

**Ordinance Governing Residence of 25 November 2004**

(Federal Law Gazette I, p2982), last amended by the Act to Implement Residence- and Asylum-Related Directives of the European Union of 19 August 2007

(Federal Law Gazette I, p. 1970)

- without Annexes -

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## **Chapter 1 General provisions**

### **Section 1 Definitions**

(1) Schengen states are those states in which Title 1, 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. 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 Appendix 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 appendix 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 common measures adopted by the Council pursuant to Article K.3 (2) letter b of the Treaty on European Union to facilitate travel for pupils from third countries who are resident in a member state (official EC journal no. L 327, p. 1).
- (6) Flight crew identification papers are "Airline Flight Crew Licences" and "Crew Member Certificates" pursuant to the annex to the respectively valid version of Appendix 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 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 (official EC journal 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 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 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 (Section 5 (1)),
2. the emergency travel document,
3. the travel document for refugees (Section 1 (3)),
4. the travel document for stateless persons (Section 1 (4)),
5. the collective list of pupils (Section 1 (5)),
6. the certificate confirming the transfer of residence (Section 43 (2)),
7. the standard travel document for the return of foreigners (Section 1 (8)).

Passport substitute documents pursuant to sentence 1, nos. 1, 3 and 4 shall also be issued as temporary documents whose period of validity, including any extensions, must

not exceed one year. Passport substitute documents pursuant to sentence 1, nos. 1, 3 and 4 shall be issued to children up to the age of twelve without a data storage medium; in justified cases, such passport substitute documents may also be issued with a data storage medium. Documents pursuant to sentence 1, nos. 1, 3 and 4 which are issued to children shall be valid for a maximum of six years, unless the agreements under international law stated in Section 1 (3) and (4) provide for a shorter period of validity, and shall expire at the latest upon the holder reaching the age of twelve.

(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, a single 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, insofar as this is permitted by law.

## **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 the 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 partner in life 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 up to a period of validity of

1. ten years, if the holder is aged 24 or over at the time of issuance,
2. six years, if the holder is aged under 24 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 6 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 admissible 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 Appendix 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 within the meaning of Section 16, sentence 1 of the Ordinance Governing Employment (BeschV) or corresponding self-employed activities. 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. Self-employed activities in accordance with sentences 1 and 2 may be pursued under the conditions stated in the said sentences without the residence title which is required pursuant to Section 4 (3), sentence 1 of the Residence Act.

## **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 Appendix II to regulation (EC) no. 539/2001,
2. the travel document contains an entitlement to return to the Federal territory 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 laissez-passers 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**

(1) 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 or in Switzerland,
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 common measures adopted by the Council pursuant to Article K.3 (2) letter b of the Treaty on European Union to facilitate travel for pupils from third countries who are resident in a Member State, and
4. do not pursue an economic activity.

(2) Pupils resident in the Federal territory who are included in a collective list of pupils issued by a German authority for a trip abroad as members of a group of pupils accompanied by a teacher from a school providing general education or a vocational school located in the Federal territory shall be exempted from the requirement for a residence title for the purpose of re-entry into the Federal territory where the foreigners authority has ordered that deportation is to be suspended after re-entry. This order is to be noted on the collective list of pupils.

### **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 Seaman'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 headquartered 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 (Official EC Journal 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 (official EU Journal 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 other residence title issued by a Member State of the European Union or another 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.

## **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 partner in life, minor, unmarried children and major, unmarried children who are under 21 years of age at the time of relocation 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 on the freedom of movement dated 21 June 1999 between the European Community with its member states and the Swiss Confederation, Swiss nationals shall be exempted from the requirement for a residence title. Insofar as the Convention provides for the right of residence to be certified in the form of a residence permit, such a permit shall be issued ex officio.



**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 from 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 30a**  
**Designation of the competent body in case of the involvement of  
authorities in visa procedures**

The competent body within the meaning of Section 73 (1) of the Residence Act shall be the Federal Foreign Office.

**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 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 a stay pursuant to Section 16 (1), 1a or 20 of the Residence Act, 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 partners in life 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 to be issued to foreigners who only intend to pursue activities which do not constitute employment pursuant to Section 16 (1) of the Ordinance Governing Employment or similar self-employed activities in the Federal territory for up to three months within a twelve-month period.

