

Unofficial Translation

Ordinance Governing Residence
of 25 November 2004
(Federal Law Gazette I, p. 2945)

last amended by Article 1 of the Ordinance of 14 October 2005
(Federal Law Gazette I, p. 2982)

Summary of contents

Chapter 1 General provisions

Section 1 Definitions

Chapter 2

Entry into and residence in the federal territory

Part 1

Passport obligation for foreigners

Section 2 Fulfilment of passport obligation via entry in the passport of a legal guardian

Section 3 Approval of non-German official identity documents as passport substitutes

Section 4 German passport substitute documents for foreigners

Section 5 General conditions pertaining to issuance of the travel document for foreigners

Section 6 Issuance of the travel document for foreigners in Germany

Section 7 Issuance of the travel document for foreigners abroad

Section 8 Period of validity of the travel document for foreigners

Section 9 Territorial application of the travel document for foreigners

Section 10 Other restrictions in the travel document for foreigners

Section 11 Procedure for issuance or extension of the travel document for foreigners

Section 12 Permit for frontier workers

Section 13 Emergency travel document

Section 14 Exemption from the passport obligation in connection with rescue operations

Part 2

Exemption from the requirement for a residence title

Sub-part 1

General provisions

Section 15 Provisions pertaining to short stays under Community law

Section 16 Priority of older visa conventions

Section 17 Non-exemption in case of economic activity during a short stay

Sub-part 2

Exemptions for holders of certain types of identity documents

Section 18 Exemption for holders of travel documents for refugees and stateless persons

Section 19 Exemption for holders of official passports

Section 20 Exemption for holders of identity documents issued by the European Union, inter-governmental organisations and Vatican City

Section 21 Exemption for holders of permits for frontier workers

Section 22 Exemption for pupils on collective lists

Sub-part 3

Exemptions in the area of cross-border transport

Section 23 Exemption for civilian flight personnel

Section 24 Exemption for seafarers

Section 25 Exemption in international civil inland waterway shipping

Section 26 Transit without entry into the federal territory; airport transit visa

Sub-part 4

Other exemptions

Section 27 Exemptions for persons belonging to missions of foreign states

Section 28 Exemption for Swiss nationals entitled to freedom of movement

Section 29 Exemption in connection with rescue operations

Section 30 Exemption for transit journeys and transit operations

Part 3

Visa procedures

Section 31 Approval from the foreigners authority for issuance of a visa

Section 32 Approval from the supreme Land authority

Section 33 Waiver of approval for repatriates

Section 34 Waiver of approval for scientists and students

Section 35 Waiver of approval for certain work-related stays and internships

Section 36 Waiver of approval for stays on service by members of foreign armed forces

Section 37 Waiver of approval in other cases

Section 38 Competence of the foreigners authority in lieu of a mission abroad

Part 4

Obtainment of the residence title in the federal territory

Section 39 Extension of a stay in the federal territory for longer-term purposes

Section 40 Extension of a short stay which is not subject to a visa requirement

Section 41 Privileges for nationals of certain states

Part 5

Residence under international law or on humanitarian or political grounds

Section 42 Application for transfer of residence

Section 43 Procedure upon the other member state consenting to the transfer of residence

Chapter 3

Fees

Section 44 Fees for the settlement permit

Section 45 Fees for the residence permit

Section 46 Fees for visas

Section 47 Fees for other official acts relating to rights of residence

Section 48 Fees for measures relating to passports and identity documents

Section 49 Processing fees

Section 50 Fees for official acts to the benefit of minors

Section 51 Fees for objections

Section 52 Exemptions from fees and reductions

Section 53 Exemptions and reductions on grounds of equity

Section 54 Inter-governmental agreements

Chapter 4

Administrative provisions

Section 55 Substitute identity document

Section 56 Obligations relating to identity documents

Section 57 Obligation to present papers when several identity documents exist

Chapter 5

Procedural provisions

Part 1

Models for residence titles, passport substitutes, substitute identity documents and other documents

Section 58 Forms

Section 59 Models for residence titles

Section 60 Photograph

Section 61 Security standard, technical procedure for issuance

Part 2

Data processing and data protection

Sub-part 1

Keeping of files on foreigners by the foreigners authorities and the missions abroad

Section 62 Obligation to keep files on the part of foreigners authorities

Section 63 Foreigners File A

Section 64 Data record of Foreigners file A

Section 65 Extended data record

Section 66 File on passport substitute documents

Section 67 Foreigners File B

Section 68 Erasure

Section 69 Visas file

Section 70 File on visa refusals

Sub-part 2

Transfer of data to the foreigners authorities

Section 71 Obligation to transfer data

Section 72 Notifications by the registration authorities

Section 73 Notifications by the authorities concerned with matters of nationality and certifying authorities pursuant to Section 15 of the Federal Expellees Act¹

Section 74 Notifications by the judicial authorities

Section 75 Notifications by the Federal Employment Agency

Section 76 Notifications by the supervisory authorities for trade and industry

Chapter 6

Administrative offences

Section 77 Administrative offences

Section 78 Administrative authorities within the meaning of the Administrative Offences Act

Chapter 7

Transitional and final provisions

Section 79 Application to persons entitled to freedom of movement

Section 80 Transitional provisions for the use of forms after this ordinance comes into force

Section 81 Continuing validity of passport substitute documents issued under present law

Section 82 Transitional arrangements for Foreigners Files

Section 83 Fulfilment of obligations relating to identity documents

Annexes

Chapter 1

General provisions

Section 1

Definitions

(1) Schengen states are those states in which Title 2, Chapters 1 to 6 of the Convention Implementing the Schengen Agreement apply.

(2) A short stay is a stay in the common territory of the Schengen states of no more than three months within a period of six months beginning on the date of initial entry.

(3) Travel documents for refugees constitute identity documents by virtue of

¹ Entry concerning Section 73 in the Summary of Contents amended by the Act of 14 March 2005 (Federal Law Gazette I, p. 721).

1. the agreement of 15 October 1946 relating to the issue of a travel document to refugees who are the concern of the Intergovernmental Committee on Refugees (Federal Law Gazette 1951 II, p. 160) or
2. Article 28 in conjunction with the Annex to the Convention relating to the Status of Refugees of 28 July 1951 (Federal Law Gazette 1953 II, p. 559).

(4) Travel documents for stateless persons constitute identity documents by virtue of Article 28 in conjunction with the Annex to the Convention of 28 September 1954 relating to the Status of Stateless Persons (Federal Law Gazette 1976 II, p. 473).

(5) Collective lists of pupils constitute lists in accordance with Article 2 of the Council Decision dated 30 November 1994 regarding the Joint Action adopted by the Council pursuant to Article K.3 (2) letter b of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a member state (OJ EC no. L 327, p. 1).

(6) Flight crew identity documents are "Airline Flight Crew Licences" and "Crew Member Certificates" pursuant to the Appendix to the respectively valid version of Annex 9 to the Convention dated 7 December 1944 on International Civil Aviation (Federal Law Gazette 1956 II, p. 411).

(7) Inland waterway identity documents are identity documents stipulated in inter-governmental agreements pertaining to the crossing of borders for civilian personnel using international inland waterways and their dependents, insofar as the respective agreements specify the validity of the said papers for dependents.

(8) Standard travel documents for the return of foreigners are documents in accordance with the Council Recommendation of 30 November 1994 relating to the introduction of a standard travel document for the return of nationals of third countries (OJ EC 1996 no. C 274, p. 18).

Chapter 2 Entry into and residence in the federal territory

Part 1

Passport obligation for foreigners

Section 2

Fulfilment of passport obligation via entry in the passport of a legal guardian

Minor foreigners under the age of 16 shall also fulfil the passport obligation through entry in a legal guardian's recognised and valid passport or passport substitute. For minor foreigners aged ten or over, this provision shall apply only when the minor's own photograph is included in the passport or passport substitute.

Section 3

Approval of non-German official identity documents as passport substitutes

(1) Official identity documents issued by authorities other than German authorities shall be considered approved as passport substitutes without requiring recognition

pursuant to Section 71 (6) of the Residence Act, insofar as the Federal Republic of Germany is obliged

1. by virtue of inter-governmental agreements or

2. by virtue of European Union law

to permit the holder to cross the border subject to the requirements stipulated in the aforesaid legislation. This shall not apply if the issuing state is exempted from the scope of validity of the identity document or if the holder is not entitled to return to the said state.

(2) Approval shall not be considered granted if the Federal Ministry of the Interior establishes, in cases covered by sub-section 1 sentence 1, no. 1, that

1. reciprocity is not maintained, insofar as such reciprocity has been agreed, or

2. the official identity document

a) does not contain adequate information to clearly identify the holder or the issuing authority,

b) does not incorporate any security features affording a minimum level of protection from forgery or manipulation, or

c) the information is not provided in a Germanic or Romance language.

(3) Identity documents within the meaning of sub-section 1 include, in particular:

1. travel documents for refugees (Section 1 (3)),

2. travel documents for stateless persons (Section 1 (4)),

3. identity documents for members and officials of the bodies of the European Communities,

4. identity documents for Members of the Parliamentary Assembly of the Council of Europe,

5. official identity cards of the member states of the European Union, the other states party to the Convention on the European Economic Area and Switzerland for their nationals,

6. collective lists of pupils (Section 1 (5)),

7. flight crew identity documents, insofar as they are required for a stay pursuant to Section 23, and

8. inland waterway identity documents, insofar as they are required for a stay pursuant to Section 25.

Section 4

German passport substitute documents for foreigners

(1) Passport substitute documents issued for foreigners by German authorities are:

1. the travel document for foreigners,

2. the permit for frontier workers,

3. the emergency travel document,

4. travel documents for refugees (Section 1 (3)),

5. the travel document for stateless persons (Section 1 (4)),
6. the collective list of pupils (Section 1 (5)),
7. the certificate confirming the transfer of residence (Section 43 (2)),
8. the standard travel document for the return of foreigners (Section 1 (8)).

(2) A passport substitute for foreigners shall generally be withdrawn if the conditions pertaining to its issue are no longer met. It shall be withdrawn if the foreigner is obliged to return it by virtue of special regulations and fails to do so forthwith.

(3) German missions abroad shall withdraw passport substitutes in consultation with the competent or most recently competent foreigners authority in Germany. When such an authority does not exist or is not ascertainable, consultation shall be carried out with the authority which issued the passport substitute or, if it has been extended, with the extending authority.

Section 5

General conditions pertaining to issuance of the travel document for foreigners

(1) A foreigner who verifiably does not possess a passport or passport substitute and is unable to obtain such a document by reasonable means may be issued with a travel document for foreigners, subject to the following provisions.

