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Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory

Residence Act

Residence Act in the version promulgated on 25 February 2008 (Federal Law Gazette I p. 162), last amended by Article 3 of the Act of 6 September 2013 (Federal Law Gazette I p. 3556)

Chapter 1 General information

Section 1 Purpose of the Act; scope

(1) This Act shall serve to control and restrict the influx of foreigners into the Federal Republic of Germany. It shall enable and organise immigration with due regard to the capacities for admission and integration and the interests of the Federal Republic of Germany in terms of its economy and labour market. At the same time, the Act shall also serve to fulfil the Federal Republic of Germany's humanitarian obligations. To this end, it shall regulate the entry, stay and economic activity of foreigners and the integration of foreigners. The provisions contained in other acts shall remain unaffected.

(2) This Act shall not apply to foreigners

1. whose legal status is regulated by the Act on the General Freedom of movement for EU Citizens, in the absence of any legal provisions to the contrary,
2. who are not subject to German jurisdiction according to the provisions of Sections 18 to 20 of the Courts Constitution Act,
3. who, by virtue of treaties on diplomatic and consular communication and on the activities of international organisations and institutions, are exempt from immigration restrictions, from the obligation to notify the foreigners authority of their stay and from the requirement for a residence title, and when reciprocity applies, insofar as this may constitute a prerequisite for such exemptions.

Section 2 Definitions

(1) A foreigner is anyone who is not German within the meaning of Article 116 (1) of the Basic Law.

(2) Economic activity is self-employment and employment within the meaning of Section 7 of Book Four of the Social Code.

(3) A foreigner's subsistence shall be secure when he or she is able to earn a living, including adequate health insurance coverage, without recourse to public funds.

Drawing the following benefits shall not constitute recourse to public funds:

1. child benefits,

2. children's allowances,
3. child-raising benefits,
4. parental allowances,
5. educational and training assistance in accordance with Book Three of the Social Code, the Federal Education Assistance Act or the Upgrading Training Assistance Act, or
6. public funds based on own contributions or granted in order to enable residence in Germany.

A foreigner who is enrolled in a statutory health insurance fund shall be deemed to have sufficient health insurance coverage. Other family members' contributions to household income shall be taken into account when issuing or renewing residence permits allowing the subsequent immigration of dependants. For the purposes of issuance of a residence permit pursuant to Section 16, a foreigner's subsistence shall be deemed to be secure where he or she has funds in the amount of the monthly requirement as determined pursuant to Sections 13 and 13a (1) of the Federal Education Assistance Act. For the purposes of issuance of a residence permit pursuant to Section 20, an amount corresponding to two-thirds of the reference figure defined in accordance with Section 18 of Book Four of the Social Code shall be deemed adequate to cover the cost of living. The Federal Ministry of the Interior shall announce the minimum amounts pursuant to sentences 5 and 6 in the Federal Gazette annually by 31 December for the following year.

(4) The space which is required to accommodate a person in need of accommodation in state-subsidised welfare housing shall constitute sufficient living space. Living space which does not comply with the statutory provisions for Germans with regard to condition and occupancy shall not be adequate for foreigners. Children up to the age of two shall not be included in calculation of the sufficient living space for the accommodation of families.

(5) Schengen states are states in which the following legal acts apply in their entirety:

1. Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders (Official Journal no. L 239 of 22.9.2000, p. 19),
2. Regulation (EC) no. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Official Journal no. L 105 of 13.4.2006, p. 1) and
3. Regulation (EC) no. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Official Journal no. L 243 of 15.9.2009, p. 1).

(6) Temporary protection within the meaning of this Act is the granting of residence in application of Council Directive 2001/55/EC of 20 July 2001 on minimum standards for the granting of temporary protection in the case of the mass influx of displaced foreigners and on measures to promote the balanced distribution of the burdens associated with the admission of these persons and the consequences of such admission among the Member States (Official EC Journal no. L 212, p. 12).

(7) A foreigner to whom the legal status of long-term resident has been granted in a Member State of the European Union pursuant to Article 2, letter b of Council Directive 2003/109/EC of 25 November 2003 concerning the legal status of third-country nationals who are long-term residents (Official EU Journal 2004 no. L 16, p. 44), most recently amended by Directive 2011/51/EU (Official EU Journal no. L 132 of 19 May 2011. p. 1), and not subsequently revoked shall be deemed to be a long-term resident.

The EC residence permit issued to long-term residents by another Member State in line with Article 8 of Directive 2003/109/EC shall be deemed to constitute long-term residence status (EU).

(9) Basic knowledge of the German language shall be deemed to correspond to Level A1 of the Common European Framework of Reference for Languages (Recommendation no. R(98)6 of 17 March 1998 of the Committee of Ministers of the Council of Europe to Member States concerning the Common European Framework of Reference for Languages – CEFR).

(10) Elementary knowledge of the German language shall be deemed to correspond to Level A2 of the Common European Framework of Reference for Languages.

(11) Sufficient command of the German language shall be deemed to correspond to Level B1 of Common European Framework of Reference for Languages.

(12) A foreigner shall be deemed to have a strong command of the German language if his or her knowledge of the language corresponds to Level C1 of the Common European Framework of Reference for Languages.

(13) A foreigner shall be deemed to have international protection status if he or she enjoys international protection within the meaning of

1. Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (Official Journal EU no. L 304, p. 12), or of
2. Directive 2011/95/EU of the European Parliament and the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (Official Journal no. L 337 of 20 December 2011, p. 9).

Chapter 2

Entry into and residence in the federal territory

Part 1

General

Section 3

Passport obligation

(1) Foreigners may only enter or stay in the federal territory if they are in possession of a recognised and valid passport or passport substitute, unless they are exempt from the passport obligation by virtue of a statutory instrument. For the purpose of residence in the federal territory, possession of a substitute identity document shall also suffice in order to meet the passport obligation (Section 48 (2)).

(2) In justified individual cases, the Federal Ministry of the Interior or a body designated by the Federal Ministry of the Interior may permit exemptions from the

passport obligation before the foreigner enters the federal territory for the purpose of crossing the border, and for a subsequent stay of up to six months.

Section 4

Residence title requirement

(1) In order to enter and stay in the federal territory, foreigners shall require a residence title, in the absence of any provisions to the contrary in the law of the European Union or a statutory instrument and except where a right of residence exists as a result of the agreement of 12 September 1963 establishing an association between the European Economic Community and Turkey (Federal Law Gazette 1964 II, p. 509) (EEC/Turkey Association Agreement). The residence titles shall be granted in the form of

1. a visa pursuant to Section 6 (1), no. 1 and (3),
2. a residence permit (Section 7),
- 2a. an EU Blue Card (Section 19a),
3. settlement permit (Section 9) or
4. an EU long-term residence permit (Section 9a).

The legal provisions governing residence permits shall also apply to the EU Blue Card in the absence of any law or statutory instrument to the contrary.

(2) A residence title shall entitle the holder to pursue an economic activity insofar as this is laid down in this Act or the residence title expressly permits pursuit of an economic activity. Every residence title must indicate whether the pursuit of an economic activity is permitted. A foreigner who is not in possession of a residence permit for the purpose of employment can only be permitted to take up employment if the Federal Employment Agency has granted its approval or a statutory instrument stipulates that taking up the employment concerned is permissible without the approval of the Federal Employment Agency. Any restrictions imposed by the Federal Employment Agency in granting approval are to be specified in the residence title.

(3) Foreigners may only pursue an economic activity if the residence title so allows. Foreigners may only be employed or commissioned to perform other paid work or services if they possess such a residence title. This restriction shall not apply if the foreigner is permitted by virtue of an intergovernmental agreement, a law or a statutory instrument to pursue an economic activity without requiring due authorisation via a residence title. Anyone employing a foreigner or commissioning a foreigner on a sustained basis to perform paid work or services for gain in the federal territory must ascertain whether the conditions pursuant to sentence 2 or sentence 3 apply. Anyone employing a foreigner in the federal territory must keep a copy of the residence title or of the document confirming permission to stay in the federal territory (pending asylum procedures) or confirming suspension of deportation, in electronic or paper form for the duration of the employment.

(4) (revoked)

(5) A foreigner who possesses a right of residence in accordance with the EEC/Turkey Association Agreement is obliged to furnish evidence of the existence of said right of residence through the possession of a residence permit, unless he or she is in possession of a settlement permit or an EU long-term residence permit. Said residence permit shall be issued on application.

Section 5

General preconditions for the granting of a residence title

(1) The granting of a residence title shall generally presuppose

1. that the foreigner's subsistence is secure;
- 1a. that the foreigner's identity is established, as is his or her nationality, if he or she is not entitled to return to another state,
2. no grounds for expulsion apply.
3. if the foreigner has no entitlement to a residence title, that the foreigner's residence does not compromise or jeopardise the interests of the Federal Republic of Germany for any other reason and
4. that the passport obligation pursuant to Section 3 is met.

(2) The granting of a residence permit, a settlement permit or an EU long-term residence permit further presupposes that the foreigner

1. has entered the country with the necessary visa and
2. has already furnished the key information required for granting the title in his or her visa application.

These requirements may be waived if the prerequisites qualifying a foreigner for the granting of a residence title are met or if special circumstances relating to the individual case concerned render a subsequent visa application procedure unreasonable.

(3) Application of sub-sections 1 and 2 shall be waived in the cases of issuance of a residence title pursuant to Sections 24, 25 (1) to (3) and Section 26 (3); application of sub-section 1, nos. 1 to 2 and 4 and sub-section 2 shall be waived in the cases of Section 25 (4a) and (4b). Application of sub-sections 1 and 2 may be waived in the other cases of issuance of a residence title pursuant to Chapter 2, Part 5. Where application of sub-section 1, no. 2 is waived, the foreigners authority may point out that expulsion is possible on certain grounds forming the subject of criminal or other proceedings which are still in progress, whereby such grounds are to be specified individually.

(4) A residence title shall be refused if one of the grounds for expulsion pursuant to Section 54, nos. 5 to 5b applies. Exemptions from sentence 1 may be approved in justified individual cases, if the foreigner divulges said activities or allegiances to the competent authorities and credibly distances himself or herself from his or her actions posing a threat to security. In justified individual cases, the Federal Ministry of the Interior or a body designated by the Federal Ministry of the Interior may permit exemptions from sentence 1 before the foreigner enters the country for the purpose of crossing the border, and for a subsequent stay of up to six months.

Section 6

Visa

(1) A foreigner may be issued the following visas in accordance with Regulation (EC) no. 810/2009:

1. a visa for the purpose of transit through the territory of the Schengen states or for planned stays in this territory of up to three months within a period of six months from the date of initial entry (Schengen visa),

2. an airport transit visa for the purpose of passing through the international transit area at airports.

(2) In accordance with Regulation (EC) no. 810/2009, Schengen visas may be extended up to a total stay of three months within a period of six months beginning on the date of initial entry. A Schengen visa may be extended by a further three months within the six-month period concerned as a national visa on the grounds stated in Article 33 of the Regulation (EC) no. 810/2009/EC, to safeguard the interests of the Federal Republic of Germany or for reasons of international law.

(3) A visa for the federal territory (national visa) shall be required for stays of longer duration; this visa shall be issued before the foreigner enters the federal territory. Issuance shall be based on the regulations applying to the residence permit, the EU Blue Card, the settlement permit and the EU long-term residence permit. The duration of lawful stay with a national visa shall be offset against the periods of possession of a residence permit, EU Blue Card, settlement permit or EU long-term residence permit.

(4) An exceptional visa within the meaning of Section 14 (2) shall be issued as a visa within the meaning of sub-section 1 no. 1 or sub-section 3.

Section 7

Residence permit

(1) The residence permit shall be a temporary residence title. It shall be issued for the purposes of residence stated in the following Parts of this Act. In justified cases, a residence permit may also be issued for a purpose of residence which is not covered by this Act.

(2) The residence permit shall be subject to a time limit which takes due account of the intended purpose of residence. Should a vital prerequisite for issuance, extension or the duration of validity cease to apply, it shall also be possible to subsequently reduce the length of validity.

Section 8

Extension of the residence permit

(1) Extension of the residence permit shall be subject to the same regulations as apply to issuance.

(2) As a general rule, the residence permit shall not be extended if the competent authority has prohibited an extension in the case of a stay which is of only a temporary nature in accordance with the purpose of residence or at the time the residence permit was last extended.

(3) Before the residence permit is extended, it must be ascertained whether the foreigner has fulfilled his or her obligation to duly attend an integration course. If a foreigner breaches his or her obligation to duly attend an integration course pursuant to Section 44a (1), sentence 1, this shall be taken into account in the decision on extending the residence permit. Where no entitlement to issuance of the residence permit exists, extension of the residence permit shall be refused in the case of repeated and gross breach of the obligations pursuant to sentence 1. Where an entitlement to extension of the residence permit applies only pursuant to this Act, extension may be refused unless the foreigner furnishes evidence that he or she has achieved integration into the community and society by other means. In reaching a decision on this matter, due consideration shall be given to the duration of lawful stay, the foreigner's legitimate ties to the federal territory and consequences of the termination of residence for dependants of the foreigner who

are lawfully resident in the federal territory. If a foreigner was or is obliged to attend an integration course pursuant to Section 44a (1), sentence 1, the residence permit shall be extended for at most one year if he or she has not successfully completed the integration course or has not yet furnished evidence that that he or she has achieved integration into the community and society by other means.

(4) Sub-section 3 shall not be applicable to the extension of a residence permit issued pursuant to Section 25 (1), (2) or (3).

Section 9 Settlement permit

(1) The settlement permit shall be a permanent residence title. It shall entitle the holder to pursue an economic activity and may only be supplemented with a subsidiary provision in those cases which are expressly permitted by this Act. Section 47 shall remain unaffected.

(2) A foreigner shall be granted the settlement permit provided that

1. he or she has held a residence permit for five years,
2. his or her subsistence is secure,
3. he or she has paid compulsory or voluntary contributions into the statutory pension scheme for at least 60 months or furnishes evidence of an entitlement to comparable benefits from an insurance or pension scheme or from an insurance company; time off for the purposes of child care or nursing at home shall be duly taken into account,
4. the granting of such a residence permit is not precluded by reasons of public safety or order, according due consideration to the severity or the nature of the breach of public safety or order or the danger emanating from the foreigner, with due regard to the duration of the foreigner's stay to date and the existence of ties in the federal territory,
5. he or she is permitted to be in employment, if he or she is in employment,
6. he or she is in possession of the other permits which are required for the purpose of the permanent pursuit of his or her economic activity,
7. he or she has a sufficient command of the German language,
8. he or she possesses a basic knowledge of the legal and social system and the way of life in the federal territory and
9. he or she possesses sufficient living space for himself or herself and the members of his or her family forming part of his or her household.

The requirements of sentence 1, nos. 7 and 8 shall be deemed to be fulfilled if an integration course has been successfully completed. These requirements shall be waived if the foreigner is unable to fulfil them on account of a physical, mental or psychological illness or handicap. The requirements of sentence 1, nos. 7 and 8 may also be waived in order to avoid hardship. The aforesaid requirements shall further be waived if the foreigner is able to communicate verbally in the German language at a basic level and has not been entitled to participate in an integration course pursuant to Section 44 (3), no. 2 or has not been obliged to participate in an integration course pursuant to Section 44a (2), no. 3. The requirements of sentence 1, nos. 2 and 3 shall also be waived if the foreigner is unable to fulfil them due to the grounds stated in sentence 3.

(3) In the case of cohabiting spouses, it shall suffice if the requirements in accordance with sub-section 2, sentence 1, nos. 3, 5 and 6 are fulfilled by one spouse. The requirement in accordance with sub-section 2, sentence 1, no. 3 shall be waived if the foreigner is undergoing education or training which leads to a recognised school, vocational or higher education qualification. Sentence 1 shall apply mutatis mutandis in the cases covered by Section 26 (4).

(4) The following periods shall be taken into account with regard to the periods of possession of a residence permit which are necessary in order to qualify for issuance of a settlement permit:

1. The duration of former possession of a residence permit or settlement permit, if the foreigner was in possession of a settlement permit at the time of leaving the federal territory, minus the duration of intermediate stays outside of the federal territory which led to expiry of the settlement permit; a maximum of four years shall be taken into account.
2. A maximum of six months for each stay outside of the federal territory which has not led to expiry of the residence permit.
3. Half of the period of lawful stay for the purposes of study or vocational training in the federal territory.

Section 9a

EU long-term residence permit

(1) The EU long-term residence permit is a permanent residence title. Section 9 (1), sentences 2 and 3 shall apply accordingly. In the absence of any provisions to the contrary in this Act, the EU long-term residence permit shall be equivalent to the settlement permit.

(2) A foreigner shall be issued with an EU long-term residence permit pursuant to Article 2, letter b of Directive 2003/109/EC provided that

1. he or she has been resident in the federal territory with a residence title for five years,
2. his or her subsistence and the subsistence of his or her dependants whom he or she is required to support is ensured by a fixed and regular income,
3. he or she has sufficient command of the German language,
4. he or she possesses a basic knowledge of the legal and social system and the way of life in the federal territory,
5. the granting of such a residence permit is not precluded by reasons of public safety or order, according due consideration to the severity or the nature of the breach of public safety or order or the danger emanating from the foreigner, with due regard to the duration of the foreigner's stay to date and the existence of ties in the federal territory and
6. he or she possesses sufficient living space for himself or herself and the members of his or her family forming part of his or her household.

Section 9 (2), sentences 2 to 5 shall apply mutatis mutandis to sentence 1, nos. 3 and 4.

(3) Sub-section 2 shall not apply if the foreigner

1. possesses a residence title pursuant to Part 5 which was not issued on the basis of Section 23 (2) or holds a comparable legal status in another Member State of the

European Union and if he or she has not been recognised as eligible for international protection in the Federal Republic of Germany or another Member State of the European Union; the same shall apply if he or she has applied for such title or such legal status, and the decision on this application is pending,

2. has applied for recognition as being eligible for international protection or for temporary protection within the meaning of Section 24 and the decision on this application is pending,
3. possesses a legal status in another Member State of the European Union which corresponds to that described in Section 1 (2), no. 2,
4. is resident in the federal territory with a residence permit pursuant to Section 16 or Section 17 or
5. is resident for another purpose of an inherently temporary nature, in particular
 - a) by virtue of a residence permit pursuant to Section 18, where the time limit on the approval granted by the Federal Employment Agency is based on a maximum term of employment imposed pursuant to Section 42 (1),
 - b) if an extension to his or her residence permit has been prohibited pursuant to Section 8 (2) or
 - c) if his or her residence permit serves to enable the foreigner to live together or to continue to live together as a family with a foreigner who himself/herself is only resident in the federal territory for a purpose of an inherently temporary nature, where no independent right of residence would arise upon the family unity ending.

Section 9b

Crediting of residence periods

(1) The following periods shall be credited towards the necessary periods pursuant to Section 9a (2), sentence 1, no. 1:

1. Periods of residence outside of the federal territory during which the foreigner possessed a residence title and
 - a) was resident abroad on account of having been sent to a foreign country in connection with his or her work, provided that such individual periods have not exceeded six months or a longer period stipulated by the foreigners authority pursuant to Section 51 (1), no. 7, or
 - b) the total periods do not exceed six consecutive months or, within the period stated in Section 9a (2), sentence 1, no. 1, a total of ten months,
2. previous periods of residence in the federal territory with a residence permit, settlement permit or EU long-term residence permit, where the foreigner was in possession of a settlement permit or an EU long-term residence permit at the time of leaving the federal territory and the settlement permit or the EU long-term residence permit has expired solely on account of residence outside of Member States of the European Union or due to acquisition of the legal status of a long-term residence in another Member State of the European Union, up to a maximum of four years,
3. periods in which the foreigner was entitled to freedom of movement,
4. half of any periods of lawful stay for the purposes of study or vocational training in the federal territory,

5. in the case of foreigners eligible for international protection the period between the date on which the application for international protection was filed and the date on which a residence title was issued on account of the fact that he or she was granted international protection.

Periods of residence pursuant to Section 9a (3), no. 5 and periods of residence in which the foreigner also met the conditions of Section 9a (3), no. 3 shall not be credited. Periods of residence outside of the federal territory shall not be deemed to interrupt the period of residence pursuant to Section 9a (2), sentence 1, no. 1 where the residence outside of the federal territory has not resulted in expiry of the residence title; such periods shall not be considered when determining the total duration of residence pursuant to Section 9a (2), sentence 1, no. 1. In all other cases, exit from the federal territory shall not be deemed to interrupt the period of residence pursuant to Section 9a (2), sentence 1, no. 1.

(2) Periods during which the foreigner holds a EU Blue Card issued by another Member State of the shall be credited as periods required by Section 9a (2), sentence 1, no. 1, provided the foreigner

1. resided in said other Member State of the European Union holding an EU Blue Card for at least 18 months and
2. has resided in the federal territory for at least two years holding an EU Blue Card when filing the application.

Periods of residence outside of the European Union shall not be credited. However, such periods shall not be deemed to interrupt the period of residence pursuant to Section 9a (2), sentence 1, no. 1 if they do not exceed twelve consecutive months and if they do not exceed a total of 18 months within the period laid down in Section 9a (2), sentence 1, no. 1. Sentences 1 to 3 shall apply mutatis mutandis to dependants of the foreigner who have been granted a residence permit under Sections 30 or 32.

Section 9c Subsistence

Fixed and regular income within the meaning of Section 9a (2), sentence 1, no. 2 generally applies where

1. the foreigner has met his or her tax obligations,
2. the foreigner or his or her cohabiting spouse has paid contributions or made adequate provision for an old-age pension in Germany or abroad, provided that he or she has not been prevented from doing so by a physical, mental or psychological illness or disability,
3. the foreigner and his or her dependants living with him or her as a family unit are safeguarded from the risk of illness and the need for nursing care by statutory health insurance or an essentially equivalent form of insurance coverage which applies for an indefinite period or is extended automatically and
4. the foreigner who obtains his or her regular income from an economic activity is entitled to perform the economic activity concerned and also possesses the other permits required to this end.

In the case of cohabiting spouses, it shall suffice if the requirements in accordance with sentence 1, no. 4 are fulfilled by one spouse. With regard to the contributions or provisions which are necessary pursuant to sentence 1, no. 2, no higher

contributions or provisions shall be required than are provided for in Section 9 (2), sentence 1, no. 3.

Section 10

Mutual effects of residence titles and applications for asylum

- (1) In the absence of a legal entitlement, a foreigner who has filed an application for asylum may only be granted a residence title prior to legally valid completion of the asylum procedure with the approval of the supreme Land authority, and only when vital interests of the Federal Republic of Germany so require.
- (2) A residence title issued or extended by the foreigners authority after the foreigner has entered the federal territory can be extended in accordance with the provisions of this Act, irrespective of whether the foreigner has filed an application for asylum.
- (3) A foreigner whose asylum application has been incontestably rejected or who has withdrawn his or her asylum application may only be granted a residence title prior to leaving the federal territory in accordance with the provisions of Part 5. If the asylum application has been rejected in accordance with Section 30 (3), nos. 1 to 6 of the Asylum Procedure Act, no residence title may be issued prior to the foreigner leaving the federal territory. Sentences 1 and 2 shall not apply in cases of entitlement to issuance of a residence title; sentence 2 shall further not apply where the foreigner meets the requirements for issuance of a residence permit pursuant to Section 25 (3).

Section 11

Ban on entry and residence

- (1) A foreigner who has been expelled, removed or deported shall not be permitted to re-enter or stay in the federal territory. He or she shall not be granted a residence title, even if the requirements entitling him or her to a title in accordance with this Act are fulfilled. Time limits shall be applied to the effects stated in sentences 1 and 2 on application. The time limit shall be set according to the individual case concerned and may only exceed five years if the foreigner has been expelled on the grounds of a criminal conviction or if he or she poses a serious danger to public safety or law and order. The setting of the time limit shall take due account of whether the foreigner has left the federal territory voluntarily and in good time. The time limit shall begin when the person concerned leaves the federal territory. No time limit shall be applied if a foreigner has been deported from the federal territory on account of a crime against peace, a war crime or a crime against humanity, or on the basis of a deportation order pursuant to Section 58a. The supreme Land authority may permit exemptions from sentence 7 in individual cases.
- (2) By way of exception, the foreigner may, except in cases covered by sub-section 1, sentence 7, be granted temporary entrance into the federal territory for a short period prior to expiry of the exclusion period stipulated in accordance with sub-section 1, sentence 3, if his or her presence is required for compelling reasons or if the refusal of permission would constitute undue hardship. Sub-section 1, sentence 8 shall apply mutatis mutandis in cases pursuant to sub-section 1, sentence 7.

Section 12

Area of application; subsidiary provisions

- (1) The residence title shall be issued for the federal territory. Its validity in accordance with the provisions of the Convention Implementing the Schengen Agreement for residence in the territories of the parties signatory shall remain unaffected.

(2) The visa and the residence permit may be issued and extended subject to conditions. Conditions, in particular geographic restrictions, may also be imposed subsequently on visa and residence permits.

(3) A foreigner is to leave forthwith any part of the federal territory which he or she may enter in breach of a geographic restriction without the permission of the foreigners authority.

(4) The stay of a foreigner who does not require a residence title may be made subject to time limits, geographic restrictions, conditions and requirements.

(5) The foreigners authority may permit the foreigner to leave the residence area which is restricted on the basis of this Act. This permission shall be granted if an urgent public interest applies, if it is necessary for compelling reasons or if refusing permission would constitute undue hardship. The foreigner shall need no permission to attend appointments at authorities or court hearings where his personal appearance is necessary.

Part 2 Entry

Section 13 Border crossing

(1) Entry into and exit from the federal territory shall be permitted only at the approved border crossing points and within the stipulated traffic hours, in the absence of any exceptions which may be permissible on the basis of other statutory provisions or intergovernmental agreements. Foreigners shall be obliged to carry a recognised and valid passport or passport substitute in accordance with Section 3 (1) when entering or leaving the federal territory and to submit to the police control of cross-border traffic.

(2) A foreigner shall be deemed to have entered the federal territory only after having crossed the border and passed through the border checkpoint. Should the authorities charged with policing cross-border traffic allow a foreigner to pass through the border checkpoint for a specific temporary purpose prior to a decision on the refusal of entry (Section 15 of this Act, Sections 18, 18a of the Asylum Procedure Act) or during preparation, safeguarding and implementation of this measure, this shall not constitute entry pursuant to sentence 1 as long as the said authorities remain able to monitor the foreigner's stay. The foreigner shall otherwise be deemed to have entered the federal territory when crossing the border.

Section 14 Unlawful entry; exceptional visa

(1) The entry of a foreigner into the federal territory shall be unlawful if he or she

1. does not possess a required passport or passport substitute in accordance with Section 3 (1),
2. does not possess the residence title required in accordance with Section 4,
- 2a. does possess the necessary visa pursuant to Section 4 upon entry, but obtained it by threat, bribery or collusion or by furnishing incorrect or incomplete information, for which reason it is revoked or annulled retrospectively, or
3. is not permitted to enter the federal territory in accordance with Section 11 (1), unless he or she possesses a temporary entry permit in accordance with Section 11 (2).

(2) The authorities charged with policing cross-border traffic may issue exceptional visa and passport substitute documents.

Section 15

Refusal of entry

(1) A foreigner wishing to enter the federal territory unlawfully shall be refused entry at the border.

(2) A foreigner may be refused entry at the border if

1. a reason for expulsion exists,
2. there is a well-founded suspicion that the foreigner does not intend to stay in the country for the stated purpose,
- 2a. he or she only possesses a Schengen visa or is exempted from the visa requirement for a short-term stay and intends to pursue an economic activity counter to Section 4 (3), sentence 1 or
3. he or she does not fulfil the conditions for entry into the territory of the parties signatory in accordance with Article 5 of the Schengen Borders Code.

(3) A foreigner who is exempted from the requirement for a residence title for the purpose of a temporary stay in the federal territory may be refused entry if he or she does not fulfil the requirements of Section 3 (1) and Section 5 (1).

(4) Section 60 (1) to (3), (5) and (7) to (9) shall apply mutatis mutandis. A foreigner who has filed an application for asylum may not be refused entry if he or she is permitted to stay in the federal territory in accordance with the provisions of the Asylum Procedure Act.

(5) In order to ensure that a refusal of entry is effective where a ruling to refuse entry has been issued and cannot be enforced immediately, the foreigner concerned is to be taken into custody (detention pending exit from the federal territory) by virtue of a judicial order. Section 62 (4) shall otherwise apply mutatis mutandis. Sub-section 1 shall not apply in cases in which the judge declines to issue a corresponding judicial order or to extend the period of detention.