### **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 3a**

### **Recognition of research establishments and conclusion of admission agreements**

#### **Section 38a**

##### **Conditions pertaining to the recognition of research establishments**

(1) Upon filing a corresponding application, a public or private establishment should be recognised for the purpose of concluding admission agreements pursuant to Section 20 (1) of the Residence Act, if it pursues research in the Federal territory. Research is any systematically pursued creative and lawful activity aimed at broadening the scope and level of knowledge, including insights into people, culture and society, or at deploying such knowledge to establish new potential applications.

(2) The application for recognition shall be filed in writing with the Federal Office for Migration and Refugees. It is to contain the following information:

1. Name, legal form and address of the research establishment,
2. surnames and first names of the research establishment's legal representatives,
3. the addresses of the research establishments at which foreigners with whom admission agreements are concluded are to be employed,
4. a copy of the statutes, the articles of association, the agreement to set up the foundation, another transaction or the rules of law which define the purpose and object of the research establishment's activities and
5. information on the research establishment's activities which confirm that it pursues research in the Federal territory.

Officially stipulated forms, input masks on the internet or file formats which can be generated with data-processing programmes which are in widespread use shall be employed in the application process. The Federal Office for Migration and Refugees also provides the respectively applicable resources pursuant to sentence 3 on the internet.

(3) Recognition may be made conditional upon the submission of a general declaration pursuant to Section 20 (3) of the Residence Act and proof of adequate financial resources to fulfil such an obligation, if the research establishment's activities are not financed primarily from public funds. Upon submission of a corresponding application, the Federal Office for Migration and Refugees may issue a finding that a research establishment is financed primarily from public funds or that the implementation of a certain research project lies in the public interest. The Federal Office for Migration and Refugees may publish a list of current findings on the internet.

(4) The granted recognition should be valid for a period of at least five years.

(5) A recognised research establishment shall be obliged to notify the Federal Office for Migration and Refugees forthwith of any changes to the items of information stated in sub-section 2, sentence 2, nos. 1 to 3 or the cessation of research activities.

#### **Section 38b**

##### **Revocation of recognition**

(1) The recognition shall be revoked or an extension thereto refused, if the research establishment

1. no longer pursues research,
2. declares that it no longer intends to fulfil a declaration submitted pursuant to Section 20 (1), no. 2 of the Residence Act or

3. is no longer able to fulfil an obligation pursuant to Section 20 (1), no. 2 of the Residence Act because it no longer disposes of the necessary resources, in particular because insolvency proceedings have been instituted against its assets, the institution of insolvency proceedings has been refused for lack of assets or a comparable decision under foreign law has been reached.

If the research establishment has obtained recognition through fraudulent misrepresentation, threat, violence or bribery, such recognition shall be revoked.

(2) The recognition may be revoked if the research establishment has culpably signed admission agreements, although the conditions stated in Section 38f were not met.

(3) In conjunction with the decision on the revocation of recognition on the grounds stated in sub-section 1, sentence 1, nos. 2 or 3, in sub-section 1, sentence 2 or in sub-section 2, a period shall be stipulated during which the research establishment shall be barred from attaining renewed recognition (period of ineligibility). The period of ineligibility must not exceed five years. It shall apply also to independent establishments or successor establishments of the research establishment.

(4) The foreigners authorities and the missions abroad are to notify the Federal Office for Migration and Refugees of any facts known to them which might give cause for the revocation of a research establishment's recognition.

### **Section 38c**

#### **Notification requirements for recognised research institutes vis-à-vis the foreigners authorities**

A recognised research establishment shall be obliged to notify the competent foreigners authority in writing if

1. circumstances apply which may render the fulfilment of an admission agreement impossible or result in the conditions pertaining to conclusion of such an agreement pursuant to Section 38f (2) no longer being met or
2. a foreigner ends his or her work for a research project for which the establishment concerned has concluded an admission agreement.

The notification pursuant to sentence 1, no. 1 must be provided forthwith, the notification pursuant to sentence 1, no. 2 within two months of the facts necessitating such notification occurring. In addition to the facts to be communicated and the time of their occurrence, the notification shall also state the surname, first name and nationality of the foreigner and provide details of the admission agreement.

### **Section 38d**

#### **Consultative council on research migration**

(1) A consultative council on research migration shall be established at the Federal Office for Migration and Refugees to support the Federal Office in discharging its duties pursuant to this Part. The office of the consultative council on research migration shall be set up at the Federal Office for Migration and Refugees.

