the time of death.

(3) Death is always deemed to be the consequence of health damage if a person suffering health damage dies of a health disorder which is recognised as a consequence of the health damage.

(4) Those one-off payments which are paid on the occasion of the death of a person suffering health damage on the basis of public-law provisions for the purpose of assuming the costs of transporting the deceased person's remains and of burial are deduced from the amounts referred to in subsections (1) and (2).

(5) The costs of transporting the deceased person's remains and of burial are not assumed if the conditions of section 16 or section 17 (1) are met in the person suffering health damage or in that person who occasioned the transportation or burial.

(6) Transportation and burial benefits may be denied in full or in part if the conditions of section 17 (2) are met in the person suffering health damage or that person who occasioned the costs.

Chapter 13

Special rule applicable to hardship cases

Section 100

Compensation in cases of hardship

(1) Where, in an individual case, application of the provisions of this Book leads to special hardship, reasonable compensation may be paid, with the approval of the competent highest federal authority or of the competent highest *Land* authority.

(2) "Special hardship" means a situation in which the preclusion of benefits or services as a whole or of individual benefits and services goes against the purpose of this Book.

(3) The competent highest federal authority or the competent highest *Land* authority may give its approval generally to compensation being paid in comparable cases of hardship.

Chapter 14

Regulations in case of place of residence or habitual residence abroad

Section 101

Benefits and services in case of place of residence or habitual residence abroad

(1) Persons suffering health damage, their family members or surviving dependants and close persons whose place of residence or habitual residence is abroad receive benefits and services in accordance with subsections (2) to (9).

(2) Rapid assistance services within the meaning of Chapter 4 are provided in Germany. An appropriate amount of the costs of travel necessary in connection with attending the nearest trauma outpatient clinic is reimbursed.

(3) The documented costs of medically necessary and appropriate medical treatment services for the consequences of health damage of the scope referred to in sections 42 and 43 are reimbursed up to double the remuneration which the health insurance fund would have to pay if the services were rendered as in-kind services in Germany. In duly justified cases, an amount over and above that remuneration may be reimbursed in part or in full. The medical treatment may also be provided in Germany following prior approval by the competent administrative authority where it is necessary for medical or cost reasons. An appropriate amount of the travel expenses may be reimbursed in such cases. The costs of medicines, bandages and dressings, remedies and aids may be reimbursed in full. Benefits and services as referred to in sentences 1 to 5 are provided if such needs cannot be met under an existing statutory or private insurance or through state benefits and services

provided by the country of residence in the country of residence. Section 28 (3) does not apply. Where neither a service equivalent to the purposes of sick pay under the social compensation scheme nor financial assistance in the case of a significant adverse effect on the means of livelihood can be provided in the country of residence nor persons suffering health damage can cover that need through existing private or statutory insurance cover and they are thus at a disadvantage, persons suffering health damage are paid that sick pay under the social compensation scheme or financial assistance in the case of a significant adverse effect on their means of livelihood which they would be paid if they had their place of residence or habitual residence in Germany.

(4) Where there is a need for long-term care within the meaning of section 71 (1), a long-term care allowance equal to the benefits paid pursuant to section 37 of Book Eleven may be paid. The costs of supplementary benefits and services pursuant to section 75 (2) are only reimbursed where provision is also made for the corresponding in-kind services in the country of residence.

(5) Benefits and services are provided to persons who are blind in accordance with section 82.

(6) Compensation payments as set out in Chapter 9 are paid insofar as the purpose of the benefit or service can be achieved. That purpose is, in particular, not achieved if the country of residence sets off payments made pursuant to this Book, in part or in full, against its own social security benefits. Sentences 1 and 2 do not apply where a foreign state provides subsidiary benefits and services as compensation for an event causing damage which occurred in Germany.

(7) Persons suffering health damage whose place of residence or habitual residence is abroad are unable to claim compensation for loss of earnings pursuant to Chapter 10 of this Book. If persons suffering health damage whose monthly compensation payment for loss of earnings in accordance with section 90 of this Book has already been approved move their place of residence or habitual residence abroad, they are, upon application, to be paid lump-sum compensation of 30 times the assessed monthly compensation payment for loss of earnings. The application for payment of lump-sum compensation is to be made to the social compensation agency within three months at the latest after the place of residence or habitual residence has been moved abroad. Payment of the lump-sum compensation in accordance with sentence 2 discharges all the claims of a person suffering health damage for which provision is made in this Book.