(6) Where the foreigner has reached the federal territory by air and has not entered pursuant to Section 13 (2) but has been refused entry, he or she shall be taken to the transit area of an airport or to a place of accommodation from which his or her exit from the federal territory is possible if detention pending exit from the federal territory is not applied for. The foreigner's stay in the transit area of an airport or in accommodation pursuant to sentence 1 shall require a judicial order no later than 30 days after arrival at the airport or, should the time of arrival not be ascertainable, after the competent authorities obtain knowledge of the foreigner's arrival. The judicial order shall be issued to ensure the foreigner's due exit from the federal territory. It shall be permitted only where exit is to be expected within the term of the order. Sub-section 5 shall apply mutatis mutandis.

Section 15a

Allocation to the Länder of foreigners who have entered the federal territory unlawfully

(1) Foreigners who enter the country illegally without applying for asylum and who, upon their illegal entry being established, cannot be placed in custody pending deportation and deported or expelled directly from custody are to be allocated to the respective Länder prior to the decision on the suspension of deportation or issuance

of a residence title. They shall not be entitled to be allocated to a specific Land or a specific town or location. Allocation to the Länder shall be carried out by a central allocation agency to be appointed by the Federal Ministry of the Interior. In the absence of any divergent allocation basis agreed between the Länder, the allocation basis stipulated for the allocation of asylum seekers shall apply. Each Land shall appoint up to seven authorities to initiate allocation by the agency appointed in accordance with sentence 3 and to admit the allocated foreigners. If the foreigner furnishes evidence prior to allocation that a household community exists between spouses or parents and their minor children or that other compelling reasons exist which conflict with allocation to a certain place, this shall receive due consideration in the allocation process.

(2) The foreigners authorities may require foreigners to present themselves to the authority initiating allocation. This shall not apply when due consideration is to be accorded to submissions in accordance with sub-section 1, sentence 6. An obligation imposed in accordance with sentence 1 shall not be contestable. Any legal actions shall have no suspensory effect.

(3) The central allocation agency shall inform the authority which has initiated allocation as to the reception centre which is obliged to admit the foreigners concerned pursuant to sentences 2 and 3. If the Land whose authority has initiated allocation has not filled its admission quota, the Land's reception centre located nearest to this authority with available admission capacity shall be obliged to admit the foreigners concerned. Otherwise, the reception centre designated by the central allocation agency on the basis of the allocation quota pursuant to Section 45 of the Asylum Procedure Act and the available accommodation capacities shall be obliged to admit the foreigners concerned. Section 46 (4) and (5) of the Asylum Procedure Act are to be applied *mutatis mutandis*.

(4) In the cases covered by sub-section 3, sentence 3, the authority which has initiated allocation pursuant to sub-section 3 shall order the foreigner to report to the reception centre designated as a result of the allocation process; in the cases covered by sub-section 3, sentence 2, it may issue such an order. The foreigners authority shall forward the result of the hearing to the authority initiating allocation, which shall notify the central allocation agency of the number of foreigners, stating the countries of origin and the results of the hearing. Spouses and parents and their minor, unmarried children shall be registered and allocated as a group. The foreigner is to stay at this reception centre until re-allocated to another location within the Land, but until suspension of deportation or until issuance of a residence title at the latest; Sections 12 and 61 (1) shall remain unaffected. The Land governments shall be authorised to regulate allocation within the Land by statutory instrument, insofar as allocation is not regulated by Land law on the basis of this Act; Section 50 (4) of the Asylum Procedure Act shall apply *mutatis mutandis*. The Land governments may assign the said authorisation to other bodies of the Land. Orders pursuant to sentence 1 shall not be contestable. Any legal actions shall have no suspensory effect. Sentences 7 and 8 shall apply *mutatis mutandis*, if an allocation order is issued on the basis of a Land law or a statutory instrument pursuant to sentence 5.

(5) Following allocation, the competent authorities may permit the foreigner to take up residence in another Land. Following a permitted change of residence, the foreigner shall be deducted from the quota for the Land from which he or she is released and added to the quota for the admitting Land.

(6) The provisions of sub-sections 1 to 5 shall not apply to persons who verifiably entered the federal territory prior to 1 January 2005.

Part 3

Residence for educational purposes

Section 16

Further education; language courses; school education

(1) A foreigner may be granted a residence permit for the purpose of studying at a state or state-recognised university or a comparable educational establishment. Residence for study purposes shall also extend to language courses in preparation for studies and attendance of a preparatory course prior to studying (preparatory measures for courses of study). The residence permit for study purposes may only be issued where the foreigner has been admitted by the educational establishment concerned; conditional admission is sufficient. Proof of a knowledge of the language in which the course of studies is to be conducted shall not be required where the foreigner's knowledge of the language has already been taken into account in the decision on admission or is to be acquired by means of preparatory measures for the course of study. The period of validity when the residence permit for study purposes is issued for the first time and for each subsequent extension shall be at least one year and should not exceed two years during courses of study and preparatory measures for courses of study; it may be extended where the purpose of residence has not yet been achieved and is achievable within a reasonable period of time.

(1a) A foreigner may also be issued a residence permit for the purpose of applying to a course of study. The maximum permissible duration of residence for a foreigner applying for a place to study shall be nine months.

(2) As a general rule, no residence permit for another purpose of residence shall be granted or extended during the stay in accordance with sub-section 1 or 1a, unless a legal entitlement applies. Section 9 shall not apply.

(3) The residence permit shall entitle the holder to take up employment totalling no more than 120 days or 240 half-days per year, and to take up spare-time student employment. This shall not apply in the first year of residence during a stay for the purpose of preparatory measures for a course of study, except during university holidays and in the case of residence pursuant to sub-section 1a.

(4) After successful completion of the studies, the residence permit may be extended by up to 18 months for the purpose of seeking a job commensurate with this qualification, provided that foreigners are permitted to fill the vacancy concerned in accordance with the provisions contained in Sections 18, 19, 19a and 21. The residence permit shall entitle the holder to pursue an economic activity in this period. Section 9 shall not apply.

(5) A foreigner may be granted a residence permit allowing him or her to attend language courses which do not serve to prepare him or her for a course of study, to take part in a pupil exchange, and, in exceptional cases, to attend school education. Sub-section 2 shall apply *mutatis mutandis*.

(5a) Where such school education pursuant to sub-section 5 serves to acquire vocational qualification, the residence permit shall authorise its holder to work up to 10 hours per week in jobs which need not be related to such vocational qualification.

(5b) After successful completion of such vocational qualification, the residence permit may be extended by up to one year for the purposes of seeking a job

commensurate with this qualification, provided that foreigners are permitted to fill the vacancy in accordance with the provisions contained in Sections 18 and 21. The residence permit shall entitle the holder to pursue an economic activity in this period. Section 9 shall not apply.

(6) A foreigner to whom another Member State of the European Union has issued a residence title for study purposes which falls within the ambit of Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (Official EU Journal no. L 375, p. 12) shall be granted a residence permit for the same purpose where he or she

1. wishes to carry out part of his or her studies at an educational establishment in the federal territory because he or she is obliged under the terms of reference for the course of studies to carry out part of his or her studies at an educational establishment of another Member State of the European Union or
2. fulfils the conditions pursuant to sub-section 1 and wishes to continue in the federal territory part of a course of study commenced in another Member State or to supplement such a course of study in the federal territory and
 - a) is participating in an exchange programme between the Member States of the European Union or in an exchange programme of the European Union or
 - b) has been admitted to a course of study for a period of at least two years in the other Member State of the European Union.

A foreigner who applies for a residence title pursuant to sentence 1, no. 2 is to submit to the competent authority documentation on his or her academic education to date and on the intended course of studies in Germany which verifies that the studies in the federal territory shall constitute a continuation or supplementation of the studies completed to date. Section 9 is not applicable.

(7) Where the foreigner is under 18 years of age, the persons entitled to care and custody of the foreigner must consent to the planned stay.

Section 17

Other educational purposes

(1) A foreigner may be issued a residence permit for the purpose of basic and advanced industrial training, if the Federal Employment Agency has granted approval in accordance with Section 39 or if a statutory provision in accordance with Section 42 or an inter-governmental agreement stipulates that such basic and advanced vocational training is permissible without approval from the Federal Employment Agency. Any restrictions imposed by the Federal Employment Agency in granting approval are to be specified in the residence permit. Section 16 (2) shall apply *mutatis mutandis*.

(2) Where such training serves to acquire vocational qualification, the residence permit shall authorise its holder to work up to 10 hours per week in jobs which need not be related to such vocational training.

(3) After successful completion of such vocational training, the residence permit may be extended by up to one year for the purposes of seeking a job commensurate with this qualification, provided that foreigners are permitted to fill the vacancy in accordance with the provisions contained in Sections 18 and 21. The residence permit shall entitle the holder to pursue an economic activity in this period. Section 9 shall not apply.

Part 4
Residence for the purpose of economic activity

Section 18
Employment

- (1) The admission of foreign employees shall be geared to the requirements of the German economy, according due consideration to the labour market situation and the need to combat unemployment effectively. International treaties shall remain unaffected.
- (2) A foreigner may be granted a residence title for the purpose of taking up employment if the Federal Employment Agency has granted approval in accordance with Section 39 or if a statutory provision in accordance with Section 42 or an inter-governmental agreement stipulates that such employment may be taken up without approval from the Federal Employment Agency. Any restrictions imposed by the Federal Employment Agency in granting approval are to be specified in the residence title.
- (3) A residence permit for the purpose of taking up employment pursuant to sub-section 2 which does not require a vocational qualification may only be issued if regulated by an inter-governmental agreement or if issuance of approval for a residence permit for the said employment is permissible by virtue of a statutory instrument in accordance with Section 42.
- (4) A residence title for the purpose of taking up employment pursuant to sub-section 2 which requires a vocational qualification may only be issued for employment in an occupational group which has been approved by virtue of a statutory instrument in accordance with Section 42. In justified individual cases, a residence permit may be issued for the purpose of taking up employment when there is a public interest, and in particular a regional interest or an interest relating to the economy or the labour market.
- (5) A residence title pursuant to sub-section 2, Section 19 or Section 19a may only be granted if a concrete job offer exists and if any legally prescribed professional licence has been granted or promised.
- (6) The granting or extension of a residence title pursuant to sub-section 2, Section 19 or Section 19a, which does not require approval by the Federal Employment Agency owing to provisions in this Act, in a statutory instrument or an inter-governmental agreement, may be denied if there are grounds that would allow the authorities to deny the necessary approval pursuant to Section 40 (2) no. 3.

Section 18a

**Residence permit for the purpose of employment for qualified foreigners whose
deportation has been suspended**

- (1) A foreigner whose deportation has been suspended may be granted a residence permit for the purpose of taking up employment commensurate with his or her vocational qualification if the Federal Employment Agency has granted approval in accordance with Section 39, and the foreigner
1. has, in the federal territory,
 - a) completed a vocational qualification in a state-recognised or similarly regulated occupation which requires formal training or a course of study at a higher education establishment, or

- b) held a position of employment continuously for two years with a foreign higher education qualification which is recognised or otherwise comparable to a German higher education qualification and which is appropriate to that employment, or
 - c) held a position of employment as a skilled worker continuously for three years which requires a vocational qualification and has not been reliant on public funds for his or her livelihood and that of his or her dependants or other members of his or her household within the year preceding the application for the residence permit except for payments to cover the necessary costs for accommodation and heating, and
2. has sufficient living space at his or her disposal,
 3. has sufficient command of the German language,
 4. has not wilfully deceived the foreigners authority as to circumstances of relevance to his or her situation under residence law,
 5. has not wilfully delayed or obstructed official measures to end his or her residence,
 6. does not have any links to extremist or terrorist organisations and does not support such organisations and
 7. has not been convicted of an offence wilfully committed in the federal territory; fines totalling up to 50 daily rates or up to 90 daily rates in the case of offences which, in accordance with the Residence Act or the Asylum Procedure Act, can only be committed by foreigners shall be ignored as a general principle.

(2) The approval of the Federal Employment Agency pursuant to sub-section 1 shall be decided upon without an examination of priority pursuant to Section 39 (2), sentence 1, no. 1. Section 18 (2), sentence 2 and (5) shall apply mutatis mutandis. The residence permit shall entitle the holder to take up any employment after he or she has been in an employed position commensurate with his or her vocational qualification for a period of two years.

(3) The residence permit may be granted by way of derogation from Section 5 (2) and Section 10 (3), sentence 1.

Section 18b

Settlement permit for graduates of German universities

A foreigner who has successfully completed his or her studies at a state or state-recognised university or a comparable educational establishment in the federal territory shall be granted a settlement permit, if

1. he or she has held a residence title pursuant to Sections 18, 18a, 19a or 21 for two years,
2. he or she has a job commensurate with his or her degree,
3. he or she has paid compulsory or voluntary contributions into the statutory pension scheme for at least 24 months or furnishes evidence of an entitlement to comparable benefits from an insurance or pension scheme or from an insurance company, and
4. the requirements of Section 9 (2), sentence 1, nos. 2, and 4 to 9 are met; Section 9 (2), sentences 2 to 6 shall apply mutatis mutandis.

Section 18c

Residence permit for qualified skilled workers seeking employment

(1) A foreigner with a German or a foreign higher education qualification which is recognised or otherwise comparable to a German higher education qualification and whose subsistence is secure may be granted a residence permit for the purpose of seeking a job commensurate with this qualification for a period of up to six months. The residence permit shall not entitle the holder to pursue an economic activity.

(2) The residence permit may not be extended beyond the maximum period mentioned in sub-section 1. A residence permit pursuant to sub-section 1 can only be issued anew if the foreigner, after leaving Germany, stayed abroad for at least as long as he or she stayed in the federal territory on the basis of a residence title pursuant to sub-section 1.

Sub-section 1 shall only apply to foreigners already residing in the federal territory if they possessed a residence title for the purpose of employment immediately before they were granted a residence permit pursuant to sub-section 1.

Section 19

Settlement permit for highly qualified foreigners

(1) A highly qualified foreigner may be granted a settlement permit in special cases if the Federal Employment Agency has granted approval in accordance with Section 39 or if a statutory provision in accordance with Section 42 or an inter-governmental agreement stipulates that the settlement permit may be granted without approval from the Federal Employment Agency in line with Section 39 and there are justifiable grounds to assume that integration into the way of life which prevails in the Federal Republic of Germany and the foreigner's subsistence without state assistance are assured. The Land government may stipulate that issuance of the settlement permit pursuant to sentence 1 requires the approval of the supreme Land authority or a body to be designated by the latter.

(2) Highly qualified persons in accordance with sub-section 1 are, in particular,

1. researchers with special technical knowledge or
2. teaching personnel in prominent positions or scientific personnel in prominent positions.

Section 19a

EU Blue Card

(1) A foreigner shall be issued with an EU Blue Card pursuant to Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment (Official Journal no. L 155 of 18 June 2009, p. 17) to work in line with his qualification, if

1. he
 - a) holds a German or a foreign higher education qualification which is recognised or otherwise comparable to a German higher education qualification or
 - b) - to the extent that this is stipulated by a statutory instrument pursuant to sub-section 2 below - if he has a comparable qualification demonstrated by at least five years of professional experience,
2. the Federal Employment Agency has given its approval in line with Section 39 below or if a statutory instrument pursuant to Section 42 below or an intergovernmental agreement stipulate that the EU Blue Card may be issued without the approval of the Federal Employment Agency, and

3. if he receives a salary equal to or exceeding that stipulated by the statutory instrument under sub-section 2 below.

(2) The Federal Ministry of Labour and Social Affairs may determine the following by means of statutory instruments:

1. the level of pay pursuant to sub-section 1 no. 3,
2. professions where five years of professional experience demonstrate a qualification comparable to a higher education degree
3. professions where nationals of specific states are to be denied an EU Blue Card, because there is a lack of such qualified workers in the country of origin.

Statutory instruments under nos. 1 and 2 shall require the approval of the Bundesrat.

The EU Blue Card shall be issued for a maximum period of four years from the date of initial issue. Where the duration of the employment contract is less than four years, the EU Blue Card shall be issued or extended for the period covering the employment contract plus three months.

Holders of the EU Blue Card wishing to move to another position within the first two years of employment shall require permission by the foreigners authority; such permission shall be granted if the conditions in sub-section 1 are met.

(5) Foreigners

1. who meet the conditions in Section 9a (3) nos. 1 or 2,
2. who have applied for the determination of whether the conditions in Section 60 (5) or (7), sentence 1, or in Section 60a (2), sentence 1 are met,
3. whose entry into a Member State of the European Union is subject to obligations arising from international treaties to facilitate the entry and temporary residence of specific categories of natural persons exercising trade- or investment-related activities,
4. who have been approved as seasonal workers in a Member State of the European Union,
5. whose deportation has been temporarily suspended pursuant to Section 60a,
6. who come under Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (Official Journal no. L 18 of 21 January 1997, p.1), for the duration of posting to Germany, or
7. who, owing to treaties between the European Union and its Member States on the one hand and third countries on the other, enjoy enjoy rights of free movement equivalent to those of Union citizens.

shall not be issued with an EU Blue Card.

(6) Holders of an EU Blue Card are to be issued with a settlement permit, if they have held a position of employment in line with sub-section 1 for at least 33 months and have made mandatory or voluntary contributions to the statutory pension insurance scheme for that period, or if they furnish evidence of an entitlement to comparable benefits from an insurance or pension scheme or from an insurance company and if the requirements of Section 9 (2), sentence 1, nos. 2, 4 to 6, 8 to 9 are met and if they have basic German language skills. Section 9 (2) sentences 2 to 6 shall apply mutatis mutandis. The period referred to in sentence 1 shall be

reduced to 21 months if the foreigner has a sufficient command of the German language.

Section 20 Research

(1) A foreigner shall be granted a residence permit for research purposes where

1. he or she has concluded an effective admission agreement for the purpose of carrying out a research project with a research establishment which is recognised for implementation of the special admission procedure for researchers in the federal territory pursuant to Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research (Official EU Journal no. L 289, p. 15) and
2. the recognised research establishment has undertaken in writing to bear the costs accruing to public bodies up to six months after termination of the admission agreement for
 - a) the foreigner's subsistence during an unlawful stay in a Member State of the European Union and
 - b) a deportation of the foreigner.

(2) The requirement pursuant to sub-section 1, no. 2 should be waived where the activities of the research establishment are financed primarily from public funds. The requirement may be waived where there is a special public interest in the research project. Section 66 (5), Section 67 (3) and Section 68 (2), sentences 2 and 3 and (4) shall be applicable mutatis mutandis to the declarations furnished pursuant to sub-section 1, no. 2.

(3) The research establishment may also submit the declaration pursuant to sub-section 1, no. 2 to the body responsible for its recognition as a general declaration for all foreigners to whom a residence permit is issued on the basis of an admission agreement concluded with the establishment concerned.

(4) The residence permit shall be issued for a period of at least one year. By way of derogation from sentence 1, where the research project is completed in a shorter period the term of the residence permit shall be limited to the duration of the research project.

(5) Foreigners who hold a residence title from another Member State of the European Union for research purposes pursuant to Directive 2005/71/EC shall be granted a residence permit or a visa for the purpose of carrying out parts of the research project in the federal territory. The residence permit shall be issued for a stay of more than three months only if the conditions pursuant to sub-section 1 are met. Section 9 is not applicable.

(6) A residence permit pursuant to sub-sections 1 and 5, sentence 2 shall entitle the holder to take up research at the research establishment specified in the admission agreement and to take up teaching activities. Changes to the research project during the stay shall not cause this entitlement to expire. A foreigner who meets the conditions pursuant to sub-section 5, sentence 1 may also pursue an economic activity pursuant to sentence 1 without a residence title for a period of three months within a twelve-month period.

(7) Sub-sections 1 and 5 shall not apply to foreigners

1. who are resident in a Member State of the European Union because they have filed an application for refugee status or subsidiary protection within the meaning of

Directive 2004/83/EC or for recognition of international protection status within the meaning of Directive 2011/95/EU.

2. who are resident in a Member State of the European Union under the terms of an arrangement to provide temporary protection,
3. whose deportation has been suspended in a Member State of the European Union on grounds of fact or law,
4. whose research activities form part of doctoral studies or
5. who are transferred by a research establishment in another Member State of the European Union to a German research establishment as an employee.

Section 21 **Self-employment**

(1) A foreigner may be granted a residence permit for the purpose of self-employment if

1. an economic interest or a regional need applies,
2. the activity is expected to have positive effects on the economy and
3. personal capital on the part of the foreigner or a loan undertaking is available to realise the business idea.

Assessment of the prerequisites in accordance with sentence 1 shall focus in particular on the viability of the business idea forming the basis of the application, the foreigner's entrepreneurial experience, the level of capital investment, the effects on the employment and training situation and the contribution towards innovation and research. The competent bodies for the planned business location, the competent trade and industry authorities, the representative bodies for public-sector professional groups and the competent authorities regulating admission to the profession concerned shall be involved in examining the application.

(2) A residence permit for the purpose of self-employment may also be granted if special privileges apply according to agreements under international law on the basis of reciprocity.

(2a) A foreigner who has successfully completed his studies at a state or state-recognised university or a comparable educational establishment in the federal territory or who holds a residence permit as a researcher or scientist in line with Sections 18 or 20 may be issued with a residence permit for self-employment purposes by way of derogation from sub-section 1. The envisaged self-employment must demonstrate a connection to the knowledge acquired during the higher education studies or the research or scientific activities.

(3) Foreigners aged over 45 should be issued with a residence permit only if they possess adequate provision for old age.

(4) The period of validity of the residence permit shall be limited to a maximum of three years. By way of derogation from Section 9 (2), a settlement permit may be issued after a period of three years, provided the foreigner has successfully carried out the planned activity and adequate income ensures the subsistence of the foreigner and the dependants living with him or her as a family unit and whom he is required to support.

(5) By way of derogation from sub-section 1, a foreigner may be granted a residence permit for the purpose of self-employment. A required permit to practice the

profession must have been issued or confirmation must have been provided that such permit will be issued. Sub-section 1, sentence 3, shall apply mutatis mutandis. Sub-section 4 shall not apply.

(6) A foreigner who is to be or has been granted a residence permit for another purpose may be permitted to pursue self-employment while retaining the aforesaid purpose of residence where the permits required under other provisions have been issued or an undertaking has been provided that such permits will be issued.

Part 5

Residence under international law or on humanitarian or political grounds

Section 22

Admission from abroad

A foreigner may be granted a residence permit for the purpose of admission from abroad in accordance with international law or on urgent humanitarian grounds. A residence permit shall be granted if the Federal Ministry of the Interior or the body designated by the Federal Ministry of the Interior to uphold the political interests of the Federal Republic of Germany has declared that the foreigner is to be admitted. In the case of sentence 2, the residence permit shall entitle the holder to pursue an economic activity.

Section 23

Granting of residence by the supreme Land authorities; admission when special political interests apply

(1) The supreme Land authority may order a residence permit to be granted to foreigners from specific states or to certain groups of foreigners defined by other means, in accordance with international law, on humanitarian grounds or in order to uphold the political interests of the Federal Republic of Germany. The order may be issued subject to the proviso that a declaration of commitment be submitted in accordance with Section 68. In order to ensure a nationwide uniform approach, the order shall require the approval of the Federal Ministry of the Interior.

(2) In order to safeguard special political interests of the Federal Republic of Germany, in consultation with the supreme Land authorities the Federal Ministry of the Interior may order foreigners from specific states or certain categories of foreigners defined by other means to be granted approval for admission by the Federal Office for Migration and Refugees. No preliminary proceedings shall take place pursuant to Section 68 of the Code of Administrative Court Procedure. The foreigners concerned shall be issued with a residence permit or settlement permit, in accordance with the approval for admission. The settlement permit may be issued subject to a condition restricting the permissible place of residence. The residence permit shall entitle the holder to pursue an economic activity.

(3) The order may provide for Section 24 to be applied mutatis mutandis, either in part or in its entirety.

Section 23a

Granting of residence in cases of hardship

(1) By way of derogation from the prerequisites for the issuance and extension of residence titles as stipulated in this Act as well as in Sections 10 and 11, the supreme Land authority may, on petition from a Hardship Commission to be established by the Land government by virtue of a statutory instrument, order a residence permit to be issued to a foreigner who is enforceably required to leave the

federal territory (hardship petition). According to the individual case concerned, the said order may be issued with due consideration as to whether the foreigner's subsistence is assured or a declaration of commitment is submitted in accordance with Section 68. A case of hardship will not generally be considered if the foreigner has committed an offence of considerable severity. The authority to grant residence represents the public interest only and does not constitute any rights on the part of the foreigner.

(2) The Land governments are authorised to establish a Hardship Commission in accordance with sub-section 1 by virtue of a statutory instrument, to specify the procedure, grounds for exclusion and qualified requirements pertaining to a declaration of commitment pursuant to sub-section 1, sentence 2, including conditions to be met by the party submitting such a declaration, and to assign the authority to issue orders pursuant to sub-section 1, sentence 1 to other bodies. The Hardship Commissions shall take action solely on their own initiative. No third parties can require a Hardship Commission to take up a specific individual case or to make a specific decision. A Hardship Commission may only decide to file a hardship petition after establishing that urgent humanitarian or personal grounds justify the foreigner's continued presence in the federal territory.

(3) If a foreigner who is dependent on social welfare and who has been issued a residence permit in accordance with sub-section 1 relocates to the area of responsibility of another institution, the social welfare institution in whose area of responsibility a foreigners authority has issued the residence permit shall be required to reimburse the costs accruing to the local social welfare institution which now bears responsibility for the foreigner concerned for a maximum period of three years from the date of issue of the residence permit. The same shall apply mutatis mutandis for the subsistence payments stipulated in Section 6 (1), sentence 1, no. 2 of Book Two of the Social Code.

Section 24

Granting of residence for temporary protection

(1) A foreigner who is granted temporary protection on the basis of a resolution by the Council of the European Union pursuant to Directive 2001/55/EC and who declares his or her willingness to be admitted into the federal territory shall be granted a residence permit for the duration of his or her temporary protection as assessed in accordance with Articles 4 and 6 of said directive.

(2) No temporary protection shall be granted if the conditions stipulated in Section 3 (2) of the Asylum Procedure Act or Section 60 (8), sentence 1 apply; the residence permit shall be refused.

(3) The foreigners pursuant to sub-section 1 shall be allocated to the various Länder. The Länder may agree quotas for admission to grant temporary protection and for allocation. Allocation to the various Länder shall be carried out by the Federal Office for Migration and Refugees. In the absence of any divergent allocation basis agreed between the Länder, the allocation basis stipulated for the allocation of asylum seekers shall apply.

(4) The supreme Land authority or the body appointed by the same shall pass an allocation ruling. The Land governments are authorised to regulate allocation within the Länder via statutory instruments, and may assign this authorisation to other bodies via statutory instruments; Section 50 (4) of the Asylum Procedure Act shall apply mutatis mutandis. The allocation ruling shall not be contestable. Any legal actions shall have no suspensory effect.

- (5) The foreigner shall have no entitlement to stay in a specific Land or a specific place. He or she shall take up his or her accommodation and ordinary residence at the place to which he or she is allocated in accordance with sub-sections 3 and 4.
- (6) Self-employment must not be excluded. The pursuit of an economic activity with employee status shall be subject to Section 4 (2).
- (7) The foreigner shall be provided with written notification of the rights and obligations pertaining to the temporary protection in a language which he or she is able to understand.