(2) 'reasonable means' within the meaning of sub-section 1 shall be deemed in particular to denote

1. filing the necessary applications for issuance of a new document or extension of an existing document with the competent authorities in Germany and abroad in good time prior to expiry of a passport or passport substitute, such that issuance of a new document or extension of an existing document may be expected within the period of validity of the previous passport or passport substitute,
2. cooperating in connection with issuance or extension proceedings in due compliance with the provisions of German passport law, in particular Sections 6 and 15 of the Passport Act in its current version at the time concerned, and tolerating an application being treated by the authorities of the foreigner's country of origin according to the law of the country of origin, provided that this does not result in unreasonable hardship,
3. carrying out compulsory military service and other reasonable civil duties, unless this is unreasonable for compelling reasons, or
4. paying the standard charges stipulated by the country of origin for the official measures.

(3) A travel document for foreigners shall not generally be issued if the foreigner's country of origin refuses to issue a passport or a passport substitute for reasons which also constitute grounds for refusing a passport under German passport law, in particular pursuant to Section 7 of the Passport Act or due to failure to cooperate pursuant to Section 6 of the Passport Act, or if issuance is deniable on any other grounds.

(4) A travel document for foreigners should not be issued if the foreigner concerned has already misused a travel document for foreigners or if concrete indications of an intention to misuse the travel document for foreigners exist. In particular, having due

regard to the case concerned, a serious contravention of restrictions entered in the travel document for foreigners or use of the travel document for foreigners to commit or prepare for an offence constitute misuse. In particular, if the applicant repeatedly reports passport substitute documents as lost, this may also be deemed to indicate intended misuse.

(5) The travel document for foreigners may only be extended if the conditions applying to issuance continue to be met.

Section 6

Issuance of the travel document for foreigners in Germany

A travel document for foreigners may be issued in Germany pursuant to Section 5,

1. if the foreigner possesses a residence permit or settlement permit,
2. if the foreigner will be issued with a residence permit or settlement permit as soon as he or she fulfils the passport obligation as a holder of a travel document for foreigners,
3. to enable the foreigner to leave the federal territory definitively or,
4. if the foreigner is an asylum seeker, there is an urgent public interest in issuance of the travel document for foreigners, it is necessary for compelling reasons, or if refusing permission would constitute undue hardship and the asylum procedure is not jeopardised.

The issuing authority may approve exceptions in the cases covered by sentence 1, nos. 3 and 4 of Section 5 (2) and (3) and in the cases covered by sentence 1, no. 3 of Section 5 (4).

Section 7

Issuance of the travel document for foreigners abroad

(1) A travel document for foreigners may be issued abroad pursuant to Section 5 in order to enable the foreigner to enter the federal territory, provided that the conditions pertaining to issuance of a residence title required for this purpose are met.

(2) A travel document for foreigners may further be issued abroad pursuant to Section 5 to a foreign dependent defined in Section 28 (1) sentence 1, nos. 1 to 3 of the Residence Act or to the life partner of a German who lives abroad with the German in a family household.

Section 8

Period of validity of the travel document for foreigners

(1) The period of validity of the travel document for foreigners must not exceed the period of validity of the foreigner's residence title or permission to reside. The travel document for foreigners may otherwise be issued and extended up to a period of validity of

1. ten years, if the holder is aged 26 or over at the time of issuance,

2. five years, if the holder is aged under 26 at the time of issuance.

(2) By way of derogation from sub-section 1, in the cases covered by Section 6 sentence 1, nos. 3 and 4 and Section 7 (1) the travel document may only be issued for a period of validity of no more than one month. In cases in which the state to or through which the intended journey leads only permits entry with a travel document for foreigners whose period of validity extends beyond the intended date of entry or departure, the travel document for foreigners may, by way of derogation from sentence 1, be issued for a correspondingly longer period of validity.

(3) A travel document for foreigners issued pursuant to Section 8 sentence 1, nos. 3 and 4 may not be extended. The prohibition of extension is to be noted in the travel document for foreigners.

Section 9

Territorial scope of the travel document for foreigners

(1) The travel document for foreigners may be issued for all states, or its scope of application may be limited to specific states or continents.

The state whose nationality the foreigner holds is to be excluded from the territorial scope, save in exceptional cases in which extension of the territorial scope to include this state is justified.

(2) In the cases covered by Section 6 sentence 1, no. 4, the territorial scope of the travel document shall be restricted to those states affected by the purpose of the journey.

By way of derogation from sub-section 1, sentence 2, extension of the territorial scope to include the country of origin is not permissible.

(3) By way of derogation from sub-section 1, sentence 2, in cases covered by Section 6 sentence 1, no. 3 the territorial scope of a travel document for foreigners should include the state whose nationality the foreigner holds.

(4) In the cases covered by Section 7 (1), the territorial scope of the travel document for foreigners issued abroad shall be limited to the Federal Republic of Germany, the country of departure, the issuing state and the individual transit states pertaining to the planned journey, whereby the said transit states are to be specified in the travel document for foreigners.

Section 10

Other restrictions in the travel document for foreigners

In order to prevent misuse, other restrictions can be entered in the travel document for foreigners at the time of issuance or at a subsequent juncture, in particular, the border crossing point to be used when entering the federal territory or the name of the person by whom the foreigner must be accompanied. Section 46 (2) of the Residence Act shall remain unaffected.

Section 11

Procedure for issuance or extension of the travel document for foreigners

(1) A travel document for foreigners may be issued abroad only with the consent of the Federal Ministry of the Interior or the authority stipulated by the said ministry. The same shall apply to the extension abroad of a travel document issued in accordance with sentence 1.

(2) A travel document for foreigners which has been issued or extended in Germany may be extended abroad only with the consent of the competent or most recently competent foreigners authority. When such an authority does not exist or is not ascertainable, approval shall be obtained from the authority which issued the travel document or, if it has been extended, from the extending authority.

(3) Lifting of the restrictions pursuant to Sections 9 and 10 abroad shall require the consent of the competent or most recently competent foreigners authority. If such an authority does not exist or is not ascertainable, approval shall be obtained by the authority which entered the restriction in the travel document.

Section 12

Permit for frontier workers

(1) A foreigner may be issued with a permit for frontier workers with the approval of the Federal Employment Agency, if the foreigner concerned is employed in the federal territory, has relocated his or her place of residence from the federal territory to an adjoining member state of the European Union together with his or her spouse, who is German or a national of another EU state and with whom he or she lives together in a family household, and returns to this place of residence at least once a week. The permit for frontier workers may be issued for a period of two years from the date of initial issue. It may be extended by subsequent two-year periods, provided that the conditions pertaining to its issuance continue to be met.

(2) A permit for frontier workers shall be issued and extended for Swiss nationals subject to the requirements and conditions stipulated in Article 7 (2), Article 13 (2), Article 28 (1) and Article 32 (2) of Annex I to the Convention dated 21 June 1999 between the European Community and its member states, of the one part, and the Swiss Confederation of the other, on the freedom of movement (Federal Law Gazette 2001 II, p. 810).

Section 13

Emergency travel document

(1) A foreigner may be issued with an emergency travel document in order to avoid undue hardship or if a special public interest applies, provided that the foreigner is able to substantiate his or her identity and he or she

1. is an EU citizen or a national of another state party to the Convention on the European Economic Area, of Switzerland or of a state specified in Annex II to regulation (EC) no. 539/2001, or

2. is entitled on other grounds to reside in the federal territory, another member state of the European Union, another state party to the Convention on the European Economic Area, Switzerland or to return to any of the said countries.

(2) The authorities charged with policing cross-border traffic may issue an emergency travel document pursuant to sub-section 1 at the border, if the foreigner does not have a passport or passport substitute on his or her person.

(3) The foreigners authority may issue an emergency travel document pursuant to sub-section 1 if there is no prospect of procuring another passport or passport substitute, in particular a travel document for foreigners, in the individual case concerned.

(4) The issuing authority may certify the given entitlement to return to the federal territory on the emergency travel document, if such certification is expedient for the purposes of the intended journey abroad. The authorities stated in sub-section 2 shall require the approval of the foreigners authority for this purpose.

(5) By way of derogation from sub-section 1, the authorities charged with policing cross-border traffic may issue an emergency travel document to

1. civilian personnel belonging to a ship travelling in maritime or coastal waters or on the Rhine for the stay in port during the ship's lay days and

2. civilian flight personnel for a stay as specified in Section 23 (1) and the entry and departure pertaining to such a stay, when the personnel concerned do not have a passport or passport substitute with them, in particular a passport substitute document as specified in Section 3 (3). Sub-section 4 shall not apply.

(6) The maximum period of validity for the emergency travel document is one month.

Section 14

Exemption from the passport obligation in rescue operations

Exemptions to the passport obligation shall apply to

1. foreigners who enter the federal territory from neighbouring states, by sea or on rescue flights from other states with the intention of giving or receiving aid in connection with accidents or disasters, and

2. foreigners who belong to the flight crew or escort personnel for rescue flights.

The exemption shall end as soon as the foreigner can reasonably be expected to obtain or apply for a passport or passport substitute, with due regard to the special circumstances of the case concerned and according priority to the provision or receipt of aid.

Part 2

Exemption from the requirement for a residence title

Sub-part 1

General provisions

Section 15

Provisions pertaining to short stays under Community law

Exemptions from the requirement for a residence title for entry into the federal territory and short stays by foreigners shall be based on the law of the European Union, in particular the Convention Implementing the Schengen Agreement and regulation (EC) no. 539/2001 in conjunction with the following provisions.

Section 16

Priority of older visa conventions

Holders of the documents stated in Annex A to this ordinance shall be exempted from the requirement for a residence title for the purposes of entering into and staying in the federal territory, including when such stays exceed the defined period of a short stay, when visa conventions concluded with the states specified in Annex A prior to 1 September 1993 preclude the requirement for a residence title or such a time limit.

Section 17

Non-exemption in case of economic activity during a short stay

(1) Nationals of the states specified in Annex II to regulation (EC) no. 539/2001 in its most recent version at the time concerned shall not be exempted from the requirement for a residence title for entry into and short stays in the federal territory if they pursue an economic activity in the federal territory.

(2) Sub-section 1 shall not apply if the foreigner only pursues activities which do not constitute employment pursuant to Section 16, sentence 1 of the Ordinance Governing Employment for up to three months within a twelve-month period, or if the foreigner pursues similar self-employed activities.² The time restriction stipulated in sentence 1 shall not apply to drivers in cross-border road traffic who merely transport goods or persons through the federal territory, without such goods or persons changing vehicle.

² Section 17 (2), sentence 1 amended by the Ordinance of 14 October 2005 (Federal Law Gazette I, p. 2982).