(8) Benefits and services to secure a livelihood in accordance with section 93 may be paid where persons entitled receive no other benefits and services for the same purpose, in particular under their country of residence's social security and welfare systems. The nature, type and scope of the benefit or service and the use of income and assets are based on the particular circumstances in the country of residence, taking account of the local necessities of life.

(9) Educational assistance is provided in accordance with section 94.

Chapter 15

Particularities of provision in relation to specific grounds for compensation

Section 102

Benefits and services in case of violent crimes abroad

(1) Persons entitled in accordance with section 15 receive benefits and services in accordance with the following subsections.

(2) Persons suffering health damage only receive rapid assistance services in Germany. Costs of travel to trauma outpatient clinics are paid for journeys within Germany. Section 101 (2) sentence 2 applies accordingly.

(3) Persons suffering health damage receive medical treatment services under the social compensation scheme in Germany as a matter of principle. Where there is an acute need for treatment abroad immediately following the event causing damage, costs which cannot be covered in another manner may be assumed as set out in section 51.

(4) Persons suffering health damage receive one-off payments of

1. 2,600 euros in the case of a degree of impairment of at least 30 but less than 50,
2. 7,800 euros in the case of a degree of impairment of between 50 and 60,
3. 13,000 euros in the case of a degree of impairment of between 70 and 80,
4. 20,800 euros in the case of a degree of impairment of 90,
5. 28,600 euros in the case of a degree of impairment of 100.

(5) Where a person who meets the conditions of subsection (1) dies of the consequences of health damage suffered, the surviving dependants receive a one-off payment. The one-off payment is 2,600 euros in the case of persons who have lost one parent, 3,500 euros in the case of persons who have lost both parents and 7,800 euros in the case of other surviving dependants.

(6) Family members and surviving dependants may claim rapid assistance services. These are provided in Germany. The costs of transporting the deceased person's remains and of burial are reimbursed as set out in section 99.

(7) Benefits and services under other public or private social security or pension schemes are to be set off against benefits and services provided in accordance with subsections (3) to (6). These include benefits and services under social security or pension schemes, in particular victim compensation systems in that country in which the violent crime occurred.

(8) Benefits and services pursuant to subsections (2) to (6) are to be provided expeditiously, even where proceedings are still pending abroad. If the foreign state makes provision for benefits and services for the victims of violent crimes and the person entitled has made no application for such benefits and services, then, applying sections 66 and 67 of Book One accordingly, benefits and services as set out in subsections (3) to (5) may be denied in full or in part.

Section 103

Benefits and services for persons suffering health damage whilst performing civilian service and for surviving dependants

Where the conditions of section 23 are met, persons suffering health damage whilst performing civilian service receive

1. benefits and services under the social compensation scheme following the end of their service,
2. benefits and services set out in Chapter 4 Division 3 and Chapter 9 Division 1 during their period of service.

Section 104

Sick pay under social compensation scheme for persons suffering damage whilst performing civilian service

Persons suffering health damage whilst performing civilian service who are incapacitated for work as a consequence of the health damage sustained whilst performing civilian service receive sick pay under the social compensation scheme as set out in section 47 following the end of their civilian service, with the following provisos:

1. Persons suffering health damage whilst performing civilian service who, as a consequence of the health damage sustained whilst performing civilian service, are not gainfully employed at the time when their civilian service ends are deemed incapacitated for work if they are unable to engage in gainful employment or to undertake vocational training, or only at the risk of exacerbating their condition. The date on which the civilian service ends is the date on which the incapacity for work begins.

2. Income earned before the incapacity for work begins is deemed to be ten eighths of the cash benefits and in-kind services received as a person performing civilian service before the end of the civilian service. If the person performing civilian service drew an earned income in the last calendar month before the date set for the start of service, that income is taken if that is to his or her advantage.