Section 25

Residence on humanitarian grounds

- (1) A foreigner shall be granted a residence permit if he or she is recognised as being entitled to asylum. This provision shall not apply if the foreigner has been expelled on serious grounds relating to public safety and law and order. Residence shall be deemed to be permitted up to the time the residence permit is issued. The residence permit shall entitle the holder to pursue an economic activity.
A foreigner is to be granted a residence permit if the Federal Office for Migration and Refugees has granted him or her refugee status within the meaning of Section 3 (1) of the Asylum Procedure Act or subsidiary protection status within the meaning of Section 4 (1) of the Asylum Procedure Act. Sub-section 1, sentences 2 to 4 shall apply *mutatis mutandis*.
- (3) A foreigner should be granted a residence permit if a deportation ban applies pursuant to Section 60 (5) or (7). The residence permit shall not be granted if departure for subsequent admission to another state is possible and reasonable, the foreigner has repeatedly or grossly breached duties to cooperate or serious grounds warrant the assumption that the foreigner
1. has committed a crime against peace, a war crime or a crime against humanity within the meaning of the international instruments which have been drawn up for the purpose of establishing provisions regarding such crimes,
 2. has committed an offence of considerable severity,
 3. is guilty of acts contrary to the objectives and principles of the United Nations, as enshrined in the Preamble and Articles 1 and 2 of the Charter of the United Nations, or
 4. represents a risk to the general public or a risk to the security of the Federal Republic of Germany.
- (4) A foreigner who is non-enforceably required to leave the federal territory may be granted a residence permit for a temporary stay if his or her continued presence in the federal territory is necessary on urgent humanitarian or personal grounds or due to substantial public interests. By way of derogation from Section 8 (1) and (2), a residence permit may be extended if departure from the federal territory would constitute exceptional hardship for the foreigner due to special circumstances pertaining to the individual case concerned.
- (4a) By way of derogation from Section 11 (1), a foreigner who has been the victim of a criminal offence pursuant to Sections 232, 233 or 233a of the Criminal Code may also be granted a residence permit for a temporary stay, even if he or she is enforceably required to leave the federal territory. The residence permit may only be issued if

1. the public prosecutor's office or the criminal court considers his or her temporary presence in the federal territory to be appropriate in connection with criminal proceedings relating to the said criminal offence, because it would be more difficult to investigate the facts of the case without his or her information,
2. he or she has broken off contact to the persons accused of having committed the criminal offence and
3. he or she has declared his or her willingness to testify as a witness in the criminal proceedings relating to the offence.

(4b) By way of derogation from Section 11 (1), a foreigner who has been the victim of a criminal offence pursuant to Sections 10 (1) or 11 (1), no. 3 of the Act to Combat Clandestine Employment or pursuant to Section 15a of the Act on Temporary Employment Businesses may also be granted a residence permit for a temporary stay, even if he or she is enforceably required to leave the federal territory. The residence permit may only be issued if

1. the public prosecutor's office or the criminal court considers the temporary presence of the foreigner in the federal territory to be appropriate in connection with criminal proceedings relating to the said criminal offence, because it would be more difficult to investigate the facts of the case without his or her information and
2. the foreigner has declared his or her willingness to testify as a witness in the criminal proceedings relating to the offence.

The residence permit may be extended if the remuneration owed to the foreigner by the employer has not yet been paid in full, and it would represent particular hardship for the foreigner to pursue his or her entitlement from abroad.

(5) By way of derogation from Section 11 (1), a foreigner who is enforceably required to leave the federal territory may be granted a residence permit if his or her departure is impossible in fact or in law and the obstacle to deportation is not likely to be removed in the foreseeable future. The residence permit should be issued if deportation has been suspended for 18 months. A residence permit may only be granted if the foreigner is prevented from leaving the federal territory through no fault of his or her own. Fault on the part of the foreigner shall apply in particular if he or she furnishes false information, deceives the authorities with regard to his or her identity or nationality or fails to meet reasonable demands to eliminate the obstacles to departure.

Section 25a

Granting of residence in the case of well integrated young people and adolescents

(1) A foreigner whose deportation has been suspended and who was born in Germany or who entered Germany before reaching the age of 14 may be granted a residence permit if

1. he or she has been resident in the federal territory for six years without interruption, either lawfully or by virtue of his or her deportation having been suspended or by holding permission to stay in the federal territory (pending asylum procedures),
2. he or she has successfully attended a school in the federal territory for six years or has acquired a recognised vocational or school-leaving qualification in Germany and
3. the application for the residence permit is filed after reaching the age of 15 and prior to reaching the age of 21,

provided that it appears, on the basis of the child's education and way of life to date, that he or she will be able to integrate into the way of life which prevails in the Federal Republic of Germany. For as long as the young person or adolescent attends school education, vocational training or higher education, the claiming of public benefits for the purpose of ensuring his or her subsistence shall not preclude the granting of the residence permit. The granting of a residence permit shall be refused if deportation has been suspended on the basis of false information furnished by the foreigner or on the grounds of deception by the foreigner about his or her identity or nationality.

(2) The parents or parent possessing the sole right of care and custody of a foreign minor who holds a residence permit pursuant to sub-section 1 may be granted a residence permit if

1. deportation has not been prevented or delayed on the grounds of false information or deceit with regard to identity or nationality or due to a failure to meet reasonable demands to eliminate obstacles to departure and
2. subsistence is ensured independently by means of an economic activity,

The minor children of a foreigner who holds a residence permit pursuant to sentence 1 may be granted residence permits if they live with him or her as a family unit.

(3) A residence permit shall not be granted pursuant to sub-section 2 if the foreigner has been convicted of an offence wilfully committed in the federal territory, whereby fines totalling up to 50 daily rates or up to 90 daily rates in the case of offences which, pursuant to this Act or the Asylum Procedure Act, can only be committed by foreigners, shall be ignored as a general principle.

Section 26

Duration of residence

(1) The residence permit in accordance with this Part may be issued and extended in each instance for a maximum period of three years, but for no longer than six months in cases covered by Section 25 (4), sentence 1 and (5) when the foreigner has not been legally resident in the federal territory for at least 18 months. The residence permit shall be issued for three years in the cases of person granted asylum status and foreigners granted refugee status within the meaning of Section 3 (1) of the Asylum Procedure Act. The residence permit shall be issued for one year in the case of persons granted subsidiary protection status within the meaning of Section 4 (1) of the Asylum Procedure Act; it may be extended for an additional two years. Foreigners who meet the requirements in Section 25 (3) shall be issued a residence permit for at least one year. The residence permits pursuant to Section 25 (4a) and (4b) shall be issued and extended for six months in each instance; a longer period of validity is permissible in substantiated cases.

(2) The residence permit must not be extended if the obstacle to departure or the other grounds precluding a termination of residence have ceased to apply.

(3) A foreigner who has been in possession of a residence permit in accordance with Section 25 (1) or (2), sentence 1, first alternative, for three years shall be granted a settlement permit if the Federal Office for Migration and Refugees has provided notification in accordance with Section 73 (2a) of the Asylum Procedure Act that the conditions for revocation or withdrawal do not apply.

(4) A foreigner who has been in possession of a residence permit in accordance with this Part for seven years may otherwise be granted a settlement permit if the conditions stipulated in Section 9 (2), sentence 1, nos. 2 to 9 are fulfilled. Section 9

(2), sentences 2 to 6 shall apply mutatis mutandis. By way of derogation from Section 55 (3) of the Asylum Procedure Act, the duration of residence pertaining to the asylum procedure preceding granting of the residence permit shall count towards this qualifying period. Section 35 may be applied mutatis mutandis for children who have entered Germany prior to reaching the age of 18.

Part 6

Residence for family reasons

Section 27

Principles pertaining to the subsequent immigration of dependants

(1) The residence permit to enable foreigners to be joined by foreign dependants so that they can live together as a family (subsequent immigration of dependants) shall be granted and extended to protect marriage and the family in accordance with Article 6 of the Basic Law.

(1a) The subsequent immigration of dependants shall not be permitted

1. if it is established that the marriage has been entered into or kinship established solely for the purpose of enabling the subsequently immigrating persons to enter and stay in the federal territory or
2. if there are concrete indications that one of the spouses has been forced into marriage.

(2) Sub-sections 1a and 3, Section 9 (3), Section 9c, sentence 2, Sections 28 to 31 and Section 51 (2) shall apply mutatis mutandis to enable the establishment and maintenance of a registered partnership in the federal territory.

(3) Granting of the residence permit for the subsequent immigration of dependants may be refused if the person to be joined by his or her dependants is reliant on benefits in accordance with Book Two or Book Twelve of the Social Code for the maintenance of other dependants or other members of his or her household. Section 5 (1), no. 2 may be waived.

(4) The period of validity of a residence permit for the purpose of the subsequent immigration of dependants must not exceed the period of validity of the residence permit held by the foreigner whom the dependants concerned are joining in the federal territory. It shall be issued for this period if the foreigner who is to be joined in the federal territory by the subsequently immigrating dependants holds a residence permit pursuant to Section 20, Section 38a or an EU Blue Card. The period of validity of the residence permit must not exceed that of the dependant's passport or passport substitute, however. The residence permit is otherwise to be issued for an initial period of at least one year.

(5) Residence titles issued pursuant to this Part shall entitle their holders to pursue an economic activity.

Section 28

Subsequent immigration of dependants to join a German national

(1) The residence permit shall be granted to the foreign

1. spouse of a German,
2. minor, unmarried child of a German,
3. parent of a minor, unmarried German for the purpose of care and custody

if the German's ordinary residence is in the federal territory. By way of derogation from Section 5 (1), no. 1, it shall be granted in the cases covered by sentence 1, nos. 2 and 3. By way of derogation from Section 5 (1), no. 1, it should be granted as a general rule in the cases covered by sentence 1, no. 1. By way of derogation from Section 5 (1), no. 1, the residence permit may be granted to the parent of a minor, unmarried German who does not possess the right of care and custody of said child, if the family unit already exists in the federal territory. Section 30 (1), sentence 1, nos. 1 and 2, sentence 3 and (2), sentence 1 shall apply mutatis mutandis in the cases covered by sentence 1, no. 1.

(2) As a rule, the foreigner shall be granted a settlement permit if he or she has been in possession of a residence permit for three years, the family unit with the German continues to exist in the federal territory, there are no grounds for expulsion and the foreigner has a sufficient command of the German language. Section 9 (2) sentences 2 to 5 shall apply mutatis mutandis. The residence permit shall otherwise be extended as long as the family unit continues to exist.

(3) Sections 31 and 34 shall apply subject to the proviso that the foreigner's residence title shall be replaced by the ordinary residence of the German in the federal territory. The residence permit granted to a parent of a minor and unmarried German national for the purpose of care and custody is to be extended after the child has come of age as long as the child lives with him or her in a family household and the child is undergoing education or training which leads to a recognised school, vocational or higher education qualification.

(4) Section 36 shall apply mutatis mutandis to other dependants.

Section 29

Subsequent immigration of dependants to join a foreigner

(1) For the purposes of subsequent immigration to join a foreigner,

1. the foreigner must possess a settlement permit, an EU long-term residence permit, a residence permit or an EU Blue Card, and
2. sufficient living space must be available.

(2) The requirements of Section 5 (1), no. 1 and sub-section 1, no. 2 may be waived in the case of the spouse and the minor, unmarried child of a foreigner who is in possession of a residence permit in accordance with Section 25 (1) or (2) or a settlement permit in accordance with Section 26 (3). In the cases covered by sentence 1, these conditions are to be waived where

1. the application for issuance of a residence title which is required in connection with the subsequent immigration of dependants is filed within three months of final recognition as a person entitled to asylum or final granting of refugee status and
2. it is not possible for a foreigner and his or her dependants to live together as a family unit in a state which is not a Member State of the European Union and to which the foreigner or his or her dependants have special ties.

The deadline stated in sentence 2, no. 1 shall also be deemed to be met on the foreigner filing the application on time.

(3) The residence permit may only be granted to the spouse and the minor child of a foreigner who is in possession of a residence permit in accordance with Sections 22, 23 (1) or Section 25 (2), sentence 1, second alternative, or (3) for reasons of international law, on humanitarian grounds or in order to safeguard political interests of the Federal Republic of Germany. Section 26 (4) shall apply mutatis mutandis.

The subsequent immigration of dependants shall not be granted in the cases covered by Section 25 (4) to (5), Section 25a (1) and (2), Section 104a (1), sentence 1, and Section 104b.

(4) By way of derogation from Section 5 (1) and Section 27 (3), the residence permit shall be granted to the spouse and the minor child of a foreigner or the minor child of the foreigner's spouse if the foreigner has been granted temporary protection in accordance with Section 24 (1) and

1. the family unit in the country of origin has been broken up as a result of the foreigner having fled said country and
2. the dependant is admitted from another Member State of the European Union or is located outside of the European Union and is in need of protection.

The granting of a residence permit to other dependants of a foreigner who has been granted temporary protection pursuant to Section 24 (1) shall be subject to Section 36. Section 24 shall apply to dependants who are admitted pursuant to this subsection.

Section 30

Subsequent immigration of spouses

(1) A foreigner's spouse shall be granted a residence permit if

1. both spouses are at least 18 years of age,
2. the spouse is able to communicate in the German language at least on a basic level and
3. the foreigner
 - a) possesses a settlement permit,
 - b) possesses an EU long-term residence permit,
 - c) possesses a residence permit pursuant to Section 20 or Section 25 (1) or (2),
 - d) has held a residence permit for two years and the residence permit is not subject to a subsidiary provision pursuant to Section 8 (2) or the subsequent issuance of a settlement permit has not been ruled out by virtue of a rule of law,
 - e) is in possession of a residence permit, if the marriage existed at the time of said permit being granted and the duration of the foreigner's stay in the federal territory is expected to exceed one year,
 - f) possesses a residence permit pursuant to Section 38a and the marriage already existed in the Member State of the European Union in which the foreigner has the status of a long-term resident, or
 - g) holds an EU Blue Card.

Sentence 1, nos. 1 and 2 shall have no bearing on issuance of the residence permit where

1. the foreigner is in possession of a residence title pursuant to Sections 19 to 21 and the marriage already existed at the time when he or she established his or her main ordinary residence in the federal territory,
2. the foreigner held a residence permit pursuant to Section 20 immediately before a settlement permit or an EU long-term residence permit was issued, or

3. the conditions specified in sentence 1, no. 3, letter f apply.

Sentence 1, no. 2 shall have no bearing on issuance of the residence permit where

1. the foreigner holds a residence title pursuant to Section 25 (1) or (2) or Section 26 (3) and the marriage already existed at the time when the foreigner established his or her main ordinary residence in the federal territory,
2. the spouse is unable to provide evidence of a basic knowledge of German on account of a physical, mental or psychological illness,
3. the spouse's need for integration is discernibly minimal within the meaning of a statutory instrument issued pursuant to Section 43 (4) or the spouse would, for other reasons, not be eligible for an integration course pursuant to Section 44 after entering the federal territory,
4. by virtue of his or her nationality, the foreigner may enter and stay in the federal territory without requiring a visa for a period of residence which does not constitute a short stay, or
5. the foreigner holds an EU Blue Card.

(2) By way of derogation from sub-section 1, sentence 1, no. 1, the residence permit may be issued to avoid particular hardship. Where the foreigner holds a residence permit, the other conditions stipulated in sub-section 1, sentence 1, no. 3, letter e may be waived.

(3) By way of derogation from Section 5 (1), no. 1 and Section 29 (1), no. 2, the residence permit may be extended for as long as the marital cohabitation continues.

(4) Where a foreigner is simultaneously married to several spouses and lives together with one spouse in the federal territory, no other spouse shall be granted a residence permit pursuant to sub-section 1 or sub-section 3.

Section 31

Independent right of residence of spouses

(1) In the event of termination of marital cohabitation, the spouse's residence permit shall be extended by one year as an independent right of residence unrelated to the purpose of the subsequent immigration of dependants if

1. marital cohabitation has lawfully existed in the federal territory for at least three years or

2. the foreigner has died while marital cohabitation existed in the federal territory and the foreigner was in possession of a residence permit, settlement permit or EU long-term residence permit up to this point in time, unless he or she was unable to apply for an extension in time for reasons beyond his or her control. Sentence 1 shall not apply if no extension of the foreigner's residence permit is permissible or if it is not permissible to issue the foreigner with a residence permit or EU long-term residence permit because this is precluded by a rule of law on account of the purpose of residence or by a subsidiary provision attaching to the residence permit pursuant to Section 8 (2).

(2) The requirement stipulated in sub-section 1, sentence 1, no. 1 for marital cohabitation to have existed lawfully for three years in the federal territory shall be waived if necessary to enable the spouse to continue his or her residence in order to avoid particular hardship, unless an extension of the foreigner's residence permit is not permitted. Particular hardship shall be deemed to apply if the obligation to return

to the country of origin resulting from the termination of marital cohabitation threatens to substantially harm the foreigner's legitimate interests, or if the continuation of marital cohabitation is unreasonable due to the harm to the foreigner's legitimate interests; in particular this is to be assumed where the spouse is the victim of domestic violence. Such legitimate interests shall also include the well-being of a child living with the spouse as part of a family unit. In order to avoid abuse, extension of the residence permit may be refused if the spouse is reliant on benefits in accordance with Book Two or Book Twelve of the Social Code for reasons for which he or she is responsible.

(3) By way of derogation from Section 9 (2), sentence 1, nos. 3, 5 and 6, the spouse shall also be granted a settlement permit if the spouse's subsistence is ensured after the termination of marital cohabitation by maintenance payments from the foreigner's own funds and the foreigner possesses a settlement permit or an EU long-term residence permit.

(4) Without prejudice to sub-section 2, sentence 4, claiming benefits in accordance with Book Two or Book Twelve of the Social Code shall not preclude extension of the residence permit. The residence permit may thus be extended for a limited period for as long as the conditions for granting the settlement permit or EU long-term residence permit have yet to be met.

Section 32

Subsequent immigration of children

(1) The minor, unmarried child of a foreigner shall be granted a residence permit if the parents or the parent possessing the sole right of care and custody hold a residence permit, an EU Blue Card, a settlement permit or an EU long-term residence permit.

(2) If the minor, unmarried child is aged 16 or over and if it does not relocate the central focus of its life to Germany together with its parents or the parent possessing the sole right of care and custody, sub-section 1 shall only apply if the child speaks German and appears, on the basis of his or her education and way of life to date, that he or she will be able to integrate into the way of life prevailing in the Federal Republic of Germany. The first sentence above shall not apply if

1. the foreigner possesses a resident permit in accordance with Section 25 (1) or (2) or a settlement permit in accordance with Section 26 (3) or
2. the foreigner or his or her spouse living together as a family possess a settlement permit in accordance with Section 19 or an EU Blue Card.

(3) Where parents share the right of care and custody, a residence permit pursuant to sub-sections 1 or 2 should also be granted for the purpose of joining just one parent, if the other parent has given his or her consent to the child's stay in Germany or if the relevant binding decision has been supplied by a competent authority.

(4) A minor, unmarried child of a foreigner may otherwise be granted a residence permit if necessary in order to prevent special hardship on account of the circumstances pertaining to the individual case concerned. The child's well-being and the family situation are to be taken into consideration in this connection.

Section 33

Birth of a child in the federal territory

By way of derogation from Sections 5 and 29 (1), no. 2, a child who is born in the federal territory may be granted a residence permit ex officio if one parent possesses a residence permit, settlement permit or EU long-term residence permit. Where both parents or the parent possessing sole right of care and custody hold a residence permit, a settlement permit or an EU long-term residence permit at the time of birth, the child born in the federal territory shall be granted a residence permit ex officio. A child born in the federal territory whose mother or father possesses a visa or is permitted to stay in the federal territory without a visa at the time of the birth shall be permitted to stay in the federal territory until such time as the visa or the lawful period of stay without a visa expires.

Section 34

Children's right of residence

(1) By way of derogation from Section 5 (1), no. 1 and Section 29 (1), no. 2, the residence permit granted to a child shall be extended as long as a parent possessing the right of care and custody holds a residence permit, settlement permit or EU long-term residence permit and the child lives together with the said parent as part of a family unit, or if the child would have a right of return pursuant to Section 37 if he or she left the federal territory.

(2) Upon a child coming of age, the residence permit granted to the child shall become an independent right of residence which is unrelated to the purposes of the subsequent immigration of dependants. The same shall apply in the case of the granting of a settlement permit and an EU long-term residence permit or if the residence permit is extended accordingly pursuant to Section 37.

(3) The residence permit may be extended for as long as the conditions for granting the settlement permit and the EU long-term residence permit have yet to be met.

Section 35

Children's independent, permanent right of residence

(1) By way of derogation from Section 9 (2), a minor foreigner who possesses a residence permit in accordance with this Part shall be granted a settlement permit if he or she has been in possession of the residence permit for five years on reaching the age of 16. The same shall apply if

1. the foreigner is of age and has been in possession of the residence permit for five years,
2. he or she has a sufficient command of the German language, and
3. his or her subsistence is ensured or he or she is undergoing education or training which leads to a recognised school, vocational or higher education qualification.

(2) Periods in which the foreigner has attended school outside of the federal territory shall not normally be taken into consideration with regard to the required duration of possession of a residence permit as stipulated in sub-section 1.

(3) No entitlement to the granting of a settlement permit pursuant to sub-section 1 shall apply if

1. a reason for expulsion based on the foreigner's personal conduct applies,
2. the foreigner has been sentenced to a term of youth custody of at least six months or a prison term of at least three months or a fine of at least 90 daily rates in the past three years due to an intentionally committed offence, or if a youth prison sentence has been suspended, or

3. the foreigner's subsistence cannot be assured without claiming benefits in accordance with Book Two or Book Twelve of the Social Code or juvenile welfare pursuant to Book Eight of the Social Code, unless the foreigner is undergoing education or training which leads to a recognised school or vocational qualification.

The settlement permit may be granted or the residence permit extended in the cases covered by sentence 1. If, in cases covered by sentence 1, no. 2, the foreigner is placed on probation or the youth prison sentence is suspended, the residence permit will generally be extended until the end of the probationary period.

(4) The requirements stipulated in sub-section 1, sentence 2, nos. 2 and 3 and sub-section 3, sentence 1, no. 3 shall be waived if the foreigner is unable to fulfil them on account of a physical, mental or psychological illness or handicap.

Section 36

Subsequent immigration of parents and other dependants

(1) By way of derogation from Section 5 (1), no. 1 and Section 29, (1), no. 2, a residence permit shall be issued to the parents of a minor foreigner who holds a residence permit pursuant to Section 25 (1) or (2) or a residence permit pursuant to Section 26 (3), if no parent possessing the right of care and custody is resident in the federal territory.

(2) Other dependants of a foreigner may be granted a residence permit for the purpose of subsequent immigration to join the foreigner, if necessary in order to avoid particular hardship. Section 30 (3) and Section 31 shall apply mutatis mutandis to adult dependants and Section 34 shall apply mutatis mutandis to minor dependants.

Part 7

Special rights of residence

Section 37

Right of return

(1) A foreigner whose ordinary residence as a minor was in the federal territory shall be granted a residence permit if

1. the foreigner lawfully resided in the federal territory for eight years prior to his or her departure and attended a school in the federal territory for six years,
2. the foreigner's subsistence is ensured by his or her own economic activity or by a maintenance commitment into which a third party has entered for a period of five years and
3. the application for the residence permit is filed after reaching the age of 15 and prior to reaching the age of 21, and within five years of departure.

The residence permit shall entitle the holder to pursue an economic activity.

(2) Derogation from the requirements stipulated in sub-section 1, sentence 1, nos. 1 and 3 shall be possible in order to prevent particular hardship. The requirements stipulated in sub-section 1, sentence 1, no. 1 may be waived if the foreigner has acquired a recognised school-leaving qualification in the federal territory.

(2a) Derogation from the requirements stipulated in sub-section 1, sentence 1, nos. 1 to 3 shall be possible if the foreigner has been unlawfully forced into marriage by means of violence or threat of serious harm and has been prevented from returning to Germany, and he or she files the application for a residence permit no more than three months after the coercive situation has ended and within five years of

departure, and it appears, on the basis of the foreigner's education and way of life to date, that he or she will be able to integrate into the way of life which prevails in the Federal Republic of Germany. Where the foreigner fulfils the requirements of sub-section 1, sentence 1, no. 1, he or she shall be granted a residence permit if he or she has been unlawfully forced into marriage by means of violence or threat of serious harm and has been prevented from returning to Germany, and he or she files the application for a residence permit no more than three months after the coercive situation has ended and within ten years of departure. Sub-section 2 shall remain unaffected.

(3) The residence permit may be refused

1. if the foreigner was expelled or could have been expelled when he or she left the federal territory,
2. if a reason for expulsion exists or
3. as long as the foreigner is a minor and his or her personal care in the federal territory is not assured.

(4) Extension of the residence permit shall not be precluded by the fact that the foreigner's subsistence is no longer ensured on the basis of his or her own economic activity or that the maintenance commitment no longer applies due to expiry of the five-year period.

(5) A foreigner who receives a pension from an institution in the federal territory shall generally be granted a residence permit if he or she lawfully resided in the federal territory for at least eight years prior to his or her departure.

Section 38

Residence title for former Germans

(1) A former German

1. shall be granted a settlement permit if he or she had been ordinarily resident as a German in the federal territory for five years when he or she lost his or her German nationality,
2. shall be granted a residence permit if he or she had been ordinarily resident in the federal territory for at least one year when he or she lost his or her German nationality.

The application for a residence title pursuant to sentence 1 shall be filed within six months of obtaining knowledge of the loss of German nationality. Section 81 (3) shall apply mutatis mutandis.

(2) A former German who is ordinarily resident abroad may be granted a residence permit if he or she possesses a sufficient command of the German language.

(3) In special cases, the residence title pursuant to sub-section 1 or 2 may be granted by way of derogation from Section 5.

(4) The residence permit in accordance with sub-section 1 or 2 shall entitle the holder to pursue an economic activity. The pursuit of an economic activity is permitted within the period for filing an application specified in sub-section 1, sentence 2 and, upon an application being filed, up to the time of the foreigners authority's decision on the application.

(5) Sub-sections 1 to 4 shall apply mutatis mutandis to a foreigner who, for reasons beyond his or her control, has been treated as a German by German bodies to date.

Section 38a

Residence permit for persons who possess the status of long-term residents in other Member States of the European Union

(1) A foreigner who has the status of a long-term resident in another Member State of the European Union shall be granted a residence permit if he or she wishes to stay in the federal territory for a period in excess of three months. Section 8 (2) shall not apply.

(2) Sub-section 1 shall not apply to foreigners who

1. are dispatched by a service provider in connection with the cross-border provision of services
2. intend to provide any other form of cross-border services or
3. wish to work in the federal territory as seasonal workers or to take up employment as cross-frontier workers.

(3) The residence permit shall entitle its holder to take up employment if the Federal Employment Agency has granted approval in accordance with Section 39 (2) or if a statutory provision in accordance with Section 42 or an inter-governmental agreement stipulates that such employment may be taken up without approval from the Federal Employment Agency. The residence permit shall entitle its holder to take up self-employment, provided the requirements referred to in Section 21 are met. Where the residence title pursuant to sub-section 1 is issued for study purposes or for other educational purposes, Sections 16 and 17 shall apply mutatis mutandis. In the cases covered by Section 17, the residence title shall be issued without the approval of the Federal Employment Agency.

(4) A residence permit issued pursuant to sub-section 1 may be provided with a subsidiary provision pursuant to Section 39 (4) for no longer than twelve months. In the case of issuance of the residence permit pursuant to sub-section 1, the period stated in sentence 1 shall begin upon the holder being permitted to take up employment for the first time. After this period has elapsed, the residence permit shall entitle the holder to pursue an economic activity.

Part 8

Involvement of the Federal Employment Agency

Section 39

Approval of employment for a foreigner

(1) A residence title which permits a foreigner to take up employment may only be granted with the approval of the Federal Employment Agency, in the absence of any provisions to the contrary in statutory instruments. Such approval may be granted if laid down in intergovernmental agreements, an act or a statutory instrument.

(2) The Federal Employment Agency may approve the granting of a residence permit to take up employment pursuant to Section 18 or of an EU Blue Card pursuant to Section 19a if

1.
 - a) the employment of foreigners does not result in any adverse consequences for the labour market, in particular with regard to the employment structure, the regions and the branches of the economy, and
 - b) no German workers, foreigners who possess the same legal status as German workers with regard to the right to take up employment or other foreigners who

are entitled to preferential access to the labour market under the law of the European Union are available for the type of employment concerned or

2. it has established, via investigations for individual occupational groups or for individual industries in accordance with sentence 1, no. 1, letters a and b, that filling the vacancies with foreign applicants is justifiable in terms of labour market policy and integration aspects

and the foreigner is not employed on terms less favourable than apply to comparable German workers. German workers and foreigners of equal status shall also be deemed to be available if they can only be placed with assistance from the Federal Employment Agency. The potential employer of a foreigner who requires approval in order to take up employment shall be required to furnish the Federal Employment Agency with information on pay, working hours and other terms and conditions of employment.

(3) Sub-section 2 shall also apply if approval from the Federal Employment Agency is required in order to take up employment in cases of residence for other purposes covered in Parts 3, 5 or 7.

(4) The approval may stipulate the duration and form of occupational activity and restrict the employment to specific plants or regions.

(5) The Federal Employment Agency may approve the granting of a settlement permit pursuant to Section 19 if employment of the foreigner does not give rise to any adverse consequences on the labour market.

