

**Act on the Legal Status
of Members of the German Bundestag
(Members of the Bundestag Act – *Abgeordnetengesetz*)**



**Act on the Legal Status
of Members of the European Parliament
from the Federal Republic of Germany
(Members of the European Parliament Act –
Europaabgeordnetengesetz)**

Published in June 2004, updated in July 2006,
by the Administration of the German Bundestag

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**Act on the Legal Status
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(Members of the Bundestag Act – *Abgeordnetengesetz*)**

*of 18 February 1977 (Federal Law Gazette I, p. 297),
in the version promulgated on 21 February 1996
(Federal Law Gazette I, p. 326), as amended by Article 1
of the Act of 22 August 2005 (Federal Law Gazette I, p. 2482)*

PART ONE

Acquisition and loss of membership of the Bundestag

Section 1

Acquisition and loss of membership of the Bundestag

The acquisition and loss of membership of the Bundestag are governed by the provisions of the Federal Electoral Act.

PART TWO

Membership of the Bundestag and professional activity

Section 2

Protection of the free exercise of an electoral mandate

(1) No one may be prevented from standing as a candidate for a mandate to serve as a Member of the Bundestag or from accepting or holding such a mandate.

(2) Discrimination at work on the grounds of candidature for or acceptance and exercise of a mandate shall be inadmissible.

(3) Termination of an employment contract or dismissal on grounds of the acceptance or exercise of a mandate shall be inadmissible. In all other respects, termination of an employment contract shall only be permitted for a compelling reason. Protection against termination or dismissal shall take effect on the selection of the candidate by the relevant party organ or on submission of the list of nominated candidates. It shall continue to apply for one year after the end of the Member's term of office.

Section 3

Election leave

During the two months immediately prior to polling day, a candidate for a seat in the Bundestag shall be granted leave of up to two months on request for the purpose of preparing for the election. There shall be no entitlement to continued payment of emoluments during the period of leave.

Section 4

Seniority and length of service

(1) After the end of the Member's term of office, his or her period of membership of the Bundestag shall be credited to his or her professional seniority and company service.

(2) Within the context of an existing pension scheme operated by a company or companies, the period referred to in subsection (1) above shall only be reckonable for the purpose of fulfilling the vesting periods prescribed in section 1 of the Improvement of Company Pension Schemes Act (*Gesetz zur Verbesserung der betrieblichen Altersversorgung*).

PART THREE
**Legal status of public servants
elected to the Bundestag**

Section 5
**Suspension of the rights and duties
arising from employment in the public service**

(1) With the exception of the duty of confidentiality and the obligation to refrain from accepting rewards and gifts, the rights and duties arising from salaried membership of the permanent civil service shall be suspended from the date of acceptance of election by a permanent civil servant for the period of his or her term of office. The same shall apply where a Member of the Bundestag is appointed to such a position in the public service from the date on which the appointment takes effect. The civil servant shall be entitled to use his or her official title or grade with the addition of the word "retired" ("*außer Dienst*", "*a.D.*"). The foregoing provisions shall be without prejudice to the right to treatment and compensation of civil servants who have been injured in an accident. The first sentence above shall apply for a period not extending beyond the civil servant's voluntary or compulsory retirement.

(2) In the case of civil servants with non-active status, subsection (1) above shall apply, *mutatis mutandis*, for a period not extending beyond the date of their final voluntary or compulsory retirement.

(3) A temporary civil servant undergoing practical professional training who is elected to the Bundestag shall be granted unpaid leave on request. If, after passing the professional examination, the trainee is appointed as a probationary civil servant, his or her rights and duties in the latter capacity shall be suspended pursuant to subsection (1) above from the date on which the appointment takes effect.

Section 6
Reinstatement after expiry of a mandate

(1) When a civil servant ceases to be a Member of the Bundestag, his or her rights and duties as a civil servant shall remain suspended for a maximum of six months. On application, which must be made within three months from the end of his or her term of office, the civil servant shall be reinstated within three months from the date of the application. The category within the career structure to which the civil servant is appointed must be the same as, or equivalent to, his or her former category and must attract at least the same final basic salary. He or she shall receive the emoluments

payable in respect of his or her former position with effect from the date of application for reinstatement.

(2) If the civil servant does not make his or her application within three months from the end of his or her membership of the Bundestag in accordance with subsection (1) above, the rights and duties arising from membership of the civil service shall remain suspended (section 5(1) of this Act) until the date of voluntary or compulsory retirement. If, however, the civil servant has neither been a Member of the Bundestag for at least two electoral terms nor reached his or her fifty-fifth birthday on ceasing to be a Member of the Bundestag, the highest administrative authority may reinstate the civil servant by appointing him or her to a position in accordance with the third sentence of subsection (1) above; if the civil servant refuses reinstatement or fails to take up the appointment, he or she shall be dismissed. The second sentence above shall not apply if, during his or her membership of the Bundestag, the civil servant was a member of the Federal Government.

Section 7

Seniority in the public service

(1) Without prejudice to section 23(5) of this Act, the accrual of seniority on the pay scale shall be suspended, in accordance with the general provisions applicable to federal civil servants, until membership of the Bundestag ceases.

(2) If the civil servant is not reinstated in his or her former position in accordance with section 6 of this Act, the accrual of seniority on the pay scale shall be suspended for the period from the end of his or her membership of the Bundestag until the date on which a pension becomes payable.

(3) Without prejudice to the provisions of section 23(5) of this Act, the period of membership of the Bundestag shall not count towards the period of service as defined in pensions legislation. The same shall apply with regard to the period after the Member's term of office if the civil servant is not reinstated in his or her former position pursuant to section 6 of this Act.

(4) Once a civil servant has ceased to be a Member of the Bundestag, his or her term of office shall count towards the civil servant's seniority in his or her present grade, excluding any probationary period.

(5) In the case of public-service employees, once they cease to be Members of the Bundestag, their period of membership shall count towards their professional seniority and length of service; in the context of an existing supplementary retirement and surviving dependant's pension, this shall only apply to provisions governing expectancy or claims on the merits.

Section 8

Civil servants appointed for a fixed term, judges, members of the armed forces and public-service employees

(1) Sections 5 to 7 of this Act shall apply, *mutatis mutandis*, to judges and to career members and fixed-term volunteer members of the armed forces.

(2) The rights and duties arising from engagement to serve for a fixed period in the armed forces shall be suspended for no longer than the period of the engagement, and those arising from appointment for a fixed period as a civil servant for no longer than the period of the appointment.

(3) Subsection (2) above and the provisions of sections 5, 6 and 7(1) to (4) shall apply, *mutatis mutandis*, to public-service employees. Public service within the meaning of this provision is work performed in the service of the Federal Republic, one of its constituent states (*Länder*), a local authority or other body, institution or foundation established under public law or associations thereof, with the exception of public religious societies and associations thereof.

Section 9

University staff with civil-servant status

(1) With regard to the legal status of university professors and assistant professors within the meaning of Section 42 of the Framework Act for Higher Education (*Hochschulrahmengesetz*) who are elected to the Bundestag, section 6 of the present Act shall apply, with the proviso that they must be reinstated in their former position at the same university.

(2) During their term of office in the Bundestag, professors and assistant professors may engage in research and teaching as well as providing assistance to doctoral and postdoctoral students. Remuneration for this work shall be calculated on the basis of actual performance. The remuneration may not exceed 25 per cent of the income which would be paid under their contract of employment as professors or assistant professors. In all other respects, the provisions relating to federal civil servants shall apply.

Section 10

Electoral officials appointed for a fixed term

The *Länder* may enact legislation deviating from the regulations contained in section 6 of this Act in the case of electoral officials appointed for a fixed term.

PART FOUR
Benefits for Members of the Bundestag

Section 11
Members' remuneration

(1) A Member of the Bundestag shall receive a monthly remuneration based on one twelfth of the annual income of

- a judge of the highest federal courts (salary group R6)
- an electoral official appointed for a fixed term (salary group B6)

In derogation of the first sentence above, with effect from 1 July 2000, a Member's remuneration shall be 12,953 Deutsche Mark; from 1 July 2001, 13,200 Deutsche Mark; from 1 January 2002, 6,878 euros and, from 1 January 2003, 7,009 euros. The procedure prescribed in section 30 of this Act shall apply to subsequent adjustments.

(2) The President of the Bundestag shall receive a monthly supplementary allowance of one month's salary as specified in subsection (1) above; his or her deputies shall receive a monthly supplementary allowance amounting to half of the monthly salary specified in subsection (1) above.

(3) The amount of a Member's remuneration and of the supplementary allowance shall be reduced by one three-hundred and sixty-fifth on account of allowances granted for the cost of nursing care under section 27 of this Act from 1 January 1995.

Section 12
Members' allowances

(1) To cover costs incurred in connection with the exercise of his or her parliamentary mandate, a Member of the Bundestag shall receive various compensatory allowances. These shall comprise monetary allowances and benefits in kind.

(2) A Member of the Bundestag shall receive a monthly expense allowance to cover, in particular,

1. office expenses for the establishment and upkeep of a constituency office outside the seat of the German Bundestag, including rent and utility and service charges, stock and office materials, literature and other communication media and postage,
2. additional expenditure incurred at the seat of the Bundestag and travel expenses, excluding the cost of official trips abroad,
3. travel costs for trips in connection with the exercise of his or her mandate within the Federal Republic of Germany, without prejudice to the provisions of sections 16 and 17 of this Act, and

4. additional expenses for other costs incurred in connection with the exercise of a parliamentary mandate (representative functions, invitations, constituency work, etc.) which are not otherwise defrayable from the professional remuneration and allowances paid to cover the cost of living.

The expense allowance shall be adjusted each year on 1 January in line with the increase in the general cost of living of all households in the previous year. Details of the amount of the estimates for the individual flat-rate allowance, based on actual expenditure, and the amount of the adjustment shall be governed by the Budget Act (*Haushaltsgesetz*) and by implementing provisions which shall be enacted by the Council of Elders (*Ältestenrat*).

(3) On submission of evidence, a Member of the Bundestag shall receive reimbursement for employing staff to assist him or her in carrying out his or her parliamentary work. Entitlement to this reimbursement is not transferable to another Member of the Bundestag. Reimbursement of expenditure in respect of employment contracts concluded with staff who are or were related by blood or marriage to the Member of the Bundestag is not permissible. The same shall apply, *mutatis mutandis*, to employment contracts concluded with the spouse or partner of a Member of the Bundestag. Details of the reimbursable amount of expenditure and the conditions of reimbursement, the mandatory minimum requirements for the employment contract and other matters shall be governed by the Budget Act and the implementing provisions to be enacted by the Council of Elders. Salaries and other staff expenditure shall be paid by the Bundestag Administration. The Bundestag shall not be liable to third parties. The staff shall not be public servants. No contractual relationship shall exist between the staff and the Bundestag Administration.

(4) Members' allowances shall also include:

1. the provision of a fully equipped office at the seat of the Bundestag,
2. the use of transport facilities in accordance with section 16 of this Act,
3. the use of official Bundestag vehicles,
4. the provision and use of the common information and communication system of the Bundestag, and
5. other Bundestag services.

Details shall be regulated by the Budget Act and by implementing provisions which shall be enacted by the Council of Elders.

(5) The President of the Bundestag shall receive a monthly official expense allowance of 1,023 euros, and his deputies shall receive a monthly official expense allowance of 307 euros.

(6) A Member of the Bundestag who has the exclusive use of an official car shall receive an expense allowance reduced by 25 per cent.