Chapter 16

Use of income and assets

Section 105

Basic principles

- (1) The provisions of this Chapter apply to special benefits and services in individual cases within the meaning of Chapter 11, with the exception of educational assistance under section 94.
- (2) Chapter 11 of Book Twelve and the statutory instruments issued on its basis apply accordingly to the definition of and the use of income and assets and the obligations incumbent on others, unless otherwise provided for in the following provisions.
- (3) Income and assets are not to be used where a need exclusively arises as a result of an event causing damage.
- (4) Benefits and services under the social compensation scheme may not be made dependent on the use of income or the use or realisation of assets if this would be inequitable in the individual case taking account of the particular situation of the person who has to use or realise income or assets or for his or her family members who are entitled to maintenance.

Section 106

Taking account of income

- (1) No account is to be taken, as income, of
1. benefits and services for which provision is made in this Book, with the exception of those benefits which serve to supplement income and
 2. the surviving dependants' benefit as set out in section 844 (3) of the Civil Code.
- (2) The transitional allowance and the maintenance allowance are only regarded as income if special benefits and services in an individual case are a possibility in addition to the benefits and services as set out in section 62 sentence 1 no. 1.
- (3) In addition to the income earned by persons entitled, "income" also means the income of spouses who are not permanently separated or of persons who are cohabiting with persons entitled if it exceeds the income threshold referred to in section 107 (1) which is relevant to persons entitled. In the case of unmarried persons entitled who are under the age of 18, the income of the parents or a parent with whom they are living is also to be used as income. In derogation from sentence 2, no account is taken of the parents' or a parent's income for as long as the person entitled is pregnant or caring for at least one child up until the child's sixth birthday. Payments made on the basis of a claim to maintenance under civil law are regarded as the person entitled's income if the person obliged to pay maintenance's income exceeds the income threshold to be calculated in accordance with section 107 (1). If the amount of the maintenance to be paid has been determined by a court, the payments made on that basis are regarded as the person entitled's income.

Section 107

Income threshold

- (1) The person entitled's income is only to be used if, during the period of need, it exceeds an income threshold in a month. In derogation from the amounts referred to in section 85 (1) of Book Twelve, account is thereby to be taken of

1. an amount which is three times Standard Needs Rate 1 pursuant to the Annex to section 28 of Book Twelve, as a basic amount,
2. expenditure for accommodation and
3. an amount which is 90 per cent of Standard Needs Rate 1 for spouses who are not separated and for each person whom the person entitled primarily maintains or their spouses who are not separated, as a family allowance.

The income threshold referred to in sentences 1 and 2 is, at a maximum, eight times Standard Needs Rate 1, plus 75 per cent of the respective family allowance.

(2) If, in the case of an unmarried person entitled who were under the age of 18, account also needs to be taken of the parents' or a parent's income to meet his or her needs, the person entitled's income and those of the parents or a parent are considered separately. In such cases, the income threshold calculated in accordance with subsection (1) applies to persons entitled. Their parents' or parent's own income threshold applies, in the calculation of which account it to be taken of the amounts referred to in subsection (1). Where both income thresholds are exceeded, priority is to be given to the person entitled's income.

(3) Subsections (1) and (2) do not apply in the case of benefits and services to secure a livelihood.

Section 108

Taking account of assets

(1) Compensation payments within the meaning of Chapter 9 and the one-off payments referred to in section 102 (4) and (5) are to be used as assets.

(2) No account is to be taken of residential property as defined in section 17 (2) of the Federal Social Housing Promotion Act (*Wohnraumförderungsgesetz*) which is used by persons entitled themselves or together with family members.

(3) In the case of unmarried persons entitled who are under the age of 18, their parents' or a parent's assets are also to be used or realised to meet their needs. In derogation from sentence 1, the parents' or a parent's assets are not to be used or realised for as long as the person entitled is pregnant or caring for at least one child up until the child's sixth birthday.

Section 109

Authorisation to issue statutory instruments

The Federal Ministry of Labour and Social Affairs is authorised, in agreement with the Federal Ministry of Finance, to determine by statutory instrument requiring the approval of the Bundesrat which other

1. income is not to be taken into account as income and how income is to be calculated in the individual case,
2. amounts are to be deducted from income and
3. assets are to be regarded as exempt amounts and how much of small amounts of cash and other cash values are not to be used or realised as assets.

Chapter 17

Adjustment

Section 110

Amount and date of adjustment, authorisation to issue statutory instruments

(1) The compensation payments as set out in Chapter 9, the amount referred to in section 89 (8) sentence 1 and the one-off payments referred to in section 102 (4) and (5) are each adjusted in line with the percentage by which the current pension value under the statutory pension scheme changes.