(6) The Federal Employment Agency may permit nationals of those states which have acceded to the European Union in accordance with the treaty of 25 April 2005 on the accession of the Republic of Bulgaria and Romania to the European Union (Federal Law Gazette 2006 II, p. 1146) or in accordance with the treaty of 9 December 2011 on the accession of the Republic of Croatia to the European Union (Federal Law Gazette 2013 II, p. 586) to take up employment which requires a vocational qualification subject to the conditions stipulated in sub-section 2, insofar as provisions which diverge from the statutory provisions of the European Union apply under the said treaties. Such nationals are to be granted priority over nationals of third countries who enter the federal territory for the purpose of employment.

Section 40

Grounds for refusal

(1) Approval pursuant to Section 39 is to be refused if

1. the employment has come about on the basis of unlawful placement or recruitment or
2. the foreigner intends to take up employment as a temporary worker (Section 1 (1) of the Act on Temporary Employment Businesses).

(2) Approval may be refused if

1. the foreigner has culpably violated Section 404 (1) or (2) nos. 2 to 13 of Book Three of the Social Code, Sections 10, 10a or 11 of the Act to Combat Clandestine Employment or Sections 15, 15a or Section 16 (1), no. 2 of the Act on Temporary Employment Businesses,
2. important personal grounds relating to the foreigner exist, or
3. if the future employer or his representative as authorised by statutes or law has been subject to a non-appealable fine within the past five years for a breach of

Section 404 (1) or (2) no. 3 of Book Three of the Social Code, or if they have been subject to a non-appealable fine or convicted to a term of imprisonment for a breach of Sections 10, 10a or 11 of the Act to Combat Clandestine Employment or of Sections 15, 15a or Section 16 (1), no. 2 of the Act on Temporary Employment Businesses.

Section 41

Revocation of approval

The approval may be revoked, if the foreigner is employed on less favourable terms than comparable German workers (Section 39 (2), sentence 1, or an offence is committed pursuant to Section 40 (1) or (2).

Section 42

Authorisation to issue regulations and instructions

(1) The Federal Ministry of Labour and Social Affairs may determine the following by means of statutory instruments, with the approval of the Bundesrat:

1. Types of employment for which no approval is necessary from the Federal Employment Agency (Section 17, sentence 1, Section 18 (2), sentence 1, Section 19 (1), Section 19a (1), no. 2,
2. occupational groups for which the employment of foreign labour can be approved in accordance with Section 18 and, where necessary, further conditions pertaining to the admission of such employees to the German labour market,
3. exceptions for nationals of certain states,
4. activities which for the purposes of enforcement of this Act are never to be regarded as employment or are not to be regarded as such under certain conditions.

(2) The Federal Ministry of Labour and Social Affairs may determine the following by means of statutory instruments, without the approval of the Bundesrat:

1. the conditions and the procedure for the granting of approval by the Federal Employment Agency, whereby an alternative procedure for establishment of priorities may be regulated as well,
2. details concerning restriction of the approval based on time, enterprise, occupation or region, in accordance with Section 39 (4),
3. exceptional cases in which approval may be granted by way of derogation from Section 39 (2),
4. types of employment for which no approval is required from the Federal Employment Agency in accordance with Section 4 (2), sentence 3,
5. cases in which foreigners whose deportation has been suspended may be permitted to take up employment by way of derogation from Section 4 (3), sentence 1.

(3) The Federal Ministry of Labour and Social Affairs may issue instructions to the Federal Employment Agency on implementation of the provisions of this Act and the statutory instruments issued in connection with it, of the provisions enacted by the European Union on access to the labour market and of the intergovernmental agreements on the employment of workers.

Chapter 3

Integration

Section 43 **Integration course**

(1) Foreigners living lawfully in the federal territory on a permanent basis shall be provided with support in integrating into the economic, cultural and social life of the Federal Republic of Germany and are expected to undertake commensurate integration efforts in return.

(2) Integration efforts by foreigners shall be supported by a basic package of measures to promote integration (integration course). The aim of the integration course shall be to successfully impart the German language, legal system, culture and history to foreigners. In this way, it is intended to acquaint foreigners with the way of life in the federal territory to such an extent as to enable them to act independently in all aspects of daily life, without the assistance or mediation of third parties.

(3) The integration course shall comprise a basic and advanced language course of identical duration to provide sufficient command of the language and an orientation course to impart knowledge of the legal system, culture and history in Germany. The integration course shall be coordinated and carried out by the Federal Office for Migration and Refugees, which may enlist the services of private or public organisations to this end. Reasonable fees are to be charged for attending the integration course, according due consideration to the ability to pay. The person who is obliged to ensure the foreigner's subsistence shall also be obliged to pay such a charge.

(4) The Federal Government shall be authorised to regulate further details of the integration course, in particular the basic structure, the duration, the content and implementation of the courses, the criteria relating to the selection and approval of organisations carrying out the courses and the requirements and general conditions pertaining to proper and successful participation in the courses and the appurtenant certification, including arrangement for the payment of costs, and the necessary transmission of data between the bodies involved and the processing of data by the Federal Office for Migration and Refugees in accordance with Section 88a (1), via a statutory instrument without the approval of the Bundesrat. This shall not include the examination and certification requirements of the final integration course tests, which shall be defined by statutory instruments issued by the Federal Ministry of the Interior without Bundesrat approval.

(5) (revoked)

Section 44 **Entitlement to attend an integration course**

(1) A foreigner who is resident in the federal territory on a permanent basis shall be entitled to attend an integration course on one occasion

1. upon receiving a residence permit for the first time
 - a) for employment purposes (Sections 18, 21),
 - b) for the purpose of subsequent immigration by dependants (Sections 28, 29, 30, 32, 36),
 - c) on humanitarian grounds pursuant to Section 25 (1) or (2),
 - d) as a long-term resident pursuant to Section 38a or
2. upon receiving a residence title pursuant to Section 23 (2).

Permanent residence is generally to be assumed if the foreigner receives a residence permit of at least one year's duration or has held a residence permit for more than 18 months, unless the stay is of a temporary nature.

(2) The attendance entitlement pursuant to sub-section 1 shall lapse two years after granting of the residence title establishing the entitlement or upon said title lapsing.

(3) The entitlement to attend an integration course shall not apply

1. to children, juveniles and young adults who take up school education or continue their previous school education in the Federal Republic of Germany,
2. when the need for integration is discernibly minimal or
3. when the foreigner already possesses a sufficient command of the German language.

In cases covered by sentence 1, no. 3, the entitlement to attend an orientation course shall remain unaffected by this proviso.

(4) A foreigner who does not possess or no longer possesses an attendance entitlement may be allowed to attend, according to the available number of places in the course concerned. This provision shall apply mutatis mutandis to German nationals who do not possess a sufficient command of the German language and have special integration needs.

Section 44a

Obligation to attend an integration course

(1) A foreigner shall be obliged to attend an integration course, if

1. he or she is entitled to attend in accordance with Section 44 and
 - a) is unable to communicate at least at a basic level in the German language or
 - b) does not possess a sufficient command of the German language at the time of issuance of a residence title pursuant to Section 23 (2), Section 28 (1), sentence 1, no. 1 or Section 30 or
2. he or she receives benefits in accordance with Book Two of the Social Code and an integration agreement pursuant to Book Two of the Social Code provides for participation in an integration course or
3. he or she has special integration needs and the foreigners authority requires him to participate in an integration course.

In cases covered by sentence 1, no. 1, the foreigners authority shall ascertain whether the foreigner is obliged to attend on issuing the residence title. In the cases covered by sentence 1, no. 2 the foreigner shall also be obliged to attend if the institution providing basic security for job seekers requires him or her to attend. In the cases covered by sentence 1, nos. 1 and 3, where benefits are received in accordance with Book Two of the Social Code for the measures pursuant to Section 15 of Book Two of the Social Code the institution providing basic security for job seekers should, as a general rule, follow the obligation imposed by the foreigners authority. Where, in individual cases, the institution providing basic security for job seekers reaches a divergent decision, it is to notify the foreigners authority accordingly, which shall then revoke the obligation. The obligation shall be revoked where it is unreasonable to expect a foreigner to attend a part-time course in addition to pursuing an economic activity.

(1a) Except where the obligation is withdrawn or revoked, the obligation to attend an integration course pursuant to sub-section 1, sentence 1, no. 1 shall expire only if the foreigner has duly attended the integration course.

(2) The obligation to attend an integration course shall not apply to foreigners

1. who are undergoing vocational training or any other form of training or education in the federal territory,
2. who furnish evidence of attendance of comparable education measures in the federal territory or
3. for whom attendance on a sustained basis is unfeasible or unreasonable.

(2a) Foreigners who hold a residence permit pursuant to Section 38a shall be exempted from the obligation to attend an orientation course if they are able to prove that they have already participated in integration measures in another Member State of the European Union in order to attain their legal status as a long-term resident.

(3) If a foreigner fails to meet his or her attendance obligation for reasons for which he or she is responsible or fails to pass the final test, prior to extending his or her residence permit the competent foreigners authority shall inform the foreigner of the possible consequences of his or her actions (Section 8 (3), Section 9 (2) nos. 7 and 8, Section 9a (2), first sentence, nos. 3 and 4, of this Act, Section 10 (3) of the Nationality Act). The foreigners authority may take administrative enforcement measures in order to enjoin the foreigner to meet his or her obligation to attend. In case of non-compliance with the obligation to attend, the prospective charge to cover costs may also be levied in advance in a single sum by issuing an official notice of fees.

Section 45

Integration programme

The integration course should be complemented by additional integration measures organised by the Federation and the Länder, in particular social education and migration-specific counselling services. The Federal Ministry of the Interior or the body appointed by the said Ministry shall develop a nationwide integration programme which, in particular, shall identify the existing integration measures for foreigners and ethnic German resettlers which are available from the Federation, Länder, local government authorities and private organisations and make recommendations on the further development of the integration measures. The Länder, local government authorities, the commissioners of the Federal government, Länder and local government authorities for issues relating to foreigners and the Federal Government Commissioner for Matters Related to Ethnic German Resettlers shall be involved in the development of the nationwide integration programme and in compiling informational materials on existing integration measures. Religious communities, trade unions, employers' associations, voluntary welfare organisations and other social interest groups should also be involved.

Chapter 4

Administrative provisions

Section 46

Administrative orders

(1) The foreigners authority may undertake measures to facilitate the departure of a foreigner who is enforceably required to leave the federal territory; in particular, it may oblige the foreigner to take up his or her residence at a place of its designation.
(2) A foreigner may be prohibited from leaving the federal territory in appropriate application of Section 10 (1) and (2) of the Passport Act. A foreigner may otherwise be prohibited from leaving the federal territory only if he or she intends to enter another state without being in possession of the necessary documents and permits. The prohibition of departure shall be lifted as soon as the reason for its imposition ceases to apply.

Section 47

Prohibition and restriction of political activities

(1) Foreigners may pursue political activities within the bounds of the prevailing general statutory provisions. A foreigner's political activities may be restricted or prohibited if they

1. impair or endanger the development of informed political opinion in the Federal Republic of Germany, the peaceful co-existence of Germans and foreigners or of different groups of foreigners in the federal territory, public safety and law and order or any other substantial interests of the Federal Republic of Germany,
2. may be counter to the interests of the Federal Republic of Germany in the field of foreign policy or to the obligations of the Federal Republic of Germany under international law,
3. contravene the laws of the Federal Republic of Germany, particularly in connection with the use of violence,
4. are intended to promote parties, other organisations, establishments or activities outside of the federal territory whose aims or means are incompatible with the fundamental values of a system of government which respects human dignity.

(2) A foreigner's political activities shall be prohibited if they

1. endanger the free and democratic constitutional system or the security of the Federal Republic of Germany or contravene the codified standards of international law,
2. publicly support, advocate or incite the use of violence as a means of enforcing political, religious or other interests or are capable of inciting such violence or
3. support organisations, political movements or groups within or outside of the federal territory which have initiated, advocated or threatened attacks on persons or objects in the federal territory or attacks on Germans or German establishments outside of the federal territory.

Section 48

Obligations relating to identification papers

(1) On request, a foreigner shall be obliged to present and surrender

1. his or her passport, passport substitute or substitute identity document and
2. his or her residence title or a document confirming suspension of deportation

to the authorities entrusted with enforcing the law on foreigners and to leave such documents with the said authorities for a temporary period, where necessary in order to implement or safeguard measures in accordance with this Act.

(2) In the case of a foreigner who neither possesses a passport or passport substitute nor can reasonably be expected to obtain one, it shall be sufficient for the purposes of the obligations relating to identification papers to carry the document confirming a residence title or the suspension of deportation, provided that such document contains the foreigner's personal details and a photograph and is marked to indicate that it is a substitute identity document.

(3) If the foreigner does not possess a valid passport or passport substitute, he or she shall be obliged to cooperate in efforts to obtain the identity paper and to present and surrender to and leave with the authorities entrusted with enforcing this Act all such documents and other papers as may be of importance in establishing his or her identity and nationality and in establishing a possibility of returning him or her to another state and duly enforcing such a return. If the foreigner fails to meet his obligation in accordance with sentence 1 and if actual indications exist that he or she is in possession of such documents, he or she and the objects on his or her person may be searched. The foreigner shall be required to tolerate this measure.

(4) Where the passport obligation (Section 3 (1)) is waived pursuant to Section 5 (3) or Section 33, a substitute identity document shall be issued. Sub-section 3 shall remain unaffected.

Section 49

Verification, establishment and documentation of identity

(1) Subject to the conditions stipulated in Section 48 (1), the authorities entrusted with enforcing this Act may read out the biometric and other data stored on the electronic storage and processing medium of a document pursuant to Section 48 (1), nos. 1 and 2, obtain the required biometric data from the holder of the document and compare the biometric data. All other authorities to which data are transmitted from the Central Register of Foreigners pursuant to Sections 15 to 20 of the Act on the Central Register of Foreigners and the registration authorities shall also be authorised to undertake measures pursuant to sentence 1, insofar as they are permitted to verify the authenticity of the document or the holder's identity. Biometric data within the meaning of sentence 1 shall comprise only the fingerprints and the photograph.

(2) On request, every foreigner shall be obliged to furnish the authorities entrusted with enforcing the law concerning foreigners with information on his or her age, identity and nationality and to submit such declarations in connection with the procurement of return travel documents as are required by the diplomatic mission of the state whose nationality he or she possesses or putatively possesses and are in line with German law.

(3) In case of doubt regarding the foreigner's identity, age or nationality, the measures necessary in order to establish his or her identity, age or nationality shall be undertaken

1. if the foreigner is to be granted entry or a residence title or his or her deportation is to be suspended or
2. if necessary in order to implement other measures in accordance with this Act.

(4) The foreigner's identity shall be verified by photographing and fingerprinting when allocation is carried out in accordance with Section 15a.

(5) The necessary measures should be undertaken in order to establish and document the foreigner's identity

1. if the foreigner intends to enter or has entered the federal territory with a forged passport or falsified passport or passport substitute;
2. if there are other reasons to believe that the foreigner is intending to re-enter the federal territory unlawfully, following refused entry or the termination of a stay in the federal territory;
3. in the case of foreigners who are enforceably required to leave the federal territory, insofar as removal or deportation come into consideration;
4. if the foreigner is to be refused entry and returned to a safe third country, or if he or she is to be removed to such country as specified in Section 26a (2) of the Asylum Procedure Act;
5. in the case of an application for a national visa;
6. when temporary protection is granted in accordance with Section 24 and in the cases covered by Sections 23 and 29 (3);
7. if a reason for refusal pursuant to Section 5 (4) has been established.

(6) Measures within the meaning of sub-sections 3 to 5, with the exception of sub-section 5, no. 5, are the taking of photographs and fingerprints, the taking of measurements and similar measures, including bodily intrusions undertaken by a doctor in accordance with prevailing medical standards in order to establish the foreigner's age, provided that no ill effect on the latter's health is to be feared. The measures shall be permissible on foreigners aged 14 or over; any doubts as to whether the foreigner has reached 14 years of age shall be to the detriment of the foreigner. These measures shall only be permissible for the purpose of establishing the foreigner's identity if the identity cannot be established by other means, in particular via inquiries to other authorities, or if the identity cannot be established in time by such other means or if such other means would involve substantial difficulties.

(6a) Measures within the meaning of sub-section 5, no. 5 are the taking of photographs and fingerprints.

(7) In order to determine the foreigner's state of origin or region of origin, the foreigner's spoken word may be recorded on audio and data media. Such recordings may only be made if the foreigner is informed beforehand.

(8) The identity of a foreigner aged 14 or over who is intercepted in conjunction with unlawful entry from a third state and not refused entry shall be documented by taking prints of all ten fingers.

(9) The identity of a foreigner aged 14 or over who is residing in the federal territory without the necessary residence title shall be documented by taking prints of all ten fingers if there are indications that he or she has filed an application for asylum in a Member State of the European Union.

(10) The foreigner shall be required to tolerate the measures pursuant to sub-sections 1 and 3 to 9.

Section 49a

Database for found documents

(1) The Federal Office of Administration shall keep a database in which information shall be stored on identity documents issued by foreign public bodies and belonging to nationals of the states specified in Enclosure I to Regulation (EC) no. 539/2001 (Official EU Journal no. L 81, p. 1) which are found in Germany (database for found

documents). Such storage shall serve to establish a foreigner's identity or nationality and to enable the subsequent return of foreigners.

(2) Upon a public body coming into possession of a found document pursuant to sub-section 1, said body shall forward the document to the Federal Office of Administration immediately after a period of seven days has elapsed, unless

1. it obtains knowledge of a notice of loss submitted by the holder or
2. it determines beyond doubt the holder's place of residence in Germany or
3. the found document is required for the purposes of criminal proceedings or as evidence in other proceedings.

In cases covered by sentence 1, no. 3 the public body shall transfer the items of information stipulated in Section 49b, nos. 1 to 3 which are contained in the found document to the Federal Office of Administration for entry in the database for found documents.

Section 49b

Contents of the database for found documents

Only the following data shall be stored in the file pursuant to Section 49a (1):

1. Information on the holder of the found document:
 - a) Surname, maiden name, first names, spelling of the names according to German law,
 - b) date and place of birth;
 - c) sex;
 - d) nationality,
 - e) height,
 - f) eye colour,
 - g) photograph,
 - h) finger prints
2. Information on the found document:
 - a) type and number,
 - b) issuing state,
 - c) place and date of issue,
 - d) duration of validity,
3. Other information:
 - a) name of the body submitting the document,
 - b) information on retention or return
4. photocopy of all pages of the found document,
5. photocopies of documents verifying return of the document to the issuing state.

Chapter 5 Termination of stay

Part 1

Grounds establishing the requirement to leave the federal territory

Section 50

Requirement to leave the federal territory

- (1) A foreigner shall be obliged to leave the federal territory if he or she does not possess or no longer possesses the necessary residence title and a right of residence does not exist or no longer exists under the EEC/Turkey Association Agreement.
- (2) The foreigner shall be required to leave the federal territory without delay or, if a period has been allowed for departure, by the end of this period.
- (2a) (revoked)
- (3) The foreigner may meet his or her obligation to leave the federal territory by entering another Member State of the European Union or another Schengen state only if his or her entry into and residence in such state is permitted. If this is the case, the foreigner who is obliged to leave the federal territory is to be required to proceed to the territory of such state without delay.
- (4) A foreigner who is required to leave the federal territory and who intends to change his or her address or to leave the district covered by the foreigners authority for more than three days shall be required to notify the foreigners authority accordingly beforehand.
- (5) The passport or passport substitute of a foreigner who is required to leave the federal territory should be taken into custody until the time of his or her departure.
- (6) For the purpose of terminating residence of a foreigner, the police may use their search tools for wanted persons in order to determine the foreigner's whereabouts and to apprehend him or her, if his or her whereabouts are not known. A foreigner who has been expelled, refused entry, or deported may be reported for the purposes of refusal of entry and, in the event of his or her being found in the federal territory, for the purposes of his or her apprehension. Section 66 of the Asylum Procedure Act shall apply mutatis mutandis to foreigners who have been allocated in accordance with Section 15a.

Section 51

Termination of lawful residence; continued validity of restrictions

- (1) The residence title shall expire in the following cases:
1. upon expiry of its period of validity,
 2. upon the occurrence of an invalidating condition,
 3. upon withdrawal of the residence title,
 4. upon revocation of the residence title,
 5. upon expulsion of the foreigner,
 - 5a. upon announcement of a deportation order pursuant to Section 58a,
 6. if the foreigner leaves the federal territory for a reason which is not of a temporary nature,

7. if the foreigner leaves the federal territory and fails to re-enter the federal territory within six months or within a longer period set by the foreigners authority,
8. if a foreigner files an application for asylum following the granting of a residence title pursuant to Sections 22, 23 or 25 (3) to (5);

a visa issued for several entries or with a period of validity in excess of three months shall not expire in accordance with numbers 6 and 7 above.

(2) The settlement permit of a foreigner who has lawfully resided in the federal territory for at least 15 years and the settlement permit of his or her cohabiting spouse shall not expire in accordance with sub-section 1, nos. 6 and 7, if the aforementioned persons' subsistence is assured and no grounds for expulsion apply pursuant to Section 54, nos. 5 to 7 or Section 55 (2), nos. 8 to 11. The settlement permit of a foreigner cohabiting with a German as his or her spouse shall not expire pursuant to sub-section 1, nos. 6 and 7 if no grounds for expulsion apply pursuant to Section 54, nos. 5 to 7 or Section 55 (2), nos. 8 to 11. On request, the foreigners authority at the place in which the foreigner was last ordinarily resident shall issue a certificate confirming the continued validity of the settlement permit.

(3) The residence title shall not expire in accordance with sub-section 1, no. 7, if the specified period is exceeded solely on account of the foreigner carrying out compulsory military service in his or her native country and the foreigner re-enters the federal territory within three months of discharge from said military service.

(4) A longer period will generally be granted pursuant to sub-section 1, no. 7 if the foreigner intends to leave the federal territory for reasons of a temporary nature and is in possession of a settlement permit, or if the stay outside of the federal territory serves the interests of the Federal Republic of Germany. By derogation from sub-section 1, nos. 6 and 7, the residence title of a foreigner shall not expire if he or she meets the requirements stipulated in Section 37 (1) sentence 1, no. 1, if the foreigner has been unlawfully forced into marriage by means of violence or threat of serious harm and has been prevented from returning to Germany, and he or she re-enters the federal territory within three months after the coercive situation has ended and at the latest within ten years of departure.

(5) The exemption from the requirement for the residence title shall not apply if the foreigner is expelled, removed or deported; Section 11 (1) shall apply *mutatis mutandis*.

(6) Geographic and other restrictions and conditions under this Act and other acts shall remain in force after expiry of the residence title or the suspension of deportation until they are lifted or the foreigner meets his obligation to leave the federal territory.

(7) if a person entitled to asylum or a foreigner whom the Federal Office for Migration and Refugees has incontestably granted refugee status leaves the federal territory, the residence title shall not expire as long as he or she is in possession of a valid travel document for refugees issued by a German authority. The foreigner shall have no entitlement to the renewed issuance of a residence title on the basis of his recognition as a person entitled to asylum or by virtue of having been incontestably granted refugee status by the Federal Office for Migration and Refugees, if he or she has left the federal territory and the competence for issuing a travel document has passed to another state.

(8) Prior to revocation of a residence permit pursuant to Section 38a (1), prior to the expulsion of a foreigner who holds such a residence permit and prior to issuing a deportation order against a foreigner pursuant to Section 58a, the competent

authority in the proceedings pursuant to Section 91c (2) shall, through the Federal Office for Migration and Refugees, afford the Member State of the European Union in which the foreigner holds the legal status of a long-term resident an opportunity to submit an opinion, if deportation to an area in which this legal status cannot be acquired is under consideration. The opinion shall be considered by the competent authority if it is received from the other Member State in sufficient time.

(8a) Insofar as the authorities of other Schengen states are to be notified about decisions pursuant to Article 34 of Regulation (EC) no. 810/2009 which have been taken by the foreigners authorities, this shall be done via the Federal Office for Migration and Refugees. The authorities charged with policing cross-border traffic shall notify the authorities of other Schengen states immediately about their decisions pursuant to Article 34 of Regulation (EC) no. 810/2009.

(9) The EU long-term residence permit shall expire only if

1. revoked on account of fraudulent misrepresentation, threats or bribery,
2. the foreigner is expelled or is served with a deportation order pursuant Section 58a,
3. the foreigner is resident for a period of twelve consecutive months outside of the area in which the legal status of a long-term resident can be acquired; the period shall be 24 consecutive months for a foreigner previously holding an EU Blue Card and for his or her dependants who previously held a residence permit pursuant to Sections 30, 32, 33 or 36.
4. the foreigner remains outside of the federal territory for a period of six years or
5. the foreigner acquires the legal status of a long-term resident in another Member State of the European Union.

Sub-sections 2 to 4 shall apply mutatis mutandis to the cases specified in sentence 1, nos. 3 and 4.

(10) By way of derogation from sub-section 1, no. 7, the period for the EU Blue Card and the residence permits pursuant to Sections 30, 32, 33 or 36 issued to dependants of EU Blue Card holders shall be twelve months.

Section 52

Revocation

(1) Save in the cases covered by sub-sections 2 to 6, a foreigner's residence title pursuant to Section 4 (1), sentence 2, no. 1, second alternative, and nos. 2, 3 and 4 can only be revoked if

1. he or she no longer possesses a valid passport or passport substitute,
2. he or she changes or loses his or her nationality,
3. he or she has not yet entered the federal territory,
4. his or her recognition as a person entitled to asylum or his or her status as a refugee or as a person entitled to subsidiary protection lapses or becomes null and void, or
5. the foreigners authority establishes, after issuance of a residence permit pursuant to Section 25 (3), sentence 1, that
 - a) the conditions pursuant to Section 60 (5) or (7) are not or no longer met,
 - b) the foreigner fulfils one of the grounds for exclusion pursuant to Section 25 (3), sentence 2, nos. 1 to 4, or,

- c) in the cases covered by Section 42, sentence 1 of the Asylum Procedure Act, the assessment is revoked or becomes null and void.

In the cases covered by sentence 1, nos. 4 and 5, the residence title of the dependants living together with the foreigner as a family unit may also be revoked, if these have no independent entitlement to the residence title.

(2) A national visa, a residence permit or an EU Blue Card which have been granted for the purpose of employment shall be revoked if the Federal Employment Agency revokes the approval of employment pursuant to Section 41. In the case of sentence 1, a national visa or a residence permit which have not been granted for the purpose of employment shall be revoked to the extent to which they permit the employment concerned.

(3) A residence permit issued for study purposes pursuant to Section 16 (1) may be revoked, if

1. the foreigner pursues an economic activity without the necessary permit,
2. the foreigner fails to make adequate progress with his or her studies, taking into account the average length of study for the course of study at the higher education establishment concerned and his or her individual situation, or
3. the foreigner no longer meets the conditions under which he or she could be granted a residence permit pursuant to Section 16 (1) or (6).

(4) A residence permit issued pursuant to Section 20 may be revoked, if

1. the research establishment with which the foreigner has concluded an admission agreement loses its recognised status, where the foreigner has been involved in an action which has led to the loss of such status,
2. the foreigner no longer conducts research or is no longer permitted to conduct research at the research establishment or
3. the foreigner no longer meets the conditions under which he or she could be granted a residence permit pursuant to Section 20 or under which it would be permissible to conclude an admission agreement with him or her.

(5) A residence permit pursuant to Section 25 (4a), sentence 1, or (4b), sentence 1, should be revoked, if

1. the foreigner was not or is no longer prepared to testify in the criminal proceedings,
2. the information provided by the foreigner referred to in Section 25 (4a), sentence 2, no. 1 or (4b), sentence 2, no.1 is considered by the public prosecutor's office or the criminal court to be in all reasonable probability false,
3. the criminal proceedings in which the foreigner was to testify as a witness have been dismissed or
4. the foreigner no longer meets the conditions for issuance of a residence title pursuant to Section 25 (4a) or (4b) on account of other circumstances.

A residence permit pursuant to Section 25 (4a), sentence 1 should also be revoked if the foreigner has voluntarily re-established contact with the persons pursuant to Section 25 (4a), sentence 2, no. 2.

(6) A residence permit pursuant to Section 38a should be revoked if the foreigner loses his or her legal status as a long-term resident in another Member State of the European Union.