Section 13

Non-entitlement to reimbursement of expenses

A Member of the Bundestag elected to the Bundestag in the last quarter of the last year of an electoral term shall not have a right to benefits under section 12(2) and (3) of this Act if the Bundestag has already completed its work.

Section 14

Reduction of the expense allowance

(1) An attendance register shall be displayed on each sitting day. The President shall determine, in consultation with the Council of Elders, which days count as sitting days and the time during which the attendance register is to be displayed. If a Member of the Bundestag does not enter his or her name in the register, 50 euros shall be deducted from his or her expense allowance. The amount of the reduction shall be increased to 100 euros if a Member who has not been granted leave of absence fails to enter his or her name in the attendance register on the day of a plenary sitting. The amount of the deduction shall be reduced to 20 euros if a Member of the Bundestag presents a medical certificate attesting to a stay in hospital or in a sanatorium or to temporary incapacitation. During the period of maternity protection in the event of pregnancy or if a Member of the Bundestag has a child under the age of 14 living in his or her household who is certified ill by a doctor and for whom the Member must care personally because no other responsible person is available in the household to do so, the Member's failure to enter his or her name in the attendance register shall not result in a reduction of the expense allowance. From the time when the attendance register is displayed, performance of the duties of President or Secretary, a minuted request to speak at a sitting of the German Bundestag, the use of a personal voting card in a recorded vote, participation in a roll-call vote, entry in the attendance register of a committee or the Council of Elders or participation in an approved official trip on the day of the sitting shall count as entry in the attendance register.

(2) A Member of the Bundestag who fails to cast a vote by voting card or roll-call shall have 50 euros deducted from his or her monthly expense allowance. This shall not apply if the President has granted the Member leave of absence, if a deduction is made under subsection (1) above or in the circumstances described in the sixth sentence of subsection (1) above.

Section 15

Receipt of other *per diem* or attendance allowances

1 If a Member of the Bundestag receives a *per diem* or attendance allowance from other public funds on the same day that he or she has entered his or her name on the

Bundestag attendance register, 20 euros or the amount of the attendance allowance paid out of the other public funds, whichever is the lesser, shall be deducted from his or her monthly expense allowance. The same shall apply to official trips abroad which fall on the day of a sitting.

Section 16

Right to free use of public transport and reimbursement of travel costs

(1) A Member of the Bundestag shall have the right to free use of all transport facilities of the rail operator Deutsche Bahn AG. If, in the exercise of his or her mandate, a Member uses internal flights or sleeping-cars in the Federal Republic of Germany, the cost shall be reimbursed up to the highest class on production of receipts.

(2) For the duration of his or her entitlement to free travel, a Member of the Bundestag may not accept reimbursement of travel costs for domestic trips with Deutsche Bahn AG from any other source. The same shall apply to domestic travel undertaken as part of a trip abroad and to expenditure on flights and sleeping-cars where such expenditure is reimbursed under subsection (1) above.

Section 17

Official trips

(1) Official trips shall require the prior approval of the President.

(2) In the case of domestic trips, daily subsistence expenses shall be deemed to have been reimbursed through the expense allowance. By virtue of the application, *mutatis mutandis*, of the Federal Travel Expenses Act (*Bundesreisekostengesetz*), however, a Member of the Bundestag shall receive, on request, an overnight accommodation allowance as well as the reimbursement of his or her travel expenses. If a Member of the Bundestag proves that he or she has incurred an unusual level of expenditure, which cannot be covered by the overnight accommodation allowance, the unavoidable excess shall be reimbursed.

(3) In the case of official trips abroad, a Member shall receive, on request, *per diem* and overnight accommodation allowances. In addition, the following shall also be reimbursed:

- in the case of rail travel, the cost of return travel from the federal border to the destination, as well as the cost of a sleeping car, on production of receipts;
- in the case of air travel, the attested cost of travel to and from the destination;
- the cost of necessary travel by other means of transport.

(4) On application, in the cases referred to in subsections (2) and (3) above, a mileage payment shall be awarded in lieu of travel costs. It must not exceed the amount of expenditure which would have been reimbursable for travel by air under section 16(1)

or section 17(3) of this Act. The amount of the mileage payment shall be determined by the Council of Elders.

(5) In all other respects, the provisions of the Federal Travel Expenses Act, as amended, shall apply, *mutatis mutandis*, unless otherwise determined by the Council of Elders.

PART FIVE
**Benefits for former Members
of the Bundestag and their surviving dependants**

Section 18
Transitional emoluments

(1) An outgoing Member with at least one year of membership shall receive transitional emoluments. The transitional emoluments, amounting to the Members' remuneration specified in section 11(1) of this Act, shall be paid for one month for each year of membership, up to a maximum of eighteen months. Periods of earlier membership of the Bundestag for which transitional emoluments have already been paid are not reckonable. Membership of the Bundestag lasting more than half a year shall be regarded as a full year for the purposes of the calculation described in the second sentence above.

(2) From the second month after the date of severance from the Bundestag, all earned income and pension benefits shall be set off against the transitional emoluments. Income from membership of the European Parliament shall not be set off against these emoluments if the European Parliament already makes provision for the transitional emoluments to be set off against its own remuneration.

(3) On request, the transitional emoluments referred to in subsection (1) above may be paid as a single gratuity or monthly at half the prescribed amount for double the prescribed period. The third sentence of subsection (1) shall apply, *mutatis mutandis*.

(4) If the former Member re-enters the Bundestag, his or her entitlement to monthly payments under subsection (1) above shall be suspended. If the former Member has received the transitional emoluments in the form of a gratuity, he or she shall repay the amount that would have accrued after the date of re-entry if he or she had been receiving monthly payments. The President shall determine the instalments in which this amount is to be repaid.

(5) If a former Member dies, the benefits referred to in subsection (1) above shall continue to be paid to the surviving spouse or to the former Member's natural and adopted children or shall be left to them if no pension rights have accrued under this Act.

(6) A former Member who belongs to the European Parliament may only claim his or her transitional emoluments after severance from the European Parliament.

(7) Subsection (1) above shall not apply if the Member loses his or her membership of the Bundestag on the basis of section 15(2)(2) of the Federal Electoral Act. The President of the Bundestag may suspend payments if there are likely to be proceedings which give rise to the consequences described in section 15(2)(2) of the Federal Electoral Act.

Section 19

Entitlement to receive superannuation benefits

After leaving the Bundestag, a Member shall receive superannuation benefits when he or she reaches his or her sixty-fifth birthday, provided that he or she belonged to the Bundestag for eight years. With each additional year of membership of the Bundestag, up to and including the eighteenth year, the right to receive superannuation benefits shall accrue one year earlier. The last sentence of section 18(1) of this Act shall apply, *mutatis mutandis*. A period of four years shall be credited for each electoral term lasting more than two years.

Section 20

Amount of superannuation benefits

Superannuation benefits shall be calculated on the basis of Members' monthly remuneration (section 11(1) of this Act). The rate of increase shall be three per cent of the Members' remuneration specified in section 11(1) for each year of membership up to and including the twenty-third year. Time spent in office as President and/or one of his or her deputies shall form the basis for the calculation of superannuation benefits pursuant to the first two sentences above, the supplementary allowance being added to the Members' remuneration specified in section 11(1). The fourth sentence of section 18(1) and the fourth sentence of section 19 shall apply, *mutatis mutandis*.

Section 21

Reckonability of periods in other Parliaments

(1) On application, periods of service in the Parliament of a constituent state (*Land*) of the Federal Republic of Germany shall be regarded as periods of membership within the meaning of section 19 of this Act. If the conditions for entitlement under this Act are thereby fulfilled, superannuation benefits shall be paid.

(2) With regard to the amount of superannuation benefits, the provisions of section 20 shall apply, *mutatis mutandis*, to each year of actual membership of the Bundestag.

(3) Subject to the submission of an application to the President of the Bundestag by 30 June 1996 (exclusion deadline), periods of membership of the People's Chamber (*Volkskammer*) of the former German Democratic Republic from the date of acceptance of a mandate after the elections to the Volkskammer for its tenth legislative term until 2 October 1990 shall be regarded as periods of membership of

the Bundestag. The fourth sentence of section 18(1) shall apply, *mutatis mutandis*. In the case of an application made under the first sentence above in which a period of membership of the Volkskammer is indicated, the application shall be processed retroactively as regards pension expectancy and entitlements accruing during that period of membership.

Section 22

Damage to health

(1) If a Member suffered damage to his or her health when serving in the Bundestag, except through his or her own gross negligence, and if the Member's ability to work is thereby permanently and seriously impaired to the extent that that he or she can no longer fulfil his or her mandate or, on leaving the Bundestag, return to the occupation which he or she had before election to the Bundestag or engage in any other reasonable occupation, he or she shall, on application and irrespective of the conditions set out in section 19 of this Act, receive superannuation benefits with effect from the month in which the application is made; the amount of these benefits shall be calculated in accordance with section 20 but shall be no less than thirty per cent of the remuneration payable under section 11(1). If the damage to the Member's health is the result of an accident, the assessment basis described in section 20 shall be increased by twenty per cent up to a maximum of sixty-nine per cent.

(2) If a former Member of the Bundestag who, irrespective of age, fulfils the conditions under section 19 of this Act with regard to length of service suffers damage to health within the meaning of subsection (1) above, he or she shall receive superannuation benefits, the amount of which shall be determined in accordance with section 20.

(3) The damage to health must be substantiated by a report from a medical institution governed by public law. This report shall be superseded by a notice of award in respect of a pension for reduction of earning capacity, occupational disability or incapacity for employment or by a notice of invalidity as defined in civil-service law.

Section 23

Compensatory severance payment

(1) A Member who, on leaving the Bundestag, has acquired neither expectancy rights nor entitlement to superannuation benefits under sections 19 to 22 of this Act shall, on application, receive a compensatory severance payment for the period of his or her membership of the Bundestag. It shall be paid in respect of each month of membership of the Bundestag commenced and shall be equal in amount to the maximum contribution to the salaried employees' pension scheme in each of the months in question plus twenty per cent of the said maximum contribution.

(2) Instead of the severance payment, Members who fulfil the conditions defined in subsection (1) above may also apply to buy in the period of their membership of the

Bundestag in implementation, *mutatis mutandis*, of the provisions of the Sixth Book of the German Social Code (*Sozialgesetzbuch*) relating to retroactive insurance.

(3) Subsection (2) above shall apply, *mutatis mutandis*, to supplementary retirement and surviving dependants' pensions.

(4) Subsection (2) shall not apply if and in so far as the period of membership of the Bundestag has been accounted for or will be accounted for under an insurance scheme governed by public law or in a pension awarded on the basis of service regulations.

(5) Instead of the severance payment referred to in subsection (1) above, the period of membership of the Bundestag may, on application, be counted as a period of reckonable service within the meaning of the legislation governing the pay and pensions of civil servants, judges and members of the armed forces.

(6) If a Member has made an application under subsections (1) to (3) or subsection (5) above, the accumulation of the qualifying periods of membership specified in section 19 of this Act shall be resumed in the event of his or her re-entering the Bundestag.

(7) If a former Member dies without having made an application for a compensatory severance payment, his or her surviving spouse or, if there is no surviving spouse, his or her natural or adopted children may make an application in accordance with subsection (1) above.

(8) Subsections (2) and (4) above shall apply, *mutatis mutandis*, to an outgoing Member of the Parliament of a *Land* if the legislation of the *Land* provides for a compensatory severance payment within the meaning of subsection (1) above.