(2) Amounts up to 0.49 euros resulting from such adjustment are to be rounded down to full euro amounts and amounts above 0.50 euros are to be rounded up to full euro amounts.

(3) Adjustments are made by statutory instrument issued by the Federal Ministry of Labour and Social Affairs with the approval of the Bundesrat, in each case on the same date on which the pension values under the statutory pension scheme are adjusted.

(4) The adjustment referred to in subsection (1) has no impact on payments which have already been made, in particular lump-sum compensation paid in accordance with sections 84 and 86.

Chapter 18 Organisation, delivery and procedure

Division 1 Organisation and delivery

Section 111 Social compensation agencies

The *Länder* act as the social compensation agencies.

Section 112 Subject-matter jurisdiction

The authorities determined in accordance with *Land* legislation have subject-matter jurisdiction. That jurisdiction may be transferred to joint authorities or to other agencies.

Section 113 Local jurisdiction

(1) The *Länder* determine the authorities' local jurisdiction as per section 112.

(2) Where compensation is paid to the victims of violent crime in accordance with sections 13 to 15, where compensation is paid to persons entitled in accordance with section 21 and where benefits and services are provided to these persons' family members, surviving dependants and close persons, that *Land* has jurisdiction in which the person entitled has his or her place of residence, or habitual residence if he or she has no place of residence.

(3) When making the determination as required by section 8 (2), that *Land* has jurisdiction which is responsible for giving a decision on claims resulting from the last event causing damage.

(4) Where compensation is paid to persons entitled in accordance with section 23, that *Land* has jurisdiction in which the applicant has his or her place of residence, or habitual residence if he or she has no place of residence, on the date on which the civilian service starts.

(5) Where compensation is paid in accordance with section 24, that *Land* has jurisdiction in which the vaccination or other specific prophylactic measure causing health damage was administered. If the vaccination or other specific prophylactic measure causing health damage was administered abroad on the basis of a statutory instrument issued in accordance with section 20i (3) of Book Five, then that *Land* has jurisdiction in which the applicant has his or her place of residence, or habitual residence if he or she has no place of residence, when making the application, or if he or she had no place of residence, or habitual residence if he or she had no place of residence, within the territorial scope of this statute when making the application, then that *Land* has jurisdiction in which the applicant had his or her last place of residence or habitual residence or in which the authority or facility is located in which the applicant or one of the applicant's family members is or was employed.

(6) The Federal Ministry of Labour and Social Affairs is authorised to determine, by statutory instrument requiring the approval of the Bundesrat, local jurisdiction for persons whose place of residence or habitual residence is abroad.

Section 114 Tasks of Federal Ministry of Labour and Social Affairs

(1) The Federal Ministry of Labour and Social Affairs works towards ensuring that suitable measures are in place at the national level to deliver on the provisions of this Book.

(2) The Federal Ministry of Labour and Social Affairs assumes the tasks of the central contract point within the meaning of Article 16 of Council Directive 2004/80/EC.

Division 2
Procedure for examining claim to benefits and services

Section 115
Simplified procedure for rapid assistance services

- (1) Rapid assistance services are generally provided under the simplified procedure.
- (2) Under the simplified procedure, it is sufficient for a summary examination to reveal that the applicant may be entitled to claim under social compensation law. The facts as presented in the application are to be presumed to be true unless their incorrectness is evident.
- (3) Under the simplified procedure, no decision is taken to determine the correctness or incorrectness of the facts as presented by the applicant nor to determine the existence or nonexistence of other claims over and above those to rapid assistance.

Section 116
Further procedure

- (1) After a decision is taken in the simplified procedure, an examination is conducted as to whether claims to benefits and services under the social compensation scheme exist, unless the applicant has explicitly limited the application to rapid assistance.
- (2) If this additional examination reveals that the applicant has no claim to benefits and services under the social compensation scheme, the application is refused. At the same time, the administrative act which was previously issued under the simplified procedure is revoked with effect for the future.
- (3) If this additional examination reveals that the applicant has claims to benefits and services under the social compensation scheme but the simplified procedure resulted in an unfavourable administrative act, the administrative act issued under the simplified procedure is revoked and a new decision is taken on the application.