Sub-part 2

Exemptions for holders of certain types of identity documents

Section 18

Exemption for holders of travel documents for refugees and stateless persons

Holders of travel documents for refugees or for stateless persons shall be exempted from the requirement for a residence title for the purposes of entry into and short stays in the federal territory, provided that

1. the travel document has been issued by a member state of the European Union, another state party to the Convention on the European Economic Area, Switzerland or a state specified in Annex II to regulation (EC) no. 539/2001,
2. the travel document contains an entitlement to return to the issuing state which is valid for a further four months at least at the time of entry and
3. they do not pursue an economic activity, with the exception of such activities defined in Section 17 (2).

Sentence 1, no. 2 shall not apply to holders of travel documents for refugees which have been issued by one of the states specified in Annex A, no. 3.

Section 19

Exemption for holders of service passports

Nationals of the states specified in Annex B to this ordinance shall be exempted from the requirement for a residence title for the purposes of entry into and short stays in the federal territory, provided that they possess one of the service passports stated in Annex B and do not pursue an economic activity, with the exception of such activities defined in Section 17 (2).

Section 20

Exemption for holders of identity documents issued by the European Union, inter-governmental organisations and Vatican City

An exemption from the requirement for a residence title shall apply to holders

1. of identity documents for members and employees of the bodies of the European Communities,
2. of identity documents for members of the Parliamentary Assembly of the Council of Europe,
3. of Vatican passports, provided that their stay in the federal territory does not exceed three months,
4. of passes issued by inter-governmental organisations to persons travelling on their instructions, insofar as the Federal Republic of Germany is obliged by an agreement with the issuing organisation to permit the holder to enter into and stay in the federal territory.

Section 21

Exemption for holders of permits for frontier workers

Holders of permits for frontier workers are exempted from the requirement for a residence title for the purposes of entry into and stays in the federal territory.

Section 22

Exemption for pupils on collective lists

Pupils participating in a trip to or through the federal territory as members of a group of pupils accompanied by a teacher from a school providing general education or a vocational school shall be exempted from the requirement for a residence title for the purposes of entry into, transit through and short stays in the federal territory, if they

1. are nationals of a state specified in Annex I to regulation (EC) no. 539/2001,
2. are resident within the European Union, in another state party to the Convention on the European Economic Area or in a state specified in Annex II to regulation (EC) no. 539/2001,
3. are entered in a collective list which complies with the requirements stipulated in Article 1, letter b in conjunction with the Annex to the Council Decision dated 30 November 1994 regarding the Joint Action adopted by the Council pursuant to Article K.3 (2) letter b of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a member state, and
4. do not pursue an economic activity.

Sub-part 3

Exemptions in the area of cross-border transport

Section 23

Exemption for civilian flight personnel

(1) Civilian flight personnel who are in possession of flight crew identity documents shall be exempted from the requirement for a residence title for the purposes of

1. staying only at the airport at which the aircraft stops over or ends its flight,
2. staying only in the area of a municipality situated in the vicinity of the airport or
3. transferring to another airport.

(2) Civilian flight personnel who are not in possession of flight crew identity documents may be exempted from the requirement for a residence title for the purposes of a stay as specified in sub-section 1, provided that they meet the passport obligation. The competent bodies shall be the authorities charged with policing cross-border traffic. A laissez-passer shall be issued to confirm the exemption.

Section 24

Exemption for seafarers

(1) Civilian shipping personnel shall be exempted from the requirement for a residence title for the purposes of entry into and stays in the federal territory with regard to

1. pilots practising their occupation pursuant to Section 1 of the Sea Pilotage Act who are able to identify themselves by means of official papers detailing their identity and their capacity as a pilot,
2. foreigners who
 - a) possess a German Seamen's Registration Book,
 - b) are nationals of a state specified in Annex II to regulation (EC) no. 539/2001 and in possession of a passport or passport substitute issued by the state concerned and
 - c) stay on board ship or in the federal territory solely as a civilian member of the personnel on a ship which is entitled to fly the flag of the Federal Republic of Germany.

(2) Civilian shipping personnel belonging to a ship travelling in maritime or coastal waters or on the Rhine which do not fall under the category of personnel defined in sub-section (1) may be exempted from the requirement for a residence title for the stay in port during the ship's lay days, provided that they meet the passport obligation. The competent bodies shall be the authorities charged with policing cross-border traffic. A laissez-passer shall be issued to confirm the exemption.

(3) Civilian shipping personnel within the meaning of the above sub-sections are the captain of a ship, the members of the crew who have been signed on and are entered in the crew list, and any other persons employed on board who are entered in a crew list.

Section 25

Exemption in international civil inland waterway shipping

(1) Foreigners who

1. are employed on a ship operated by a company having its seat abroad on the Rhine and Danube river systems, including the Main-Danube canal,
2. are entered in the crew list of this ship and
3. possess a foreign passport or passport substitute specifying their capacity as a Rhine shipman or inland waterway identity documents shall be exempted from the requirement for a residence title for the purposes of entry into the federal territory and for stays in the federal territory of up to three months within a twelve-month period following his or her first entry into the federal territory.

(2) The exemption pursuant to sub-section 1 shall apply to entry into the federal territory and

1. stays on board,

2. stays in the area of a dock in which the ship is berthed and a municipality in the vicinity and
 3. journeys via the shortest route between the border crossing point and the location at which the ship is berthed or between locations at which ships are berthed
- in connection with the cross-border transportation of persons or goods and, for the purposes of the onward transportation of such persons or goods, on the Danube river system.

(3) Sub-sections 1 and 2 shall apply mutatis mutandis to dependents entered in inland waterway identity documents.

Section 26

Transit without entry into the federal territory; airport transit visa

(1) Foreigners who are present in the federal territory without having effected entry within the meaning of Section 13 (2) of the Residence Act shall be exempted from the requirement for a residence title.

(2) The requirement for a permit to enter the transit area of an airport during a stopover or for the purpose of transferring to a different flight (airport transit visa) is based on number 2.1.1 in conjunction with Annex 3, Parts I and III of the resolution adopted by the Council of the European Union on 28 April 1999 regarding the Common Consular Instructions for the Diplomatic Missions and Consular Posts (OJ EC no. L 239, p. 317), last amended by Article 11 (1) of regulation (EC) no. 693/2003 issued by the Council on 14 April 2003 (OJ EU no. L 99, p. 8), in their respectively valid versions. If an airport transit visa is required pursuant to the aforesaid legislation, exemption in accordance with sub-section 1 shall apply only if the foreigner possesses an airport transit visa. The airport transit visa does not constitute a residence title.

(3) Exemption in accordance with sub-section 1 shall apply to airline passengers only on condition that they possess an airport transit visa, if they are

1. nationals of a state specified in Annex C or only provide identification in the form of a passport or passport substitute specified in Annex C and
2. not in possession
 - a) of a visa or other³ residence title issued by a member state of the European Union or a state party to the Convention on the European Economic Area or
 - b) of a residence title issued by Andorra, Japan, Canada, Monaco, San Marino, Switzerland or the United States of America granting an unqualified right to return to one of the said states.

Sub-section 2 shall remain unaffected.

³ Section 26 (3), sentence 1, lit. a amended by the Ordinance of 14 October 2005 (Federal Law Gazette I, p. 2982).

Sub-part 4

Other exemptions

Section 27

Exemptions for persons belonging to missions of foreign states

(1) The following persons shall be exempted from the requirement for a residence title when reciprocity applies:

1. members of the service staff at consular posts headed by career consular officers in the federal territory who have been officially assigned to the Federal Republic of Germany and members of their families forming part of their households who are not permanently resident in the federal territory,
2. members of the diplomatic, career consular, administrative and technical staff and members of the service staff at diplomatic missions and consular posts headed by career consular officers in the federal territory who have not been officially assigned to the Federal Republic of Germany but have been recruited locally with the approval of the Federal Foreign Office, and dependents who have joined them with the approval of the Federal Foreign Office and form a part of their household, in the form of their spouse or life partner, minor, unmarried children and major, unmarried children who are under 21 years of age at the time of transfer of their permanent residence to the federal territory, are undergoing education and are economically dependent on them,
3. the private domestic staff of members of missions and consular posts headed by career consular officers in the federal territory who are employed with the approval of the Federal Foreign Office,
4. dependents accompanying representatives of other states and their attendants pursuant to Section 20 of the Judicature Act,
5. persons who belong to the household of an officially assigned member of a diplomatic mission or consular post headed by a career consular officer in the federal territory, who live together with the assigned member as a member of his or her household or in a care-giving relationship with regard to a legal or moral duty, who are not employed by the assigned member, whose subsistence, including due protection from illness and a dependence on nursing care, is ensured without claiming benefits under the Social Code and whose stay has been approved by the Federal Foreign Office in the interests of safeguarding the Federal Republic of Germany's foreign relations in the individual case concerned.

(2) When reciprocity applies, the persons exempted from the requirement for a residence title pursuant to sub-section 1 as family or household members and the family members covered by Section 1 (2), nos. 2 or 3 of the Residence Act shall also be exempted from the requirement for a residence title if they take up and pursue an approved economic activity or training.

(3) When a ground for exemption comes into effect pursuant to sub-section 1 or 2, this shall not affect an existing residence permit or settlement permit and shall not

impede the extension of a residence permit or the granting of a settlement permit to a previous residence permit holder in accordance with the provisions of the Residence Act.

Section 28

Exemption for Swiss nationals entitled to freedom of movement

Under the terms of the Convention dated 21 June 1999 between the European Community and its member states, of the one part, and the Swiss Confederation, of the other, on the freedom of movement, Swiss nationals shall be exempted from the requirement for a residence title.

Section 29

Exemption in connection with rescue operations

The foreigners specified in Section 14, sentence 1 shall be exempted from the requirement for a residence title for the purposes of entry into and stays in the federal territory. The exemption pursuant to sentence 1 shall end as soon as the foreigner can reasonably be expected to apply for a required residence title, with due regard to the special circumstances of the case concerned and according priority to the provision or receipt of aid.

Section 30

Exemption for transit journeys and transit operations

Foreigners shall be exempted from the requirement for a residence title for the purposes of entry into the federal territory via the border with another Schengen state and a subsequent stay of up to three days when they

1. travel through the federal territory on the basis of an inter-governmental agreement on the permission of transit journeys or
2. are transported through the federal territory on the basis of an inter-governmental agreement or with the approval of the Federal Ministry of the Interior or a body authorised by the said Ministry; in this case, the exemption shall also apply to escorts supervising the foreigner.

Part 3

Visa procedures

Section 31

Approval from the foreigners authority for issuance of a visa

(1) A visa shall require prior approval from the competent foreigners authority for the intended place of abode, if

1. the foreigner intends to stay in the federal territory for longer than three months,
2. the foreigner intends to pursue an economic activity in the federal territory or
3. the data pertaining to the foreigner are transferred to the security authorities pursuant to Section 73 (1), sentence 1 of the Residence Act.