(7) (revoked)

Section 53 **Mandatory expulsion**

A foreigner shall be expelled, if he or she

1. has been non-appealably sentenced to a prison term or a term of youth custody of at least three years for one or more intentionally committed offences or to several prison terms or terms of youth custody for intentionally committed offences totalling at least three years within a five-year period or preventive detention has been ordered in connection with the most recent non-appealable conviction,
2. has been non-appealably sentenced to at least two years' youth custody or to a prison term for an intentionally committed offence under the Narcotics Act, for a breach of the peace under the conditions specified in Section 125a, sentence 2 of the Criminal Code or for a breach of the peace committed at a prohibited public gathering or a prohibited procession pursuant to Section 125 of the Criminal Code and the sentence has not been suspended on probation, or
3. has received a non-appealable custodial sentence for smuggling in foreigners pursuant to Section 96 or Section 97 and the sentence has not been suspended on probation.

Section 54 **Regular expulsion**

A foreigner will generally be expelled if

1. he or she has been non-appealably sentenced to at least two years' youth custody or to a prison term for one or more intentionally committed offences and the sentence has not been suspended on probation,
2. he or she has been non-appealably convicted of smuggling in foreigners pursuant to Section 96 or Section 97,
3. he or she cultivates, produces, imports, carries through the federal territory, exports, sells, puts into circulation by any other means or traffics in narcotics without authorisation and in contravention of the provisions of the Narcotics Act, or if he or she aids or abets such acts,
4. he or she perpetrates or participates in acts of violence against persons or property which are committed concertedly from within a crowd in a manner which endangers public safety at a prohibited or disbanded public gathering or in a prohibited or disbanded procession,
5. there is reason to believe that he or she belongs to or has belonged to an organisation which supports terrorism or supports or has supported such an organisation; membership or supportive acts in the past may justify expulsion only if they constitute a current threat,
- 5a. he or she endangers the free democratic basic order or the security of the Federal Republic of Germany, participates in acts of violence or publicly incites to violence in pursuit of political objectives or threatens the use of violence,
- 5b. there is reason to believe that he or she is preparing or has prepared a serious violent offence endangering the state as specified in Section 89a (1) of the Criminal Code pursuant to Section 89a (2) of the Criminal Code; preparatory acts in the past may justify expulsion only if they constitute a special clear and present danger,
6. he or she, in the course of an interview which serves to clarify reservations regarding entry or continued residence, fails to reveal to the German diplomatic

mission abroad or to the foreigners authority previous stays in Germany or other states or furnishes false or incomplete information on key points regarding links with persons or organisations suspected of supporting terrorism; expulsion on this basis shall only be permissible if the foreigner is expressly informed prior to the interview of the security-related purpose of the interview and the legal consequences of furnishing false or incomplete information; or

7. he or she belonged to the leadership of an organisation subject to a non-appealable ban because its purpose or activities are in breach of the criminal laws or he or she opposes the constitutional order or the concepts of international understanding.

Section 54a

Monitoring for internal security reasons of foreigners subject to expulsion orders

- (1) A foreigner who has received an enforceable expulsion order pursuant to Section 54, no. 5, 5a or no. 5b or an enforceable deportation order pursuant to Section 58a shall be obliged to report to the police office which is responsible for his or her place of residence at least once a week, unless the foreigners authority stipulates otherwise. If a foreigner is enforceably required to leave the federal territory for reasons other than the grounds for expulsion stated in sentence 1, an obligation to report to the police authorities corresponding to sentence 1 may be imposed if necessary in order to avert a danger to public safety and law and order.
- (2) His or her residence shall be restricted to the district of the foreigners authority concerned, unless the foreigners authority stipulates otherwise.
- (3) He or she may be obliged to live in a different place of residence or in certain types of accommodation outside of the district of the foreigners authority concerned, if this appears expedient in order to hinder or prevent activities which have led to the expulsion order and to facilitate monitoring of compliance with provisions under the law governing organisations and associations or other statutory conditions and obligations.
- (4) In order to hinder or prevent activities which have led to the expulsion order, the foreigner may also be obliged to refrain from using certain means of communication or communication services, insofar as means of communication remain at his or her disposal and restrictions are necessary in order to avert serious risks to internal security or to the life and limb of third parties.
- (5) The obligations in accordance with sub-sections 1 to 4 shall be suspended if the foreigner is in custody. An order in accordance with sub-sections 3 and 4 shall be immediately enforceable.

Section 55

Discretionary expulsion

- (1) A foreigner may be expelled if his or her stay is detrimental to public safety and law and order or other substantial interests of the Federal Republic of Germany.
- (2) A foreigner may be expelled in accordance with sub-section 1 in particular if he or she,
 1. either in Germany or abroad,
 - a) has furnished false or incomplete information in order to obtain a German residence title, a Schengen visa, an airport transit visa, a passport substitute, eligibility for exemption from the passport obligation or the suspension of deportation or,

- b) notwithstanding a legal obligation, has failed to cooperate in measures undertaken by the authorities responsible for implementing this Act or the Convention Implementing the Schengen Agreement

provided that the foreigner was informed beforehand of the legal consequences of such action,

- 1a. has furnished an employer with false or incomplete information upon entering into an employment contract and in consequence received a settlement permit pursuant to Section 19 (2) no. 3,
 2. has committed a breach of legal provisions, court rulings or official orders, excepting isolated or minor breaches, or has committed an offence outside of the federal territory which is to be regarded as an intentionally committed offence in the federal territory,
 3. contravenes a legal provision or official decree pertaining to the practice of prostitution,
 4. uses heroin, cocaine or a comparably dangerous narcotic and is not prepared to undergo a course of rehabilitation treatment or evades such treatment,
 5. endangers public health through his or her behaviour or is homeless for a prolonged period,
 6. claims social assistance benefits for himself/herself, his or her dependants or other persons belonging to his or her household,
 7. receives assistance in child rearing for persons outside of his or her own family or assistance for young adults in accordance with Book Eight of the Social Code; this shall not apply to a minor whose parents or parent possessing the sole right of care and custody is lawfully resident in the federal territory,
 8.
 - a) publicly, at a meeting or by disseminating literature, endorses or promotes a crime against peace, a war crime, a crime against humanity or terrorist acts of comparable importance in a manner conducive to disturbing public safety and order or
 - b) incites hatred against segments of the population or calls for violence or arbitrary measures against the same in a manner conducive to disturbing public safety and order or attacks the human dignity of others by insulting, maliciously disparaging or slandering sections of the population,
 9. specifically and continuously brings his or her influence to bear on a child or a young person in order to instil or intensify a hatred of persons belonging to other ethnic groups or religions,
 10. prevents another person from participating in life in the Federal Republic of Germany on an economic, cultural or social level by reprehensible means, in particular through the use or threat of violence or
 11. forces or attempts to force another person into entering into marriage.
- (3) In reaching the decision on expulsion, due consideration shall be accorded to
1. the duration of lawful residence and the foreigner's legitimate personal, economic and other ties in the federal territory,

2. the consequences of the expulsion for the foreigner's dependants or domestic partner who is/are lawfully resident in the federal territory and who lives/live with the foreigner as part of a family unit or cohabits with the foreigner as his or her domestic partner,
3. the conditions specified in Section 60 (2) and (2b) for the suspension of deportation.

Section 56

Special protection from expulsion

(1) A foreigner who

1. possesses a settlement permit and has lawfully resided in the federal territory for at least five years,
 - 1a. possesses an EU long-term residence permit,
2. possesses a residence permit, was born in the federal territory or entered the federal territory as a minor and has been lawfully resident in the federal territory for at least five years,
3. possesses a residence permit, has lawfully resided in the federal territory for at least five years and cohabits with a foreigner as specified in numbers 1 to 2 as a spouse or in a registered partnership,
4. cohabits with a German dependant or domestic partner in a family unit or a registered partnership,
5. is recognised as a person entitled to asylum, enjoys the legal status of a refugee in the federal territory or possesses a travel document issued by an authority of the Federal Republic of Germany under the Convention of 28 July 1951 relating to the Status of Refugees (Federal Law Gazette 1953 II, p. 559),

shall enjoy special protection from expulsion. He or she shall only be expelled on serious grounds pertaining to public security and law and order. Serious grounds pertaining to public security and law and order shall generally apply in cases covered by Section 53 and Section 54, nos. 5 to 5b and 7. If the conditions specified in Section 53 apply, the foreigner shall generally be expelled. If the conditions specified in Section 54 apply, a discretionary decision shall be reached on his or her expulsion.

(2) In the cases covered by Sections 53 and 54, a discretionary decision shall be reached on the expulsion of an adolescent who has grown up in the federal territory and possesses a settlement permit, and on the expulsion of a minor who possesses a residence permit or settlement permit. If the parent(s) possessing the sole right of care and custody is lawfully resident in the federal territory, the minor shall be expelled in the cases covered by Section 53 only; a discretionary decision shall be reached on his or her expulsion. Sentence 1 shall not apply where the adolescent has been non-appealably convicted of wilfully committing a series of serious offences, of committing severe criminal offences or of committing a particularly severe criminal offence.

(3) A foreigner who possesses a residence permit in accordance with Section 24 or Section 29 (4) may be expelled only under the conditions stipulated in Section 24 (2).

(4) A foreigner who has filed an application for asylum may only be expelled on condition that the asylum procedure is completed and no longer subject to appeal without recognising the foreigner concerned as a person entitled to asylum or to

international protection (Section 1 (1) no. 1 of the Asylum Procedure Act). This condition shall be waived if

1. there are facts justifying expulsion pursuant to sub-section 1 or
2. a deportation warning under the provisions of the Asylum Procedure Act has become enforceable.

Part 2

Enforcement of the obligation to leave the federal territory

Section 57

Removal

(1) A foreigner who is intercepted in conjunction with unlawful entry into the federal territory across a border within the meaning of Article 2 no. 2 of Regulation (EC) no. 562/2006 (external border) shall be removed from the federal territory.

(2) A foreigner who is enforceably required to leave the federal territory, who will be readmitted by another Member State of the European Union or Norway or Switzerland under the terms of an intergovernmental admission agreement applicable on 13 January 2009 should be removed to that state; the same shall apply if the foreigner is intercepted by the border authority in the vicinity of the border in close chronological proximity to unlawful entry into the federal territory and there are indications that another state is responsible for conducting an asylum procedure by virtue of legislation of the European Union or of an international treaty, and an admission or readmission process is initiated.

(3) Section (58) (1b), Section 59 (8), Section 60 (1) to (5) and (7) to (9) and Sections 62 and 62a shall apply mutatis mutandis.

Section 58

Deportation

(1) The foreigner shall be deported if the requirement to leave the federal territory is enforceable, no period has been allowed for departure or a granted period has expired, and voluntary fulfilment of the obligation to leave is not assured or supervision of departure appears necessary on grounds of public security and law and order. If one of the conditions stipulated in Section 59 (1), sentence 2 becomes applicable within the period allowed for departure, the foreigner shall be deported before its expiry.

(1a) Prior to the deportation of an unaccompanied foreign minor, the authority must ensure that in the state to which he or she is to be returned he or she will be handed over to a member of his or her family, to a person possessing the right of care and custody or to an appropriate reception centre.

(1b) Foreigners holding an EU long-term residence permit or a corresponding legal status in another Member State of the European Union and who are eligible for international protection in another Member State of the European Union may only be deported to the state granting protection, except in the cases covered by Section 60 (8), sentence 1. Section 60 (2), (3), (5) and (7) shall remain unaffected.

(2) The requirement to leave the federal territory shall be enforceable if the foreigner

1. has entered the federal territory unlawfully,
2. has not yet applied for initial granting of the necessary residence title or has not yet applied for an extension or, despite an application having been submitted, the

residence is not deemed to be permitted pursuant to Section 81 (3) or the residence title is not deemed to remain in force pursuant to Section 81 (4) or

3. becomes obliged to leave the federal territory by virtue of a ruling on his or her return reached by another Member State of the European Union pursuant to Article 3 of Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals (Official EC Journal no. L 149, p. 34), provided that the ruling concerned is recognised by the competent authority.

The obligation to leave the federal territory shall otherwise become enforceable only when the refusal of the residence title or another administrative act by which the foreigner shall be required to leave pursuant to Section 50 (1) takes effect.

(3) Supervision of deportation is necessary in particular if the foreigner

1. is, by virtue of a judicial order, in detention or another form of public custody,
2. has failed to leave the federal territory within the period granted for departure,
3. has been expelled pursuant to Section 53 or Section 54,
4. is destitute,
5. does not possess a passport or passport substitute,
6. has furnished the foreigners authority with incorrect information or refused to furnish information with intent to deceive or
7. has indicated that he or she will not meet his or her obligation to leave the federal territory.

Section 58a Deportation order

(1) The supreme Land authority may issue a deportation order for a foreigner without a prior expulsion order based on the assessment of facts, in order to avert a special danger to the security of the Federal Republic of Germany or a terrorist threat. The deportation order shall be immediately enforceable; no notice of intention to deport shall be necessary.

(2) The Federal Ministry of the Interior may assume responsibility if a special interest on the part of the Federation applies. The supreme Land authority is to be notified accordingly. Deportation orders issued by the Federation shall be enforced by the Federal Police.

(3) A deportation order may not be enforced if the conditions pertaining to a deportation ban pursuant to Section 60 (1) to (8) apply. Section 59 (2) and (3) shall apply mutatis mutandis. Assessment in this context shall be carried out by the authority deciding on the deportation order; this authority shall not be bound to findings reached in this connection in other proceedings.

(4) Following announcement of the deportation order, the foreigner is to be given an opportunity to establish contact with a legal adviser of his or her choice without delay, unless he or she has secured the services of a lawyer beforehand; the foreigner is to be informed of this entitlement, of the legal consequences of the deportation order and the available legal remedies. An application for temporary relief pursuant to the Code of Administrative Courts Procedure shall be filed within seven days of announcement of the deportation order. Deportation may not be enforced until expiry of the period in accordance with sentence 2 and, if an

application for temporary relief is filed in time, until the time of the court's decision on said application.

Section 59

Deportation warning

(1) Notice of intention to deport a foreigner shall be served specifying a reasonable period of between seven and 30 days for voluntary departure. By way of exception, a shorter period may be set or the granting of such a period may be waived altogether if, in individual cases, it is vital to safeguard overriding public interests, in particular where

1. a well-founded suspicion exists that the foreigner intends to evade deportation,
2. the foreigner poses a serious danger to public safety or law and order.

Under the conditions stipulated in sentence 2, the serving of notice of intention to deport may also be waived if

1. the residence title pursuant to Section 51 (1), nos. 3 to 5 has expired or
2. the foreigner has already been informed in accordance with the requirements of Section 77 of the existence of his or her obligation to leave the federal territory.

Taking account of the particular circumstances of each case, the period allowed for departure may be extended as reasonable or a longer such period may be set. Section 60a (2) shall remain unaffected. The period allowed for departure shall be interrupted if the obligation to leave or the notice of intention to deport ceases to be enforceable.

(2) The notice of intention to deport should specify the state to which the foreigner is to be deported and should inform the foreigner that he or she may also be deported to another state which he or she is permitted to enter or which is obliged to admit him or her.

(3) The existence of deportation bans shall not preclude issuance of the notice of intention to deport. The state to which the foreigner must not be deported shall be specified in the notice of intention to deport. If the administrative court establishes the existence of a deportation ban, the validity of the notice of intention to deport shall otherwise remain unaffected.

(4) Once the notice of intention to deport is no longer subject to appeal, the foreigners authority shall, for the purpose of further decisions on deportation or the suspension of deportation, ignore any circumstances which represent an obstacle to deportation to the state specified in the notice of intention to deport and which occurred before the notice of intention to deport was no longer subject to appeal; any other circumstances cited by the foreigner which represent an obstacle to deportation, or to deportation to the specified state, may be ignored. The provisions enabling the foreigner to assert the validity of the circumstances referred to in sentence 1 through a court of law by means of a legal action or the temporary relief procedure pursuant to the Code of Administrative Procedure shall remain unaffected.

(5) It shall not be necessary to set a deadline in cases covered by Section 58 (3), no. 1; the foreigner shall be deported directly from detention or public custody. An impending deportation should be announced at least one week beforehand.

(6) The foreigner shall be issued with a certificate confirming the granting of a period for departure pursuant to sub-section 1.

(7) If the foreigners authority has concrete grounds to suspect that the foreigner has been the victim of a criminal offence as specified in Section 25 (4a), sentence 1 or Section 25 (4b), sentence 1, it shall, by derogation from sub-section 1, sentence 1, set a deadline for leaving the country which will allow the foreigner sufficient time to decide whether he or she is prepared to testify pursuant to Section 25 (4a), sentence 2, no. 3 or Section 25 (4b), sentence 2, no. 2. A period of at least three months shall be allowed for departure. The foreigners authority may refrain from setting a deadline for leaving the country pursuant to sentence 1 or may annul or reduce the period allowed for departure, if

1. the foreigner's stay is detrimental to public safety and law and order or other substantial interests of the Federal Republic of Germany or
2. the foreigner has voluntarily re-established contact with the persons pursuant to Section 25 (4a), sentence 2, no. 2 after being duly informed pursuant to sentence 4.

The foreigners authority or a body authorised by it shall inform the foreigner as to the prevailing arrangements, programmes and measures for victims of criminal offences stated in Section 25 (4a), sentence 1.

(8) Prior to deportation, foreigners, who were employed without the entitlement to pursue an economic activity required pursuant to Section 4 (3) shall be notified as to their rights pursuant to Article 6 (2) and Article 13 of Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (Official Journal no. L 168 of 30.6.2009, p. 24).

Section 60

Prohibition of deportation

(1) In application of the Convention of 28 July 1951 relating to the Status of Refugees (Federal Law Gazette 1953 II, p. 559), a foreigner may not be deported to a state in which his or her life or liberty is under threat on account of his or her race, religion, nationality, membership of a certain social group or political convictions. This shall also apply to persons who are entitled to asylum and to foreigners who have been incontestably granted refugee status or who enjoy the legal status of foreign refugees on other grounds in the federal territory or who have been granted foreign refugee status outside of the federal territory in accordance with the Convention relating to the Status of Refugees. Where the foreigner cites the ban on deportation pursuant to this sub-section, the Federal Office for Migration and Refugees shall establish in an asylum procedure whether the conditions stated in sentence 1 apply and the foreigner is to be granted refugee status, except in cases covered by sentence 2. The decision by the Federal Office shall only be appealable subject to the provisions of the Asylum Procedure Act.

(2) Foreigners may not be deported to a state where they face serious harm as referred to in Section 4 (1) of the Asylum Procedure Act. Subsection (1), sentences 3 and 4 shall apply *mutatis mutandis*.

(3) If a foreigner may not be deported to a state in which he or she is wanted for a criminal offence and a danger of imposition or enforcement of the death penalty exists, the provisions on extradition shall apply *mutatis mutandis*.

(4) If a formal request for extradition or a request for arrest combined with a notification of intent to file a request for extradition has been received from another state, deportation of the foreigner to this state prior to the decision on extradition shall be permissible only with the approval of the authority which is responsible for

approving extradition pursuant to Section 74 of the Act on International Mutual Assistance in Criminal Matters.

(5) A foreigner may not be deported if deportation is inadmissible under the terms of the Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms (Federal Law Gazette 1952 II, p. 685).

(6) The general danger that a foreigner may face prosecution and punishment in another state and, in the absence of any provisions to the contrary in sub-section 2 to 5, the concrete danger of lawful punishment under the legal system of another state shall not preclude deportation.

(7) A foreigner should not be deported to another state in which this foreigner faces a substantial concrete danger to his or her life and limb or liberty. Threats pursuant to sentence 1 to which the population or the segment of the population to which the foreigner belongs are generally exposed shall receive due consideration in decisions pursuant to Section 60a (1), sentence 1.

(8) Sub-section 1 shall not apply if, for serious reasons, the foreigner is to be regarded as a threat to the security of the Federal Republic of Germany or constitutes a threat to the general public because he or she has been finally sentenced to a prison term of at least three years for a crime or a particularly serious offence. The same shall apply if the foreigner meets the conditions stipulated in Section 3 (2) of the Asylum Procedure Act.

(9) In the cases covered by sub-section 8, a foreigner who has filed an application for asylum may, by way of derogation from the provisions of the Asylum Procedure Act, be served notice of intention to deport and duly deported. Sub-sections 2 through 7 shall remain unaffected.

(10) If a foreigner to whom the conditions stipulated in sub-section 1 apply is to be deported, notice of intention to deport must be served and a reasonable period must be allowed for departure. Those states to which the foreigner must not be deported shall be specified in the notice of intention to deport.

Section 60a

Temporary suspension of deportation

(1) For reasons of international law or on humanitarian grounds or to safeguard the political interests of the Federal Republic of Germany, the supreme Land authority may order the deportation of foreigners from specific states or of categories of foreigners defined by any other means to be suspended in general or with regard to deportation to specific states for a maximum of six months. Section 23 (1) shall apply to a period in excess of six months.

(2) The deportation of a foreigner shall be suspended for as long as deportation is impossible in fact or in law and no residence permit is granted. The deportation of a foreigner shall also be suspended if the public prosecutor's office or the criminal court considers his or her temporary presence in the federal territory to be appropriate in connection with criminal proceedings relating to a criminal offence, because it would be more difficult to investigate the facts of the case without his or her information. A foreigner may be granted a temporary suspension of deportation if his or her continued presence in the federal territory is necessary on urgent humanitarian or personal grounds or due to substantial public interests.

(2a) The deportation of a foreigner shall be suspended for one week where his or her removal or deportation has failed, custody pending deportation is not ordered and the Federal Republic of Germany is obliged to readmit the foreigner by virtue of a legal provision, in particular Article 6 (1) of Council Directive 2003/110/EC of 25

November 2003 on assistance in cases of transit for the purposes of removal by air (Official EU Journal no. L 321, p. 26). Suspension pursuant to sentence 1 shall not be extendible. Entry of the foreigner into the federal territory shall be permitted.

(2b) For as long as a foreigner who holds a residence permit pursuant to Section 25a (1) is a minor, the deportation of his or her parents or of one parent possessing the sole right of care and custody as well as of those minor children who live as a family unit with the parents or the parent possessing sole right of care and custody shall be suspended.

(3) Suspension of deportation shall not affect the foreigner's obligation to leave the federal territory.

(4) The foreigner is to be issued with a certificate confirming the suspension of deportation.

(5) The suspension of deportation shall lapse when the foreigner leaves the federal territory. The suspension shall be revoked when the circumstances preventing deportation cease to apply. The foreigner shall be deported without delay when the suspension lapses, without any renewed notice of intention to deport specifying a deadline, unless the suspension is renewed. If deportation has been suspended for more than one year, prior notice of at least one month shall be served in case of intended deportation by way of revocation; such notice shall be repeated, if the suspension has been renewed for more than one year.

Section 61

Geographic restrictions; departure facilities

(1) The stay of a foreigner who is enforceably required to leave the federal territory shall be restricted in geographic terms to the territory of the Land concerned. Further conditions and requirements may be imposed. The geographic restriction pursuant to sentence 1 may be waived if the foreigner is entitled to take up employment without screening pursuant to Section 39 (2), sentence 1, no. 1 or if it is necessary for the purposes of school attendance, of industrial basic and advanced training or of studying at a state or state-recognised university or a comparable educational establishment. The same shall apply if this serves to preserve the family unit.

(1a) In cases covered by Section 60a (2a), residence shall be restricted to the administrative district of the most recently responsible foreigners authority. The foreigner must proceed to such location without delay after entering the federal territory. Where such an authority is not ascertainable, Section 15a shall apply *mutatis mutandis*.

(2) The Länder may establish departure facilities for foreigners who are enforceably required to leave the federal territory. At such departure facilities, the willingness to leave the federal territory voluntarily should be promoted through support and counselling and accessibility for authorities and courts and implementation of the departure procedure should be ensured.

Section 62

Custody awaiting deportation

(1) Custody awaiting deportation shall not be permissible if the purpose of the custody can be achieved by other, less severe means which are also sufficient. The detention shall be limited to the shortest possible duration. Minors and families with minors may be taken into custody awaiting deportation only in exceptional cases and only for as long as is reasonable taking into account the well-being of the child.

(2) A foreigner shall be placed in custody by judicial order to enable the preparation of deportation, if a decision on deportation cannot be reached immediately and deportation would be much more difficult or impossible without such detention (custody to prepare deportation). The duration of custody to prepare deportation should not exceed six weeks. In case of expulsion, no new judicial order shall be required for the continuation of custody up to expiry of the ordered term of custody.

(3) A foreigner shall be placed in custody by judicial order for the purpose of safeguarding deportation (custody to secure deportation) if

1. the foreigner is enforceably required to leave the federal territory on account of his or her having entered the territory unlawfully,
 - 1a. a deportation order has been issued pursuant to Section 58a but is not immediately enforceable,
2. the period allowed for departure has expired and the foreigner has changed his or her place of residence without notifying the foreigners authority of an address at which he or she can be reached,
3. he or she has failed to appear at the location stipulated by the foreigners authority on a date fixed for deportation, for reasons for which he or she is responsible
4. he or she has evaded deportation by any other means or
5. a well-founded suspicion exists that he or she intends to evade deportation.

The foreigner may be placed in custody to secure deportation for a maximum of two weeks, if the period allowed for departure has expired and it has been established that deportation can be enforced. By way of exception, the order for custody to secure deportation pursuant to sentence 1, no. 1 may be waived if the foreigner credibly asserts that he or she does not intend to evade deportation. Custody to secure deportation shall not be permissible if it is established that it will not be possible to carry out deportation within the next three months for reasons beyond the foreigner's control. Where deportation has failed due to reasons for which the foreigner is responsible, the order pursuant to sentence 1 shall remain unaffected until expiry of the period stipulated in the order.

(4) Custody to secure deportation may be ordered for up to six months. In cases in which the foreigner hinders his or her deportation, it may be extended by a maximum of twelve months. A period of custody to prepare deportation shall count towards the overall duration of custody to secure deportation.

(5) The authority responsible for the detention application may detain a foreigner without a prior judicial order and place such foreigner in temporary custody where

1. there is a strong suspicion that the conditions pursuant to sub-section 3, sentence 1 apply,
2. it is not possible to obtain the judicial decision on the order for custody to secure deportation beforehand and
3. there is a well-founded suspicion that the foreigner intends to evade the order for custody to secure deportation.

The foreigner shall be brought before the court without delay for a decision on the order for custody to secure deportation.

Section 62a

Enforcement of custody awaiting deportation

- (1) As a general principle, custody awaiting deportation shall be enforced in specialised detention facilities. If a Land has no specialised detention facilities, custody awaiting deportation may be enforced in other custodial institutions in that Land; in such cases the persons in detention awaiting deportation shall be accommodated separately from prisoners serving criminal sentences. If several members of a family are detained, they shall be accommodated separately from other detainees awaiting deportation. They shall be guaranteed adequate privacy.
- (2) Detainees awaiting deportation shall be permitted to establish contact with legal representatives, family members and the competent consular authorities.
- (3) In the case of minors in detention awaiting deportation, the needs of persons of their age shall be taken into account in accordance with the provisions of Article 17 of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (Official Journal no. L 348 of 24.12.2008, p. 98).
- (4) Upon application, staff of relevant support and assistance organisations shall be permitted to visit detainees awaiting deportation if the latter so request.
- (5) Detainees awaiting deportation shall be informed about their rights and obligations and the rules applied in the facility.

Chapter 6

Liability and fees

Section 63

Obligations of transport carriers

- (1) A transport carrier may only transport foreigners into the federal territory if they are in possession of a required passport and a required residence title.
- (2) The Federal Ministry of the Interior or a body designated by the Federal Ministry of the Interior may, in consultation with the Federal Ministry of Transport, Building and Urban Development, prohibit a transport carrier from transporting foreigners into the federal territory in contravention of sub-section 1 and threaten a fine in case of violation. Any objections or legal actions shall have no suspensory effect; this shall also apply with regard to the imposition of a fine.
- (3) The fine against the transport carrier shall be no less than 1 000 euros and no more than 5 000 euros for each foreigner whom he transports in contravention of a ruling pursuant to sub-section 2. The fine may be fixed and enforced by the Federal Ministry of the Interior or a body designated by the said ministry.
- (4) The Federal Ministry of the Interior or a body designated by the Federal Ministry of the Interior may agree arrangements for implementation of the obligation specified in sub-section 1 with transport carriers.

Section 64

Return transport obligation on the part of transport carriers

- (1) If a foreigner is refused entry, the carrier who transported him or her to the border shall be required to remove him or her from the federal territory without delay.
- (2) The obligation pursuant to sub-section 1 shall apply for a period of three years with regard to foreigners who are transported into the federal territory without a required passport, passport substitute or a required residence title and who are not

refused entry because they cite political persecution, persecution within the meaning of Section 3 (1) of the Asylum Procedure Act or the risk of suffering serious harm within the meaning of Section 4 (1) of the Asylum Procedure Act, or the circumstances referred to in Section 60 (2), (3), (5) or (7). The obligation shall expire if the foreigner is granted a residence title under the terms of this act.