Section 117
Easing of burden of proof

- (1) If no evidence is available, or cannot be procured, or has been lost through no fault on the part of the applicant or that of the applicant's surviving dependants, the information provided by the applicant in relation to those facts which are linked to the health damage suffered are to be used as the basis for taking the decision if they appear credible given the circumstances of the individual case.
- (2) A fact appears credible if there are several definitely possible options and one of those options is the most likely because, based on an overall assessment of all the facts and circumstances, there is a great deal to be said for that option.
- (3) The administrative authority may, in specific cases, require the applicant to make a declaration in lieu of an oath (*eidesstattliche Versicherung*).

Section 118
Consultation of documents and hearing

- (1) With the applicant's consent, the competent administrative authority may, in order to shed light on the facts, obtain for inspection medical records, documentation, medical histories, autopsy and examination findings and x-ray images, as required, from public, independent charitable and private hospitals, hospitals run by corporations under public law and social security insurance agencies. The administrative authority is to ensure that professional secrecy is maintained. Under the same conditions, the administrative authority may also request information and obtain for inspection examination documents from private physicians and other therapists who are treating, or who have treated, the applicant.
- (2) The administrative authority is authorised to require the persons providing it with information to make a declaration in lieu of an oath stating that they have, to the best of their

knowledge, told the pure truth and have not concealed anything. In the same way, expert witnesses may also be required to make a declaration in lieu of an oath stating that their expert report is impartial and has been rendered to be best of their knowledge.

(3) Where holding a hearing before the competent administrative authority is difficult on account of the great distance between the place where the person to be heard is staying and the seat of the administrative authority, then another administrative authority and, if the hearing before that authority would likewise be difficult, another authority may be requested to hold the hearing. The same applies where there is an increased danger in delay.

Section 119

Advance benefits and services and preliminary decision

(1) Before it has been established whether the qualifying conditions under section 4 are met, persons suffering health damage may receive medical treatment, participation benefits and services and special benefits and services in individual cases.

(2) If, based on the outcome of the investigations conducted, no final decision can yet be taken either on a claim or on its scope, but the conditions for approving individual benefits or services are in all likelihood met, then a preliminary decision may be taken to provide those benefits or services. The condition therefor is that an application for a preliminary decision has been received and there is a legitimate interest in a preliminary decision being given. The scope of and reason for the preliminary decision are to be stated in the decision. After the examination has been completed, a final decision is immediately to be taken.

Division 3

Other regulations

Section 120

Claims against those liable for damages

(1) Section 116 of Book Ten applies accordingly as regards the transfer of a person entitled's claim for damages to the respective agency responsible for paying social compensation.

(2) A claim for damages cannot be asserted to the person entitled's disadvantage. This in particular applies where the damages paid by the damaging party or by a third party are not sufficient to compensate for the damage as a whole. In such cases the person entitled's claims for damages are given priority over the claims of the agency paying the damages.

(3) Asserting a claim for damages may be dispensed with if it does not promise success.

(4) The health insurance funds are required to notify the administrative authority of facts substantiating that a third party caused the damage. Upon application, the health insurance funds and the *Land* accident insurance funds are required to provide the administrative authority with information about the costs of medical treatment services arising to them. They are not required to provide any details regarding outpatient treatment by a physician and the provision of medicines, bandages and dressings.

Section 121

Reimbursement of benefits and services provided by public-law agencies

Where a social compensation agency has provided benefits and services and it subsequently becomes clear that another public-law agency which is not a provider within the meaning of section 12 of Book One would have been responsible for providing the benefits or services, the agency which would have been responsible is to reimburse the expenditure. The amount to be reimbursed is based on the legal provisions applicable to the agency responsible.

Section 122

Overpayment of cash benefits following person entitled's death

Where a social compensation agency has wrongly paid cash benefits for a period following the death of a person entitled, section 118 (3) to (4a) of Book Six of the Social Code applies accordingly.

Section 122a

Payment

The benefits referred to in section 3 sentence 1 nos. 5 to 7, 11 and 12 are awarded as monthly payments which are rounded up to full euro amounts and paid monthly in advance. The benefits referred to in section 48 are awarded as daily payments.

Chapter 22

Transitional provisions

Section 137

Temporal scope

This Book applies to applications for benefits and services under the social compensation scheme which are made as from 1 January 2024, unless otherwise provided in this Chapter.