In the case of sentence 1, no. 3 approval shall be deemed to have been granted if the foreigners authority fails to file an objection to issuance of the visa within ten days of the data pertaining to the visa application being transmitted or if, in individual cases, the foreigners authority fails to notify the diplomatic mission abroad within this period that the assessment process will not be completed within the aforesaid ten-day period. The same shall apply to applications for issuance of a visa for study purposes, unless the visa is exempted from the requirements for approval in accordance with Section 34, no. 3, whereby the period for filing objections shall be three weeks and two working days.

(2) When the foreigner's residence is arranged by a public body domiciled in the federal territory, the approval for issuance of a visa may also be granted by the foreigners authority which is competent for the domicile of the body arranging the residence. A reference to this provision shall be included in the visa and the foreigners authority concerned shall be stipulated.

(3) Particularly in urgent cases, when an entitlement to issuance of a residence title applies, when a public interest applies or in cases covered by Section 18 or 19 of the Residence Act, the foreigners authority may approve issuance of a visa prior to a visa application being filed (advance approval).

Section 32

Approval from the supreme Land authority

A visa shall not require the approval of the foreigners authority pursuant to Section 31, if the supreme Land authority has approved issuance of the visa.

Section 33

Waiver of approval for repatriates

By way of derogation from Section 31, the issuance of visas intended for holders of admission notices pursuant to the Federal Expellees Act and spouses and offspring included in the admission notice pursuant to Section 27 (1), sentences 2 to 4 of the Federal Expellees Act shall not require the approval of the foreigners authority.

Section 34

Waiver of approval for scientists and students

By way of derogation from Section 31, approval from the foreigners authority shall not be required for visas intended for

1. scientists who are recruited for scientific work by German scientific organisations or a German public body and who receive a grant from public funds in the Federal Republic of Germany in this connection, their accompanying spouses or life partners and minor, unmarried children

2. a) guest scientists,
 - b) engineers and technicians belonging to the technical staff in a guest scientist's research team and
 - c) teaching personnel and scientific staff

who, in response to an appurtenant invitation, take up employment at an institution of higher education or a public-sector research establishment which is financed primarily from public funds or operated as a public-sector enterprise with the legal form of a private company, their accompanying spouses or life partners and minor, unmarried children, or

3. foreigners who are allocated a study place by a German scientific organisation or a German public body which grants scholarships from public funds and who receive a scholarship in the Federal Republic of Germany in this connection on the basis of an award procedure which is also applied for public funds; the same shall apply to their accompanying spouses or life partners and minor, unmarried children.

Section 35

Waiver of approval for certain work-related stays and internships

By way of derogation from Section 31, approval from the foreigners authority shall not be required for visas intended for foreigners who

1. take up employment as a guest worker or contract worker on the basis of an inter-governmental agreement,
2. take up a job arranged by the Federal Employment Agency for a period of up to nine months,
3. take up employment as a crew member on an ocean-going vessel which is entitled to fly the German flag and which is entered in the international maritime shipping register (Section 12 of the Flag Act), without establishing an habitual residence in the federal territory,
4. are permitted to take up employment during a holiday stay of up to one year on the basis of an intergovernmental agreement or
5. intend to take up a job for no longer than three months for which they are to receive a grant paid exclusively from public funds.

Section 36

Waiver of approval for stays on service by members of foreign armed forces

By way of derogation from Section 31, approval from the foreigners authority shall not be required for a visa to be issued to a member of foreign armed forces for the purpose of a stay in the federal territory on service on the basis of an inter-governmental agreement. Inter-governmental agreements which include provision for a waiver of the visa obligation shall remain unaffected.

Section 37

Waiver of approval in other cases

By way of derogation from Section 31 (1), nos. 1 and 2, approval from the foreigners authority shall not be required for visas intended for foreigners who intend to only pursue activities which do not constitute employment pursuant to Section 16, sentence 1 of the Ordinance Governing Employment for up to three months within a twelve-month period, or similar self-employed activities.⁴

Section 38

Competence of the foreigners authority in lieu of a mission abroad

A foreigner may obtain a national visa from the competent foreigners authority at the domicile of the Federal Foreign Office, if the Federal Republic of Germany does not have a mission in the state in which the foreigner is habitually resident or if such a mission is temporarily unable to issue a visa and the Federal Foreign Office has not authorised another mission to issue the visa.

Part 4

Obtainment of the residence title in the federal territory

Section 39

Extension of a stay in the federal territory for longer-term purposes

Beyond the scope of cases covered in the Residence Act, a foreigner may obtain a residence title in the federal territory or have such a title extended, if

1. he or she possesses a national visa (Section 6 (4) of the Residence Act) or a residence permit,
2. he or she is exempted from the requirement for a residence title and the exemption is not restricted to a certain part of the federal territory or to a stay of no longer than six months,
3. he or she is a national of a state specified in Annex II to regulation (EC) no. 539/2001 and is lawfully resident in the federal territory or possesses a valid Schengen visa for short stays (Section 6 (1), no. 2 of the Residence Act), provided that the conditions pertaining to an entitlement to a residence title are met,
4. he or she possesses permission to reside pursuant to the Asylum Procedure Act and the conditions pursuant to Section 10 (1) or (2) of the Residence Act are met,
5. his or her deportation has been suspended pursuant to Section 60a of the Residence Act and he or she has become entitled to a residence permit by virtue of marriage or the birth of a child during his or her stay in the federal territory or

⁴ Section 37 amended by the Ordinance of 14 October 2005 (Federal Law Gazette I, p. 2982).

6. he or she possesses a residence title issued by another Schengen state and is permitted to stay in the federal territory on the basis of this residence permit, provided that the conditions pertaining to an entitlement to a residence title are met; Section 41 (3) shall apply.⁵

Section 40

Extension of a short stay which is not subject to a visa requirement

Following entry into the federal territory, nationals of the states specified in Annex II to regulation (EC) no. 539/2001 may obtain a residence permit for a further stay of a period of no more than three months directly following a short stay, if

1. an exceptional case applies pursuant to Article 20 (2) of the Convention Implementing the Schengen Agreement and
2. the foreigner does not pursue an economic activity in the federal territory, with the exception of the activities stipulated in Section 17 (2).

Section 41

Privileges for nationals of certain states

(1) Nationals of Australia, Israel, Japan, Canada, the Republic of Korea, New Zealand and the United States of America may also enter into the federal territory and stay in the said territory for a period which does not constitute a short stay without requiring a visa. A required residence title may be obtained in the federal territory.

(2) The same applies to nationals of Andorra, Honduras, Monaco and San Marino who do not intend to pursue an economic activity, with the exception of the activities stated in Section 17 (2).

(3) A required residence title shall be applied for within three months of entering the federal territory. The deadline for application shall expire before the specified period, if the foreigner is expelled or his or her stay is subjected to a time limit pursuant to Section 12 (4) of the Residence Act.

Part 5

Residence under international law or on humanitarian or political grounds

Section 42

Application for transfer or residence

A foreigner who is admitted into the federal territory in accordance with Section 24 (1) of the Residence Act on the basis of a resolution by the Council of the European Union pursuant to Council Directive 2001/55/EC of 20 July 2001 on minimum standards for

⁵ Section 39 no. 6 added by the Ordinance of 14 October 2005 (Federal Law Gazette I, p. 2982).

giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ EC no. L 212, p. 12) may file an application with the competent foreigners authority for transfer of his or her residence to another member state of the European Union. The foreigners authority shall forward the application to the Federal Office for Migration and Refugees. The latter shall notify the other member state, the European Commission and the United Nations High Commissioner for Refugees of the filed application.

Section 43

Procedure upon the other member state consenting to the transfer of residence

(1) As soon as the other member state has declared its consent to the application for the transfer of the foreigner's residence, the Federal Office for Migration and Refugees shall notify the competent foreigners authority forthwith as to

1. where and to which authority of the other member state the admitted foreigner should report and
2. the period which is available for departure from the federal territory.

(2) After hearing the admitted foreigner, the foreigners authority shall fix a date for departure from the federal territory and notify the Federal Office for Migration and Refugees accordingly. The latter shall inform the other member state of the details relating to the foreigner's departure and issue the foreigner with the appropriate certificate confirming the transfer of his or her residence, which shall be sent to the competent foreigners authority for handing over to the foreigner.

Chapter 3

Fees

Section 44

Fees for the settlement permit

The following fees shall be charged:

| | |
|---|-----------|
| 1. For issuance of a settlement permit for highly qualified persons (Section 19 (1) of the Residence Act) | 200 euros |
| 2. For issuance of a settlement permit for the purpose of self-employment (Section 21 (4) of the Residence Act) | 150 euros |
| 3. For issuance of a settlement permit in all other cases | 85 euros |

Section 45

Fees for the residence permit

The following fees shall be charged:

| | |
|---|----------|
| 1. For issuance of a residence permit a) with a period of validity of up to one year | 50 euros |
| b) with a period of validity of more than one year | 60 euros |
| 2. For the extension of a residence permit a) for a further stay of up to three months | 15 euros |
| b) for a further stay of more than three months | 30 euros |
| 3. For an amendment to the residence permit necessitated by a change in the purpose of residence, including its extension | 40 euros |

Section 46

Fees for visas

The following fees shall be charged:

| | |
|---|--|
| 1. a) For issuance of an airport transit visa or a Schengen visa (categories "A", "B" and "C"), including for multiple entry and in case of geographically restricted validity and issuance at the border | 35 euros |
| b) For issuance of such a visa in the form of a collective visa (5 to 50 persons) | 35 euros plus 1 euro per person |
| 2. For extension of a Schengen visa in the federal territory (Section 6 (3), sentence 1 of the Residence Act) | The fees stipulated in number 1, letters a and b |
| 3. For extension of a Schengen visa in the federal territory beyond a period of three months as a national visa (Section 6 (3), sentence 3 of the Residence Act) | The fee stipulated in number 4 |
| 4. For issuance of a national visa (category "D"), including for multiple entry | 30 euros |
| 5. For extension of a national visa | 25 euros |

| | |
|---|---|
| (category "D") | |
| 6. For issuance of a national visa as a uniform visa (category "D and C") | The fee stipulated in number 4 plus 5 euros |

Section 47

Fees for other official acts relating to rights of residence

(1) The following fees shall be charged:

| | |
|--|----------|
| 1. For the application of a time limit to a ban on entry and residence (Section 11 (1), sentence 3 of the Residence Act) | 30 euros |
| 2. For issuance of permission to enter the federal territory (Section 11 (2) of the Residence Act) | 30 euros |
| 3. For the lifting or amendment of a requirement pertaining to a residence title on application from the holder | 30 euros |
| 4. For information pursuant to Section 44a (3), sentence 1 of the Residence Act in the form of advice following an unsuccessful written note on avoidance of the measures stated in Section 44a (3), sentence 1 of the Residence Act | 15 euros |
| 5. For issuance of a confirmation of suspension of deportation (Section 60a (4) of the Residence Act) | |
| a) As a sticker only | 25 euros |
| b) including the form carrying the sticker | 30 euros |
| 6. For renewal of a certificate pursuant to Section 60a (4) of the Residence Act | |
| a) As a sticker only | 15 euros |
| b) including the form carrying the sticker | 20 euros |
| 7. For the lifting or amendment of a requirement pertaining to the suspension of deportation on application from the holder | 20 euros |
| 8. For issuance of a provisional residence document pursuant to Section 81 (5) of the Residence Act | 20 euros |
| 9. For issuance of a certificate confirming the right of residence or any other | 10 euros |

| | |
|--|----------|
| certificates on application | |
| 10. For issuance of a residence title on a separate sheet | 10 euros |
| 11. For the transfer of residence titles to another document | 10 euros |
| 12. For recognition of a declaration of commitment (Section 68 of the Residence Act) | 25 euros |
| 13. For issuance of a laissez-passer (Section 23 (2), Section 24 (2)) | 15 euros |

(2) No fees shall be charged for changes to a residence title concerning a subsidiary provision on the pursuit of an economic activity.