(2) The consultative council on research migration is charged in particular with

1. submitting recommendations for general guidelines on the recognition of research establishments,

2. advising the Federal Office for Migration and Refugees on general matters and on aspects of research in connection with the examination of individual applications,
3. ascertaining whether a need for foreign researchers is covered adequately by application of the procedure defined in Section 20 of the Residence Act and in this Part hereof,
4. identifying any aberrations in connection with the procedure defined in Section 20 of the Residence Act and in this Part, thereby also outlining abuse phenomena or administrative and other obstacles relating to migration issues in connection with the recruitment of foreign researchers.

(3) The consultative council on research migration shall report to the President of the Federal Office for Migration and Refugees at least once per calendar year on the activities which it carries out in discharging its duties.

(4) For the purposes of discharging their duties, the members of the consultative council on research migration may examine the administrative processes which are employed at the Federal Office for Migration and Refugees.

(5) The consultative council shall have nine members. The President of the Federal Office for Migration and Refugees shall appoint the chairperson and, in each instance, one member of the consultative council for research migration on the advice of

1. the Federal Ministry of Education and Research or a body designated by the said Ministry,
2. the Bundesrat,
3. the Conference of Rectors and Presidents of Universities and other Higher Education Institutions in the Federal Republic of Germany
4. the Deutsche Forschungsgemeinschaft e. V.,
5. the Federal Foreign Office or a body designated by the said Office,
6. the Federation of German Industries and the Confederation of German Employers' Associations,
7. the Confederation of German Trade Unions and
8. the German Association of Chambers of Industry and Commerce.

(6) The members of the consultative council on research migration shall be appointed for a tenure of three years.

(7) The members of the consultative council on research migration work in an honorary capacity. Travel costs shall be reimbursed to the members in accordance with the provisions of the Federal Travelling Expenses Act. The Federal Office for Migration and Refugees shall further be permitted to reimburse each member for office supplies up to an annual limit of 200 euros, subject to the members concerned submitting a detailed record of such expenses.

(8) The consultative council on research migration shall draw up its rules of procedure, which require the approval of the President of the Federal Office for Migration and Refugees.

### **Section 38e**

#### **Publications by the Federal Office for Migration and Refugees**

The Federal Office for Migration and Refugees shall publish a current list of the names and addresses of the recognised research establishments on the internet, together with notification of the submission of declarations pursuant to Section 20 (3) of the Residence Act and expiry of the validity of such declarations. The Federal Office for Migration and Refugees shall publish the precise source reference for the list on its internet site.

### **Section 38f**

#### **Contents of the admission agreement and conditions pertaining to undersigning thereof**

- (1) An admission agreement must contain the following information and undertakings:
1. the precise designation of the research project,
  2. the obligation on the part of the foreigner to carry out the research project,
  3. the obligation on the part of the research establishment to admit the foreigner for the purposes of carrying out the research project,
  4. information outlining the essential contents of the legal relationship which is to be established between the research establishment and the foreigner upon the latter being granted a residence permit pursuant to Section 20 of the Residence Act, covering in particular the scope of the foreigner's activities, salary, holiday arrangements, working hours and insurance, and
  5. a provision to the effect that the admission agreement shall become null and void if the foreigner is not granted a residence permit pursuant to Section 20 of the Residence Act.
- (2) A recognised research establishment can only conclude an admission agreement with legal effect if
1. it is established that the research project will be carried out and, in particular, that the responsible posts within the research establishment have reached a final decision to proceed with the research project after examining its purpose, duration and financing,
  2. the foreigner who is to carry out the research in the project which is specified in the admission agreement is suitable for and capable of carrying out the project, holds the university qualification enabling access to doctorate programmes which is generally required for this purpose and
  3. the foreigner's subsistence is ensured.

### **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 after his or her entry into the Federal territory,
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 entering into marriage in the Federal territory or the birth of a child during his or her stay in the Federal territory or
6. he or she holds a residence title issued by another Schengen state and, by virtue of this residence title is entitled to reside in the Federal territory, provided that the conditions pertaining to an entitlement to issuance of a residence title are met; Section 41 (3) shall apply.

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

**Section 44a**  
**Fees for the EC long-term residence permit**

A fee of 85 euros shall be charged.