(3) On request from the authorities charged with policing cross-border traffic, the carrier shall be required to transport the foreigner to the state which issued the travel document or from which he or she was transported, or to another state in which his or her admission is ensured.

Section 65

Obligations of airport operators

The operator of a commercial airport shall be obliged to provide suitable accommodation on the airport premises for foreigners who are not in possession of a required passport or a required visa until the decision on admission is enforced by the border police.

Section 66

Parties liable for costs; security

(1) Costs arising in connection with the enforcement of a geographic restriction, refusal of entry, removal or deportation are to be borne by the foreigner.

(2) In addition to the foreigner, parties who have provided the foreigners authority or the diplomatic mission abroad with an undertaking that they will bear the costs of the foreigner's departure shall also be liable for the costs specified in sub-section 1.

(3) In the cases covered by Section 64 (1) and (2), the transport carrier shall, in addition to the foreigner, be liable for the costs pertaining to return transportation of the foreigner and for the costs which arise from the time of the foreigner's arrival at the border crossing point to enforcement of the decision on admission. A carrier who culpably contravenes a ruling pursuant to Section 63 (2) shall, in addition to the foreigner, be liable for any other costs arising from refused entry in cases covered by Section 64 (1) or from deportation in cases covered by Section 64 (2).

(4) The following shall be liable for the costs of deportation or removal,

1. anyone who has employed a foreigner who was not permitted to pursue the economic activity under the provisions of this Act,
2. a contractor for whom an employer has performed services as a direct sub-contractor and the contractor was aware or should have been aware, if he or she had exercised due diligence, that the employer hired a foreigner as an employee to perform the service who was not permitted to pursue the economic activity under the provisions of this Act,
3. a prime contractor or intermediate contractor without a direct contractual relationship to the employer who is aware of the employment of a foreigner who was not permitted to pursue the economic activity under the provisions of this Act,
4. anyone who commits a punishable offence pursuant to Section 96, or
5. the foreigner in question, to the extent that such costs cannot be recovered from the other liable parties.

The persons listed in sentence 1, nos. 1 to 4 shall be liable as joint and several debtors within the meaning of Section 421 of the Civil Code.

(4a) Liability pursuant to sub-section 4, no. 1 shall be waived if the employer has fulfilled his or her obligations under Section 4 (3), sentences 4 and 5 and his or her notification obligation pursuant to Section 28a of Book Four of the Social Code in conjunction with Sections 6, 7 and 13 of the Data Collection and Transfer Ordinance or pursuant to Section 18 of the Posted Workers Act, unless he or she was aware that the foreigner's residence title or the document confirming permission to stay in the federal territory (pending asylum procedures) or confirming suspension of deportation was forged.

(5) The party liable for costs may be required to furnish security. The order for security to be furnished by the foreigner or the party liable for costs pursuant to sub-section 4, sentences 1 and 2 may be enforced by the authority which has issued the order without a prior writ of execution and without allowing a period for payment, if recovery of the costs would otherwise be at risk. By way of security for the costs relating to the foreigner's departure from the federal territory, return air tickets and other travel vouchers in the possession of a foreigner who is to be refused entry, removed, expelled or deported or who is permitted to enter and stay in the federal territory solely for the purpose of filing an application for asylum may be confiscated.

Section 67

Scope of liability for costs

(1) The costs relating to deportation, removal, refused entry and the enforcement of a geographic restriction include

1. transport costs and other travel costs for the foreigner within the federal territory and up to the destination outside of the federal territory,
2. the administrative costs arising in connection with preparation and enforcement of the measure, including the costs of custody awaiting deportation, translation and interpreting costs and the expenditure on accommodation, food and other provisions for the foreigner and
3. all costs arising from necessary official escorts for the foreigner, including personnel costs.

(2) The costs for which the transport carrier shall be liable pursuant to Section 66 (3), sentence 1 include

1. the costs specified in sub-section 1, no. 1,
2. the administrative costs and expenditure on accommodation, food and other provisions for the foreigner and translation and interpreting costs which arise up to the time of enforcement of the decision on admission and
3. the costs specified in sub-section 1, no. 3, unless the carrier himself provides the necessary escort for the foreigner.

(3) The costs specified in sub-sections 1 and 2 shall be charged by the competent authority pursuant to Section 71 by means of a payment order in the amount of the actually incurred costs. The general principles for the calculation of public-sector personnel costs shall apply with regard to calculation of the personnel costs.

Section 68

Liability for living expenses

(1) Anyone who has provided the foreigners authority or a diplomatic mission abroad with a declaration of commitment to bear a foreigner's living expenses shall be

required to reimburse all public funds which are expended to cover the foreigner's living expenses, including the provision of living space, medical care in case of illness and any required nursing care, and including any such expenditure which is based on a legal entitlement of the foreigner. Expenses which are based on the payment of contributions shall not require reimbursement.

(2) The declaration of commitment pursuant to sub-section 1, sentence 1 must be furnished in writing. It shall be enforceable in accordance with the Administrative Enforcement Act. The public body which has expended the public funds shall be entitled to the reimbursement.

(3) The diplomatic mission abroad shall notify the foreigners authority without delay of a declaration of commitment pursuant to sub-section 1, sentence 1.

(4) On obtaining knowledge of the expenditure of public funds to be reimbursed pursuant to sub-section 1, the foreigners authority shall notify forthwith the public body which is entitled to the reimbursement as to the declaration of commitment pursuant to sub-section 1, sentence 1, and shall furnish said body with all the information necessary for the purposes of asserting and enforcing the reimbursement claim. The recipient may only use the data for the purposes of reimbursement of the public funds expended for the foreigner and the refusal of further payments.

Section 69

Fees

(1) Fees and expenses shall be charged for official acts performed under this Act and for statutory instruments issued in enforcement of this Act. Sentence 1 shall not apply to official acts by the Federal Employment Agency pursuant to Sections 39 to 42. Section 287 of Book Three of the Social Code shall remain unaffected.

(2) The Federal Government shall, with the approval of the Bundesrat, determine by statutory instrument the cases which are subject to a fee, the scales of fees, and exemptions and reduced fees, particularly in cases of need. The Administrative Costs Act in the version applicable until 14 August 2013 shall apply insofar as the present Act does not contain any divergent provisions.

(3) The fees which are fixed in the statutory instrument must not exceed the following maximum rates:

1. for issuance of a residence permit: 140 euros,
 - 1a. for issuance of an EU Blue Card: 140 euros,
2. for issuance of a settlement permit: 260 euros,
 - 2a. for issuance of an EU long-term residence permit: 260 euros,
3. for the extension of a residence permit or of an EU Blue Card: 100 euros,
4. for issuance of a national visa and of a passport substitute and substitute identity document: 100 euros,
5. for recognition of a research establishment for the purpose of concluding admission agreements pursuant to Section 20: 200 euros,
6. for other official acts: 30 euros,
7. for official acts performed for the benefit of minors: half the fee set for the official act concerned,

8. for the issuance of a new document pursuant to Section 78 (1) which has become necessary due to a change in the information pursuant to Section 78 (1), sentence 3, or due to the expiry of the technical period of validity for the use of the card, the loss of the document or the loss of the technical functionality of the document: 60 euros.

(4) A surcharge of no more than 25 euros may be imposed to issue a national visa and a passport substitute at the border. A surcharge of no more than 30 euros may be imposed for an official act undertaken outside of normal office hours on request from the applicant. Surcharges may also be imposed for official acts performed for a national whose home country imposes fees in excess of those stipulated in sub-section 2 on Germans for equivalent official acts. Sentences 2 and 3 shall not apply to the issuance or extension of a Schengen visa. In setting surcharges, the maximum rates stipulated in sub-section 3 may be exceeded.

(5) The statutory instrument pursuant to sub-section 2 may provide for a processing fee to be charged for applications for official acts which are subject to fees. The processing fee to apply for a settlement permit or an EU long-term residence permit must not exceed half the fee charged to issue the respective permit. This fee shall be offset against the fee for the official act. The fee shall not be refunded if the application is withdrawn and/or the official act which is applied for is refused.

(6) The statutory instrument pursuant to sub-section 2 may provide for fees to be charged to file an objection; the following maximum rates shall apply to such fees:

1. to object to the refusal of an application for the performance of an official act which is subject to a fee:
2. to object to any other official act: 55 euros.

If the objection is successful, the fee shall be deducted from the fee for the official act to be performed and the remainder shall be refunded.

Section 70

Limitation of actions in respect of claims

(1) The claims for the costs specified in Section 67 (1) and (2) shall become statute-barred six years after they become due for payment. Section 17 of the Administrative Costs Act shall apply mutatis mutandis.

(2) In addition to the cases covered by Section 20 (3) of the Administrative Costs Act in the version applicable until 14 August 2013, the limitation period for claims pursuant to Sections 66 and 69 shall also be interrupted for as long as the party liable for costs is not resident in the federal territory or for as long as his or her residence in the federal territory cannot be ascertained because he or she has failed to meet the statutory registration or notification obligation.

Chapter 7

Procedural provisions

Part 1

Areas of competence

Section 71

Competence

(1) The foreigners authorities shall be competent for residence- and passport-related measures and rulings in accordance with this Act and in accordance with provisions relating to foreigners which are contained in other acts. The Land government or the

body appointed by the Land government may determine that only one or several specific foreigners authorities are competent.

(2) Outside of Germany, the diplomatic missions authorised by the Federal Foreign Office shall be responsible for matters relating to passports and visas.

(3) The authorities charged with policing cross-border traffic shall be responsible for

1. removal and refusal of entry at the border,
 - 1a. deportations at the border, insofar as the foreigner has been intercepted during or following unlawful entry into the federal territory across a border within the meaning of Article 2 no. 1 of Regulation (EC) no. 562/2006 (internal border),
 - 1b. deportations at the border, insofar as the foreigner has already entered the federal territory unlawfully, has subsequently proceeded to another border area or to an airport, airfield, landing site or maritime or inland port, whether approved or not as a border crossing point, where he or she has then been intercepted,
 - 1c. imposition of time limits on the effects of deportations and removals which they carry out pursuant to Section 11 (1) and (2),
 - 1d. the return of foreigners from and to other states and
 - 1e. applying for custody and effecting arrest where necessary for the purposes of preparation and safeguarding of the measures listed in nos. 1 to 1d,
2. granting a visa and issuing a passport substitute pursuant to Section 14 (2), and suspending deportation pursuant to Section 60a (2a),
3. withdrawal and revocation of a national visa, as well as decisions pursuant to Article 34 of Regulation (EC) no. 810/2009
 - a) in case of refusal of entry, removal or deportation, provided that the requirements of nos. 1a or 1b are met,
 - b) on request from the diplomatic mission abroad which has issued the visa or
 - c) on request from the foreigners authority which has approved issuance of the visa, insofar as this approval was required for said issuance,
4. prohibiting departure and implementing the measures pursuant to Section 66 (5) at the border,
5. verifying at the border whether transport carriers and other third parties have observed the provisions of this Act and the ordinances and orders enacted on the basis of this Act,
6. other measures and rulings under the law relating to foreigners which prove necessary at the border and for which the authorities possess authorisation from the Federal Ministry of the Interior or for which they are authorised by the said Ministry in the individual case concerned,
7. procuring return travel documents for foreigners from individual states by way of official assistance,
8. issuing notes and certificates for which provision is made in legislation of the European Union confirming the date and place of entry via the external border of a Member State which applies the Schengen acquis in full; this shall not preclude the competence of the foreigners authorities of other bodies designated by the Länder.

(4) The foreigners authorities, the authorities charged with policing cross-border traffic and, where necessary in discharging their duties pursuant to sub-section 5, the police forces of the Länder shall be responsible for the necessary measures pursuant to Sections 48 and 49 (2) to (9). In cases covered by Section 49 (4), the authorities initiating allocation pursuant to Section 15a shall also be responsible. The diplomatic missions abroad authorised by the Federal Foreign Office shall be competent in the cases covered by Section 49 (5) no. 5.

(5) The police forces of the Länder shall also be responsible for carrying out removal, for enforcing the obligation to leave the federal territory pursuant to Section 12 (3), for implementing deportation and, where necessary for the purposes of preparing and safeguarding these measures, for effecting arrest and applying for custody.

(6) The Federal Ministry of the Interior or the body appointed by the said Ministry shall decide in consultation with the Federal Foreign Office on the recognition of passports and substitute passport papers (Section 3 (1)); the decisions shall take the form of general orders and may be announced in the Federal Gazette.

Section 71a

Jurisdiction and notification

(1) In the cases covered by Section 98 (2a) and (3), no. 1, the administrative authorities within the meaning of Section 36 (1), no. 1 of the Administrative Offences Act shall be the customs administration authorities. These shall cooperate with the authorities stated in Section 2 (2) of the Act to Combat Clandestine Employment in prosecuting offences and imposing punishments.

(2) The customs administration authorities shall notify the Central Trade and Industry Register as to non-appealable orders imposing administrative fines pursuant to Section 98 (2a) and (3), no. 1 which are to be entered in the register. This shall apply only to fines in excess of 200 euros.

(3) Courts of law, prosecuting authorities and penal authorities should furnish the customs administration authorities with findings from other proceedings which they consider necessary in prosecuting administrative offences pursuant to Section 98 (2a) and (3), no. 1, except where it is apparent to the body furnishing such information that the legitimate interests of the data subject or other parties involved in the proceedings in the exclusion of such information prevail. Due consideration is to be accorded to how well substantiated the findings to be communicated are.

Section 72

Consultation requirements

(1) Permission to enter the federal territory (Section 11 (2)) may only be granted with the consent of the foreigners authority which is competent for the intended place of residence. The authority which has expelled, removed or deported the foreigner is generally to be consulted.

(2) The foreigners authority shall decide whether deportation to a specific state is prohibited pursuant to Section 60 (5) or (7) and whether a residence title is to be refused pursuant to Section 25 (3), sentence 2, nos. 1 to 4 only after consulting the Federal Office for Migration and Refugees.

(3) Geographic restrictions, requirements and conditions, time limits pursuant to Section 11 (1), sentence 3, orders pursuant to Section 47 and other measures against a foreigner who is not in possession of a required residence title may only be amended or lifted by a different authority in consultation with the authority which

ordered the measures. Sentence 1 shall not apply if the foreigner's residence is restricted to the region for which the other foreigners authority is competent in accordance with the provisions of the Asylum Procedure Act.

(4) A foreigner against whom legal proceedings are instituted by a public authority or preliminary investigations are instituted under criminal law may only be expelled or deported in consultation with the competent public prosecutor's office. A foreigner who qualifies as requiring protection within the meaning of the Act to Harmonise Protection for Witnesses may only be expelled or deported in consultation with the Office for the Protection of Witnesses.

(5) Section 45 of Book Eight of the Social Code shall not apply to departure facilities and facilities which serve as temporary accommodation for foreigners who are granted a residence permit for reasons of international law or on humanitarian or political grounds or whose deportation is suspended.

(6) The competent public prosecutor's office for the criminal proceedings referred to in Section 25 (4a) or (4b) or the criminal court concerned with such proceedings shall be consulted prior to reaching a decision on the issuance, extension or revocation of a residence title pursuant to Section 25 (4a) or (4b) and prior to setting, annulling or reducing a deadline for leaving the country pursuant to Section 59 (7), except in cases covered by Section 87 (5), no. 1. Where the competent public prosecutor's office is not yet known to the foreigners authority, it shall consult the police authority responsible for the place of residence prior to reaching a decision on setting, annulling or reducing a deadline for leaving the country pursuant to Section 59 (7).

(7) The foreigners authority may also consult the Federal Employment Agency to establish whether or not the requirements of Sections 18, 18b, 19 and 19a are met in cases where its approval is not necessary.

Section 73

Other consultation requirements in visa procedures and in the issuance of residence titles

(1) Data on the inviting party and on persons guaranteeing that the foreigner's subsistence will be ensured by way of a declaration of commitment or by other means or on other reference persons in Germany, which is collected in the course of the visa procedure by a German diplomatic mission abroad or by the diplomatic mission abroad of another Schengen state which is responsible for taking receipt of the visa application on the person applying for a visa, may be transferred via the competent body responsible to the Federal Intelligence Service, the Federal Office for the Protection of the Constitution, the Military Counter-Intelligence Service, the Federal Criminal Police Office and the Customs Criminological Office for the purpose of ascertaining any grounds for refusal pursuant to Section 5 (4) or in order to investigate any other security reservations. The procedure pursuant to Section 21 of the Act on the Central Register of Foreigners shall remain unaffected. In cases covered by Section 14 (2), the respective authorities charged with policing cross-border traffic may transfer the data collected in the visa application procedure to the authorities stated in sentence 1.

(2) Prior to issuing or extending a residence title, temporarily suspending deportation or permitting residence (pending asylum procedures), the foreigners authorities may transfer the personal data stored at their facilities on the persons concerned via the Federal Office of Administration to the Federal Intelligence Service, the Military Counter-Intelligence Service, the Federal Criminal Police Office, the Customs

Criminological Office, the Land Office for the Protection of the Constitution, the Land Office of Criminal Police or the competent police authorities for the purpose of ascertaining any grounds for refusal pursuant to Section 5 (4) or in order to investigate any other security reservations. The Federal Office for the Protection of the Constitution may provide technical support for the transfer of data to the Land Offices for the Protection of the Constitution.

(3) The security authorities and intelligence services stated in sub-sections 1 and 2 shall notify the competent body forthwith as to whether grounds for refusal pursuant to Section 5 (4) or any other security reservations apply; the Federal Office for the Protection of the Constitution may provide technical support for the transfer of communications from the Land Offices for the Protection of the Constitution regarding enquiries from the foreigners authorities pursuant to sub-section 2. The German diplomatic missions abroad and foreigners authorities shall communicate forthwith to the security authorities and intelligence services which are stated in sentence 1 the length of validity of the residence titles which have been issued or extended; should the authorities stated in sentence 1 obtain knowledge of grounds for refusal pursuant to Section 5 (4) or other security reservations during the period of validity of the residence title, they shall duly notify the competent foreigners authority or the competent diplomatic mission abroad forthwith. The authorities stated in sentence 1 may store and use the data transferred if necessary in discharging their statutory duties. Provisions regulating the transfer of data pursuant to other acts shall remain unaffected.

(4) The Federal Ministry of the Interior shall determine via a general statutory instrument in consultation with the Federal Foreign Office and with due regard to the prevailing security situation in which cases the authorisation pursuant to sub-section 1 shall be used with regard to nationals of particular states and persons belonging to groups defined by any other means.

Section 73a

Notification of the issuance of visas

(1) Notifications of visas issued which are submitted by other Schengen states pursuant to Article 31 of Regulation (EC) no. 810/2009 may be transferred via the competent body to the Federal Intelligence Service, the Federal Office for the Protection of the Constitution, the Military Counter-Intelligence Service, the Federal Criminal Police Office and the Customs Criminological Office for the purpose of investigating whether the grounds stated in Section 5 (4) or any other security reservations preclude the entry into and residence in the federal territory of a visa holder. Notifications from German diplomatic missions abroad concerning visas which have been issued without prior transfer of data pursuant to Section 73 (1) may be transferred via the competent body to the authorities listed in sentence 1 for the purpose stated in sentence 1; data on persons other than the holder of the visa shall not be transferred. Section 73 (3), sentences 3 and 4 shall apply mutatis mutandis.

(2) The Federal Ministry of the Interior shall determine via a general statutory instrument in consultation with the Federal Foreign Office and with due regard to the prevailing security situation in which cases the authorisation pursuant to sub-section 1 shall be used with regard to nationals of particular states and persons belonging to groups defined by any other means.

Section 74

Consultation of the Federation; authority to issue instructions

(1) A visa may be granted to safeguard political interests of the Federation subject to the proviso that extension of the visa and the issuance of another residence title after expiry of the visa and the lifting and amendment of requirements, conditions and other restrictions pertaining to the visa may only be undertaken in consultation with or subject to the consent of the Federal Ministry of the Interior or the body appointed by said Ministry.

(2) The Federal Government may issue individual instructions on implementation of this Act and the statutory instruments enacted on the basis of this Act if

1. the security of the Federal Republic of Germany or any other substantial interests of the Federal Republic of Germany so require,
2. measures undertaken by one Land in connection with the law on foreigners harm substantial interests of another Land,
3. a foreigners authority intends to expel a foreigner who is exempted from the requirement for a residence permit by virtue of his or her belonging to a consular or diplomatic mission.

Part 1a Transit

Section 74a Transit of foreigners

Foreign states may return foreigners to another state from their territory via the federal territory or readmit foreigners into their territory from another state via the federal territory, subject to the permission of the competent authorities (transit operations). Transit operations shall be carried out on the basis of intergovernmental agreements and legislation of the European Union. The central authority pursuant to Article 4 (5) of Directive 2003/110/EC shall be the federal police authority specified in the statutory instrument pursuant to Section 58 (1) of the Federal Police Act. The foreigner in transit is to tolerate the necessary measures in connection with his or her transit journey.

Part 2 Federal Office for Migration and Refugees

Section 75 Duties

Notwithstanding its duties in accordance with other acts, the Federal Office for Migration and Refugees shall have the following duties:

1. coordinating the information on the residence for the purpose of pursuing an economic activity between the foreigners authorities, the Federal Employment Agency and the German diplomatic missions abroad authorised for matters pertaining to passports and visas by the Federal Foreign Office;
2.
 - a) developing the basic structure and contents of the integration course pursuant to Section 43 (3),
 - b) implementing the same and
 - c) measures pursuant to Section 9 (5) of the Federal Expellees Act;

3. providing expert support for the Federal Government in the field of promoting integration and producing informational materials on integration measures offered by the Federal Government, Land governments and local government authorities for foreigners and ethnic German resettlers;
4. conducting scientific research on migration issues (accompanying research) with the aim of obtaining analytical conclusions for use in controlling immigration;
5. cooperating with the administrative authorities of the Member States of the European Union as the National Contact Point and competent authority pursuant to Article 27 of Directive 2001/55/EC, Article 25 of Directive 2003/109/EC, Article 8 (3) of Directive 2004/114/EC and Article 22 (1) of Directive 2009/50/EC, and for communications pursuant to Section 51 (8a)
6. keeping the register pursuant to Section 91a;
7. coordinating the programmes and taking part in projects to promote voluntary returns, and paying out funds approved under those schemes;
8. carrying out the admission process pursuant to Section 23 (2) and the allocation of foreigners admitted pursuant to Section 23 and Section 22, sentence 2 to the Länder;
9. providing migration advisory services pursuant to Section 45, sentence 1, unless such services are provided by other bodies; it may enlist the services of private or public institutions to this end;
10. recognising research establishments for the purpose of concluding admission agreements pursuant to Section 20; in this connection, the Federal Office for Migration and Refugees shall be supported by a consultative council on research migration;
11. coordinating the transfer of information and evaluating findings of the federal authorities, in particular of the Federal Criminal Police Office and the Federal Office for the Protection of the Constitution, on foreigners for whom measures under the law on foreigners, asylum or nationality are to be considered owing to a risk to public security.

**Section 76
(revoked)**

**Part 3
Administrative procedures**

Section 77

Written form; exemption from formal requirements

(1) The following administrative acts must be made in writing and (excepting no. 5) shall require the statement of reasons:

1. the administrative act
 - a) refusing a passport substitute, a substitute identity document or a residence title or subjecting the same to geographic or time restrictions or to conditions and requirements, or
 - b) refusing the amendment or rescission of a subsidiary provision attaching to the residence title, and
2. expulsion orders,

3. deportation orders pursuant to Section 58a (1), sentence 1,
4. deportation warnings,
5. suspensions of deportation,
6. geographic residence restrictions pursuant to Section 12 (4),
7. orders pursuant to Sections 47 and 54a,
8. the withdrawal and the revocation of administrative acts in accordance with this Act,
9. as well as to decisions on applications for time limits to be applied pursuant to Section 11 (1), sentence 3.

An administrative act refusing a residence title or invalidating a residence title shall be supplemented by explanatory notes, as shall decisions on applications for time limits to be applied pursuant to Section 11 (1) sentence 3. The explanatory notes shall inform the foreigner as to the legal remedy available in order to challenge the administrative act, the body with which the corresponding appeal is to be lodged and the deadline to be observed; in other cases the deportation warning shall be included with the aforementioned explanatory notes.

(2) Refusal and restriction of a visa and of a passport substitute prior to the foreigner entering the federal territory shall not require any statement of grounds or information on available legal remedies; refusal at the border shall not require written form. Formal requirements for the refusal of Schengen visas shall be determined by Regulation (EC) no. 810/2009.

(3) If the foreigner is not represented by a person so authorised, translations of the operative part of the administrative act refusing or invalidating the residence title or deciding on an application for time limits to be applied pursuant to Section 11 (1) sentence 3 and of the information on available legal remedies shall be provided to him or her on application, free of charge in a language which the foreigner understands or which it can be reasonably assumed he or she understands. If another reason exists for the obligation to leave the federal territory, sentence 1 shall apply mutatis mutandis to the deportation warning as well as to the information on available legal remedies which shall be included with this pursuant to sub-section 1, sentence 3. The translation may be provided in oral or written form. The foreigner shall not be entitled to a translation if he or she has entered the federal territory unlawfully or has been expelled on the grounds of a criminal conviction. Sentences 1 to 3 shall not apply if the foreigner has not yet entered or has already left the federal territory.

Section 78

Documents with an electronic storage and processing medium

(1) Residence titles pursuant to Section 4 (1) sentence 2 , nos. 2 to 4 shall be issued as stand-alone documents with an electronic storage and processing medium. Residence permits to be issued in accordance with the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons of 21 June 1999 (Official Journal no. L 114 of 30.4.2002, p. 6) shall, on application, be issued as documents with an electronic storage and processing medium. Documents pursuant to sentences 1 and 2 shall contain the following visibly displayed items of information:

1. Surname and first names,
2. doctoral degree,
3. photograph,
4. date and place of birth,
5. address,
6. start and duration of validity,
7. place of issue,
8. type of residence title or right of residence and its legal basis,
9. issuing authority,
10. serial number of the appurtenant passport or passport substitute,
11. duration of validity of the appurtenant passport or passport substitute,
12. comments,
13. signature,
14. serial number,
15. nationality,
16. sex,
17. height and eye colour,
18. card access number.

Subject to the conditions stipulated in Section 48 (2) or (4), a document pursuant to sentence 1 may be marked to indicate that it is a substitute identity document and that the personal details contained therein are based on the information furnished by the holder. The signature of the applicant as required under sentence 3, no. 13 must be submitted if he or she is ten years of age or older at the time of applying for the document.

(2) A document with an electronic storage and processing medium pursuant to subsection (1) shall contain a machine-readable zone. It may contain only the following visibly displayed information:

1. the abbreviations
 - a) "AR" for residence titles of the type pursuant to Section 4 (1), nos. 2 to 4,
 - b) "AS" for residence titles of the type pursuant to Section 28 sentence 2 of the Ordinance Governing Residence,
2. the abbreviation "D" for the Federal Republic of Germany,
3. the serial number of the residence title which shall consist of the code number of the foreigners authority and a randomly assigned residence title number and which may contain both numerals and letters,
4. the date of birth,
5. the abbreviation "F" for females and "M" for males,

6. the duration of validity of the residence title or in the case of a permanent right of residence, the technical period of validity of for the use of the card,
7. the abbreviation of the nationality,
8. the surname,
9. the first name or names,
10. the check digits and
11. empty spaces.

The serial number and the check digits may not include any information about the holder or indications about such information. Each document shall be assigned a new serial number.

(3) The electronic storage and processing medium included in the document pursuant to sub-section 1 shall contain the following data:

1. the data stipulated in sub-section 1, sentence 3, nos. 1 to 5 and the unique municipality code used in the official list of municipalities,
2. the data of the machine-readable zone pursuant to sub-section 2, sentence 2,
3. subsidiary provisions and
4. two fingerprints, the designation of the fingers used and information on the quality of the prints.

The stored data shall be secured against unauthorised modification, deletion and retrieval. The taking of fingerprints shall be performed on persons who are six years of age and older.

(4) The electronic storage and processing medium of a document pursuant to sub-section 1 shall be designed as a secure signature-creation device within the meaning of Section 2, no. 10 of the Electronic Signatures Act. The provisions of the Electronic Signatures Act shall remain unaffected.