(9) If a Member of a *Land* Parliament loses his or her membership but has no entitlement or accrued rights to a lump-sum payment or regular pension benefits in respect of his or her period of membership, subsections (2) and (4) above shall apply, *mutatis mutandis*.

Section 24

Transitional allowance for surviving dependants

(1) The surviving dependants of a Member of the Bundestag shall receive the payments provided for by this Act but not yet disbursed, on condition that they were due at the time of death. The surviving spouse and the offspring shall receive a transitional allowance equal to the amount of Members' remuneration payable under section 11(1) of this Act. The transitional allowance shall amount to one and a half times the Members' remuneration payable under section 11(1) in cases where the deceased was a Member for more than eight years or more than two electoral terms. If there are no surviving dependants within the meaning of the second sentence above, the transitional allowance shall be granted to other persons who bore the costs arising from the final illness, up to the amount of the expenditure they incurred. The amount

of transitional allowance payable shall be reduced by 1,050 euros with effect from 31 March 2004).

(2) The same shall apply in the event of the death of a former Member of the Bundestag who fulfils the conditions relating to duration of membership under section 19 of this Act and was not yet receiving superannuation benefits at the time of death.

Section 25

Surviving dependants' pension

(1) The surviving spouse of a Member or former Member of the Bundestag shall receive sixty per cent of the appropriate superannuation benefits, provided the deceased was entitled to superannuation benefits at the time of death or fulfilled the conditions for the award of superannuation benefits.

(2) The surviving spouse of a Member or former Member of the Bundestag, who, irrespective of age, fulfilled the conditions relating to duration of membership under section 19 of this Act shall receive sixty per cent of the superannuation benefits, the amount of which shall be determined in accordance with section 20.

(3) The natural and adopted children of a former Member who would have received superannuation benefits at the time of his or her death, or of a deceased Member or a deceased recipient of superannuation benefits, shall each receive an orphan's pension. If the children are orphans, the pension shall amount to twenty per cent of the superannuation benefits referred to in subsections (1) and (2) above; if they still have one parent, the children shall receive an orphan's pension amounting to twelve per cent of the said benefits.

(4) In the event of the death of a Member of the Bundestag who has belonged to the Bundestag for less than fourteen years, the surviving spouse shall receive sixty per cent, each orphan twenty per cent and each child with one surviving parent twelve per cent of the superannuation benefits payable to a Member with thirteen years' reckonable service.

Section 25a

Pension-rights adjustment

(1) The superannuation benefits receivable for the reckonable duration of the Member's cumulative mandates until the point at which a petition for divorce becomes pending (total period) shall be used to determine the difference in value within the meaning of section 1587a(2) of the Civil Code for the purpose of pension-rights adjustment. The applicable value of the pension shall be that part of the superannuation benefits which corresponds to the duration of the cumulative

mandates falling within the period of the marriage expressed as a percentage of the total period. The pension awarded under this Act shall be regarded as flexible.

(2) If, when the petition for divorce becomes pending, no right to receive superannuation benefits has accrued, the relevant rate of increase under the second sentence of section 20 of this Act must be taken into account for each year of membership of the Bundestag.

(3) Subsections (1) and (2) above shall apply, *mutatis mutandis*, to the pension payable under the acts concerning the legal status of Members of Parliament of the *Länder*. With regard to subsection (2), this shall be subject to the proviso that, in cases where the act of a *Land* concerning the legal status of the Members of its Parliament requires a minimum period of membership for entitlement to superannuation benefits and this period has not yet been completed, for each year of membership of the *Land* Parliament account shall be taken either of the corresponding percentage of the minimum pension or, where the act of the relevant *Land* concerning the legal status of the Members of its Parliament so provides, of the appropriate rate of increase under the legislation of the *Land*.

Section 25b

Cost-saving measures with regard to pension entitlements

(1) In the conditions described in section 25 of this Act, the surviving spouse shall receive fifty-five per cent of the relevant superannuation benefits. This shall not apply in the case of couples married prior to 28 December 2004 if at least one of the spouses had reached his or her fortieth birthday on or before the date of marriage.

(2) In the case of persons with an entitlement under section 27(1) of this Act, benefits payable under sections 18, 19, 21, 22 and 25 shall be reduced by the half percentage point of annual income referred to in the first sentence of section 55(1) of the Eleventh Book of the Social Code or by the half percentage point of the income ceiling for the assessment of contributions to nursing-care insurance (section 55(2) of the Eleventh Book of the Social Code) referred to in the first sentence of section 55(1) of the Eleventh Book of the Social Code, whichever is the lesser.

(3) With effect from the first adjustment to Members' remuneration under section 11(1) of this Act after 28 December 2004, the rate of increase used pursuant to section 20 in the calculation of superannuation benefits shall be reduced by half up to and including the fourth adjustment.

(4) With effect from the first adjustment to the notional assessment figure for superannuation benefits under the third sentence of section 35a(2) of this Act, the rate of increase used pursuant to section 20 in the calculation of superannuation benefits payable under Parts Five and Nine of this Act as amended prior to 22 December 1995 shall be reduced by half up to and including the eighth adjustment.

(5) For Members who belong to the Bundestag in the 16th and/or subsequent electoral terms, section 29(3) shall also apply, *mutatis mutandis*, to private earned income until their 65th birthday.

Section 26

Application of civil-service regulations

Without prejudice to any contrary provision contained in this Act, the provisions of pensions legislation relating to federal civil servants shall be applied, *mutatis mutandis*. Section 53(8) of the Civil Service Benefits Act (*Beamtenversorgungsgesetz*) shall apply, *mutatis mutandis*, to the concept of employment in the public service within the meaning of the present section.

PART SIX

**Subsidisation of costs in the event of illness,
nursing care and births; assistance**

Section 27

Subsidisation of costs in the event of illness, nursing care and births

(1) Members of the Bundestag shall receive a grant to cover necessary costs incurred as a result of illness, nursing care and births in application, *mutatis mutandis*, of the provisions applicable to federal civil servants. This shall also apply to recipients of pensions awarded under this Act, provided that they do not have a right to claim assistance on the basis of a contract of employment or membership of another legislative body and that the right to make such a claim against the Bundestag under this Act has not been waived in writing.

(2) Instead of the entitlement to a grant under subsection (1) above, Members and recipients of pensions shall receive an allowance towards their health-insurance contributions if their employer does not make contributions pursuant to Section 249 of the Fifth Book of the Social Code or if there is no entitlement to a contribution allowance under section 257 of the Fifth Book of the Social Code. Members of the statutory health-insurance scheme who receive a pension from the statutory pensions scheme and who either pay only half of the health-insurance contribution pursuant to section 249a of the Fifth Book of the Social Code or who receive a contribution allowance pursuant to section 106 of the Sixth Book of the Social Code shall not receive an allowance towards this pension-related health-insurance contribution. The allowance shall be half of the health-insurance contribution paid from the individual's own means. For those not insured exclusively by a statutory health-insurance fund as defined in section 4 of the Fifth Book of the Social Code, the maximum amount of the allowance shall be half of the maximum contribution set by the relevant local branch of the *Allgemeine Ortskrankenkasse* (AOK), the fund responsible for providing compulsory health insurance.

(3) The entitlement to the allowance towards health-insurance contributions under subsection (2) above shall include, for Members of the Bundestag, entitlement to an allowance amounting to half of the contributions to private nursing-care insurance

paid from an individual's own means or half of the maximum contribution to the state nursing-care insurance scheme, whichever is the lesser.

(4) The decision as to whether the Member wishes to claim the allowance under subsection (2) above instead of the grant under subsection (1) must be notified to the President of the Bundestag within four months of the Member entering the Bundestag; the decision shall be irrevocable for the duration of the electoral term. Recipients of pensions must inform the President of their decision within four months of delivery of the notice of pension award; they shall remain bound by their decision.

Section 28 **Assistance**

In special cases, the President may grant assistance in the form of a single lump sum to a Member of the Bundestag and assistance in the form of a single lump sum or a regular maintenance allowance to a former Member and his or her surviving dependants.

PART SEVEN **Reckonability of concurrent benefits from public funds**

Section 29 **Reckonability of concurrent benefits from public funds**

(1) If a Member of the Bundestag, in addition to the remuneration referred to in section 11 of this Act, is also entitled to receive income in respect of the tenure of public office or from employment in the public service, the remuneration payable under section 11 shall be reduced by fifty per cent; the amount of the reduction may not, however, exceed thirty per cent of the said income. The same shall apply to income from the tenure of public office or from employment in the public service with an intergovernmental or international institution. The Member's remuneration shall be suspended in full where there is a concurrent entitlement to remuneration under the act of a *Land* concerning the legal status of Members of its Parliament. The payments referred to in the second and third sentences above shall not be reckonable if the legislation of the relevant *Land* or the rules of the relevant intergovernmental or international institution already provide for deduction in respect of the income or suspension of remuneration payable for exercising a mandate in the *Land* Parliament.

(2) Where there is a concurrent entitlement to Members' remuneration under section 11(1) of the present Act, pension benefits to which a Member is entitled by virtue of the tenure of public office or employment in the public service shall be partially suspended, the suspended entitlement corresponding to eighty per cent of the said pension benefits or the amount of remuneration payable under section 11(1) and (3), whichever is the lesser. The same shall apply, *mutatis mutandis*, to pensions

within the meaning of the second sentence of section 55(1) of the Civil Service Benefits Act (*Beamtenversorgungsgesetz*), with the exception of pensions from a compulsory insurance scheme if payable to an exempted person who opted into the scheme on application pursuant to section 4(2) of Book Six of the Social Code; section 55(3) and (4) of the Civil Service Benefits Act shall be applied, *mutatis mutandis*. The transitional emoluments payable under the Federal Ministers Act (*Gesetz über die Rechtsverhältnisse der Mitglieder der Bundesregierung*) and the Parliamentary State Secretaries Act (*Gesetz über die Rechtsverhältnisse der Parlamentarischen Staatssekretäre*) which remain after the application of the other provisions on the reckonability and suspension of benefits shall be suspended from the second month after departure from office if there is a concurrent entitlement to Members' remuneration under section 11. If entitlement to a pension as defined in the first or second sentences above is founded on the law of a *Land*, the suspension of the pension entitlement shall be superseded by the suspension of an amount of Members' remuneration to be determined on the basis of the first sentence above. The same shall apply, *mutatis mutandis*, to pension entitlements deriving from the tenure of office or from employment in the public service with an intergovernmental or international institution.

(3) Where there is a concurrent entitlement to income from the tenure of public office or from employment in the public service, entitlement to pension benefits under this Act shall be partially suspended, the suspended entitlement corresponding to fifty per cent of the amount by which the pension entitlements plus the income exceed the amount of Members' remuneration payable under section 11(1) of this Act. The same shall apply, *mutatis mutandis*, to income from the tenure of public office or employment in the public service with an intergovernmental or international institution.

(4) Where there is a concurrent entitlement to pension benefits arising from the tenure of public office or from employment in the public service, entitlement to pension benefits under the present Act shall be partially suspended, the suspended entitlement corresponding to fifty per cent of the amount by which the pension benefits under the present Act plus those arising from the tenure of public office or from employment in the public service exceed the amount of Members' remuneration payable under Section 11(1) of the present Act. The same shall apply, *mutatis mutandis*, in the case of the receipt of a pension arising from the tenure of public office or employment in the public service with an intergovernmental or international institution. Pensions within the meaning of the second sentence of section 55(1) of the Civil Service Benefits Act (*Beamtenversorgungsgesetz*) shall be set off in the same way, with the exception of pensions from a compulsory insurance scheme if payable to an exempted person who opted into the scheme on application pursuant to section 4(2) of Book Six of the Social Code; the fourth and fifth sentences of section 55(1), as well as subsections (3), (4) and (8), of the Civil Service Benefits Act shall apply, *mutatis mutandis*.