**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 | 60 euros  |
| b) For issuance of such a visa in the form of a collective visa (5 to 50 persons)   | 60 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 (category "D")  | 25 euros  |
| 6. For issuance of a national visa as a uniform visa (category "D" and "C")   | The fee stipulated in number 1, letter a 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 | 30 euros |
|--|----------|

residence (Section 11 (1), sentence 3 of the Residence Act)	
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	25 euros
a) As a sticker only	
b) including the form carrying the sticker	30 euros
6. For renewal of a certificate pursuant to Section 60 (4) of the Residence Act	15 euros
a) As a sticker only	
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 certificates on application	10 euros
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
14. For recognition of a research establishment (Section 38a (1)) whose activities are not financed primarily from public funds	200 euros

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

(3) A fee of 8 euros shall be charged for issuance of a residence card (Section 5 (2) of the Act on the General Freedom of Movement for EU Citizens), a certificate confirming the right of long-term residence (Section 5 (6), sentence 2 of the Act on the General Freedom of Movement for EU Citizens) and issuance of the long-term residence card (Section 5 (6), sentence 1 of the Act on the General Freedom of Movement for EU Citizens), except in the case of initial issuance to persons aged under 21.

## Section 48

### Fees for measures relating to passports and identity documents

(1) The following fees shall be charged:

- |  |  |
|--|--|
| 1a. For issuance of a travel document for foreigners (Section 4 (1), sentence 1, no. 1, Sections 5 to 7), a travel document for refugees or a travel document for stateless persons (Section 4 (1), sentence 1, nos. 3 and 4)  | 59 euros   |
| 1b. For issuance of a travel document for foreigners (Section 4 (1), sentence 1, no. 1, Sections 5 to 7), a travel document for refugees or a travel document for stateless persons (Section 4 (1), sentence 1, nos. 3 and 4) up to the age of 24  | 37.50 euros  |
| 1c. For issuance of a temporary travel document for foreigners (Section 4 (1), sentence 1, no. 1, Sections 5 to 7), a temporary travel document for refugees or a temporary travel document for stateless persons (Section 4 (1), sentence 1, nos. 3 and 4)                              | 30 euros   |
| 1d. For issuance of a travel document without a data storage medium for foreigners (Section 4 (1), no. 1, Sections 5 to 7), for refugees or for stateless persons (Section 4 (1), sentence 1, nos. 1 and 3) for children up to the age of twelve (Section 4 (1), sentence 3, 1st clause) | 13 euros   |
| 2. For extension of a travel document for foreigners, a travel document for refugees or a travel document for stateless persons which is issued as a temporary document (Section 4 (1), sentence 2)  | 20 euros   |
| 3. For issuance of permit for frontier workers (Section 12) with a period of validity of   | 25 euros   |
| a) up to one year  | 30 euros   |
| b) up to two years   |  |
| 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. 5)  | 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. 6, 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  | 30 euros   |

covered by Section 55 (2)

- |   |          |
|---|----------|
| 12. For extension of an 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, provided that this is permissible | 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 and for an EC long-term residence 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 45, 46 nos. 3 to 6, Sections 47, 48 (1), sentence 1, nos. 3 to 14 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. Applicants of under six years of age shall be exempted from the fee pursuant to Section 46, nos. 1 and 2.

(2) Fees to the amount of 6 euros shall be charged respectively for extension of a temporary travel document for foreigners, for refugees or for stateless persons where the holder is a child of up to twelve years of age.

## **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  |
| 3a. the mandatory request to attend an integration course (Section 44a (1), sentence 1, no. 2 of the Residence Act)  | 50 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  |
| 10. revocation or withdrawal of the recognition of a research establishment (Section 38b (1) or (2)) whose activities are not financed primarily from public funds | 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, partners in life 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,
- 1a. Section 44a for the issuance of an EC long-term residence 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 for initial issue 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. 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 partners in life 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 or is undertaken on humanitarian grounds.

(8) Pupils, students, post-graduate students and accompanying teachers on trips for study or training purposes and researchers from third countries within the meaning of recommendation no. 2005/761/EC of the European Parliament and the Council of 28 September 2005 on facilitating the issuance of uniform visas by the Member States for short stays to researchers from third countries who move within the Community for research purposes (Official EC Journal no. L 289, p. 23) shall be exempted from the fee pursuant to Section 46, no. 1.

### **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 fees or defining the level of 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 identification papers**

(1) A foreigner who is resident in the Federal territory shall be obliged

1. in cases in which he or she is not in possession of a recognised and valid passport or passport substitute to apply for an extension to his or her passport or passport substitute or issuance of a new passport or passport substitute forthwith, and in other cases 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.