Section 48

Fees for measures relating to passports and identity documents

(1) The following fees shall be charged:

| | |
|--|----------|
| 1. For issuance of a travel document for foreigners (Section 4 (1), no. 1, Sections 5 to 7), a travel document for refugees or a travel document for stateless persons (Section 4 (1), nos. 4 and 5) | 30 euros |
| 2. For extension of a travel document for foreigners, a travel document for refugees or a travel document for stateless persons | 20 euros |
| 3. For issuance of a permit for frontier workers (Section 4 (1), no. 2, Section 12) with a period of validity of | |
| a) up to one year | 25 euros |
| b) up to two years | 30 euros |
| 4. For extension of a permit for frontier workers by a period of | |
| a) up to one year | 15 euros |
| b) up to two years | 20 euros |

| | |
|--|--|
| | |
| 5. For issuance of an emergency travel document (Section 4 (1), Section 3 (13)) | 25 euros |
| 6. For confirmation on the emergency travel document of the entitlement to return to the federal territory (Section 13 (4)) | 15 euros |
| 7. For confirmation on a collective list of pupils (Section 4 (1), no. 6) | 5 euros for each person to which the confirmation refers |
| 8. For issuance of a certificate confirming the transfer of residence (Section 4 (1), no. 7, Section 43 (2)) | 30 euros |
| 9. For exemption from the passport obligation (Section 3 (2) of the Residence Act) | 20 euros |
| 10. For issuance of a substitute identity document (Section 48 (2) of the Residence Act) | 20 euros |
| 11. For issuance of a substitute identity document in cases covered by Section 55 (2) | 30 euros |
| 12. For extension of a substitute identity document | 10 euros |
| 13. For amendment of one of the documents specified under numbers 1 to 12, including the subsequent inclusion of a child or several children in the document | 10 euros |
| 14. For re-issuance of one of the documents specified under numbers 1 to 12 | 15 euros |

If the emergency travel document is issued together with the laissez-passer (Section 23 (2), sentence 3, Section 24 (2), sentence 3), the fee pursuant to Section 47 (1), no. 13 shall be credited against the fee to be charged for the emergency travel document.

(2) No fees shall be charged

1. for the amendment of one of the documents specified in sub-section 1, if the amendment is entered ex officio,
2. for correction of the details pertaining to the place of residence in one of the documents specified in sub-section 1 and
3. for entering a note on marriage in a travel document for foreigners, a travel document for refugees or a travel document for stateless persons.

Section 49

Processing fees

(1) Fees amounting to half the fee stipulated in Section 44 shall be charged for processing an application for a settlement permit.

(2) Processing fees to the amount of the respective fees stipulated in Sections 45 to 48 (1) shall be charged for the processing of all other official acts subject to fees.

(3) No processing fee shall be charged if an application

1. is rejected solely because the authority is not competent or because the applicant lacks legal capacity, or
2. is withdrawn before processing begins.

Section 50

Fees for official acts to the benefit of minors

(1) Fees to the amount of half the fees stipulated in Sections 44 to 48 (1) and Section 49 (1) and (2) shall be charged for official acts to the benefit of minors and for the processing of applications pertaining to minors. A fee of 25 euros shall be charged for issuance of the settlement permit pursuant to Section 35 (1), sentence 1 of the Residence Act.

(2) Fees to the amount of 12 euros shall be charged respectively for the second issuance and each successive new issuance to minors of a travel document for foreigners, a travel document for refugees or a travel document for stateless persons.

Section 51

Fees for objections

(1) The following fees shall be charged for objections to

| | |
|--|---|
| 1. the refusal to perform an official act subject to a fee | Half of the fee to be charged for the official act pursuant to Sections 44 to 48 (1) and Section 50 |
| 2. a condition or requirement pertaining to a visa, a residence permit or suspension of deportation | 50 euros |
| 3. the finding by the foreigners authority regarding the obligation to attend an integration course (Section 44a (1), sentence 2 of the Residence Act) | 20 euros |
| 4. expulsion | 55 euros |
| 5. a deportation warning | 55 euros |
| 6. an order for return transportation (Section 64 of the Residence Act) | 55 euros |
| 7. a banning order or an order for imposition of a fine (Section 63 (2) and (3) of the Residence Act) | 55 euros |
| 8. an order for security to be furnished (Section 66 (5) of the Residence Act) | 55 euros |
| 9. a payment order (Section 67 (3) of the Residence Act) | 55 euros |

(2) A fee pursuant to sub-section 1, no. 5 shall not be charged if the deportation warning is challenged solely on the grounds that the administrative act on which the obligation to leave the federal territory is founded is to be repealed.

(3) Section 49 (3) shall apply mutatis mutandis.

Section 52

Exemptions from fees and reductions

(1) Spouses, life partners and minor, unmarried children of Germans and the parents of minor Germans shall be exempted from the fees pursuant to

1. Section 44, no. 3 for the issuance of a settlement permit,
2. Section 45, nos. 1 and 2 for the issuance or extension of a residence permit,
3. Section 46, nos. 1, 4 and 6 for the issuance of a visa,
4. Section 47 (1), no. 8 for the issuance of a provisional residence document,
5. Section 47 (1), no. 11 for transfer of a residence title to another document and
6. Section 49 (1) and (2) for the processing of applications for performance of the official acts stated in numbers 1 to 4.

(2) For Swiss nationals, the fee pursuant to

1. Section 45 for issuance or extension of a residence permit or amendment of the same due to a change in the purpose of the permit and
2. Section 48 (1), nos. 3 and 4 for issuance or extension of a permit for frontier workers shall be reduced to 8 euros if they are aged 21 or over, and shall be waived if they are under the age of 21. The fees pursuant to Section 47 (1), no. 8 for issuance of a provisional residence document and pursuant to Section 49 (2) for the processing of applications for performance of the official acts stated in numbers 1 and 2 shall be waived for Swiss nationals.

(3) Persons entitled to asylum and other foreigners who enjoy the legal status of a refugee in the federal territory shall be exempted from the fees pursuant to

1. Section 44, no. 3 and Section 47 (1), no. 11 for the issuance and transfer of a settlement permit,
2. Section 45, nos. 1 and 2 and Section 47 (1), no. 11 for the issuance, extension and transfer of a residence permit,
3. Section 47 (1), no. 8 for the issuance of a provisional residence document and
4. Section 49 (1) and (2) for the processing of applications for performance of the official acts stated in numbers 1 and 2.

(4) Persons who are granted a right of residence pursuant to Section 23 (2) of the Residence Act on account of special political interests of the Federal Republic of Germany shall be exempted from the fees pursuant to

1. Section 44, no. 3 and Section 47 (1), no. 11 for issuance and transfer of a settlement permit and
2. Section 49 (1) and (2) for the processing of applications for performance of the official acts stated in number 1.

(5) Foreigners who receive a grant from public funds for their stay in the federal territory shall be exempted from the fees pursuant to

1. Section 46, nos. 1, 4 and 6 for the issuance of a visa,

2. Section 45, nos. 1 and 2 and Section 47 (1), no. 11 for the issuance, extension and transfer of a residence permit,
3. Section 47 (1), no. 8 for the issuance of a provisional residence document and
4. Section 49 (2) for the processing of applications for performance of the official acts stated in number 2.

Sentence 1, no. 1 shall also apply to spouses or life partners and minor, unmarried children who are included in the grant.

(6) The fees specified in sub-section 5 may be reduced or waived to the benefit of foreigners who do not receive any earnings from work in the federal territory and are only undergoing training, ongoing education, further training or retraining.

(7) Fees may be reduced or waived if the official act concerned serves to uphold cultural, foreign or development policy or other substantial public interests.

Section 53

Exemptions and reductions on grounds of equity

(1) Foreigners who are unable to subsist without claiming benefits pursuant to Book Two or Book Twelve of the Social Code or the Act on Benefits for Asylum Seekers shall be exempted from the fees pursuant to

1. Section 45, nos. 1 and 2 for the issuance or extension of a residence permit,
2. Section 47 (1), nos. 5 and 6 for issuance or renewal of the document confirming the suspension of deportation (Section 60a (4) of the Residence Act),
3. Section 47 (1), nos. 3 and 7 for the lifting or amendment of a requirement pertaining to the residence permit or to the suspension of deportation,
4. Section 47 (1), no. 4 for information in the form of advice,
5. Section 47 (1), no. 8 for the issuance of a provisional residence document,
6. Section 47 (1), no. 10 for issuance of the residence title on a separate sheet,
7. Section 47 (1), no. 11 for transfer of a residence title to another document,
8. Section 48 (1), nos. 10 and 12 for issuance or extension of a substitute identity document and
9. Section 49 (2) for the processing of applications for performance of the official acts stated in numbers 1 to 3 and 6 to 8; other fees may be reduced or waived.

(2) Fees may be reduced or waived as appropriate with due regard to the economic situation of the person liable to pay the fees in Germany.

Section 54

Inter-governmental agreements

Inter-governmental agreements on exemptions from or reductions in fees shall remain unaffected by the provisions in this Chapter.

Chapter 4

Administrative provisions

Section 55

Substitute identity document

(1) A foreigner

1. who does not possess a recognised and valid passport or passport substitute and is unable to obtain such a document by reasonable means or
2. whose passport or passport substitute has been surrendered temporarily to a domestic authority

shall, on due application, be issued with a substitute identity document (Section 48 (2), Section 78 (6) of the Residence Act), if he or she is in possession of a residence title or his or her deportation has been suspended. No application shall be required if an application by the foreigner for issuance of a travel document for foreigners, a travel document for refugees or a travel document for stateless persons is rejected and the requirements stipulated in sentence 1 are met. Section 5 (2) shall apply *mutatis mutandis*.