(5) Where there is a concurrent entitlement to remuneration arising from membership of the Bundestag, of the European Parliament or of the Parliament of a *Land*, entitlement to pension benefits under this Act shall be partially suspended, the

suspended entitlement corresponding to the amount by which this remuneration exceeds the Members' remuneration payable under Section 11(1) of this Act.

(6) Where there is a concurrent entitlement to pension benefits arising from membership of the Bundestag or of the Parliament of a *Land*, entitlement to pension benefits under this Act shall be partially suspended, the suspended entitlement corresponding to the amount by which the latter benefits exceed the maximum pension benefits payable under this Act. Where there is a concurrent entitlement to pension benefits arising from membership of the European Parliament, entitlement to pension benefits under this Act shall be partially suspended, the suspended entitlement corresponding to the amount of the European Parliament pension, unless the European Parliament has already specified that the pension benefits payable under this Act are to be set off against its own pensions.

(7) Except in the case of the pensions referred to in the third sentence of subsection (4) above, only the non-contributory element of pension benefits shall be reckonable. Subsections (1) to (4) shall not apply to payments made under the Special Payments (*Bundessonferenzgesetz*) or to equivalent benefits based on the legislation of a *Land* or on collective agreements. In the application of subsections (1) to (4) above, expense allowances, accident compensation, holiday pay and non-recurring payments shall be disregarded.

(8) In the assessment of the reckonability ceilings defined in subsections (3) to (6) above, due account shall be taken of the supplementary allowance referred to in section 11(2) of this Act.

(9) Employment in the public service and the intergovernmental or international institutions referred to in the present provision shall be defined in accordance with section 53(8) of the Civil Service Benefits Act and the provisions enacted in connection therewith.

PART EIGHT
General provisions

Section 30
Adjustment procedure

Within the first half-year after its constituent sitting, the Bundestag shall decide on the adjustment of the Members' remuneration referred to in the first sentence of section 11(1) of this Act and the notional figure for the assessment of the superannuation benefits under Section 35a(2) with effect for the entire electoral term. The President shall forward the corresponding bill to the parliamentary groups. The first sentence above shall apply to the fifteenth electoral term, subject to the proviso that the Bundestag shall decide, in the light of the second sentence of section 11(1) and the third sentence of section 35a(2), on the adjustment which will have effect for the remainder of the electoral term.

Section 31
Waiver; transferability

A waiver of the Members' remuneration referred to in section 11 of this Act and the benefits referred to in section 12 and in Part Five, with the exception of section 18, is not permissible. The entitlements deriving from section 12 are not transferable. No more than half of the entitlement to Members' remuneration under section 11 is transferable. In all other respects, the provisions of sections 850 *et seq.* of the Civil Code (*Bürgerliches Gesetzbuch*) shall apply.

Section 32
Commencement and expiry of entitlements; payment provisions

(1) The entitlements established by sections 11, 12, 16, 27 and 28 of this Act shall take effect from the date of acceptance of election even if the electoral term of the previous Bundestag has not yet expired. Expenditure related to the exercise of a mandate which an elected constituency candidate or a candidate elected from an electoral list in a *Land* incurs between the election data and the date of acceptance of election in connection with the assembly of the new Bundestag shall also be reimbursed.

(2) Outgoing Members shall receive the Members' remuneration payable under section 11 of this Act until the end of the month of severance and the monetary benefits referred to in section 12(2) until the end of the following month. Entitlements under section 16 shall expire fourteen days after the date of severance from the Bundestag.

(3) Reimbursement for the employment of staff shall be paid up to the end of the month in which the electoral term expires. If a Member leaves the Bundestag during the electoral term, expenditure on the employment of staff shall be reimbursed until

the end of the fifth month after the date of severance at the latest, unless the employment is terminated at an earlier date.

(4) Superannuation benefits shall be awarded from the first day of the month following the event giving rise to the entitlement until the end of the month in which the entitled person dies.

(5) Entitlement to superannuation benefits shall be suspended during the period of entitlement to transitional allowance.

(6) Superannuation benefits under this Act shall not be paid if the Member or former Member loses or would lose his or her membership of the Bundestag on the basis of Section 15(2)(2) of the Federal Electoral Act. Section 23 of the present Act shall apply for the period of membership of the Bundestag.

(7) With regard to Members who leave the Bundestag after this Act has come into force, section 27 of this Act shall apply for the period of their entitlement to a transitional allowance under section 18 or six months, whichever is the greater.

(8) The Members' remuneration payable under section 11 and the monetary benefits payable under section 12(2) and sections 20 to 27 shall be paid monthly in advance. If they are only payable in part, one thirtieth shall be paid for each calendar day; section 33 shall apply, *mutatis mutandis*.

Section 33 **Rounding up**

The benefits payable under Parts Five and Six of this Act shall be rounded up to the nearest euro.

Section 34 **Implementing provisions**

(1) Provided federal legislation empowers it to do so, the Council of Elders may issue implementing provisions relating to the legal status of Members of the Bundestag which shall be published by the President in the Official Handbook of the German Bundestag.

(2) The Council of Elders may issue general administrative provisions relating to this Act.

(3) The President shall publish the amount of the expense allowance in an annex to the Act on the Legal Status of Members of the Bundestag in the Official Handbook of the German Bundestag.

PART NINE
Transitional provisions

Section 35

Transitional provisions in respect of the Eleventh Act Amending the Act on the Legal Status of Members of the Bundestag

(1) The present Act shall apply without prejudice to pension entitlements and expectancy rights predating the entry into force of the Eleventh Amendment Act. Section 29(4) of the present Act shall apply. The first and second sentences above shall apply, *mutatis mutandis*, to surviving dependants of a recipient of superannuation benefits if the latter dies after the entry into force of the Eleventh Amendment Act.

(2) Pension entitlements and expectancy rights of former Members of the Bundestag who fulfilled the conditions relating to duration of membership prior to the entry into force of the Eleventh Amendment Act and those of their surviving dependants shall be governed by the law hitherto in force. Section 29(4) of the present Act shall apply. The first and second sentences above shall apply, *mutatis mutandis*, to Members of the Bundestag who belong to the Bundestag or to the Parliament of a *Land* prior to the entry into force of the Eleventh Amendment Act as well as to their surviving dependants.

(3) Former Members of the Bundestag who re-enter the Bundestag after the entry into force of the Eleventh Amendment Act and who fulfil the conditions set out in sections 19 and 21 of the present Act prior to the amendment shall receive superannuation benefits under the law hitherto in force, subject to the proviso that four per cent of the remuneration referred to in section 11(1) shall be awarded for each year of membership after the entry into force of the Eleventh Amendment Act until the maximum rate of superannuation benefits is reached. Section 29(4) shall apply. The first and second sentences above shall apply, *mutatis mutandis*, to surviving dependants.

(4) The pension expectancy arising under subsection (1) to (3) of the law hitherto in force shall form the basis of assessment for the pension entitlement if it is higher than the pension expectancy arising under this Act.

Section 35a

Transitional provisions in respect of the Nineteenth Amendment Act

(1) The provisions of Parts Five and Nine of this Act in force prior to 22 December 1995 shall continue to apply to Members who belonged to the Bundestag on 22 December 1995, former Members of the Bundestag and their surviving dependants.* Section 25 b (1), (2) and (5) shall apply, *mutatis mutandis*.

(2) In those cases referred to in subsection (1) above, a notional assessment figure shall apply instead of the Members' remuneration payable under section 11 of this

Act. The assessment figure for transitional emoluments shall be set at 5,301 euros. The notional assessment figure for superannuation benefits shall be set at 11,683 Deutsche Mark with effect from 1 July 2000, at 11,868 Deutsche Mark with effect from 1 January 2001, at 6,165 euros with effect from 1 January 2002 and at 6,263 euros with effect from 1 January 2003. The procedure prescribed in section 30 shall apply to subsequent adjustments.

(3) Where section 29 applies to pension entitlements under this Act, the notional assessment figure for the superannuation benefits referred to in subsection (2) above shall also be used as a basis in the cases referred to in subsection (1) above instead of the Members' remuneration payable under section 11.

(4) Members of the thirteenth German Bundestag to whom subsection (1) above applies may opt for the provisions of Part Five, as amended by the Nineteenth Amendment Act, to be applied until their retirement from the Bundestag. This decision shall be binding. In the event that a Member dies prior to exercising his or her option, the more favourable version shall apply.

Section 36 **Transitional provisions for public servants**

(1) A civil servant who has retired on the basis of the Act of 11 May 1951 on the Legal Status of Public Servants Elected to the First German Bundestag (*Gesetz über die Rechtsstellung der in den ersten Deutschen Bundestag gewählten Angehörigen des öffentlichen Dienstes* - Federal Law Gazette I, p. 297) or on the basis of the Act of 4 August 1953 on the Legal Status of Public Servants Elected to the German Bundestag (*Gesetz über die Rechtsstellung der in den Deutschen Bundestag gewählten Angehörigen des öffentlichen Dienstes* - Federal Law Gazette I, p. 777), as amended by the Act of 21 August 1961 (Federal Law Gazette I, p. 1557) or on the basis of corresponding legislation of a *Land* and who was elected to the eighth Bundestag or to a later Bundestag, shall be regarded as having been re-appointed as a civil servant on simultaneous suspension of his or her rights and duties (section 5(1) of the present Act) with effect from the date of acceptance of election or from the date of entry into force of the present Act, whichever is the later, provided that he or she still fulfils the general conditions for appointment as a civil servant. In all other respects, the entitlements accruing, prior to the entry into force of the present Act, under section 4 and the last sentence of section 4a of the Act of 4 August 1953 on the Legal Status of Public Servants elected to the German Bundestag shall be preserved.

(2) Subsection (1) above shall apply, *mutatis mutandis*, to judges, to career members and fixed-term volunteer members of the armed forces and to public-service employees.

(3) In the case of former Members of the Bundestag, entitlements accruing under the Act of 4 August 1953 on the Legal Status of Public Servants elected to the German Bundestag shall be preserved.

Section 37

Pensions for Members who retired prior to 1968

On application, the President shall award superannuation benefits and a surviving dependants' pensions, pursuant to the Act governing the Remuneration of Members of the Bundestag 1968 (*Diätengesetz 1968*), dated 3 May 1968 (Federal Law Gazette I, p. 334), as amended by Article VIII of the Act of 18 February 1977 (Federal Law Gazette I, p. 297), to a former Member who retired from the Bundestag prior to 1 January 1968 and to his or her surviving dependants with effect from the first day of the month of application.

Section 38

Pensions for periods prior to the entry into force of this Act

(1) A Member of the Bundestag who leaves during the period between 1 January 1968 and the date of entry into force of the present Act and his or her surviving dependants shall receive a pension under the Act governing the Remuneration of Members of the Bundestag 1968.

(2) A Member of the Bundestag who belonged to the Bundestag prior to the date of entry into force of this Act and did not leave the Bundestag until after that date shall receive superannuation benefits in accordance with this Act; his or her membership prior to the entry into force of this Act shall be reckonable service for the assessment of these benefits.