(2) Foreigners who are to be issued with a residence permit or a permit for frontier workers to document their right of residence in accordance with 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, are to notify the foreigners authority of their residence within three months of entering into the Federal territory. The notification must contain the following information on the foreigner:

1. Surname,
2. first names,
3. previous names,
4. date and place of birth,
5. address in the Federal territory,
6. previous addresses,
7. current and previous nationalities,
8. purpose, beginning and duration of the stay and
9. the marital relationship or kinship to the person from whom the foreigner derives a right of residence.

## **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 document 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), sentence 1, no. 1)
  - a) the model printed in Annex D4c,
  - b) for issuance as a temporary document (Section 4 (1), sentence 2) the model printed in Annex D4d,
5. for the permit for frontier workers (Section 12) the model printed in Annex D5a,
6. for the emergency travel document (Section 4 (1), no. 2) the model printed in Annex D6,
7. for the travel document for refugees (Section 4 (1), sentence 1, no. 3)
  - a) the model printed in Annex D7a,
  - b) for issuance as a temporary document (Section 4 (1), sentence 2) the model printed in Annex D7b,
8. for the travel document for stateless persons (Section 4 (1), sentence 1, no. 4)
  - a) the model printed in Annex D8a,
  - b) for issuance as a temporary document (Section 4 (1), sentence 2) the model printed in Annex D8b,
9. for the certificate confirming the transfer of residence (Section 4 (1), no. 6) the model printed in Annex D9,
10. for the standard travel document for the return of foreigners (Section 4 (1), no. 7) 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,
12. for the certificate confirming the permission to reside (Section 63 of the Asylum Procedure Act) the model printed in Annex D12,
13. for the residence card for dependents of an EU citizen or of a national of an EEA state (Section 5 (2) of the Act on the General Freedom of Movement for EU Citizens) and the residence permit which is issued to foreigners who possess a right of residence by virtue 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, the model printed in Annex D15 and
14. for certification of the right of long-term residence for EU citizens or nationals of an EEA state and the long-term residence card for dependents of EU citizens or nationals of an EEA state (Section 5 (6) of the Act on the General Freedom of Movement for EU Citizens), the model printed in Annex D16.

The passport substitute documents issued in accordance with the models in Annexes D4c, D7a and D8a shall not be extended.

## **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 (Official EC Journal no. L 164, p. 1), most recently amended by Appendix II no. 18, letter B of the Act concerning the conditions pertaining to the 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 respectively valid versions of the amendments to the treaties establishing the European Union (Official EU Journal 2003 no. L 236, p. 718). This model is printed in Annex D13a. The model printed in Annex D13b shall be used for extensions in Germany.
- (2) The models for the residence titles pursuant to Section 4 (1), nos. 2 to 4 of the Residence Act (residence permit, settlement permit and EC long-term residence 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 (Official EC Journal 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, the EC long-term residence permit and the residence permit.
- (4) The note “researcher” shall be entered in a residence permit which is issued pursuant to Section 20 of the Residence Act or in a supplementary sheet to this residence permit pursuant to Annex D11 or in a form carrying the sticker pursuant to Annex D1.
- (5) Where a subsidiary provision is entered in a residence title to the effect that the pursuit of an economic activity is not permitted, this subsidiary provision shall not relate to the activities stated in Section 17 (2), unless provisions to the contrary are expressly stated in the residence title.
- (6) Where the border authority permits entry into the Federal territory pursuant to Section 60a (2a), sentence 1 of the Residence Act and issues a temporary suspension of deportation, it shall note this on the form pursuant to Section 58, no. 2.

## **Section 60**

### **Photograph**

- (1) Photographs must comply with the requirements stipulated in Section 5 of the passport ordinance of 19 October 2007 in its respectively valid version and must render the foreigner clearly recognisable. They must show the person without any covering over his or her face and 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.
- (2) The foreigner for whom a document is to be issued pursuant to Section 58 or Section 59 is to present a current photograph pursuant to sub-section 1 to the competent authority on request or to cooperate in the production of a photograph.
- (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.

**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 foreignersshall be 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 Act on the General Freedom of Movement / 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) approval from the foreigners authority for 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) 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 department is to keep a file detailing the issued travel documents for foreigners, travel documents for refugees, travel documents for stateless persons 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, removed 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 shall 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 transport 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 and, where available, the date of birth and sex of the referees 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 shall 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.
- (5) The missions abroad may exchange the data contained in the visa file in individual cases.

## **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.

(4) Section 69 (5) shall apply mutatis mutandis.