(2) A foreigner whose passport or passport substitute has been surrendered temporarily to the mission of a foreign state located in the Federal Republic of Germany or to the mission of a foreign state holding consular competence for the federal territory for the purposes of a visa application procedure may, on due application, be issued with a substitute identity document, if the foreigner's country of origin fails to issue him or her with another passport or passport substitute.

(3) The period of validity of the substitute identity document shall be based on the validity of the attendant residence title or the duration of suspension of deportation, unless a shorter period of validity is stipulated on the document.

Section 56

Obligations relating to identity documents

A foreigner who is resident in the federal territory shall be obliged

1. to apply for an extension to his or her passport or passport substitute or issuance of a new passport or passport substitute in such good time prior to expiry of his or her passport or passport substitute that due extension or issuance may be expected to take place within the period of validity of the present passport or passport substitute,
2. to apply for a new passport or passport substitute forthwith, if the present passport or passport substitute has become invalid on grounds other than expiry or has been lost,
3. to apply forthwith for a new passport or passport substitute or for due amendment of his or her present passport or passport substitute, as soon as any items of information contained in the passport or passport substitute are no longer correct,

4. to apply for a substitute identity document forthwith, if the conditions pertaining to issuance pursuant to Section 55 (1) or (2) are met and no application has been filed for a German passport substitute,
5. to notify forthwith the competent foreigners authority for his or her place of residence or, alternatively, the foreigners authority in the Federal Republic of Germany which is competent for his or her current location or another competent body under Land law in the event of his or her passport, passport substitute or substitute identity document being lost and subsequently found; in case of loss abroad, notification may also be submitted to a German mission abroad, which shall duly inform the competent or most recently competent foreigners authority,
6. to present the found passport or passport substitute together with all passports or German and foreign passport substitute papers issued after the loss forthwith to the competent foreigners authority for his or her place or residence or, alternatively, to the foreigners authority in the Federal Republic of Germany which is competent for his or her current location, even if he or she has not filed due notification of the loss of the passport or passport substitute; in case of loss abroad, the said documents may also be presented to a German mission abroad, which shall duly inform the competent or most recently competent foreigners authority,
7. to present his or her German passport substitute to the competent foreigners authority forthwith on expiry, or following entry into the federal territory, if a German mission abroad has so stipulated via an entry in the passport substitute; this shall not apply to certificates confirming the transfer of residence (Section 43 (2)), standard travel documents for the return of foreigners (Section 1 (8)) and collective lists of pupils (Section 1 (5)), and
8. to present his or her passport or passport substitute on request to enable the foreigners authorities, the Federal or Land police authorities and any other authorities charged with policing cross-border traffic to enter notes in the passport or passport substitute concerning the place and time of entry into and exit from the federal territory, of apprehension in the federal territory and on measures and decisions undertaken under the Residence Act, and to tolerate the entry of such information.

Section 57

Obligation to present papers when several identity documents exist

If a foreigner possesses more than one passport, passport substitute or German substitute identity document, he or she is to present each of these papers to the competent foreigners authority forthwith.

Chapter 5

Procedural provisions

Part 1

Models for residence titles, passport substitute, substitute identity and other documents

Section 58

Model forms

The following model forms shall be employed for issuance of the respective forms:

1. For the substitute identity document (Section 48 (2) of the Residence Act) the model printed in Annex D1,
2. for the document confirming suspension of deportation (temporary suspension of deportation; Section 60a (4) of the Residence Act) the model printed in Annex D2a (sticker), if no recognised and valid passport or passport substitute is available and the conditions for issuance of a substitute identity document pursuant to Section 55 are not met, in conjunction with the model printed in Annex D2b (form carrying the sticker),
3. for the provisional residence document (Section 81 (5) of the Residence Act) the model printed in Annex D3,
4. for the travel document for foreigners (Section 4 (1), no. 1) the model printed in Annex D4a,
5. for the permit for frontier workers (Section 4 (1), no. 2) the model printed in Annex D5,
6. for the emergency travel document (Section 4 (1), no. 3) the model printed in Annex D6,
7. for the travel document for refugees (Section 4 (1), no. 4) the model printed in Annex D7,
8. for the travel document for stateless persons (Section 4 (1), no. 5) the model printed in Annex D8,
9. for the certificate confirming the transfer of residence (Section 4 (1), no. 7) the model printed in Annex D9,
10. for the standard travel document for the return of foreigners (Section 4 (1), no. 8) the model printed in Annex D10,
11. for the supplementary sheet to the residence title and to the document confirming the suspension of deportation the model printed in Annex D11 and
12. for the certificate confirming the permission to reside (Section 63 of the Asylum Procedure Act) the model printed in Annex D12.

Section 59

Models for residence titles

(1) The model for the residence title pursuant to Section 4 (1), sentence 2, no. 1 of the Residence Act (visa) is based on regulation (EC) no. 1683/95 issued by the Council on 29 May 1995 concerning a uniform visa design (OJ EC no. L 164, p. 1), most recently amended by Annex II no. 18, letter B of the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the amendments to the treaties establishing the European Union (OJ EU 2003 no. L 236, p. 718), in its respectively valid version. This model is printed in Annex D13a. The model printed in Annex D13b shall be used for extensions in Germany.

(2) The models for residence titles pursuant to Section 4 (1), nos. 2 and 3 of the Residence Act (residence permit and settlement permit) are based on regulation (EC) no. 1030/2002 issued by the Council on 13 June 2002 concerning the uniform design of the residence title for third-state nationals (OJ EC no. L 157, p. 1) in its respectively valid version. These models are printed in Annex D14.

(3) The authoritative legal basis for issuance shall be entered in the field for remarks on the settlement permit and the residence permit.

Section 60⁶

Photograph

(1) The foreigner for whom a document is to be issued pursuant to Section 58 or Section 59 is to present a current photograph to the competent authority on request or to cooperate in the production of a photograph.

(2) The photograph shall comply with the requirements stipulated in Section 3 of the Ordinance Governing Passport Models of 8 August 2005 (Federal Law Gazette I p. 2306) in its most recent version at the time concerned and must allow the foreigner to be clearly recognisable. The photograph must show the person concerned without any covering over the face or head. The competent authority may permit or order exceptions with regard to the head covering, provided that adequate identification of the person concerned is guaranteed.

(3) The competent authority may process and use the photograph for the purposes of incorporation in a document pursuant to Section 58 or Section 59 and subsequent comparison with the document holder's actual appearance.

⁶ Section 60 amended by the Ordinance of 14 October 2005 (Federal Law Gazette I, p. 2982).

Section 61

Security standard, technical procedure for issuance

(1) The production and security specifications for the model forms under this ordinance shall be defined by the Federal Ministry of the Interior. They shall not be published.

(2) Details relating to the technical procedure for completing the standard federal forms shall be defined and announced by the Federal Ministry of the Interior.

Part 2

Data processing and data protection

Sub-part 1

Keeping of files on foreigners by the foreigners authorities and missions abroad

Section 62

Obligation to keep files on the part of foreigners authorities

The foreigners authorities shall keep two files under the names "Foreigners File A" and "Foreigners File B".

Section 63

Foreigners File A

(1) The data on a foreigner who

1. files an application with the foreigners authority
 - a) for issuance or extension of a residence title or
 - b) for asylum,
 2. whose residence is notified to the foreigners authority by the registration office or another authority, in cases in which the foreigner's stay in the federal territory exceeds three months, or
 3. for or against whom the foreigners authority undertakes a measure or decision under the law pertaining to foreigners
- are entered in Foreigners File A.

(2) The data shall be saved in the file forthwith, as soon as the foreigners authority becomes involved with the foreigner or as soon as it receives a notification concerning the foreigner.

Section 64

Data record of Foreigners File A

(1) The following data shall be stored in Foreigners File A on every foreigner contained in the file:

1. Surname,
2. maiden name,
3. first names,
4. date and place of birth, specifying the state,
5. sex,
6. nationalities,
7. reference number of the foreigner's file,
8. reference to other data records under which information on the foreigner is kept in the file.

(2) Also to be included in the file are any former names, divergent spellings of names, aliases and other names used by the foreigner such as names pertaining to religious orders, pseudonyms or a surname under German law which differs to the surname entered in the passport.

(3) The foreigners authority may restrict the data record to the data stated in sub-section 1 and set up an additional data record pursuant to sub-section 1 for each of the data items stated in sub-section 2.

Section 65

Extended data record

If the necessary technical facilities are available at the foreigners authority, the following data should be entered in Foreigners File A, in addition to the data stated in Section 64:

1. Marital status,
2. current address,
3. previous addresses,
4. Central Aliens Register number,
5. information on the passport, passport substitute or substitute identity document:
 - a) type of document,
 - b) serial number,
 - c) issuing state,
 - d) period of validity,
6. voluntary information furnished on religion,
7. photograph,
8. visa file number,

9. the following measures under the law on foreigners, stating in each case the date of the appurtenant official decision:
- a) issuance and extension of a residence title, stating the legal basis for the residence title and a time limit and with due reference to a document confirming the entitlement to freedom of movement,
 - b) rejection of an application for issuance or extension of a residence title,
 - c) issuance of a document confirming the permission to reside in the federal territory, stating the imposed time limit,
 - d) recognition as a person entitled to asylum or confirmation that the conditions pursuant to Section 25 (2) in conjunction with Section 60 (1) of the Residence Act are met, together with information on the legal validity of the case,
 - e) rejection of an application for asylum or of an application for recognition as a homeless foreigner and information on the legal validity of the case,
 - f) revocation and withdrawal of the recognition as a person entitled to asylum or the confirmation that the conditions pursuant to Section 25 (2) in conjunction with Section 60 (1) of the Residence Act are met,
 - g) conditions, requirements and geographic restrictions,
 - h) subsequently imposed time restrictions,
 - i) revocation and withdrawal of a residence title or declaration of the loss of the entitlement to freedom of movement pursuant to Section 5 (5) or Section 6 (1) of the Freedom of Movement Act/ EU,
 - j) security-related interview pursuant to Section 54, no. 6 of the Residence Act,
 - k) expulsion,
 - l) summons to leave the federal territory, stating the deadline for departure,
 - m) deportation warning, stating the deadline for departure,
 - n) ordering and execution of deportation, including the deportation order pursuant to Section 58a of the Residence Act,
 - o) extension of the deadline for departure,
 - p) issuance and renewal of a document confirming the suspension of deportation (temporary suspension of deportation) pursuant to Section 60a of the Residence Act, stating the imposed time limit,
 - q) prohibition or restriction of political activity, stating a time limit,
 - r) surveillance measures pursuant to Section 54a of the Residence Act,
 - s) issuance of a ban on departure from the federal territory,
 - t) foreigners authority's consent to the issuance of a visa,
 - u) imposition of time limits pursuant to Section 11 (1), sentence 3 of the Residence Act,
 - v) issuance of permission to enter the federal territory pursuant to Section 11 (2) of the Residence Act, stating the imposed time limit,

- w) forwarding to the Central Aliens Register of reservations regarding entry into the federal territory with regard to Section 5 of the Residence Act,
- x) forwarding of a conviction pursuant to Section 95 (1), no. 3 or (2), no. 1 of the Residence Act,
- y) entitlement or obligation to attend integration courses pursuant to Sections 43 to 44a of the Residence Act, beginning and successful completion of integration courses pursuant to Sections 43 to 44a of the Residence Act, absenteeism from the course up to the time of completion, provision of explanatory information pursuant to Section 44a (3), sentence 1 of the Residence Act and code numbers employed by the foreigners authority for anonymised communication of the above-stated events to the Federal Office for Migration and Refugees to enable the latter to perform its coordinating and controlling functions,
- z) approval from the Federal Employment Agency pursuant to Section 39 of the Residence Act, with geographic restrictions and other subsidiary provisions, withdrawal of the same, refusal of the same pursuant to Section 40 of the Residence Act, revocation of the same pursuant to Section 41 of the Residence Act or stipulation from the foreigners authority that no approval is required.