(3) Instead of the superannuation benefits awardable under subsection (2) above, the individual's own contributions to superannuation benefits and the surviving dependants' pension under section 4 of the Act governing the Remuneration of Members of the Bundestag 1968 (*Diätengesetz 1968*) shall be reimbursed on application without payment of interest. In the latter case, periods of membership of the Bundestag prior to the entry into force of the present Act shall not be taken into consideration in the determination of the superannuation benefits payable under this Act. In the cases described in section 23 of this Act, only half of the compensatory severance payment shall be awarded.

(4) Instead of the superannuation benefits awardable under subsection (2) above, a Member of the Bundestag who fulfils the conditions of section 5(1) and section 7a(1) of the Act governing the Remuneration of Members of the Bundestag 1968 shall receive, on application, a retirement pension under the said Act for the period of membership of the Bundestag prior to the entry into force of the present Act; for the period after the entry into force of the present Act came into force, superannuation benefits under this Act shall be awarded, subject to the proviso that five per cent of the Members' remuneration under section 11(1) is paid for each year of membership. The qualifying periods before and after the entry into force of this Act may not exceed sixteen years. The same shall apply in respect of surviving dependants.

(5) The application referred to in subsections (3) and (4) above must be made to the President of the Bundestag within six months from the entry into force of this Act.

Section 38a

(1) On application, recipients of pensions awarded under sections 37 and 38(1) of this Act shall receive a pension in accordance with Part Five instead of their current pension. The same applies to former Members who belonged to the Bundestag for at least six years before the entry into force of this Act and their surviving dependants. The last sentence of section 18(1) shall apply, *mutatis mutandis*.

(2) Section 38(4) shall apply, *mutatis mutandis*, to former Members who left the Bundestag prior to 1 April 1977 and subsequently re-entered. The application must be made to the President of the Bundestag within six months from the date of re-entry into the German Bundestag. The same shall apply in respect of surviving dependants.

Section 38b

Surviving dependants' pension in the event of the death of a serving Member of the Bundestag

On application, surviving dependants as defined in section 25(4) of the present Act whose insured event occurred during the period between 1 April 1977 and the date of entry into force of the Seventh Amendment Act shall receive a pension under section 25(4) of the present Act with effect from the first day of the month of application.

Section 39

Reckonability of previous pension benefits

(1) In accordance with section 10 of the Act governing the Remuneration of Members of the Bundestag 1968 (*Diätengesetz 1968*), pension benefits payable under that Act shall not be reckonable benefits for the purposes of section 29(3) and (4) of the present Act.

(2) Where there is a concurrent entitlement to remuneration or a pension arising from membership of the Parliament of a *Land* (section 29(5) and (6) of the present Act), only the non-contributory element of pension benefits payable under the Act governing the Remuneration of Members of the Bundestag 1968 shall be reckonable. Periods credited under section 21 of the Act governing the Remuneration of Members of the Bundestag 1968 shall be regarded as contribution periods.

Section 40

Reduced compensatory severance payment

For periods of membership to which the Act governing the Remuneration of Members of the Bundestag 1968 (*Diätengesetz 1968*) applies, half of the compensatory severance payment under section 23 of the present Act shall be awarded. In this case, the Member's own insurance contributions under section 4 of the Act governing the Remuneration of Members of the Bundestag 1968 shall be reimbursed on application.

Section 41

Continuation of life assurance

Life-assurance policies in existence on the entry into force of this Act shall be continued, subject to reduction of superannuation benefits and widow's or widower's pension in accordance with the number and amount of monthly contributions made by the policyholder to the life-assurance fund since 1 January 1968.

Section 42

Conversion or cancellation of life assurance

(1) A Member or former Member of the Bundestag who has opted for the continuation of insurance at the expense of the Federal Republic under section 20 of the Act governing the Remuneration of Members of the Bundestag 1968 (*Diätengesetz 1968*) may convert or cancel the life-assurance policy.

(2) In the case of conversion, there is the option of continuation at the individual's own expense or of non-contributory insurance, subject to reduction of superannuation benefits and widow's or widower's pension in accordance with the number and amount of monthly contributions made by the policyholder to the life-assurance fund from 1 January 1968 until the end of the month in which the policy was converted or until the award of superannuation benefits.

(3) In the event of cancellation of the insurance policy, the insured person shall be reimbursed with the redemption value based on his or her own contributions.

Section 43

Continued payment of transitional emoluments

A former Member of the Bundestag receiving Members' allowances under the Act governing the Remuneration of Members of the Bundestag 1968 (*Diätengesetz 1968*) at the time of entry into force of the present Act shall retain this entitlement.

Section 44

Reckonable service for transitional emoluments

Periods of Membership of the Bundestag prior to the entry into force of this Act shall count towards the period for which transitional emoluments are payable.

PART TEN

Independence of Members of the Bundestag

Section 44a

Exercise of the mandate

(1) The exercise of the mandate of a Member of the Bundestag shall be central to his or her activity. Without prejudice to this obligation, activities of a professional or other nature alongside the exercise of the mandate are permissible in principle.

(2) For the exercise of his or her mandate, a Member of the Bundestag may not accept any allowance or other pecuniary benefit besides those for which the law provides. In particular, it is inadmissible to accept money or allowances with monetary value which are only granted in the expectation that the interests of the payer will be represented and asserted in the Bundestag. It is also inadmissible for a Member of the Bundestag to accept money or allowances with monetary value if he or she does not render an appropriate service in return. The foregoing provisions shall be without prejudice to the receipt of donations.

(3) Allowances or pecuniary benefits which are inadmissible under paragraph 2 above or their monetary equivalent shall be payable to the federal budget. The President shall assert this entitlement by means of an administrative act, provided that a period of three years has not elapsed since the receipt of the allowance or pecuniary benefit. Loss of membership of the Bundestag shall not affect this entitlement. Details shall be regulated in the Code of Conduct pursuant to section 44b of this Act.

(4) Activities predating the acceptance of the mandate and activities concurrent with the exercise of the mandate which may indicate combinations of interests with implications for the exercise of the said mandate shall be disclosed and published in accordance with the Code of Conduct (section 44b). If disclosable activities or income are not reported, the Presidium may impose an administrative penalty of up to half of the annual Member's remuneration. The President shall affirm the penalty by means of an administrative act. The foregoing provisions shall be without prejudice to section 31 of the present Act. Details shall be regulated in the Code of Conduct pursuant to section 44b of this Act.

Section 44b
Code of Conduct

The Bundestag shall lay down its own Code of Conduct, which must include provisions relating to

1. cases in which there is an obligation to disclose activities pursued prior to membership of the Bundestag and activities pursued concurrently with the exercise of the mandate;
2. cases where there is a duty to disclose the type and amount of income where a specified minimum amount is exceeded;
3. the duty to keep separate account and disclose donations where specified minimum amounts are exceeded;
4. the publication of particulars in the Official Handbook and on the Internet;
5. procedure, as well as the rights and duties of the Presidium and President, in respect of decisions under section 44a(3) and (4) of this Act.

Section 44c
**Screening for activity or political responsibility
for the Ministry of State Security/Office of
National Security of the former German Democratic Republic**

(1) Members of the Bundestag may apply to the President in writing for screening measures to establish whether or not they were full-time employees or unofficial assistants or exercised political responsibility for the State Security Service of the former German Democratic Republic.

(2) Screening may take place without consent if the Committee on the Scrutiny of Elections, Immunity and the Rules of Procedure has established the existence of concrete grounds for suspecting such activity or responsibility.

(3) In cases referred to in subsections (1) and (2) above, the procedure shall be conducted by the Committee on the Scrutiny of Elections, Immunity and the Rules of Procedure.

(4) The German Bundestag shall compile guidelines prescribing the procedure for establishing whether or not Members were employed by, or exercised responsibility for, the Ministry of State Security/Office of National Security of the former German Democratic Republic.

Section 44d
Duty of confidentiality and authority to make a statement

(1) Even after the end of their term of office, Members of the German Bundestag may not testify or make a statement without consent, either in or out of court, in relation to

matters which are confidential under statutory provisions or under the Rules of Procedure of the German Bundestag.

(2) The President of the German Bundestag shall be responsible for granting consent. If authorities outside the German Bundestag have been involved in originating the matter which is to be kept confidential, consent may be granted only with their agreement.

(3) Consent may only be refused if the testimony or statement would adversely affect the welfare of the Federal Republic or a *Land* or would seriously jeopardise or substantially impair the performance of public duties.

PART ELEVEN **Parliamentary groups**

Section 45 **Creation of a parliamentary group**

- (1) Members of the Bundestag may form themselves into parliamentary groups.
- (2) Further details are provided by the Rules of Procedure of the German Bundestag.

Section 46 **Legal status**

- (1) The parliamentary groups are associations of Members of the German Bundestag with legal capacity.
- (2) The parliamentary groups may sue and be sued.
- (3) The parliamentary groups do not form part of the public administration; they do not exercise governmental authority.

Section 47 **Duties**

- (1) The parliamentary groups shall assist in the performance of the duties of the German Bundestag.
- (2) The parliamentary groups may work together with parliamentary groups or parties in other parliaments and with parliamentary institutions both nationally and internationally.
- (3) The parliamentary groups and their members may inform the public of their activities.

Section 48
Organisation

- (1) The parliamentary groups are under an obligation to arrange their organisational structure and working methods in accordance with the principles of parliamentary democracy and to align them with the said principles.
- (2) The parliamentary groups shall enact their own Rules of Procedure.

Section 49
Duty of confidentiality of employees of the parliamentary groups

- (1) Even after the termination of their employment contracts, employees of the parliamentary groups shall be duty-bound to treat as confidential all matters which have become known to them during the course of their work. This does not apply to facts which are obvious or whose significance does not merit confidentiality.
- (2) Even after the termination of their employment contracts, employees of the parliamentary groups may not testify or make a statement on such matters without consent, either in or out of court. The chairman of the relevant parliamentary group shall be responsible for granting consent.
- (3) The provisions of subsections (1) and (2) above shall apply without prejudice to the statutory duty to report crimes and to uphold the basic principles of democracy in the event of their being endangered.

Section 50

Monetary benefits and benefits in kind

(1) For the purpose of performing their duties, the parliamentary groups shall be entitled to monetary benefits and benefits in kind from the federal budget.

(2) The monetary benefits shall comprise a basic grant for each parliamentary group, an amount for each Member and an additional sum for each group which is not in government (Opposition supplement). The amount of these grants and of the Opposition supplement shall be determined annually by the Bundestag. In consultation with the Council of Elders, the President shall draft a report for presentation to the Bundestag by 30 September each year, relating to the reasonableness of the grants and of the Opposition supplement and shall at the same time submit adjustment proposals.

(3) The benefits in kind shall be provided for use, in accordance with the Finance Act (*Haushaltsgesetz*).

(4) Benefits provided under subsection (1) above may only be used by the parliamentary groups for duties incumbent upon them by virtue of the Basic Law (*Grundgesetz*), the present Act and the Rules of Procedure (*Geschäftsordnung*) of the German Bundestag. The use of these benefits for party-political purposes is not permitted.

(5) Monetary benefits payable under subsection (1) above may be carried forward to the next accounting period.

Section 51

Budgetary and economic management; accounting

(1) Details of budgetary and economic management shall be prescribed in implementing provisions issued by the Council of Elders after consultation with the Federal Audit Office (*Bundesrechnungshof*).