**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 passports
3. authorities concerned with identification papers,
4. authorities concerned with matters of nationality,
5. judicial authorities,
6. Federal Employment Agency and
7. supervisory authorities for trade and industry

shall be obliged, notwithstanding the notification requirements pursuant to Section 87 (2) (4) and (5) 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. marriage or the establishment of a registered partnership, 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,
  - 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,
3. in case of a change of main home address  
the previous home address,
4. in case of marriage or the establishment of a registered partnership  
the date of marriage or of establishment of the registered partnership and
- 4a. in case of divorce, declaration of nullity or annulment of marriage or annulment of a registered partnership  
the date of and grounds for ending 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 72a**

### **Notifications by the authorities concerned with passports and identification papers**

(1) The authorities concerned with passports shall notify the foreigners authorities in case of the withdrawal of a passport pursuant to Section 12 (1) in conjunction with Section 11, no. 2 of the Passport Act due to the loss of German nationality.

(2) The authorities concerned with identification papers shall notify the foreigners authorities in case of the withdrawal of an identity card in accordance with the Länder laws on identity cards due to the loss of German nationality.

## **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.

## **Section 74**

### **Notifications by the judicial authorities**

(1) The penal 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,
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 provide notification or provides incorrect or incomplete notification or fails to do so in the stipulated manner or in good time in contravention of Section 38c,
2. 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,
3. fails to provide notification or provides incorrect or incomplete notification or fails to provide notification in good time in contravention of Section 56 (1) no. 5 or (2), sentence 1 or
4. fails to present a document stated in Section 56 (1), 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. 7 of the Residence Act.

## **Section 78**

### **Administrative authorities within the meaning of the Administrative Offences Act**

The Federal Police regional 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. 3 of the Residence Act, except where the Länder perform border guard control and immigration services using their own resources in agreement with the Federal government.

## **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 Act on the General Freedom of Movement for EU Citizens.

**Section 80**  
**Transitional provisions for the use of forms**

For issuance of a residence card pursuant to Section 5 (2) of the Act on the General Freedom of Movement for EU Citizens, the previous form for the EU residence permit may continue to be used until 31 December 2007. When using the form stated in sentence 1, the words "EU residence permit\*" and "Residence permit\*" which are printed on the form shall be deleted and the following note shall be appended: "Residence card for dependents of an EU citizen or of a national of a EEA state". The models printed in Annex D5 may be used until 31 December 2007 for issuance of a permit for frontier workers pursuant to Section 12; in this case, the stipulation "This permit for frontier workers applies only in conjunction with" must not be deleted. The previous forms in accordance with Annexes D4a, D7 and D8 may continue to be used until 31 October 2007 for the issuance of travel documents for foreigners, refugees and stateless persons. The previous forms in accordance with Annexes D4a, D7 and D8 may continue to be used until 31 August 2009 for the issuance of temporary travel documents for foreigners, refugees and stateless persons. The respective stickers containing personal data on children shall no longer be used.

**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,
  3. entries in collective lists of pupils (Section 1 (5)) and standard travel documents for the return of foreigners (Section 1 (8)),
  4. travel documents for foreigners issued in accordance with the model printed in Annex D4b,
  5. travel documents for foreigners issued in accordance with the model printed in Annex D4a with a period of validity of more than one year,
  6. travel documents for stateless persons issued in accordance with the model printed in Annex D8 with a period of validity of more than one year,
  7. travel documents for refugees issued in accordance with the model printed in Annex D7 with a period of validity of more than one year and
  8. permits for frontier workers issued in accordance with the model printed in Annex D5
- 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-passers 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-passers 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. Where a form has retained its validity pursuant to sub-section 1, nos. 1 and 2 and sub-section 2, it may nevertheless no longer be used for an extension.
- (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 an substitute identity document pursuant to this ordinance in lieu of his or her previous identity 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 identity 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 other than those issued by German authorities 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 subsection 2 to the new data storage provisions by no later than 31 December 2005.

## **Section 82a**

### **Transitional arrangement due to the entry into force of the Act to Implement Residence- and Asylum-Related Directives of the European Union**

Information relating to the new data storage provisions established by the Act to Implement Residence- and Asylum-Related Directives of the European Union shall be stored in the Foreigners Files as soon as the necessary information technology facilities are in place, but no later than six months after the said act enters into force. Insofar as the information has not been stored up to this point, the foreigners authorities shall be obliged to carry out subsequent storage forthwith.

## **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.

## **Section 84**

### **Commencement of the recognition of research establishments**

Applications for the recognition of research establishments shall be processed as of 1 December 2007.