(5) The electronic storage and processing medium of a document pursuant to sub-section 1 may also be used for the additional function of an electronic proof of identity. In this respect, Section 2 (3) to (7), (10) and (12), Section 4 (3), Section 7 (4) and (5), Section 10 (1) sentences 1 to 3, (2) sentence 1, (3) to (5), (6) sentence 1, (7), (8) sentence 1 and (9), Section 11 (1) to (5) and (7), Section 12 (2) sentence 2, Sections 13, 16, 18, 19 (1), (3) and (4), Section 20 (2) and (3), Sections 21, 27 (2) and (3), Section 32 (1) nos. 5 and 6 with the exception of Section 19 (2) stated there, nos. 7 and 8, (2) and (3) and Section 33 nos. 1, 2 and 4 of the Act on Identity Cards shall apply mutatis mutandis with the proviso that the foreigners authority takes the place of the identity card authority. In addition to the data listed in Section 18 (3) sentence 2 of the Act on Identity Cards the subsidiary provisions stored in accordance with sub-section 3 no. 3 and the abbreviation for the holder's nationality may also be transferred within the scope of the electronic proof of identity function subject to the requirements of Section 18 (4) of the Act on Identity Cards. Sub-section 2 sentence 3 shall apply mutatis mutandis with regard to the blocking code and to the blocking characteristics.

(6) The authorities charged with implementing this Act or entrusted with sovereign powers to check identities may collect, process and use the data contained in the machine-readable zone in discharging their statutory duties.

(7) Public bodies may collect, process and use the data stored in the electronic storage and processing medium of a document pursuant to sub-section 1 with the exception of biometric data, where this is necessary to discharge their respective statutory duties. Both the address stored in the electronic storage and processing medium and the address to be displayed pursuant to sub-section 1, sentence 3, no. 5 may be changed by the foreigners authorities and other authorities designated by Land law.

(8) In the absence of any legal provisions to the contrary, the collection and use by technical means of personal data from documents pursuant to sub-section 1 may be undertaken only by way of the electronic proof of identity pursuant to sub-section 5. The same shall apply to the collection and use of personal data with the help of a document pursuant to sub-section 1.

Section 78a

Forms for residence titles in exceptional cases, identity card substitute and certificates

(1) In derogation from Section 78, residence titles pursuant to Section 4 (1) sentence 2, nos. 2 to 4 may be issued according to a standard form if

1. the residence title is to be granted for the purpose of extending the duration of stay by one month or,
2. issuing a residence title is necessary to avert exceptional hardship.

The standard form shall contain the following items of information:

1. Surname and first names of the holder,
2. duration of validity,
3. place and date of issue,
4. type of residence title or right of residence,
5. issuing authority,
6. serial number of the appurtenant passport or passport substitute,
7. comments,
8. photograph.

The standard form shall indicate that the document has been issued in exceptional circumstances.

(2) Forms pursuant to sub-section 1 sentence 1 shall contain a machine-readable zone with the following information:

1. Surname and first names,
2. date of birth;
3. sex;
4. nationality,
5. type of residence title,
6. serial number of the form,
7. issuing state,

8. duration of validity,
9. check digits,
10. empty spaces.

(3) Public bodies may store, transfer and use the data contained in the machine-readable zone pursuant to sub-section 2 in discharging their mandatory duties.

(4) The standard form for the substitute identity document shall contain a serial number and a machine-readable zone. In addition to the name of the issuing authority, the place and date of issue, the period or duration of validity, the first names and surname of the holder, residence status and subsidiary provisions, the standard form may also provide the following items of information on the holder's identity:

1. date and place of birth,
2. nationality,
3. sex,
4. height,
5. eye colour,
6. address,
7. photograph,
8. personal signature,
9. two fingerprints,
10. note to the effect that the personal details are based on information furnished by the foreigner.

If fingerprints are recorded pursuant to sentence 2, no. 9 they must be incorporated into the substitute identity document on the electronic storage and processing medium following encoding by means of security processes. The same shall apply where photographs are incorporated in electronic form. Sub-sections 2 and 3 shall apply mutatis mutandis. Section 78 (1) sentence 4 shall remain unaffected.

(5) The certificates pursuant to Section 60a (4) and Section 81 (5) shall be issued according to a standard form which contains a serial number and may be provided with a machine-readable zone. The certificate may otherwise contain only those data items specified in sub-section 4 and a note to the effect that the certificate alone does not satisfy the foreigner's passport obligation. Sub-sections 2 and 3 shall apply mutatis mutandis.

Section 79

Decision on residence

(1) A decision shall be reached on the residence of foreigners on the basis of the circumstances which are known in the federal territory and accessible information. The foreigners authority shall decide whether the conditions specified in Section 60 (5) and (7) apply on the basis of the knowledge in its possession and the knowledge which is accessible in the federal territory and, where necessary in individual cases, the knowledge accessible to the authorities of the Federation outside of the federal territory.

(2) If a foreigner,

1. who is under investigation on suspicion of having committed a criminal or administrative offence or
2. who, in proceedings to contest paternity pursuant to Section 1600 (1), no. 5 of the Civil Code, is a party, a summoned party, an involved party or a legal representative of the child,

applies for issuance or extension of a residence title, the decision on the residence title shall be suspended until the attendant proceedings are completed and, in the case of a court ruling, until it is no longer subject to appeal, unless it is possible to reach a decision on the residence title without considering the outcome of the proceedings. In the case of Section 1600 (1), no. 5 of the Civil Code, the procedure shall be suspended upon receipt of notification pursuant to Section 87 (6) or pursuant to Section 90 (5).

Section 80

Legal capacity of minors

- (1) A foreigner who is 16 years of age or older shall be capable of performing procedural actions pursuant to this Act, provided that he or she would not be legally incapacitated in accordance with the Civil Code or, on attaining majority, would not require supervision and prior approval in this matter.
- (2) A minor's lack of legal capacity shall not preclude him or her being refused entry or removed. The same shall apply to the notice of intention to deport and subsequent deportation to the country of origin, if his or her legal representative is not resident in the federal territory or the latter's whereabouts in the federal territory are unknown.
- (3) In application of this Act, the provisions of the Civil Code shall determine whether a foreigner is to be regarded as a minor or an adult. If a foreigner is of age under the law of his home country, his legal capacity and capacity to contract shall remain unaffected.
- (4) The legal representatives of a foreigner under the age of 16 and any other persons attending to the foreigner in the federal territory in place of the legal representatives shall be obliged to file the necessary applications on behalf of the foreigner for issuance and extension of the residence title and issuance and extension of the passport, passport substitute and substitute identity document.

Section 81

Application for the residence title

- (1) In the absence of any provisions to the contrary, a residence title shall be issued to a foreigner only if the foreigner concerned files a corresponding application.
- (2) A residence title which may be obtained after entering the federal territory in accordance with the statutory instrument pursuant to Section 99 (1), no. 2 shall be applied for immediately after entry or within the period stipulated in the statutory instrument. The application for a child born in the federal territory who is not to be granted a residence title ex officio shall be filed within six months of birth.
- (3) If a foreigner who is legally resident in the federal territory and does not possess a residence title applies for a residence title, his or her residence shall be deemed to be permitted up to the time of the decision by the foreigners authority. If the application is filed too late, deportation shall be deemed to be suspended from the time of application up to the time of the decision by the foreigners authority.

(4) If a foreigner applies for an extension of his or her residence title or for a different residence title before his or her current residence title expires, the current residence title shall be deemed to remain in force from the time of its expiry until the time of the decision by the foreigners authority. This shall not apply to visas pursuant to Section 6 (1). If the application to issue or extend a residence title was filed too late, the foreigners authority may order that the previous residence title continues to apply in order to avoid undue hardship.

(5) The foreigner shall be issued a certificate confirming the effect of his or her application (provisional residence document).

Section 82

Cooperation by the foreigner

(1) The foreigner shall be obliged to put forward his or her interests and any circumstances in his or her favour which are not evident or known, specifying verifiable circumstances, and to produce forthwith the necessary evidence relating to his or her personal situation, other required certificates and permits and other required documents which he or she is able to furnish. The foreigners authority may set him or her a reasonable deadline for this purpose. It shall set him or her such a deadline when postponing the processing of an application for a residence title on account of lacking or incomplete information and shall specify the information to be furnished subsequently. Circumstances put forward and documents furnished after expiry of said deadline may be ignored.

(2) Sub-section 1 shall be applied mutatis mutandis in an objection procedure.

(3) The foreigner should be notified of his or her obligations pursuant to sub-section 1 and of his essential rights and duties under this Act, in particular the obligations arising from Sections 44a, 48, 49 and 81 and the possibility of filing an application pursuant to Section 11 (1), sentence 3. If a time limit is set, he or she shall be notified of the consequences of failure to observe the set deadline.

(4) Where necessary for the purposes of preparing and implementing measures under this Act and in accordance with provisions relating to foreigners in other acts, an order may be issued requiring a foreigner to report personally to the competent authority and to the diplomatic missions or authorised officials of the state whose nationality he putatively possesses and requiring a medical examination to be carried out in order to ascertain whether the foreigner is fit to travel. If a foreigner fails to comply with an order pursuant to sentence 1, the order may be compulsorily enforced. Section 40 (1) and (2), Sections 41, 42 (1), sentences 1 and 3 of the Act on the Federal Police shall apply mutatis mutandis.

(5) On request, the foreigner for whom a document is to be issued in accordance with this Act, the Asylum Procedure Act or the provisions enacted to implement this Act is to

1. submit a current photograph in accordance with a statutory instrument enacted pursuant to Section 99 (1), nos. 13 and 13a or to cooperate in the taking of such a photograph and
2. cooperate in the taking of his or her fingerprints in accordance with a statutory instrument enacted pursuant to Section 99 (1), nos. 13 and 13a.

The photograph and the fingerprints may be incorporated into documents pursuant to sentence 1 and processed and used by the competent authorities to document and subsequently establish the foreigner's identity.

(6) Foreigners holding a residence permit pursuant to Sections 18 or 18a or an EU Blue Card must notify the competent foreigners authority should the employment for which the residence title was granted be terminated earlier than envisaged. This shall not apply if the foreigner may take up employment without permission which can only be granted with an approval pursuant to Section 39 (2). The foreigner is to be informed of his obligation pursuant to sentence 1 when the residence title is issued.

Section 83

Limitation of right of appeal

- (1) The refusal of a national visa and a passport substitute at the border shall not be subject to appeal. Upon being refused a national visa and a passport substitute at the border, the foreigner shall be informed of the possibility of filing an application with the competent diplomatic mission abroad.
- (2) The refusal to suspend deportation shall not be contestable.

Section 84

Effects of an objection and a legal action

- (1) An objection or legal action against
1. the refusal of an application to issue or extend a residence title,
 2. a condition imposed pursuant to Section 61 (1), sentence 1 requiring the foreigner to take up residence at a departure facility,
 3. the amendment or rescission of a subsidiary provision concerning the pursuit of an economic activity,
 4. revocation of the foreigner's residence title pursuant to Section 52 (1), sentence 1, no. 4 in the cases covered by Section 75 (2), sentence 1, of the Asylum Procedure Act, and
 5. revocation or withdrawal of the recognition of research establishments for the purpose of concluding admission agreements pursuant to Section 20, and
 6. refusals of departure pursuant to Section 46 (2), sentence 1,
- shall have no suspensory effect.

(2) Notwithstanding their suspensory effect, an objection or legal action shall not affect the operative effect of an expulsion or any other administrative act terminating lawful residence. For purposes pertaining to admission or the pursuit of an economic activity, the residence title shall be deemed to remain in force until expiry of the deadline for raising an objection or instituting legal action, during judicial proceedings concerning a permissible application for the institution or restoration of suspensory effect or for as long as the submitted legal remedy has suspensory effect. The lawfulness of the residence shall not be interrupted if the administrative act is revoked by an official decision or by a non-appealable court ruling.

Section 85

Calculation of residence periods

Interruptions of lawful residence of up to one year may be ignored.

Part 4

Data protection

Section 86
Collection of personal data

The authorities charged with implementing this Act may collect personal data for the purposes of implementing this Act and provisions relating to foreigners contained in other acts, where this is necessary to discharge their duties under this Act and in accordance with provisions relating to foreigners contained in other acts. Data within the meaning of Section 3 (9) of the Federal Data Protection Act and corresponding provisions contained in the data protection acts of the Länder may be collected where this is necessary in individual cases to discharge assigned duties.

Section 87
Transfer of data and information to foreigners authorities

(1) On request, public bodies with the exception of schools and other educational and care establishments for young people shall notify circumstances of which they obtain knowledge to the bodies specified in Section 86, sentence 1, insofar as this is necessary for the purposes stated in said Section.

(2) Public bodies within the meaning of sub-section 1 shall notify the competent foreigners authority forthwith, if, in discharging their duties, they obtain knowledge of

1. the whereabouts of a foreigner who does not possess a required residence title and whose deportation has not been suspended,
2. a breach of a geographic restriction,
3. any other grounds for expulsion or
4. concrete facts which justify the assumption that the conditions exist for an authority's right to contest pursuant to Section 1600 (1), no. 5 of the Civil Code;

in the cases covered by numbers 1 and 2 and in case of any other actions punishable under this act, the competent police authority may be notified instead of the foreigners authority, if one of the measures specified in Section 71 (5) is possible; the police authority shall notify the foreigners authority forthwith; the youth welfare office shall be obliged to provide notification pursuant to no. 4 only if such notification does not compromise the youth welfare office in discharging its own duties. Public bodies should notify the competent foreigners authority forthwith if, in discharging their duties, they obtain knowledge of special integration needs within the meaning of a statutory instrument enacted pursuant to Section 43 (4). The diplomatic missions abroad shall transfer to the competent foreigners authority personal data on a foreigner which is suitable for the purposes of establishing the latter's identity or nationality, should they acquire knowledge of the fact that such data may be of current significance in enforcing the foreigner's enforceable requirement to leave the federal territory.

(3) The Federal Government Commissioner for Migration, Refugees and Integration shall be obliged to provide notifications pursuant to sub-sections 1 and 2 regarding a foreigner belonging to this category of persons only if such notification does not compromise the Commissioner in discharging his or her own duties. The Land governments may determine by legal instrument that Foreigners' Commissioners of the respective Länder and of local government authorities are obliged to provide notifications pursuant to sub-sections 1 and 2 relating to a foreigner who is lawfully resident in the Land or local government district concerned or who resided lawfully in the Land or local government district up to the time of issuance of an

administrative act terminating the lawfulness of the residence subject to sentence 1 only.

(4) The bodies responsible for instituting and implementing criminal or fine proceedings shall notify the competent foreigners authority forthwith of the institution of such criminal proceedings and of due settlement of the criminal or fine proceedings at the public prosecutor's office, in court or at the administrative authority which is competent for prosecuting the administrative offence and imposing due punishment, stating the relevant statutory provisions. Sentence 1 shall apply mutatis mutandis for the institution of extradition proceedings against a foreigner. Sentence 1 shall not apply to proceedings instituted for an administrative offence which is punishable by a fine of up to one thousand euros, nor for proceedings instituted for an offence within the meaning of Section 24 of the Road Traffic Act or instituted for an offence committed negligently within the meaning of Section 24a of the Road Traffic Act. The Office for the Protection of Witnesses shall notify the competent foreigners authority forthwith of the beginning and end of witness protection for a foreigner.

(5) The bodies to be involved pursuant to Section 72 (6) are to notify the foreigners authorities

1. ex officio of any circumstances justifying the revocation of a residence title issued pursuant to Section 25 (4a) or (4b) or the shortening or annulment of a deadline for leaving the country granted pursuant to Section 59 (7) and
2. ex officio of the competent body or of any transfer of competence, where involvement in criminal proceedings pursuant to Section 72 (6) has taken place or notification has been effected pursuant to no. 1.

(6) In the cases covered by Section 1600 (1), no. 5 of the Civil Code there shall be an obligation to notify the foreigners authority or the diplomatic mission abroad

1. on the part of the authority entitled to contest, about the preparation or institution of a legal action or the decision to dispense with a legal action, and
2. on the part of the family courts about the court ruling.

Section 88

Transfer of data and information in the case of special statutory regulations on the use of data

(1) Personal data and other information shall not be transferred pursuant to Section 87, if such transfer conflicts with special statutory regulations.

(2) Personal data made accessible to a public body by a doctor or by other persons stated in Section 203 (1), nos. 1, 2, 4 to 6 and sub-section (3) of the Criminal Code may be transferred by said public body,

1. if the foreigner constitutes a risk to public health and special protective measures to eliminate the risk are not possible or fail to be observed by the foreigner or
2. if the data are required in order to ascertain whether the conditions specified in Section 55 (2) no. 4 apply.

(3) Personal data subject to tax secrecy under Section 30 of the Tax Code may be transferred if the foreigner has violated a provision of tax law, including customs law and monopolies law or a provision of foreign trade and payments law, or has violated import, export or transit bans or bans on the introduction of goods into customs territory and criminal investigations have been instituted or a fine of at least

five hundred euros has been imposed for such violation. In cases covered by sentence 1, the authorities charged with policing cross-border traffic may also be notified, if a ban on the foreigner leaving the federal territory is to be issued pursuant to Section 46 (2).

(4) Sub-sections 1 to 3 shall apply mutatis mutandis to transfer by the authorities charged with implementing this Act and by private bodies.

Section 88a

Processing of data in connection with integration measures

(1) In conducting integration courses, the foreigners authority, the institution providing basic security for job seekers, the Federal Office of Administration and private and public institutions authorised to hold integration courses shall be permitted to transfer data relating to participants to the Federal Office for Migration and Refugees, in particular data relating to the confirmation of entitlement to attend, to permission to attend pursuant to Section 44 (4) and to registration for and attendance of an integration course, insofar as said transfer is necessary to grant permission or entitlement to attend the integration course, to verify proper participation, to verify the fulfilment of the obligation to attend pursuant to Section 44a (1) sentence 1, to certify successful participation or to invoice and conduct integration courses. The private and public institutions authorised to conduct integration courses may inform the competent foreigners authority or the competent institution providing basic security for job seekers about the unsatisfactory attendance of a foreigner obliged to participate in an integration course pursuant to Section 44a (1) sentence 1. On request, the Federal Office for Migration and Refugees may forward the data transferred pursuant to sentence 1 to foreigners authorities, institutions providing basic security for job seekers and nationality authorities insofar as this is necessary for the granting of permission or entitlement to attend an integration course, for verifying the fulfilment of the obligation to attend, for extending a residence permit, for the granting of a settlement permit or an EU long-term residence permit, for supervising the integration agreement or conducting the naturalisation procedure. In other respects, the processing of personal data by the Federal Office for Migration and Refugees shall be permissible only for the implementation and invoicing of integration courses.

(2) If the Federal Office for Migration and Refugees enlists the services of private or public institutions to provide migration advisory services pursuant to Section 75, no.9, the transfer of aggregated data on the advisory services so provided shall be permissible from the institutions to the Federal Office for Migration and Refugees.

Section 89

Procedures to investigate, establish and document a foreigner's identity

(1) The Federal Criminal Police Office shall provide official assistance in assessing the data which are collected pursuant to Section 49 by the authorities entrusted with implementing this Act and which are transferred pursuant to Section 73. The data collected pursuant to Section 49 (3) to (5) shall be stored separately from other identification data. The data pursuant to Section 49 (7) shall be kept by the authority creating the records.

(2) Use of the data obtained pursuant to Section 49 (3) to (5) or (7) shall also be permissible for the purposes of ascertaining the foreigner's identity or allocating evidence in the course of criminal prosecution and measures undertaken by the police to avert dangers. These data may be transferred or furnished to the

authorities responsible for these measures, to the extent and for the duration necessary.

(3) The data collected pursuant to Section 49 (1) shall be erased by all authorities directly after completing the process of verifying the authenticity of the document or the identity of the holder. The data collected pursuant to Section 49 (3) to (5) or (7) shall be erased by all authorities storing such data if

1. the foreigner has been issued with a valid passport or passport substitute and granted a residence title by the foreigners authority,
2. ten years have elapsed since the foreigner's last departure from the federal territory or attempted unlawful entry,
3. three years have elapsed since refusal of entry or removal in cases covered by Section 49 (5), nos. 3 and 4 or
4. ten years have elapsed since application for the visa in cases covered by Section 49 (5), no. 5 and since the voice recording in the case of Section 49 (7).

Erasure of the data shall be documented.

(4) Sub-section 3 shall not apply if and for as long as the data are required in connection with criminal proceedings or to avert a danger to public safety or law and order.

Section 89a

Procedural provisions for the database for found documents

(1) On request from the authority collecting the data concerned, the Federal Office of Administration shall check the data collected pursuant to Section 49 on a foreigner against the data contained in the database for found documents, in order to establish a foreigner's identity or nationality by reference to a found document, should doubts exist in this respect.

(2) In order to enable the data to be counter-checked in this manner, the body requesting the check shall transfer the appurtenant photograph or fingerprints and other items of information stipulated in Section 49b, no. 1 to the Federal Office of Administration.

(3) If the transferred data on the foreigner correspond to the stored data on the holder of a found document, the data shall be transferred to the requesting body in accordance with Section 49b.

(4) Where the Federal Office of Administration is unable to clearly establish a foreigner's identity, it shall transfer the information stored on similar persons in the database for found documents to the requesting body, if it is to be expected that the latter's knowledge will enable the foreigner's identity to be established by reference to one of the found documents. The requesting body is to erase forthwith all information which cannot be attributed to the foreigner and to destroy appurtenant records.

(5) The information shall be transferred via remote data transmission. Automatic retrieval of the data shall be permitted in accordance with Section 10 (2) to (4) of the Federal Data Protection Act.

(6) The Federal Office of Administration shall check the data stored in the database for found documents against the data transferred by

1. an authority responsible for establishing the identity or nationality of a foreigner pursuant to Section 16 (2) of the Asylum Procedure Act and

2. an authority responsible for criminal prosecution or police measures to avert dangers for the purposes of establishing a foreigner's identity or attributing evidence upon request from the said authorities. Sub-sections 2 and 5 shall apply mutatis mutandis.

(7) The data pursuant to Section 49b shall be erased ten years after the initial storage of data pertaining to the document concerned. If the purpose of storage ceases to apply before this period has elapsed, the data shall be erased forthwith.

(8) The bodies concerned are to undertake state-of-the-art measures to ensure data protection and data security which, in particular, guarantee the confidentiality and integrity of the data; when generally accessible networks are used, state-of-the-art encryption methods shall be applied.

Section 90

Transfer of information by foreigners authorities

(1) In individual cases in which there are concrete indications of

1. foreigners taking up employment or pursuing an economic activity without the necessary residence title pursuant to Section 4,
2. violation of the obligation to cooperate pursuant to Section 60 (1), sentence 1, no. 2 of Book One of the Social Code with regard to a department of the Federal Employment Agency, a statutory health insurance, long-term care insurance, accident insurance or pension insurance agency, an institution providing basic security for job seekers or a social welfare agency, or violation of the obligation to report pursuant to Section 8a of the Act on Benefits for Asylum Seekers,
3. the violations specified in Section 6 (3), nos. 1 to 4 of the Act to Combat Clandestine Employment,

the authorities charged with implementing this Act shall notify the authorities responsible for prosecuting the violations according to numbers 1 to 3 and imposing due punishment, the institutions providing basic security for job seekers or the social welfare agencies and the competent authorities pursuant to Section 10 of the Act on Benefits for Asylum Seekers.

(2) In prosecuting and punishing violations of this Act, the authorities charged with implementing this Act shall cooperate in particular with the other authorities specified in Section 2 (2) of the Act to Combat Clandestine Employment.

(3) The authorities charged with implementing this Act shall notify the competent authorities under Section 10 of the Act on Benefits for Asylum Seekers of circumstances and measures under this Act, a knowledge of which is necessary for the purposes of benefits under the Act on Benefits for Asylum Seekers, the information which they receive on the issuance of approval for employment to persons eligible for benefits under the Act on Benefits for Asylum Seekers and information relating to the expiry, revocation or withdrawal of issued approvals.

(4) The foreigners authorities shall notify the bodies to be involved pursuant to Section 72 (6) forthwith of

1. the issuance or refusal of a residence title pursuant to Section 25 (4a) or (4b),
2. the setting, reduction or annulment of a period allowed for departure pursuant to Section 59 (7) or

3. the transfer of competence from the foreigners authorities to another foreigners authority; this obligation shall apply to the foreigners authority to which competence has been transferred.

(5) If the foreigners authority or the diplomatic mission abroad becomes aware of concrete facts which justify the assumption that the conditions exist for a right to contest pursuant to Section 1600 (1), no. 5 of the Civil Code, it must inform the authority entitled to contest of these facts.

Upon request, the foreigners authority shall inform the court bailiff of a person's place of residence.

Section 90a

Notifications by the foreigners authorities to the registration authorities

(1) The foreigners authorities shall notify the competent registration authorities forthwith upon obtaining information indicating that the data stored in the register on foreigners who are obliged to register with the authorities are incorrect or incomplete. They shall notify the registration authorities in particular when a foreigner who is obliged to register with the authorities

1. is resident in the federal territory and has not registered with the authorities,
2. has permanently left the federal territory.

(2) The notifications pursuant to sub-section 1 should contain the following information on the foreigner who is obliged to register with the authorities:

1. Surname, name at birth and first name(s),
2. date, place and state of birth,
3. nationalities,
4. most recent address in Germany and
5. date of exit from the federal territory.

Section 90b

Comparing data between foreigners authorities and registration authorities

Foreigners authorities and registration authorities which share the same geographic area of competence shall exchange the data specified in Section 90a (2) annually for the purpose of data maintenance. The receiving authority shall check the transferred data against its own stored data; automated checking shall be permissible. The transferred data may only be used for the purposes of data checking and data maintenance, after which it shall be erased forthwith; furnished data carriers shall be returned or destroyed forthwith.

Section 90c

Data transfer in visa procedures via the Federal Foreign Office

(1) The transfer of data in the course of visa procedures from German diplomatic missions abroad to the authorities involved in the visa procedures and then back again to the German diplomatic missions abroad shall be performed by means of an automated process via a technical device for supporting the visa procedure operated by the Federal Foreign Office. The technical device shall ensure the complete, correct and punctual transfer of data pursuant to sentence 1. To this end the data pursuant to sentence 1 shall be stored in the technical device.

(2) Personal data may only be collected, processed or used in the technical device insofar as this is necessary for the purpose stated in sub-section 1, sentences 1 and 2.

(3) The data stored pursuant to sub-section 1, sentence 3 must be erased forthwith if the data are no longer needed for the purpose stated in sub-section 1, sentences 1 and 2, at the latest following issuance or refusal of a visa or withdrawal of the visa application.

Section 91

Storage and erasure of personal data

(1) The data relating to expulsion, removal and deportation shall be erased ten years after expiry of the limitation period specified in Section 11 (1), sentence 3. They are to be erased prior to this if they contain information which may no longer be used against the foreigner in accordance with other statutory provisions.

(2) Notifications pursuant to Section 87 (1) which are immaterial to an impending decision under the law relating to foreigners and which are unlikely to be of relevance to a later decision under the law relating to foreigners shall be destroyed forthwith.

(3) Section 20 (5) of the Federal Data Protection Act and corresponding provisions in the data protection acts of the Länder shall not apply.

Section 91a

Temporary protection register

(1) The Federal Office for Migration and Refugees shall keep a register of foreigners in accordance with Section 24 (1) who have applied for a visa or a residence permit and of their dependants within the meaning of Article 15 (1) of Directive 2001/55/EC for the purposes of granting residence, allocating admitted foreigners to places of residence in the federal territory, relocating the place of residence of admitted foreigners to other Member States of the European Union, the reunification of families and the promotion of voluntary return.

(2) The following items of information shall be stored in the register:

1. On the foreigner:
 - a) The personal details (with the exception of former names and the home address in Germany), the last place of residence in the country of origin, the region of origin and information furnished voluntarily on the foreigner's religion,
 - b) information on occupation and vocational training,
 - c) date of receipt of the foreigner's application for a visa or a residence permit, the authority responsible for processing the application, and information regarding the decision on the application or the state of progress in the application procedure,
 - d) details of the identity and travel document,
 - e) the Central Foreigners Register number and the visa file number,
 - f) country of destination and date of leaving the country of origin,
2. the personal details in accordance with number 1, letter a, with the exception of voluntary information on the religion of the foreigner's dependants in accordance with sub-section 1,

3. details of documents confirming marriage, unmarried partnership or kinship.