(2) The parliamentary groups must keep accounts showing the income, expenditure and assets they are required to record. These shall be kept in accordance with the principles of orderly accounting and with regard for the purpose of this Act.

(3) Items purchased from the monetary benefits under section 50(1), except items intended for use in the short term and inexpensive items, must be identified and listed in a supporting document.

(4) The accounts must be stored for five years.

Section 52
Rendering of accounts

(1) The parliamentary groups shall be publicly accountable for the origin and use of the resources accruing to them under section 50(1) of this Act in each calendar year (accounting year).

(2) The account shall be set out as follows:

1. Income
 - (a) Monetary benefits received pursuant to section 50(1) of this Act
 - (b) Other income

2. Expenditure
 - (a) Total payments to group members for performing special functions within the group
 - (b) Total personnel expenditure on group staff
 - (c) Expenditure on events
 - (d) Experts' fees, court costs and similar expenditure
 - (e) Expenditure on collaboration with parliamentary groups and parties in other parliaments
 - (f) Expenditure on public-relations activities
 - (g) Expenditure on routine business activities
 - (h) Investment expenditure
 - (i) Other expenditure

(3) The accounts must identify the assets acquired using funds received under section 50(1) and the reserves formed from these funds as well as debts and liabilities. The asset and liability statement shall be set out as follows:

1. Assets
 - (a) Monetary holdings
 - (b) Other assets
 - (c) Accruals and deferrals

2. Liabilities
 - (a) Reserves
 - (b) Provisions
 - (c) Liabilities to financial institutions
 - (d) Other liabilities
 - (e) Accruals and deferrals

(4) The statement must be examined by an auditor (chartered accountant or chartered accountancy firm) appointed in consultation with the Federal Audit Office, to ensure that it complies with subsections (2) and (3) above, and it must bear an auditor's endorsement to that effect. The audited statement shall be submitted to the President of the German Bundestag no later than six months after the end of the calendar year or month in which the monetary benefits referred to in section 50(1) of this Act were last paid. The President of the German Bundestag may extend the deadline by up to

three months for exceptional reasons. The audited statement shall be distributed as a Bundestag printed paper.

(5) For as long as a parliamentary group defaults on submission of the statement, the monetary benefits and benefits in kind payable under section 50(1) shall be withheld.

Section 53

Auditing of accounts

(1) The Federal Audit Office shall audit the accounts as well as the monetary benefits and benefits in kind with which the parliamentary groups have been provided under section 50(1) of this Act in order to ensure that they have been used economically and properly in accordance with the implementing provisions issued under section 51(1).

(2) During the audit, due consideration shall be given to the legal status and duties of the parliamentary groups. The political necessity of any measure carried out by the groups shall not form part of the audit.

Section 54

Termination of legal status and liquidation

(1) The legal status conferred by section 46 of this Act shall cease to apply

1. on the loss of parliamentary-group status,
2. on the dissolution of the parliamentary group,
3. at the end of the electoral term.

(2) In the cases referred to in subsection (1)(1) and (2) above, liquidation shall take place. The parliamentary group shall be regarded as continuing in existence until the liquidation has come to an end if the purpose of the liquidation so requires. The liquidation shall be effected by the executive committee unless otherwise provided by the rules of procedure of the parliamentary group.

(3) The liquidators must complete all unfinished business transactions, collect debts and satisfy creditors. For this purpose, they shall be entitled to enter into new transactions and convert assets into cash. They shall comply with the provisions of section 50(4) regarding the purposes for which benefits may be used. If, during the liquidation process, the liquidators are guilty of negligence, they shall be jointly and severally liable to the creditors for the damages arising therefrom.

(4) Where monetary benefits provided under section 50(1) of this Act remain after completion of the liquidation, these must be repaid into the federal budget. The same shall apply to assets purchased with these benefits. The benefits in kind provided in accordance with section 50(3) must be returned to the providing units.

(5) The remaining assets of the parliamentary group must be left to the beneficiaries. The beneficiaries are the persons or authorities specified in the rules of procedure of the parliamentary group.

(6) Measures under subsections (4) and (5) above may not be taken until six months have elapsed since the event giving rise to loss of the legal status conferred by section 46 of the present Act. The provision of security for creditors must be effected in accordance with section 52 of the Civil Code (*Bürgerliches Gesetzbuch*).

(7) In the case referred to in subsection (1)(3) above, a liquidation shall not take place if, within thirty days from the start of the new electoral term, a parliamentary group is formed whose members belong to a party represented by a parliamentary group in the German Bundestag during the previous electoral term and which declares itself to be the successor to the latter group. In this case, the newly constituted parliamentary group shall be the successor in title to the old parliamentary group.

PART TWELVE

Area of application; entry into force

Section 55

(Entry into force; expiry of other provisions)

Annex

**Parts Five and Nine of the Members of the Bundestag Act
in the version in force prior to 22 December 1995**

PART FIVE
**Benefits for former Members
of the Bundestag and their surviving dependants**

Section 18
Transitional emoluments

(1) An outgoing Member with at least one year of membership shall receive transitional emoluments. The transitional emoluments, amounting to the Members' remuneration specified in section 11(1) of this Act, shall be paid for one month for each year of membership; where the Member has belonged to the Bundestag for longer than half of an electoral term, transitional emoluments shall be awarded for a further period of three months; where his or her membership lasted for less than half of an electoral term, transitional emoluments shall be paid for only two more months, up to a maximum of three years. Periods of earlier membership of the Bundestag for which transitional emoluments have already been paid are not reckonable. Membership of the Bundestag lasting more than half a year shall be regarded as a full year for the purposes of the calculation described in the second sentence above.

(2) Benefits deriving from membership of the European Parliament, the Parliament of a constituent state of the Federal Republic of Germany (*Land*) or the tenure of office from employment in the public service or from a supplementary retirement and surviving dependants' pension for public servants shall be reckonable. The same shall apply to benefits from the tenure of office or employment in the public service with an intergovernmental or international institution. Section 29(7) and (9) of this Act shall apply, *mutatis mutandis*.

(3) On request, the transitional emoluments referred to in subsection (1) above may be paid as a single gratuity or monthly at half the prescribed amount for double the prescribed period. The third sentence of subsection (1) shall apply, *mutatis mutandis*.

(4) If the former Member re-enters the Bundestag, his or her entitlement to monthly payments under subsection (1) above shall be suspended. If the former Member has received the transitional emoluments in the form of a gratuity, he or she shall repay the amount that would have accrued after the date of re-entry if he or she had been receiving monthly payments. The President shall determine the instalments in which this amount is to be repaid.

(5) If a former Member dies, the benefits referred to in subsection (1) above shall continue to be paid to the surviving spouse or to the former Member's natural and adopted children or shall be left to them if no pension rights have accrued under this Act.

(6) A former Member who belongs to the European Parliament may only claim his or her transitional emoluments after severance from the European Parliament.

(7) Subsection (1) above shall not apply if the Member loses his or her membership of the Bundestag on the basis of section 15(2)(2) of the Federal Electoral Act. The

President of the Bundestag may suspend payments if there are likely to be proceedings which give rise to the consequences described in section 15(2)(2) of the Federal Electoral Act.

Section 19

Entitlement to receive superannuation benefits

After leaving the Bundestag, a Member shall receive superannuation benefits when he or she reaches his or her sixty-fifth birthday, provided that he or she belonged to the Bundestag for eight years. With each additional year of membership of the Bundestag, up to and including the eighteenth year, the right to receive superannuation benefits shall accrue one year earlier. The last sentence of section 18(1) of this Act shall apply, *mutatis mutandis*. A period of four years shall be credited for each electoral term lasting more than two years.

Section 20

Amount of superannuation benefits

Superannuation benefits in respect of eight years' membership shall amount to thirty-five per cent of the Members' remuneration payable under section 11(1) of this Act. For each additional year of membership up to and including the eighteenth year, it shall be increased by four per cent. Time spent in office as President and/or one of his or her deputies shall form the basis for the calculation of superannuation benefits pursuant to the first two sentences above, the supplementary allowance being added to the Members' remuneration specified in section 11(1). The last sentence of section 18(1) shall apply, *mutatis mutandis*.

Section 21

Reckonability of periods in the Parliament of a *Land*

(1) On application, periods of service in the Parliament of a constituent state (*Land*) of the Federal Republic of Germany shall be regarded as periods of membership within the meaning of section 19 of this Act. If the conditions for entitlement under this Act are thereby fulfilled, superannuation benefits shall be paid.

(2) The amount of superannuation benefits shall be one eighth of the minimum amount of superannuation benefits specified in the first sentence of section 20 for each year of actual membership of the Bundestag. The third and fourth sentences of section 20 shall apply, *mutatis mutandis*.

Section 22

Damage to health

(1) If a Member suffered damage to his or her health when serving in the Bundestag, except through his or her own gross negligence, and if the Member's ability to work

is thereby permanently and seriously impaired to the extent that he or she can no longer fulfil his or her mandate or, on leaving the Bundestag, return to the occupation which he or she had before election to the Bundestag or engage in any other reasonable occupation, he or she shall, on application and irrespective of the conditions set out in section 19 of this Act, receive superannuation benefits with effect from the month in which the application is made; the amount of these benefits shall be calculated in accordance with section 20 but shall be no less than thirty-five per cent of the remuneration payable under section 11(1). If the damage to the Member's health is the result of an accident, the assessment basis described in section 20 shall be increased by twenty per cent up to a maximum of seventy-five per cent.

(2) If a former Member of the Bundestag who, irrespective of age, fulfils the conditions under section 19 of this Act with regard to length of service suffers damage to health within the meaning of subsection (1) above, he or she shall receive superannuation benefits, the amount of which shall be determined in accordance with section 20.

(3) The damage to health must be substantiated by a report from a medical institution governed by public law. This report shall be superseded by a notice of award in respect of a pension for occupational disability or incapacity for employment or by a notice of invalidity as defined in civil-service law.

Section 23

Compensatory severance payment

(1) A Member who, on leaving the Bundestag, has acquired neither expectancy rights nor entitlement to superannuation benefits under sections 19 to 22 of this Act shall, on application, receive a compensatory severance payment for the period of his or her membership of the Bundestag. It shall be paid in respect of each month of membership of the Bundestag commenced and shall be equal in amount to the maximum contribution to the salaried employees' pension scheme in each of the months in question plus twenty per cent of the said maximum contribution.

(2) Instead of the severance payment, Members who fulfil the conditions defined in subsection (1) above may also apply to buy in the period of their membership of the Bundestag in implementation, *mutatis mutandis*, of the provisions of the Sixth Book of the German Social Code (*Sozialgesetzbuch*) relating to retroactive insurance.

(3) Subsection (2) above shall apply, *mutatis mutandis*, to supplementary retirement and surviving dependants' pensions.

(4) Subsection (2) shall not apply if and in so far as the period of membership of the Bundestag has been accounted for or will be accounted for under an insurance scheme governed by public law or in a pension awarded on the basis of service regulations.

(5) Instead of the severance payment referred to in subsection (1) above, the period of membership of the Bundestag may, on application, be counted as a period of

reckonable service within the meaning of the legislation governing the pay and pensions of civil servants, judges and members of the armed forces.

(6) If a Member has made an application under subsections (1) to (3) or subsection (5) above, the accumulation of the qualifying periods of membership specified in section 19 of this Act shall be resumed in the event of his or her re-entering the Bundestag.