Section 138

Special temporal scope for victims of violent crimes

(1) Persons who suffered damage to their health in the period between 16 May 1976 and 31 December 2023 receive benefits and services in accordance with this Book if the conditions set out in the Crime Victims Compensation Act (*Opferentschädigungsgesetz*) in the version applicable at the time of the commission of the act were met. If the damage to health was brought about by several acts, this provision applies if the last act occurred in the period referred to in sentence 1.

(2) The surviving dependants of persons who suffered damage to their health in the period between 16 May 1976 and 31 December 2023 receive benefits and services in accordance with this Book if the conditions of subsection (1) were met in respect of the person who suffered damage to his or her health.

(3) Persons who suffered damage to their health in the period between 23 May 1949 and 15 May 1976 receive benefits and services in accordance with this Book if they

1. meet the conditions set out in the Crime Victims Compensation Act in the version applicable as at 31 December 2023,
2. have a degree of impairment of at least 50 solely as a consequence of that damage to health,
3. are in need and
4. have their place of residence or habitual residence in Germany.

“In need” means that a person is not, or is not sufficiently, in a position to secure his or her livelihood from his or her income and assets. Chapter 16 applies as regards the use of income and assets. Compensation encompasses all the benefits and services for which provision is made in this Book, with the exception of compensation for loss of earnings.

(4) The surviving dependants of persons who suffered damage to their health in the period between 23 May 1949 and 15 May 1976 receive surviving dependants' benefits and services in accordance with this Book as long as they are in need and have their place of residence or habitual residence in Germany. Subsection (3) sentences 2 and 3 applies accordingly.

(5) In the territory referred to in Article 3 of the Unification Treaty (*Einigungsvertrag*), this Book only applies to claims resulting from acts committed after 2 October 1990. Subsections (1) and (2) apply accordingly. Subsections (3) and (4) apply, with the proviso that the relevant period is that between 7 October 1949 and 2 October 1990.

(6) Benefits and services are provided in accordance with this Book in respect of acts committed before 23 May 1949. In the territory referred to in Article 3 of the Unification Treaty, this applies to acts committed before 7 October 1949.

(7) No benefits and services within the meaning of sections 31 to 36 are, as a rule, to be provided to persons suffering health damage, family members, surviving dependants and close persons within the meaning of section 2 for acts committed in the period between 1

January 2021 and 31 December 2023 if the conditions set out in the Crime Victims Compensation Act in the version applicable at the time of the commission of the act are met.

Section 139

Special temporal scope applicable to war victims of both world wars

Persons who suffered damage to their health before 1 January 2024 receive benefits and services in accordance with this Book if the conditions set out in the Federal War Victims' Relief Act in the version applicable up until 31 December 2023 were met. The monthly compensation payment is made without an examination being conducted during that period of whether the conditions of entitlement are met.

Section 140

Special temporal scope applicable to persons suffering health damage whilst performing civilian service

Persons who suffered damage to their health before 1 January 2024 receive benefits and services in accordance with this Book if the conditions set out in the Civilian Service Act (*Zivildienstgesetz*) in the version applicable up until 31 December 2023 were met.

Section 141

Special temporal scope applicable to persons suffering health damage caused by vaccinations or another specific prophylactic measure

Persons who suffered damage to their health before this Book entered into force receive the benefits and services for which provision is made in this Book if the conditions referred to in section 60 of the Infection Protection Act in the version applicable up until 31 December 2023 were met. The surviving dependants of persons who suffered damage to their health in the period up until 31 December 2023 receive the benefits and services for which provision is made in this Book if the conditions referred to in sentence 1 were met in respect of the person who suffered damage to their health.

Chapter 23

Provisions on acquired rights

Division 2

Reassessments and adjustment

Section 149

Reassessments

(1) Reassessments of a person's entitlement to claim and of their degree of impairment are conducted upon application and on the basis of Chapters 1 to 22. Reassessments may also be conducted ex officio.

(2) If, following a reassessment, no, or only reduced, benefits or services can be claimed in accordance with Chapters 1 to 22 than before applying for the reassessment, then at least those benefits and services continue to be provided in accordance with this Chapter as were provided before the application for a reassessment was made. This does not apply if the entitlement to claim which no longer exists or the reduced benefits or services result from an assessed reduction of a person's degree of impairment.