Section 66

File on passport substitute documents

The issuing authority or office is to keep a file detailing the issued travel documents for foreigners, travel documents for refugees, travel documents for stateless persons, permits for frontier workers and emergency travel documents. The provisions pertaining to the passports register for German passports shall apply *mutatis mutandis*.

Section 67

Foreigners File B

(1) The data recorded in Foreigners File A pursuant to Section 64 shall be transferred to Foreigners File B, if the foreigner

1. has died or
2. moved out of the foreigners authority's district.

(2) The reason for transferring the data to Foreigners File B shall be noted in the file. Handover of the foreigner's file to another foreigners authority shall also be noted in the file, stating the details of the receiving authority.

(3) In the case of sub-section 1, no. 2 the data stated in Section 65 may also be transferred to Foreigners File B.

Section 68

Erasure

(1) The data on a foreigner shall be erased in Foreigners File A upon transfer to Foreigners File B pursuant to Section 67 (1). In those cases in which a foreigner has acquired the legal status of a German pursuant to Article 116 (1) of the Basic Law, the

data shall be erased after a period of five years. Data on a foreigner which have been recorded solely in relation to the approval of a visa application shall be erased if the foreigner fails to enter into the federal territory within two years of expiry of the period of validity pertaining to the approval.

(2) The data on a foreigner who has been expelled or deported shall be erased in Foreigners File B, if the documentation pertaining to expulsion and deportation are to be destroyed pursuant to Section 91 (1) of the Residence Act. The data on a foreigner shall otherwise be erased from Foreigners File B ten years after transfer of the data. In the case of Section 67 (1), no. 1 the data are to be erased five years after transfer of the data record.

Section 69

Visas file

(1) The missions abroad shall keep a visas file detailing issued visas and airport transit visas, in the form of an automated file.

(2) The following data shall be recorded in the visas file:

1. With regard to the foreigner:

- a) Surname,
- b) maiden name,
- c) first names,
- d) date and place of birth,
- e) nationality,
- f) information on the presentation of forged or falsified documents,
- g) photograph,

2. with regard to the visa:

- a) serial number,
- b) date of issue,
- c) period of validity and, in the case of a transit visa, the Schengen visa for transit purposes and an airport transit visa, the approved transit period,
- d) set fee,
- e) requirement for the furnishing of security,
- f) details of the passport or passport substitute in which the visa has been affixed or of an exemption to the passport obligation,
- g) visa file number,
- h) the existence of a declaration of commitment pursuant to Section 66 (2) or Section 68 (1) of the Residence Act and the authority which may be in possession of the said declaration, and the names and addresses of the reference persons stated in the application who are living in Germany.

(3) The missions abroad may additionally record the following data pertaining to the visa in the visas file:

1. Information on approval granted by a foreigners authority and by the Federal Employment Agency for issuance of the visa,
2. conditions, requirements and other restrictions, and the purpose of residence as specified in the visa,
3. specification of the applicable legal basis in the case of visas for foreigners intending to remain in the federal territory for longer than three months or to pursue an economic activity in the said territory.

(4) The data on a foreigner and the data on the visa are to be erased one year after expiry of the last visa, transit visa, Schengen visa for transit purposes or airport transit visa issued to the foreigner concerned.

Section 70

File on visa refusals

(1) The missions abroad may keep a file detailing visa refusals.

(2) The data stated in Section 69 (2), no. 1 and no. 2, letters f to h may be recorded in the file, together with details of the reason for refusal.

(3) The data stated in sub-section 2 shall be erased from the file

1. in the event of a visa being issued upon a reason for refusal ceasing to apply and
2. otherwise five years after the last refusal of a visa.

Sub-part 2

Transfer of data to the foreigners authorities

Section 71

Obligation to transfer data

(1) The

1. registration authorities,
2. authorities concerned with matters of nationality,
3. judicial authorities,
4. Federal Employment Agency and
5. supervisory authorities for trade and industry

shall be obliged, notwithstanding the notification requirements pursuant to Section 87 (2) and (4) of the Residence Act, to furnish the foreigners authorities without prior request with the necessary information as specified in the following provisions on personal data relating to foreigners, official acts, other measures relating to foreigners and other knowledge relating to foreigners, in order to enable the said authorities to discharge their duties. The data shall be transferred to the competent foreigners authority for the foreigner's place of residence or, in case of more than one home address, the foreigners authority competent for the main home address. If the main home address is not known, the data shall be transferred to the competent foreigners authority for the domicile of the authority transferring the data.

(2) The following data on the foreigner shall be transferred, as far as they are known, for the purposes of notifications pursuant to Sections 71 to 76 of this ordinance:

1. Surname,
2. maiden name,
3. first names,
4. date, place and state of birth,
5. nationalities,
6. address.

Section 72

Notifications by the registration authorities

(1) The registration authorities shall notify the foreigners authorities of

1. the registration,
2. the notice of departure,
3. a change of the main home address,
4. divorce, declaration of nullity or annulment of the marriage, annulment of the registered partnership,
5. a change in the name,
6. a change or correction of the status regarding nationality,
7. the birth and
8. the death of a foreigner.

(2) In the cases covered by sub-section 1, the following information shall be transferred in addition to the data stated in Section 71 (2):

1. In connection with a registration:
 - a) Doctor's degree,
 - b) sex,
 - c) marital status,
 - d) legal representative, stating first name and surname, date of birth and address,
 - e) date of moving in,
 - f) previous address,⁷
 - g) passport, passport substitute or substitute identity document, stating serial number, issuing authority and period of validity,
2. in connection with a notice of departure:
 - a) date of moving out,
 - b) new address,

⁷ Section 72 (2) no. 1 lit. f amended by the Ordinance of 14 October 2005 (Federal Law Gazette I, p. 2982).

3. in case of a change of main home address, the previous main home address,
4. in case of divorce, declaration of nullity or annulment of marriage or annulment of a registered partnership, the date and grounds for termination of the marriage or registered partnership,
5. in case of a change of name, the previous and the new name,
6. in case of a change of status regarding nationality, the previous and the new or additional nationality,
7. in case of birth:
 - a) sex,
 - b) legal representative, stating first name and surname, date of birth and address,
8. in case of death, the date of death.

Section 73

Notifications by the authorities concerned with matters of nationality and certifying authorities pursuant to Section 15 of the Federal Expellees Act

(1) The authorities concerned with matters of nationality shall notify the foreigners authorities in case of

1. the acquisition of German nationality by the foreigner,
2. a declaration that the foreigner possesses the legal status of a German without German nationality,
3. the loss of legal status as a German and
4. a declaration that a person has wrongly been registered as a German, foreign national or stateless person.

The notification pursuant to sentence 1, no. 2 shall not apply for persons who have entered the federal territory with an admission notice under the Federal Expellees Act.

(2) The certifying authorities pursuant to Section 15 of the Federal Expellees Act shall notify the foreigners authorities of a refusal to issue a certificate pursuant to Section 15 (1) or (2) of the Federal Expellees Act.⁸

Section 74

Notifications by the judicial authorities

(1) The public prosecution authorities shall notify the foreigners authorities of

1. the revocation of suspension of a sentence on probation,
2. the revocation of deferment of a sentence.

(2) The prison authorities shall notify the foreigners authorities of

1. the beginning of extradition custody, detention on remand and a custodial sentence,

⁸ Headline of Section 73 amended, former text of the Section became sub-section 1, and sub-section 2 added by the Act of 14 March 2005 (Federal Law Gazette I p. 721).

2. transfer to a different penal institution,
3. the planned and fixed dates for release from prison.

Section 75

Notifications by the Federal Employment Agency

The Federal Employment Agency shall notify the foreigners authorities of the approval for issuance of a residence title pursuant to Section 39 of the Residence Act or of a permit for frontier workers, refusal of the same pursuant to Section 40 of the Residence Act, revocation pursuant to Section 41 of the Residence Act and the withdrawal of an approval.

Section 76

Notifications by the supervisory authorities for trade and industry

The supervisory authorities for trade and industry shall notify the foreigners authorities of

1. the registration of a trade or business,
2. the issuance of a commercial licence,
3. the withdrawal and revocation of a commercial licence,
4. a ban on pursuing a trade and on acting as the authorised representative of a person engaged in trade or business or as a person charged with the management of a business enterprise.

Chapter 6

Administrative offences

Section 77

Administrative offences

Anyone who wilfully or negligently

1. fails to file an application or fails to do so in good time in contravention of Section 56 (1), nos. 1 to 3 or 4,
2. fails to provide notification or provides incorrect or incomplete notification or fails to provide notification in good time in contravention of Section 56 (5) or
3. fails to present a document stated in Section 56, nos. 6 or 7 or Section 57 or fails to do so in good time in contravention of the same

shall be deemed to have committed an administrative offence pursuant to Section 98 (3), no. 5 of the Residence Act.

Section 78

Administrative authorities within the meaning of the Administrative Offences Act

The Federal Police⁹ offices shall be competent for prosecuting and imposing due punishment for administrative offences pursuant to Section 98 (2) of the Residence Act when committed in connection with entry into or exit from the federal territory and pursuant to Section 98 (3), no. 2 of the Residence Act, except where the Länder perform border guard control and immigration services using their own resources in agreement with the Federation.

Chapter 7

Transitional and final provisions

Section 79

Application to persons entitled to freedom of movement

The provisions contained in Chapter 2 Part 1, Chapter 3, Section 56, Chapter 5 and Sections 80 to 82 shall also apply to foreigners whose legal status is defined by the Freedom of Movement Act/EU.