(7) Subsections (2) and (4) above shall apply, *mutatis mutandis*, to an outgoing Member of the Parliament of a *Land* if the legislation of the *Land* provides for a compensatory severance payment within the meaning of subsection (1) above.

(8) If a Member of a *Land* Parliament loses his or her membership but has no entitlement or expectancy rights to a lump-sum payment or regular pension benefits in respect of his or her membership of Parliament, subsections (2) and (4) above shall apply, *mutatis mutandis*.

Section 24

Transitional allowance for surviving dependants

(1) The surviving dependants of a Member of the Bundestag shall receive the payments provided for by this Act but not yet disbursed, on condition that they were due at the time of death. The surviving spouse and the offspring shall receive a transitional allowance equal to the amount of Members' remuneration payable under section 11(1) of this Act. The transitional allowance shall amount to one and a half times the Members' remuneration payable under section 11(1) in cases where the deceased was a Member for more than eight years or more than two electoral terms. The President shall determine who is to receive the payments. If there are no surviving dependants within the meaning of the second sentence above, the transitional allowance shall be granted to other persons who bore the costs arising from the final illness or the funeral costs, up to the amount of the expenditure they incurred.

(2) The same shall apply in the event of the death of a former Member of the Bundestag who fulfils the conditions relating to duration of membership under section 19 of this Act and was not yet receiving superannuation benefits at the time of death.

Section 25

Surviving dependants' pension

(1) The surviving spouse of a Member or former Member of the Bundestag shall receive sixty per cent of the appropriate superannuation benefits, provided the deceased was entitled to superannuation benefits at the time of death or fulfilled the conditions for the award of superannuation benefits.

(2) The surviving spouse of a Member or former Member of the Bundestag, who, irrespective of age, fulfilled the conditions relating to duration of membership under section 19 of this Act shall receive sixty per cent of the superannuation benefits, the amount of which shall be determined in accordance with section 20.

(3) The natural and adopted children of a former Member who would have received superannuation benefits at the time of his or her death, or of a deceased Member or a deceased recipient of superannuation benefits, shall each receive an orphan's pension. If the children are orphans, the pension shall amount to twenty per cent of the superannuation benefits referred to in subsections (1) and (2) above; if they still have one parent, the children shall receive an orphan's pension amounting to twelve per cent of the said benefits.

(4) In the event of the death of a Member of the Bundestag who has belonged to the Bundestag for less than twelve years, the surviving spouse shall receive sixty per cent, each orphan twenty per cent and each child with one surviving parent twelve per cent of the superannuation benefits payable to a Member with eleven years' reckonable service.

Section 25a

Pension-rights adjustment

(1) The superannuation benefits receivable for the reckonable duration of the Member's cumulative mandates until the point at which a petition for divorce becomes pending (total period) shall be used to determine the difference in value within the meaning of section 1587a(2) of the Civil Code for the purpose of pension-rights adjustment. The applicable value of the pension shall be that part of the superannuation benefits which corresponds to the duration of the cumulative mandates falling within the period of the marriage expressed as a percentage of the total period. The pension awarded under this Act shall be regarded as flexible.

(2) If, when the petition for divorce becomes pending, no right to receive superannuation benefits has accrued, the relevant percentage of the minimum superannuation benefits must be taken into account for each year of membership of the Bundestag.

(3) Subsections (1) and (2) above shall apply, *mutatis mutandis*, to the pension payable under the acts concerning the legal status of Members of Parliament of the *Länder*. The application of subsection (2) shall be subject to the proviso that, in cases where the act concerning the legal status of Members of Parliament of a *Land* requires a minimum period of membership for entitlement to superannuation benefits and this qualifying period has not yet been completed, either the appropriate percentage of the minimum pension or, where the act concerning the legal status of Members of Parliament of a *Land* so provides, the relevant rate of increase under *Land* law must be taken into account for each year of membership of the Parliament of the *Land*.

Section 26
Application of civil-service regulations

Without prejudice to any contrary provision contained in this Act, the provisions of pensions legislation relating to federal civil servants shall be applied, *mutatis mutandis*. Section 53(5) of the Civil Service Benefits Act (*Beamtenversorgungsgesetz*) of 12 February 1987 (Federal Law Gazette I, p. 570), in the version promulgated on 24 October 1990 (Federal Law Gazette I, p. 2298), as amended by the Act of 27 December 1993 (Federal Law Gazette I, p. 2378) shall apply, *mutatis mutandis*, to the concept of employment in the public service within the meaning of the present section.

PART NINE
Transitional provisions

Section 35
Transitional provisions in respect of the Eleventh Act Amending the Act on the Legal Status of Members of the Bundestag

(1) The present Act shall apply without prejudice to pension entitlements and expectancy rights predating the entry into force of the Eleventh Amendment Act. Section 29(4) of the present Act shall apply. The first and second sentences above shall apply, *mutatis mutandis*, to surviving dependants of a recipient of superannuation benefits if the latter dies after the entry into force of the Eleventh Amendment Act.

(2) Pension entitlements and expectancy rights of former Members of the Bundestag who fulfil the conditions relating to duration of membership prior to the entry into force of the Eleventh Amendment Act and those of their surviving dependants shall be governed by the law hitherto in force, provided that the insured event occurs prior to 1 January 2002. Section 29(4) of the present Act shall apply. The first and second sentences above shall apply, *mutatis mutandis*, to Members of the Bundestag who belong to the Bundestag or to the Parliament of a *Land* prior to the entry into force of the Eleventh Amendment Act as well as to their surviving dependants.

(3) Former Members of the Bundestag who re-enter the Bundestag after the entry into force of the Eleventh Amendment Act and who fulfil the conditions set out in sections 19 and 21 of the present Act prior to the amendment shall receive superannuation benefits under the law hitherto in force, subject to the proviso that four per cent of the remuneration referred to in section 11(1) shall be awarded for each year of membership after the entry into force of the Eleventh Amendment Act until the maximum rate of superannuation benefits is reached. Section 29(4) shall apply. The first and second sentences above shall apply, *mutatis mutandis*, to surviving dependants.

(4) The pension expectancy arising under subsection (1) to (3) of the law hitherto in force shall form the basis of assessment for the pension entitlement if it is higher than the pension expectancy arising under this Act.

Section 36

Transitional provisions for public servants

(1) A civil servant who has retired on the basis of the Act of 11 May 1951 on the Legal Status of Public Servants Elected to the First German Bundestag (*Gesetz über die Rechtsstellung der in den ersten Deutschen Bundestag gewählten Angehörigen des öffentlichen Dienstes* - Federal Law Gazette I, p. 297) or on the basis of the Act of 4 August 1953 on the Legal Status of Public Servants Elected to the German Bundestag (*Gesetz über die Rechtsstellung der in den Deutschen Bundestag gewählten Angehörigen des öffentlichen Dienstes* - Federal Law Gazette I, p. 777), as amended by the Act of 21 August 1961 (Federal Law Gazette I, p. 1557) or on the basis of corresponding legislation of a *Land* and who was elected to the eighth Bundestag or to a later Bundestag, shall be regarded as having been re-appointed as a civil servant on simultaneous suspension of his or her rights and duties (section 5(1) of the present Act) with effect from the date of acceptance of election or from the date of entry into force of the present Act, whichever is the later, provided that he or she still fulfils the general conditions for appointment as a civil servant. In all other respects, the entitlements accruing, prior to the entry into force of the present Act, under section 4 and the last sentence of section 4a of the Act of 4 August 1953 on the Legal Status of Public Servants elected to the German Bundestag shall be preserved.

(2) Subsection (1) above shall apply, *mutatis mutandis*, to judges, to career members and fixed-term volunteer members of the armed forces and to public-service employees.

(3) In the case of former Members of the Bundestag, entitlements accruing under the Act of 4 August 1953 on the Legal Status of Public Servants elected to the German Bundestag shall be preserved.

Section 37

Pensions for Members who retired prior to 1968

On application, the President shall award superannuation benefits and a surviving dependants' pension, pursuant to the Act governing the Remuneration of Members of the Bundestag 1968 (*Diätengesetz 1968*), dated 3 May 1968 (Federal Law Gazette I, p. 334), as amended by Article VIII of the Act of 18 February 1977 (Federal Law Gazette I, p. 297), to a former Member who retired from the Bundestag prior to 1 January 1968 and to his or her surviving dependants with effect from the first day of the month of application.

Section 38

Pensions for periods prior to the entry into force of this Act

(1) A Member of the Bundestag who leaves during the period between 1 January 1968 and the date of entry into force of the present Act and his or her surviving dependants shall receive a pension under the Act governing the Remuneration of Members of the Bundestag 1968 (*Diätengesetz 1968*).

(2) A Member of the Bundestag who belonged to the Bundestag prior to the date of entry into force of this Act and did not leave the Bundestag until after that date shall receive superannuation benefits in accordance with this Act; his or her membership prior to the entry into force of this Act shall be reckonable service for the assessment of these benefits.

(3) Instead of the superannuation benefits awardable under subsection (2) above, the individual's own contributions to superannuation benefits and the surviving dependants' pension under section 4 of the Act governing the Remuneration of Members of the Bundestag 1968 shall be reimbursed on application without payment of interest. In the latter case, periods of membership of the Bundestag prior to the entry into force of the present Act shall not be taken into consideration in the determination of the superannuation benefits payable under this Act. In the cases described in section 23 of this Act, only half of the compensatory severance payment shall be awarded.

(4) Instead of the superannuation benefits awardable under subsection (2) above, a Member of the Bundestag who fulfils the conditions of section 5(1) and section 7a(1) of the Act governing the Remuneration of Members of the Bundestag 1968 shall receive, on application, a retirement pension under the said Act for the period of membership of the Bundestag prior to the entry into force of the present Act; for the period after the entry into force of the present Act came into force, superannuation benefits under this Act shall be awarded, subject to the proviso that five per cent of the Members' remuneration under section 11(1) is paid for each year of membership. The qualifying periods before and after the entry into force of this Act may not exceed sixteen years. The same shall apply in respect of surviving dependants.

(5) The application referred to in subsections (3) and (4) above must be made to the President of the Bundestag within six months from the entry into force of this Act.

Section 38a

(1) On application, recipients of pensions awarded under sections 37 and 38(1) of this Act shall receive a pension in accordance with Part Five instead of their current pension. The same applies to former Members who belonged to the Bundestag for at least six years before the entry into force of this Act and their surviving dependants. The last sentence of section 18(1) shall apply, *mutatis mutandis*.

(2) Section 38(4) shall apply, *mutatis mutandis*, to former Members who left the Bundestag prior to 1 April 1977 and subsequently re-entered. The application must be

made to the President of the Bundestag within six months from the date of re-entry into the German Bundestag. The same shall apply in respect of surviving dependants.

Section 38b

Surviving dependants' pension in the event of the death of a serving Member of the Bundestag

On application, surviving dependants as defined in section 25(4) of the present Act whose insured event occurred during the period between 1 April 1977 and the date of entry into force of the Seventh Amendment Act shall receive a pension under section 25(4) of the present Act with effect from the first day of the month of application.

Section 39

Reckonability of previous pension benefits

(1) In accordance with section 10 of the Act governing the Remuneration of Members of the Bundestag 1968 (*Diätengesetz 1968*), pension benefits payable under that Act shall not be reckonable benefits for the purposes of section 29(3) and (4) of the present Act.