Section 150

Adjustment, authorisation to issue statutory instruments

The cash benefit assessed in accordance with sections 144 and 145 and amounts resulting from sections 147 and 148 are in each case adjusted in line with the percentage by which the current pension value under the statutory pension scheme changes. Amounts up to 0.49 euros resulting from sentence 1 are rounded down to the next full euro amount and amounts above 0.50 euros are rounded up to the next full euro amount. The adjustment is made on the basis of a statutory instrument issued by the Federal Ministry of Labour and Social Affairs with the approval of the Bundesrat, in each case on the same date on which pensions under the statutory pension scheme are adjusted.

Division 3
Legitimate expectation as regards protection against illness

Section 151
Protection against illness

(1) Persons who, in the period up until 1 January 2024, received benefits and services under section 10 of the Federal War Victims' Relief Act, or applying section 10 of the Federal War Victims' Relief Act accordingly, for curative and medical treatment for health impairments which are not recognised as being a consequence of health damage are entitled to medical benefits and services under Chapter 3 of Book Five for the treatment of health impairments which are not recognised as being a consequence of health damage. Section 44 (2) applies accordingly. Claims under section 143 are unaffected by sentence 1. The benefits and services referred to in sentence 1 are provided, on behalf of the competent administrative authority, by the health insurance fund chosen by the person in question in accordance with section 173 of Book Five. Section 175 (4) sentences 1 to 5 of Book Five applies accordingly. Section 45 sentence 1 applies accordingly. Persons entitled receive an electronic health card as referred to in section 291 of Book Five from their chosen health insurance fund.

(2) (repealed)

(3) The claim referred to in subsection (1) rests whilst a person has statutory health insurance.

Division 4
Right of choice

Section 152
Right of choice

(1) Instead of the benefits and services referred to in this Chapter, persons entitled in accordance with section 142 may choose to receive the benefits and services as referred to in Chapters 1 to 4 and 6 to 22, with the exception of sections 84 and 86. In such cases,

1. the previously recognised consequences of health damage and the assessed degree of impairment are regarded as legally binding in respect of decisions on benefits and services referred to in Chapters 1 to 4 and 6 to 22;

2. the amount calculated in accordance with section 87 (1) of the Federal War Victims' Act as at 31 December 2023 is set and adjusted annually taking account of section 110 (1), (2) and (4). This amount takes the place of the benefit referred to in Chapter 10.

(2) The right of choice is to be exercised within 12 months of the decision on benefits and services under this Chapter becoming final and absolute. Exercise of the right of choice is irrevocable. It has retroactive effect to 1 January 2024. Benefits and services referred to in section 144 which have already been provided are deducted. Those benefits and services referred to in section 144 provided in the period up until disclosure of the notice on benefits and services as referred to in Chapters 1 to 4 and 6 to 22 to which the person entitled has a claim are deducted from the following benefits and services:

1. the monthly compensation payment within the meaning of section 83 (1),

2. the monthly compensation payment in the case of the most severe consequences of health damage within the meaning of section 83 (2),

3. the monthly compensation payment to widows, widowers and cohabiting partners within the meaning of section 85,

4. the monthly compensation payment to orphans within the meaning of section 87,

5. the monthly compensation payment to surviving parents within the meaning of section 88 and

6. compensation for loss of earnings in accordance with section 89.

(3) Where a pension has been capitalised under section 72 of the Federal War Victims' Relief Act or under section 1 (1) of the Pension Capitalisation Act – Compensation of War Victims (*Rentenkapitalisierungsgesetz-KOV*), the compensation payment as referred to in section 83 is reduced by the capitalised amount during that period in which the compensation is paid.

(4) Persons entitled in accordance with section 142 who only received a basic pension in accordance with sections 31, 40, 45 (1) or (3) sentence 1 letters (a) to (c) of the Federal War Victims' Relief Act in December 2023 receive benefits and services in accordance with Chapters 1 to 4 and 6 to 22, with the exception of sections 84 and 86, as from 1 January 2024. Section 152 (1) sentence 2 applies accordingly. Sentence 1 does not apply to persons entitled who have a claim to benefits and services as referred to in section 143 (2) or (3) or who have a claim as a person who has lost both parents in accordance with section 46 of the Federal War Victims' Relief Act.

Section 153 **Written form**

The right of choice must be asserted in written form vis-à-vis the social compensation agency.