Section 80

Transitional provisions for the use of forms after this ordinance comes into force

For issuance

1. of a travel document for foreigners, the form printed in Annex D4b may be used,
2. of a travel document for stateless persons the present form for the travel document for stateless persons pursuant to Section 14 (2), no. 2 of the Ordinance Implementing the Foreigners Act of 18 December 1990 (Federal Law Gazette I, p. 2983), most recently amended by the act of 23 December 2003 (Federal Law Gazette I, p. 2848) may continue to be used,
3. of a travel document for refugees the present form for the travel document for refugees pursuant to Section 14 (2), no. 1 of the Ordinance Implementing the Foreigners Act may continue to be used,
4. of a permit for frontier workers the present form for the permit for frontier workers pursuant to Section 14 (1), no. 2 of the Ordinance Implementing the Foreigners Act may continue to be used and
5. of a permission to reside the present form for the permission to reside may continue to be used,

in each case until 31 December 2005.

⁹ Section 78 amended by the Act of 21 June 2005 (Federal Law Gazette I p. 1818).

Section 81

Continuing validity of passport substitute documents issued under present law

(1) On this ordinance coming into force,

1. travel documents for refugees pursuant to Section 14 (2), no. 1 of the Ordinance Implementing the Foreigners Act and travel documents for stateless persons pursuant to Section 14 (2), no. 2 of the Ordinance Implementing the Foreigners Act,
2. permits for frontier workers pursuant to Section 14 (1), no. 2 of the Ordinance Implementing the Foreigners Act in conjunction with Section 19 of the Ordinance Implementing the Foreigners Act and
3. entries in collective lists of pupils (Section 1 (5)) and standard travel documents for the return of foreigners (Section 1 (8)) issued on the basis of the law prior to this ordinance coming into force

shall retain their validity for their respective periods of validity.

(2) In addition, the following documents made out or issued on the basis of the applicable law prior to this ordinance coming into force shall also retain their validity:

1. Travel documents pursuant to Section 14 (1), no. 1 of the Ordinance Implementing the Foreigners Act in conjunction with Sections 15 to 18 of the Ordinance Implementing the Foreigners Act, as travel documents for foreigners pursuant to this ordinance,
2. travel documents as a passport substitute which have been issued to foreigners pursuant to Section 14 (1), no. 3 of the Ordinance Implementing the Foreigners Act in conjunction with Section 20 of the Ordinance Implementing the Foreigners Act, as emergency travel documents pursuant to this ordinance,
3. exemptions from the passport obligation in conjunction with the confirmation of the entitlement to return to the federal territory pursuant to Section 24 of the Ordinance Implementing the Foreigners Act on the substitute identity document pursuant to Section 39 (1) of the Foreigners Act as emergency travel documents pursuant to this ordinance on which the entitlement to return to the federal territory has been confirmed,
4. laissez-passer pursuant to Section 14 (1), no. 4 of the Ordinance Implementing the Foreigners Act which have been issued to flight personnel pursuant to Section 21 (1) of the Ordinance Implementing the Foreigners Act, and shore leave passes pursuant to Section 14 (1), no. 5 of the Ordinance Implementing the Foreigners Act which have been issued to crew members of a ship travelling in maritime or coastal waters or on the Rhine, as laissez-passer and simultaneously as emergency travel documents pursuant to this ordinance and
5. permits for frontier workers which have been issued in accordance with the conditions stipulated in Article 7 (2), Article 13 (2), Article 28 (1) and Article 32 (2) of Annex I to the Convention dated 21 June 1999 between the European Community and its member states, of the one part, and the Swiss Confederation, of the other, on the freedom of movement, as permits for frontier workers pursuant to this ordinance.

(3) The period of validity, the territorial scope and the entitlements pertaining to the documents stated in sub-sections 1 and 2 shall be determined according to the entries contained therein and the law applicable on the date on which the respective documents were issued.

(4) Withdrawal of the documents stated in sub-sections 1 and 2 and the subsequent entry of restrictions shall be subject solely to the provisions of this ordinance.

(5) The documents stated in sub-sections 1 and 2 may be withdrawn ex officio, if the foreigner is issued with a passport substitute or a substitute identity document pursuant to this ordinance in lieu of his or her previous document, provided that the scope of entitlements of the said passport substitute or substitute identity document is at least equal to that of the previous document and the conditions pertaining to issuance of the new passport substitute or substitute identity document are met. Instead of withdrawing a substitute identity document on which the entitlement to return to the federal territory was confirmed, when issuing a new emergency travel document a note may be entered on the substitute identity document indicating that the confirmation of the entitlement to return to the federal territory is invalid and the substitute identity document may be left in the foreigner's possession. Sub-section 4 shall remain unaffected.

(6) Passport substitute documents issued by German authorities other than those stated in sub-sections 1 and 2 shall become invalid one month after this ordinance comes into force.

Section 82

Transitional arrangements for Foreigners Files

(1) Data on measures and decisions undertaken under the law on foreigners which are stored up to 31 December 2004 shall remain in the Foreigners File after the Residence Act and the Act on the General Freedom of Movement/EU come into force. New measures and decisions which are permissible under the Residence Act and the Act on the General Freedom of Movement/EU shall only be stored when undertaken in the individual case concerned.

(2) Up to 31 December 2005, foreigners authorities may store under existing codes measures and decisions for which corresponding codes have yet to be established. Only codes referring to measures and decisions which shall no longer be undertaken as of 1 January 2005 may be used.

(3) When retrieving data on measures or decisions, the foreigners authorities are to ascertain whether the individual measure or decision concerned has been undertaken under the previous law or on the basis of the Residence Act or the Act on the General Freedom of Movement/EU.

(4) The foreigners authorities shall be obliged to adapt the data stored pursuant to sub-section 2 to the new data storage provisions by no later than 31 December 2005.

Section 83

Fulfilment of obligations relating to identity documents

If the conditions pertaining to the obligation to present identity documents pursuant to Section 57 apply at the time of this ordinance coming into force, the foreigner shall be required under the terms of this ordinance to present the stated papers which he or she possessed at this point in time only on request from the foreigners authority or on applying for or receiving a residence title, a suspension of deportation or a German passport substitute from the foreigners authority or on providing notification pursuant to Section 56, no. 5. Legal obligations resulting from other regulations shall remain unaffected.

Annex A

(to Section 16)

1. Holders of national passports and/or travel documents for refugees and other travel documents stated in the respective conventions, issued by the following states:

| State | Reference |
|---------------------------|--|
| Australia | Interdepartmental circular 1953, p. 575 |
| Chile | Interdepartmental circular 1955, p. 22 |
| El Salvador | Federal Gazette 1998 p. 12 778 |
| Honduras | Interdepartmental circular 1963, p. 363 |
| Japan | Federal Gazette 1998 p. 12 778 |
| Canada | Interdepartmental circular 1953, p. 575 |
| Korea (Republic of Korea) | Federal Law Gazette 1974 II, p. 682; Federal Law Gazette 1998 II, p. 1390 |
| Croatia | Federal Law Gazette 1998 II, p. 1388 |
| Monaco | Interdepartmental circular 1959, p. 287 |
| New Zealand | Federal Law Gazette 1972 II, p. 1550 |
| Panama | Federal Gazette 1967 no. 171, p. 1 |
| San Marino | Federal Law Gazette 1969 II, p. 203 |
| United States of America | Interdepartmental circular 1953, p. 575 |

2. Holders of service passports issued by

| State | Reference |
|-------------|--------------------------------------|
| Ghana | Federal Law Gazette 1998 II, p. 2909 |
| Philippines | Federal Gazette 1968 no. 135, p. 2 |

3. Holders of travel documents for refugees issued by¹⁰

Belgium,
Denmark,

¹⁰ Annex A no. 3 amended by the Ordinance of 14 October 2005 (Federal Law Gazette I, p. 2982).

Finland,
Ireland,
Iceland,
Italy,
Liechtenstein,
Luxembourg,
Malta,
Netherlands,
Norway,
Poland,
Portugal,
Romania,
Sweden,
Switzerland,
Slovakia,
Spain,
Czech Republic

pursuant to the European Agreement on the Abolition of the Visa Requirement for Refugees of 20 April 1959 (Federal Law Gazette 1961 II, pp. 1097, 1098) and, with regard to the holders of travel documents for refugees issued by Switzerland, also pursuant to the Agreement between the Government of the Federal Republic of Germany and the Swiss Bundesrat on the Abolition of the Visa Requirement for Refugees of 4 May 1962 (Federal Law Gazette 1962 II, pp. 2331, 2332).

Annex B

(to Section 19)

1. Holders of service passports (service, ministerial, diplomatic and other passports for persons travelling in an official capacity or on official duty) issued by

Ghana,
Colombia,
Philippines,
Thailand,
Chad,
Turkey.

2. Holders of diplomatic passports issued by

India,
Jamaica,
Kenya,
Malawi,
Morocco,
Macedonia, Former Yugoslav Republic,
Namibia,
Pakistan,
Peru,
South Africa,
Tunisia.

Annex C¹¹

(to Section 26 (3) no. 1)

1. Passports or passport substitute documents issued by

Angola,
Gambia,
Lebanon,
Sudan,
Syria.

2. Beyond the scope of the provisions in Annex 3, Part I of the resolution adopted by the Council of the European Union on 28 April 1999 regarding the Common Consular Instructions for the Diplomatic Missions and Consular Posts in its respectively valid version, also official passports issued by

Ethiopia,
Afghanistan,
Bangladesh,
Eritrea,
Iraq,
Congo (Democratic Republic),
Nigeria,
Pakistan (excepting holders of diplomatic passports),
Somalia,
Sri Lanka.

3. Passports or passport substitute documents issued by Jordan, except where the holder

- a) is in possession of a valid visa issued by Australia, Israel, Japan, Canada, New Zealand or the United States of America and of a confirmed air ticket or a valid boarding card for a flight destined for the state concerned, or
- b) is travelling to Jordan after a permitted stay in one of the states specified under letter a and is for this purpose in possession of a confirmed air ticket or a valid boarding card for a flight destined for Jordan.

The onward flight must depart within twelve hours of arrival in the federal territory from the airport in whose transit area the foreigner exclusively stays.

4. Passports or passport substitute documents issued by

India (excepting holders of diplomatic passports),
Turkey (excepting holders of official passports),
except where the holders are nationals of the state which issued the passport or passport substitute document and are travelling

- a) with a valid visa or other residence permit of Canada, Switzerland or the United States of America to the state which issued the visa or residence title, or
- b) after a permitted stay in Canada, Switzerland or the United States of America back to the state of which they are a national.

¹¹ Annex C amended by the Ordinance of 14 October 2005 (Federal Law Gazette I, p. 2982).