(2) Where there is a concurrent entitlement to remuneration or a pension arising from membership of the Parliament of a *Land* (section 29(5) and (6) of the present Act), only the non-contributory element of pension benefits payable under the Act governing the Remuneration of Members of the Bundestag 1968 shall be reckonable. Periods credited under section 21 of the Act governing the Remuneration of Members of the Bundestag 1968 shall be regarded as contribution periods.

Section 40

Reduced compensatory severance payment

For periods of membership to which the Act governing the Remuneration of Members of the Bundestag 1968 (*Diätengesetz 1968*) applies, half of the compensatory severance payment under section 23 of the present Act shall be awarded. In this case, the Member's own insurance contributions under section 4 of the Act governing the Remuneration of Members of the Bundestag 1968 shall be reimbursed on application.

Section 41

Continuation of life assurance

Life-assurance policies in existence on the entry into force of this Act shall be continued, subject to reduction of superannuation benefits and widow's or widower's pension in accordance with the number and amount of monthly contributions made by the policyholder to the life-assurance fund since 1 January 1968.

Section 42

Conversion or cancellation of life assurance

(1) A Member or former Member of the Bundestag who has opted for the continuation of insurance at the expense of the Federal Republic under section 20 of the Act governing the Remuneration of Members of the Bundestag 1968 (*Diätengesetz 1968*) may convert or cancel the life-assurance policy.

(2) In the case of conversion, there is the option of continuation at the individual's own expense or of non-contributory insurance, subject to reduction of superannuation benefits and widow's or widower's pension in accordance with the number and amount of monthly contributions made by the policyholder to the life-assurance fund from 1 January 1968 until the end of the month in which the policy was converted or until the award of superannuation benefits.

(3) In the event of cancellation of the insurance policy, the insured person shall be reimbursed with the redemption value based on his or her own contributions.

Section 43

Continued payment of transitional emoluments

A former Member of the Bundestag receiving Members' allowances under the Act governing the Remuneration of Members of the Bundestag 1968 (*Diätengesetz 1968*) at the time of entry into force of the present Act shall retain this entitlement.

Section 44

Reckonable service for transitional emoluments

Periods of Membership of the Bundestag prior to the entry into force of this Act shall count towards the period for which transitional emoluments are payable.

**Act on the Legal Status
of Members of the European Parliament
from the Federal Republic of Germany
(Members of the European Parliament Act –
Europaabgeordnetengesetz)**

*of 6 April 1979 (Federal Law Gazette I, p. 413),
as amended by Article 2 of the Act
of 21 December 2004 (Federal Law Gazette I, p. 3590)*

PART ONE

Candidature and exercise of the mandate

Section 1

Scope

This Act shall apply to candidates for a mandate for the European Parliament in the Federal Republic of Germany and to Members of the European Parliament elected in the Federal Republic of Germany.

Section 2

Free exercise of the mandate

The Members of the European Parliament shall not be bound by orders and instructions and shall be subject only to their conscience.

Section 3

Protection of candidates and of the exercise of an electoral mandate

(1) No one may be prevented from standing as a candidate for a mandate to serve in the European Parliament or from accepting or holding such a mandate.

(2) Discrimination at work on the grounds of candidature for or acceptance and exercise of a mandate shall be inadmissible.

(3) Termination of an employment contract or dismissal on grounds of the acceptance or exercise of a mandate shall be inadmissible. In all other respects, termination of an employment contract shall only be permitted for a compelling reason. Protection against termination or dismissal shall take effect on the selection of the candidate by the relevant organ of the body entitled to submit nominations. It shall continue to apply for one year after the end of the Member's term of office.

Section 4

Election leave; seniority and length of service

(1) During the two months immediately prior to polling day, a candidate for a seat in the European Parliament shall be granted leave of up to two months on request for the purpose of preparing for the election. There shall be no entitlement to continued payment of emoluments during the period of leave.

(2) Section 4 of the Members of the Bundestag Act (*Abgeordnetengesetz*) shall apply, *mutatis mutandis*.

Section 5
Indemnity and immunity

The indemnity and immunity of Members of the European Parliament shall be governed by Articles 9 and 10 of the Protocol on the Privileges and Immunities of the European Communities, annexed to the Treaty of 8 April 1965 establishing a Single Council and a Single Commission of the European Communities (Federal Law Gazette (*Bundesgesetzblatt*) II, pp. 1453 and 1482). The scope of the indemnity shall be governed by the provisions of the Basic Law (*Grundgesetz*).

Section 6
Right of refusal to testify

Members of the European Parliament may refuse to give evidence concerning persons who have confided facts to them in their capacity as Members or to whom they have confided facts in such capacity, and concerning these facts themselves. To the extent that this right of refusal to testify exists, no seizure of documents shall be permissible.

PART TWO
Incompatibility; public servants

Section 7
Incompatibility of public offices, functions and mandates with membership of the European Parliament

Tenure of the public offices and exercise of the functions and mandates listed in section 22(2)(7) to (15) of the European Elections Act (*Europawahlgesetz*) are incompatible with membership of the European Parliament. The holder of such an office, function or mandate shall acquire membership of the European Parliament only if, after having been elected, he or she relinquishes the said office, function or mandate no later than the opening of the first sitting of the European Parliament after the election or, in the cases described in section 21(2) of the European Elections Act, before making his or her declaration of acceptance to the Federal Returning Officer (*Bundeswahlleiter*).

Section 8
Public servants

(1) Subsections (2) and (3) below shall apply to public servants employed by the Federal Republic, its constituent states (*Länder*), local authorities and other bodies, institutions or foundations established under public law or associations thereof, with the exception of public religious societies and associations thereof.

(2) If a civil servant, judge, career member or fixed-term volunteer member of the armed forces or employee agrees to be nominated as a candidate for election to the

European Parliament, he or she shall be granted, within the last two months before election day, unpaid leave of up to two months on request for the purpose of preparing for the election.

(3) Sections 5 to 9 and 36(1) and (2) of the Members of the Bundestag Act (*Abgeordnetengesetz*), section 36(2) of the German Judiciary Act (*Deutsches Richtergesetz*), section 25 of the Military Personnel Act, in so far as it relates to elections to the German Bundestag, and the laws enacted on the basis of section 10 of the Members of the Bundestag Act shall be applied, *mutatis mutandis*.

PART THREE

Benefits for Members of the European Parliament and for former Members and their surviving dependants

Section 9

Members' remuneration

A Member of the European Parliament shall receive monthly remuneration in accordance with section 11(1) and (3) of the Members of the Bundestag Act (*Abgeordnetengesetz*).

Section 10

Right to free use of public transport and reimbursement of travel costs

A Member of the European Parliament shall have the right to free use of all transport facilities of the rail operator Deutsche Bahn AG. If, in the exercise of his or her mandate, a Member uses internal flights or sleeping-cars in the Federal Republic of Germany, the cost shall be reimbursed up to the highest class on production of receipts. Section 16(2) of the Members of the Bundestag Act (*Abgeordnetengesetz*) shall apply, *mutatis mutandis*.

Section 10a

Use of German Bundestag facilities and services

A Member of the European Parliament shall receive a monthly expense allowance to defray expenditure incurred through the exercise of his or her mandate. It shall comprise the shared use of an office at the seat of the Bundestag, the use of the public transport referred to in section 10 of this Act, the use of the official vehicles and telecommunication facilities of the Bundestag and other facilities and services of the Bundestag in accordance with the implementing provisions enacted by the Council of Elders (*Ältestenrat*).

Section 10b

Benefits for former Members of the European Parliament and their surviving dependants

The provisions of Part Five and of sections 32(4) to (8), 35, 35a, 37 and 38(1) of the Members of the Bundestag Act (*Abgeordnetengesetz*) shall apply to former Members

of the European Parliament and their surviving dependants, subject to the following conditions:

1. where benefits are received from the accident-insurance scheme of the European Parliament, entitlement to a pension under the present Act shall be wholly or partially suspended; the suspended entitlement shall not exceed the amount of the insurance benefits;
2. the pension entitlement shall remain suspended until the cumulative value of the suspended benefits reaches that of the benefits from the life-assurance scheme or other comparable benefits of the European Parliament;
3. section 22(2)(3) of the European Elections Act (*Europawahlgesetz*) shall take the place of section 15(2)(2) of the Federal Electoral Act (*Bundeswahlgesetz*).

Periods of membership of the European Parliament shall be treated as periods of membership of the Bundestag. Where there is a concurrent entitlement to Members' remuneration under section 11 of the Members of the Bundestag Act, entitlement to pension benefits under the present Act shall be suspended. Section 29(3) to (9) of the Members of the Bundestag Act shall apply, *mutatis mutandis*.

Section 11

Subsidisation of costs in the event of illness, nursing care and births; assistance

The provisions of Part Six of the Members of the Bundestag Act (*Abgeordnetengesetz*) shall apply, *mutatis mutandis*.

Section 12

Commencement and expiry of entitlements; payment provisions

- (1) The entitlements established by sections 9 and 10 of the present Act shall take effect from the date of acceptance of election.
- (2) The Members' remuneration payable under section 9 shall be paid monthly in advance. If it is only payable in part, one thirtieth shall be paid for each calendar day.
- (3) Outgoing Members shall receive the Members' remuneration payable under section 9 of this Act until the end of the month of severance. Entitlements under section 10 shall expire fourteen days after the date of severance from the European Parliament.
- (4) The provisions of sections 31 and 33 of the Members of the Bundestag Act (*Abgeordnetengesetz*) shall apply, *mutatis mutandis*, to the benefits payable under the present Act.

PART FOUR
**Reckonability of concurrent benefits
from public funds**

Section 13
Reckonability

(1) Unless otherwise provided by the Members of the Bundestag Act (*Abgeordnetengesetz*) of the Federal Republic or by the act of a *Land* on the legal status of Members of its Parliament,

1. where there is a concurrent entitlement to Members' remuneration under the act of a *Land* on the legal status of Members of its Parliament, entitlement to Members' remuneration under the present Act shall be wholly or partially suspended; the suspended entitlement shall not exceed the amount of the remuneration from the *Land* Parliament;
2. where there is a concurrent entitlement to a pension under the Members of the Bundestag Act of the Federal Republic or under the act of a *Land* on the legal status of Members of its Parliament, entitlement to Members' remuneration under the present Act shall be wholly or partially suspended; the suspended entitlement shall not exceed the amount of the pension;
3. where there is a concurrent entitlement to a pension awarded under the relevant legislation of the other Member States of the European Union, entitlement to Members' remuneration under the present Act shall be wholly or partially suspended; the suspended entitlement shall not exceed the amount of the pension.

(2) Section 29(1), (2), (6), (7) and (9) of the Members of the Bundestag Act shall apply, *mutatis mutandis*, subject to the proviso that benefits, including pension benefits, arising from the tenure of public office or employment in the public service shall include benefits awarded by another Member State in connection with the tenure of a comparable public office or corresponding employment in the public service.

(3) The full amount of benefits awarded by the European Parliament shall be set off against benefits awarded for the same purpose under the present Act.

PART FIVE
Concluding provisions

Section 14
Entry into force

(1) This Act shall enter into force on the day following the date of promulgation. It shall apply in the first instance to candidates for a mandate at the first election of the European Parliament and to the Members elected on that occasion.

(2) Without prejudice to the second sentence of section 12(3) of this Act, Part Three shall apply until the entry into force of a European instrument regulating Members' remuneration.

(3) If this Act enters into force later than two months before the date of the first election of the European Parliament, leave for the purpose of preparing for elections (sections 4(1) and 8(2) of this Act) may only be taken after the date of entry into force.