(3) The foreigners authorities and the diplomatic missions abroad shall be obliged to transfer the data stated in sub-section 2 to the registration authority forthwith when an application has been filed

1. for a residence permit pursuant to Section 24 (1) or

2. for a visa to secure temporary protection in the federal territory.

(4) Sections 8 and 9 of the Act on the Central Register of Foreigners shall apply mutatis mutandis.

(5) On request, the data may be transferred to the foreigners authorities, diplomatic missions abroad and other organisational units of the Federal Office for Migration and Refugees, including the National Contact Point established at the Federal Office for Migration and Refugees in accordance with Article 27 (1) of Directive 2001/55/EC for the purposes of discharging their duties under the law regarding foreigners and asylum in connection with the granting of residence, allocating admitted foreigners to places of residence in the federal territory, relocating the place of residence of admitted foreigners to other Member States of the European Union, the reunification of families and the promotion of voluntary return.

(6) The registration authority is to produce records of data transmissions in accordance with sub-section 5. Section 13 of the Act on the Central Register of Foreigners shall apply mutatis mutandis.

(7) Data transmission pursuant to sub-sections 3 and 5 shall be effected in writing, in electronic form or via automated procedures. Section 22 (2) to (4), of the Act on the Central Register of Foreigners shall apply accordingly.

(8) The data shall be erased no later than two years after the termination of temporary protection for the foreigner. Sections 34 (1) and (2) and Section 37 of the Act on the Central Register of Foreigners shall apply mutatis mutandis with regard to notification of the data subject and blocking of access to the data.

Section 91b

Transfer of data by the Federal Office for Migration and Refugees as the National Contact Point

In its capacity as the National Contact Point in accordance with Article 27 (1) of Directive 2001/55/EC, the Federal Office for Migration and Refugees may transfer the data contained in the register pursuant to Section 91a to the following bodies for the purpose of relocating the place of residence of admitted foreigners to other Member States of the European Union or the reunification of families:

1. National Contact Points of other Member States of the European Union,
2. bodies and institutions of the European Union,
3. other foreign, supranational or intergovernmental bodies, provided that an appropriate level of data security pursuant to Section 4b (3) of the Federal Data Protection Act is ensured at such bodies.

Section 91c

Intra-Community information in implementation of Directive 2003/109/EC

(1) In its capacity as the National Contact Point pursuant to Article 25 of Directive 2003/109/EC, the Federal Office for Migration and Refugees shall notify the competent authority of another Member State of the European Union in which the foreigner concerned possesses the status of a long-term resident as to the contents

and date of a decision on the issuance or extension of a residence permit pursuant to Section 38a (1) or on the issuance of an EU long-term residence permit. The authority which has reached the decision shall transfer the necessary data necessary to the Federal Office for Migration and Refugees without delay. The data required for notifications pursuant to sentence 1 may be transferred to the National Contact Point by means of an automated process, using the Central Foreigners Register number.

(1a) Inquiries filed by the foreigners authorities as to whether a foreigner continues to be granted international protection status within the meaning of Section 2(13) in another Member State shall be forwarded by the Federal Office for Migration and Refugees ex officio to the competent bodies of the EU Member State concerned. To do so, the competent foreigners authority shall send the necessary information to the Federal Office for Migration and Refugees. The Federal Office for Migration and Refugees shall forward the replies to the competent foreigners authority.

(2) In the procedure pursuant to Section 51 (8) the Federal Office for Migration and Refugees shall forward inquiries ex officio to the competent bodies of the Member State of the European Union concerned, stating the intended measure and the key factual and legal grounds stated by the foreigners authority in substantiation of the intended measure. To do so, the foreigners authority shall transfer the necessary information to the Federal Office for Migration and Refugees. The Federal Office for Migration and Refugees shall forward to the competent foreigners authority the answers received from bodies of other Member States of the European Union in this connection.

(3) The Federal Office for Migration and Refugees shall notify the competent authority of another Member State of the European Union ex officio where a foreigner who possesses long-term resident status in said Member State has been served notice of intention to deport or remove him or her

1. to the Member State of the European Union in which the foreigner holds long-term resident status or
2. to a territory outside of the European Union

or such a measure has been carried out, or where a corresponding deportation order pursuant to Section 58a has been issued or carried out. The notification shall state the primary reason for terminating the foreigner's stay. The notification shall take place as soon as the German authority ordering the measure concerned pursuant to Section 71 informs the Federal Office for Migration and Refugees of the intended or effected measure. To this end, the authorities stated in sentence 3 shall furnish the necessary information to the Federal Office for Migration and Refugees without delay.

(4) In the case of notifications pursuant to sub-sections 1 to 3, the foreigner's personal details shall be transferred for identification purposes. Where dependants who are living with the long-term resident as a family unit on a long-term basis are also involved in cases covered by sub-section 3, their personal details shall also be transferred.

(5) The Federal Office for Migration and Refugees shall forward inquiries from bodies of other Member States of the European Union in connection with the involvement pursuant to Article 22 (3), sub-paragraph 2 of Directive 2003/109/EC to the competent foreigners authorities. The competent foreigners authority shall

furnish the Federal Office for Migration and Refugees with the following information of which it has due knowledge:

1. Personal details of the foreigner with long-term resident status concerned,
2. residence- and asylum-related decisions which have been reached for or against the said foreigner,
3. interests in favour of or opposed to the foreigner's return to the federal territory or a third country or
4. any other circumstances which it is to be assumed may be of relevance to the inquiring Member State's decision on residence matters.

The competent foreigners authority shall otherwise provide notification that it has no knowledge of any pertinent information. The Federal Office for Migration and Refugees shall forward this information ex officio to the competent body of the inquiring Member State of the European Union.

(5a) The Federal Office for Migration and Refugees shall inform the competent authorities of the other EU Member State within one month of receipt of the inquiry whether a foreigner continues to have international protection status in the Federal Republic of Germany.

(5b) If the long-term resident's EU residence permit issued by another Member State of the European Union to a beneficiary of international protection indicates that the person concerned has been granted international protection by said state, and if the responsibility for such international protection within the meaning of Section 2 (13) has been transferred to Germany in line with the relevant legal provisions before the beneficiary of international protection was granted an EU long-term residence permit pursuant to Section 9a, the Federal Office for Migration and Refugees shall ask the competent authority of the other Member State to change the remark in the long-term resident's residence permit accordingly.

(5c) If a person who holds long-term resident status in another EU Member State is granted international protection in Germany within the meaning of Section 2 (13) before he or she is issued an EU long-term residence permit pursuant to Section 9a, the Federal Office for Migration and Refugees shall ask the competent authority of the other Member State to enter in the EU long-term residence permit the remark that Germany has granted this person international protection.

(6) The Federal Office for Migration and Refugees shall notify the competent foreigners authority ex officio of the content of notifications from other Member States of the European Union

1. according to which the other Member State of the European Union intends to carry out or is carrying out measures to terminate the residence of a foreigner who holds an EU long-term residence permit,
2. according to which a foreigner who holds an EU long-term residence permit has acquired long-term resident status in another Member State of the European Union or has been issued a residence title or had his or her residence title extended in another Member State of the European Union.

Section 91d

Intra-Community information in implementation of Directive 2004/114/EC

(1) On request, the Federal Office for Migration and Refugees shall furnish the competent authority of another Member State of the European Union with the

necessary information in order to enable the competent authorities of the other Member State of the European Union to verify whether the conditions pertaining to issuance of a residence permit pursuant to Article 8 of Directive 2004/114/EC apply. This information shall comprise

1. the foreigner's personal details and information on his or her identity and travel documents,
2. information on the foreigner's present and former residence status in Germany,
3. information on completed criminal investigations or such investigations which are known to the foreigners authority,
4. other data concerning the foreigner which are stored in the Central Register of Foreigners or which originate from the foreigner's file or the visa file and which have been requested by the other Member State of the European Union.

To this end, at the request of the Federal Office for Migration and Refugees the foreigners authorities and the diplomatic missions abroad shall transfer to the Federal Office the necessary data in order to enable the said Federal Office to duly provide the information to the requesting competent authorities of the other Member State.

(2) The diplomatic missions abroad and the foreigners authorities may address requests for information to competent bodies of other Member States of the European Union through the Federal Office for Migration and Refugees, where this is necessary in order to verify compliance with the conditions for issuance of a residence permit pursuant to Section 16 (6) or of a corresponding visa. To this end, they may transfer

1. the foreigner's personal details,
2. information on the foreigner's identity and travel documents and on his or her residence title which has been issued in another Member State of the European Union and
3. information on the subject of the application for issuance of the residence title and on the place where such application was filed

and, where pertinent, specify the contents of the desired information in precise terms. The Federal Office for Migration and Refugees shall forward information which it receives to the competent foreigners authorities and diplomatic missions abroad. The data which are transferred in the information furnished by the competent bodies of other Member States of the European Union may be used by the foreigners authorities and diplomatic missions abroad for this purpose.

Section 91e

Common provisions for the register for the purposes of temporary protection and intra-Community data transfer

For the purposes of Sections 91a to 91d,

1. personal details shall be defined as names, in particular surname, name at birth, first names and former names, date of birth, place of birth, sex, nationalities and home address in Germany,
2. details of the identity and travel document shall be defined as the type, number, issuing body, date of issue and period of validity.

Section 91f

Information in implementation of Directive 2009/50/EC within the European Union

- (1) In its capacity as the National Contact Point pursuant to Article 22 of Directive 2009/50/EC, the Federal Office for Migration and Refugees shall notify the competent authority of another Member State of the European Union in which the foreigner concerned possesses an EU Blue Card of the content and date of any decision taken with regard to the issuance of an EU Blue Card. The authority which has reached the decision shall transfer the necessary data to the National Contact Point. The foreigners authority may transfer the data from the Central Register of Foreigners required for notifications pursuant to sentence 1 to the National Contact Point by means of an automated process, using the Central Foreigners Register number.
- (2) The Federal Office for Migration and Refugees shall annually transfer to the competent bodies of the European Union

1. the data to be communicated pursuant to Regulation (EC) no. 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) no. 311/76 on the compilation of statistics on foreign workers (Official Journal L 199 of 31 July 2007, p. 23) with regard to the issuance of EU Blue Cards, and
2. a list of occupations for which a level of pay has been determined in a statutory instrument in implementation of Article 5 (5) of Directive 2009/50/EC.

Chapter 8

Commissioner for Migration, Refugees and Integration

Section 92

Office of the Commissioner

- (1) The Federal Government shall appoint a Commissioner for Migration, Refugees and Integration.
- (2) The Commissioner's office shall be established at one of the supreme federal authorities and may be held by a Member of the German Bundestag. The Commissioner may also hold an office under the Act governing the Legal Status of Parliamentary State Secretaries, without this requiring special approval (Section 5 (2), sentence 2 of the Act governing Federal Ministers, Section 7 of the Act governing the Legal Status of Parliamentary State Secretaries). In this case, discharge of the Commissioner's duties shall remain unaffected by the legal status in accordance with the Act governing the Legal Status of Parliamentary State Secretaries.
- (3) The personnel and material resources required to perform the duties of the office shall be provided. The budget allocation shall be shown in a separate section of the individual plan of the supreme federal authority pursuant to sub-section 2, sentence 1.
- (4) Save in the case of dismissal, the office tenure shall end with the convening of a new Bundestag.

Section 93

Duties

The Commissioner shall have the following duties:

1. to promote the integration of migrants who are permanently resident in the federal territory and, in particular, to support the Federal Government in developing its

integration policy, also with regard to aspects of employment policy and social policy, and to provide ideas for the further development of integration policy in the European context;

2. to develop the necessary conditions for the most harmonious co-existence possible between foreigners and Germans and between different groups of foreigners, to promote mutual understanding and to counteract xenophobia;
3. to counteract unequal treatment of foreigners;
4. to help ensure that the interests of the foreigners resident in the federal territory receive due consideration;
5. to provide information on the legal possibilities for naturalisation;
6. to safeguard the rights of freedom of movement of EU citizens and to submit proposals on further arrangements to safeguard such rights;
7. to encourage and support initiatives to integrate migrants who are resident in the federal territory on a permanent basis, including such initiatives at the level of the Länder and local authorities and among social groups;
8. to monitor immigration to the federal territory and to the European Union and the development of immigration to other states;
9. to cooperate in the areas of the duties specified in numbers 1 to 8 with the bodies of the local authorities, Länder, other Member States of the European Union and the European Union itself which have the same or similar remits as the Commissioner;
10. to inform the public in the areas of duties specified in numbers 1 to 9.

Section 94

Scope of authority

(1) The Commissioner shall be involved at the earliest possible juncture in law-making projects of the Federal Government or individual federal ministries and in other matters relating to his or her remit. The Commissioner may submit proposals and forward opinions to the Federal Government. The federal ministries shall support the Commissioner in discharging his or her duties.

(2) The Commissioner shall submit a report on the situation of foreigners in Germany to the German Bundestag every two years.

(3) If the Commissioner possesses adequate information indicating that federal public bodies are committing breaches within the meaning of Section 93, no. 3 or are failing to protect the rights of foreigners in any other way, he or she may require a statement. The Commissioner may attach his or her own assessment to this statement and forward the statement to the public body and the latter's superior authority. The federal bodies shall be obliged to furnish information and to answer questions. The public bodies shall transfer personal data only if the data subject himself or herself has approached the Commissioner to request that the latter take action in relation to the public body on the data subject's behalf, or if the foreigner's consent is proven by any other means.

Chapter 9

Provisions as to punishments for criminal offences and fines

Section 95

Penal provisions

(1) The following persons shall be punishable with up to one year's imprisonment or a fine: anyone who

1. resides in the federal territory in contravention of Section 3 (1) in conjunction with Section 48 (2),
2. resides in the federal territory without a necessary residence title pursuant to Section 4 (1), sentence 1, if
 - a) he or she is enforceably required to leave the federal territory,
 - b) he or she has not been granted a period for departure or this has expired and
 - c) his or her deportation has not been suspended,
3. enters the federal territory in contravention of Section 14 (1), nos. 1 or 2,
4. contravenes an enforceable order pursuant to Section 46 (2), sentence 1 or 2 or Section 47 (1), sentence 2 or sub-section 2,
5. fails to furnish an item of information or furnishes incorrect or incomplete information in contravention of Section 49 (2), where the offence is not punishable pursuant to sub-section 2, no. 2,
6. fails to tolerate a measure specified in Section 49 (10) in contravention of said Section,
- 6a. fails repeatedly to meet an obligation to report to the authorities in contravention of Section 54a, repeatedly contravenes geographic restrictions or other conditions imposed on their stay, fails to meet the obligation to take up residence in a designated facility despite having been notified repeatedly as to the legal consequences or uses certain means of communication in contravention of Section 54a (4),
7. repeatedly breaches a geographic restriction pursuant to Section 61 (1) or
8. belongs to an organisation or group in the federal territory which consists primarily of foreigners and whose existence, aims or activities are concealed from the authorities in order to avert the prohibition of said organisation or group

(1a) The same punishment shall be applicable to anyone who wilfully commits an act specified in Section 404 (2), no. 4 of Book Three of the Social Code or in Section 98 (3), no. 1, who requires a residence title pursuant to Section 4 (1), sentence 1 in order to reside in the federal territory and only possesses a residence title in the form of a Schengen visa pursuant to Section 6 (1), no. 1.

(2) The following persons shall be punishable with up to three years' imprisonment or a fine: anyone who

1. , in contravention of Section 11 (1), sentence 1,
 - a) enters the federal territory or
 - b) resides in said territory or
2. furnishes or uses false or incomplete information in order to procure a residence title or a suspension of deportation for themselves or for another or who knowingly uses a document procured in this manner for the purpose of deceit in legal matters.

(3) An attempt to commit an offence shall be punishable in the cases covered by sub-section 1, no. 3 and sub-sections 1a and 2, no. 1, letter a.

(4) Objects related to an offence pursuant to sub-section 2, no. 2 may be confiscated.

(5) Article 31 (1) of the Convention relating to the Status of Refugees shall remain unaffected.

(6) In the cases covered by sub-section 1, nos. 2 and 3, an act carried out without the necessary residence title shall be deemed equivalent to an act carried out on the basis of a residence title obtained by threat, bribery or collusion or by furnishing incorrect or incomplete information.

Section 96

Smuggling of foreigners into the federal territory

(1) The following shall be punishable with a prison sentence of up to five years or a fine: anyone who

1. incites another person to commit an act pursuant to Section 95 (1), no. 3 or (2), no. 1, letter a and
 - a) receives a pecuniary advantage or the promise of a pecuniary advantage in return or
 - b) acts in such a manner repeatedly or for the benefit of several foreigners or
2. incites another person to commit an act pursuant to Section 95 (1), no. 1 or no. 2, (1a) or (2), no. 1, letter b or no. 2 and receives a pecuniary advantage or the promise of a pecuniary advantage in return.

(2) In the cases covered by sub-section 1, the following shall be punishable with a prison sentence of between six months and ten years: anyone who

1. acts for gain,
2. acts as a member of a gang which has come together for the purpose of committing such offences on a continuing basis,
3. carries a firearm, if the offence concerns an act pursuant to Section 95 (1), no. 3 or (2) no. 1, letter a,
4. carries another type of weapon in order to use said weapon in connection with the offence, if the offence concerns an act pursuant to Section 95 (1), no. 3 or (2) no. 1, letter a, or
5. subjects the smuggled persons to potentially fatal, inhumane or humiliating treatment or a risk of sustaining severe damage to their health.

(3) The attempt shall be punishable.

(4) Sub-section 1, no. 1, letter a, no. 2, sub-section 2, nos. 1, 2 and 5 and sub-section 3 shall be applicable to contraventions of statutory provisions on the entry of foreigners into the territory of the Member States of the European Union or of a Schengen state and on the residence of foreigners in such territories, where

1. such contraventions correspond to the acts specified in Section 95 (1), nos. 2 or 3 or Section 2, no. 1 and
2. the offender supports a foreigner who is not a national of a Member State of the European Union or of another state party to the Convention on the European Economic Area.

(5) Section 73d of the Criminal Code shall be applicable in the cases covered by sub-section 2, no. 1, also in conjunction with sub-section 4, and in cases covered by sub-section 2, nos. 2 to 5.

Section 97

Smuggling of foreigners into the federal territory resulting in death; smuggling for gain and as organised gangs

- (1) Anyone causing the death of the smuggled person in the cases covered by Section 96 (1), also in conjunction with Section 96 (4), shall be punishable by imprisonment for a term of no less than three years.
- (2) Anyone acting for gain as a member of a gang which has come together for the purpose of committing such offences on a continuing basis in the cases covered by Section 96 (1), also in conjunction with Section 96 (4), shall be punishable by imprisonment for a term of between one and ten years.
- (3) Less serious cases pursuant to sub-section 1 shall be punishable by imprisonment for a term of between one year and ten years, less serious cases pursuant to sub-section 2 shall be punishable by imprisonment for a term of between six months and ten years.
- (4) Section 73d of the Criminal Code shall apply.

Section 98

Provisions as to fines

- (1) Anyone who negligently commits an act specified in Section 95 (1), nos. 1 or 2 or (2), no. 1, letter b shall be deemed to have committed an administrative offence.
- (2) Anyone shall be deemed to have committed an administrative offence who
1. fails to furnish evidence in contravention of Section 4 (5), sentence 1,
 2. fails to submit to the policing of cross-border traffic in contravention of Section 13 (1), sentence 2,
 3. in contravention of Section 48 (1) or (3), sentence 1, fails to submit a document or paper specified therein, fails to submit such a document or paper in time or fails to surrender the same in time or fails to leave the same with the competent authorities or to do so in time or
 4. acts in contravention of an enforceable order pursuant to Section 44a (1), sentence 1, no. 3, sentence 2 or 3.
- (2a) Anyone who, in contravention of Section 4 (3), sentence 2, intentionally or negligently commissions a foreigner on a sustained basis to perform paid work or services for gain shall be deemed to have committed an administrative offence.
- (3) Anyone shall be deemed to have committed an administrative offence who wilfully or negligently
1. pursues a self-employed activity in contravention of Section 4 (3), sentence 1,
 2. contravenes an enforceable condition pursuant to Section 12 (2), sentence 2 or (4) or a geographic restriction pursuant to Section 54a (2) or 61 (1), sentence 1,
 3. enters or leaves the federal territory outside of an approved border crossing point or outside of the stipulated traffic hours or fails to carry a passport or passport substitute with them in contravention of Section 13 (1),
 4. contravenes an enforceable order pursuant to Section 46 (1), Section 54a (1), sentence 2 or (3) or Section 61 (1), sentence 2,

5. fails to provide notification, provides incorrect notification or fails to provide notification punctually in contravention of Section 54a (1), sentence 1,
6. fails to file one of the applications stipulated in Section 80 (4) in contravention of the said Section or
7. contravenes a statutory instrument pursuant to Section 99 (1), no. 3a, letter d, nos. 7, 10 or 13a, sentence 1, letter j, insofar as such statutory instrument refers to this provision as to fines for a specific offence.

(4) An attempt to commit an administrative offence may be punishable in the cases covered by sub-section 2, no. 2 and sub-section 3, no. 3.

(5) The administrative offence shall be punishable in the cases covered by sub-section 2a by a fine of up to five hundred thousand euros, in the cases covered by sub-section 2, no. 2 and sub-section 3, no. 1 by a fine of up to five thousand euros, in the cases covered by sub-sections 1 and 2, nos. 1 and 3 and sub-section 3, no. 3 by a fine of up to three thousand euros and in the other cases by a fine of up to one thousand euros.

(6) Article 31 (1) of the Convention relating to the Status of Refugees shall remain unaffected.

Chapter 9a

Legal consequences of unlawful employment

Section 98a

Remuneration

(1) An employer shall be obliged to pay the agreed remuneration to a foreigner whom he or she has employed who lacks the authorisation for employment required pursuant to Section 284 (1) of Book Three of the Social Code or the authorisation to pursue an economic activity required pursuant to Section 4 (3). For the purpose of remuneration, it shall be assumed that the foreigner has been employed by the employer for three months.

(2) The agreed remuneration shall be considered to be the usual remuneration unless the employer agreed a lower or higher remuneration with the foreigner on a permissible basis.

(3) A contractor who has commissioned another contractor to perform work or render services shall be liable for fulfilling the obligation of the latter contractor pursuant to sub-section 1 in the same way as a surety which has waived the defence of unexhausted remedies.

(4) Sub-section 3 shall apply mutatis mutandis to the prime contractor and all intermediate contractors without a direct contractual relationship to the employer unless the prime contractor or the intermediate contractor were not aware that the employer has employed foreigners who lack the authorisation for employment required pursuant to Section 284 (1) of Book Three of the Social Code or the authorisation to pursue an economic activity required pursuant to Section 4 (3).

(5) The liability pursuant to sub-sections 3 and 4 shall not apply if the contractor provides evidence that he or she was able to assume on the basis of due diligence that the employer has not employed any foreigner who lacks the authorisation for employment required pursuant to Section 284 (1) of Book Three of the Social Code or the authorisation to pursue an economic activity required pursuant to Section 4 (3).

(6) A foreigner who has been employed within the scope of application of this Act without the authorisation for employment required pursuant to Section 284 (1) of Book Three of the Social Code or the authorisation to pursue an economic activity required pursuant to Section 4 (3) may institute legal proceedings for fulfilment of payment obligations pursuant to sub-sections 3 and 4 inter alia before a German court for labour matters.

(7) The provisions of the Posted Workers Act shall remain unaffected.

Section 98b

Exclusion from subsidies

(1) The competent authority may reject applications for subsidies in full or in part in line with Section 264 of the Criminal Code if the applicant or his or her representative authorised by statutes or law

1. has been subject to a non-appealable fine of at least two thousand five hundred euros under Section 404 (2), no.3 of Book Three of the Social Code or
2. has been sentenced to a non-appealable prison term of more than three months or a fine in excess of 90 daily rates under Sections 10, 10a or 11 of the Act to Combat Clandestine Employment.

Rejections pursuant to sentence 1 may be issued within a period of up to five years after the non-appealable imposition of the fine or prison sentence depending on the severity of the offence for which the fine or prison sentence was imposed.

(2) Sub-section 1 shall not apply if

1. a legal entitlement to the subsidy which is applied for exists,
2. the applicant is a natural person and the employment which caused the offence pursuant to sub-section 1, sentence 1, was for his private purposes or
3. the offence pursuant to sub-section 1, sentence 1 consisted in the unlawful employment of an EU citizen.

Section 98c

Exclusion from the award of public contracts

(1) Public contracting entities pursuant to Section 98 nos. 1 to 3, 5 and 6 of the Act Against Restraints of Competition may exclude a candidate or tenderer from competing for a supply, construction or service contract if the candidate or tenderer or its representative authorised by statutes or law

1. has been subject to a non-appealable fine of at least two thousand five hundred euros under Section 404 (2), no.3 of Book Three of the Social Code or
2. has been sentenced to a non-appealable prison term of more than three months or a fine in excess of 90 daily rates under Sections 10, 10a or 11 of the Act to Combat Clandestine Employment.

Until there is proof of restoration of reliability, the candidate or tenderer may be excluded pursuant to sentence 1 within a period of up to five years after the non-appealable imposition of the fine or prison sentence depending on the severity of the offence for which the fine or prison sentence was imposed.

(2) Sub-section 1 shall not apply if the offence pursuant to sub-section 1, sentence 1 consisted in the unlawful employment of an EU citizen.

(3) Section 21 (2) to (5) of the Posted Workers Act shall apply mutatis mutandis where a public contracting entity makes use of the possibility pursuant to sub-section 1.

Chapter 10

Authorisation to issue statutory instruments; transitional and final provisions

Section 99

Authorisation to issue statutory instruments

(1) The Federal Ministry of the Interior shall be authorised, via statutory instruments with the approval of the Bundesrat,

1. to provide for exemptions to the requirements for a residence title in order to facilitate the stay of foreigners, to regulate the procedure for the granting of exemptions and for the continued validity and further granting of residence titles under this Act upon a ground for exemption arising and to restrict exemptions for the purpose of controlling economic activity by foreigners in the federal territory,
2. to determine that the residence title may be obtained prior to entry into the federal territory from the foreigners authority or after entry,
3. to determine in which cases the approval of the foreigners authority shall be required for the granting of a visa, in order to ensure the involvement of other authorities concerned,
- 3a. to define detailed aspects of the procedure relating to the issuance of residence titles to researchers pursuant to Section 20, in particular
 - a) to regulate the procedure relating to the recognition of research establishments, the attendant conditions and the duration of recognition, the revocation of recognition of a research establishment and the contents of and conditions pertaining to the conclusion of admission agreements pursuant to Section 20 (1), no. 1,
 - b) to provide for the authority which is responsible for granting recognition to publish the addresses of the recognised research establishments, referring in such publications to declarations pursuant to Section 20 (3),
 - c) to oblige foreigners authorities and diplomatic missions abroad to notify the authority responsible for granting recognition as to any findings on recognised research establishments which might provide grounds for the revocation of the said establishments' recognition,
 - d) to oblige recognised research establishments to provide due notification, should the conditions pertaining to recognition or conditions pertaining to concluded admission agreements cease to apply or in the event of changes to any other significant circumstances,
 - e) to establish a consultative council on research migration at the Federal Office for Migration and Refugees which will support the Ministry in connection with the recognition of research establishments and monitor and evaluate the application of Section 20,
 - f) to set the dates on which the processing of applications for the recognition of research establishments is to begin,
- 3b. to define self-employed activities for which a permit pursuant to Section 4 (3), sentence 1 is never required or is not required under certain conditions,

4. to exempt those foreigners from the passport obligation who enter the federal territory in connection with rescue operations and the provision of assistance in case of disasters,
5. to introduce or approve other official German identification papers as passport substitutes,
6. to issue general approval for official identification papers which have not been issued by German authorities to be used as passport substitutes,
7. to determine that foreigners who are exempted from the requirement for a residence title and foreigners who enter the federal territory with a visa shall be required to furnish the foreigners authority or another authority with due notification of their residence upon effecting entry or after effecting entry, in order to safeguard the interests of the Federal Republic of Germany,
8. to stipulate, in the interests of enabling or facilitating travel, that foreigners' existing entitlement to re-enter the federal territory can be confirmed in a passport substitute,
9. to stipulate the conditions according to which an identity card substitute may be issued and for how long such an identity card substitute shall be valid,
10. to regulate the obligations concerning identification papers of foreigners residing in the federal territory with regard to the issuance and extension, loss and relocation, presentation and surrender of a passport, passport substitute and identification paper substitute, the entries concerning entry into, exit from and interception in the federal territory and decisions by the competent authorities in such documents,
11. to stipulate details pertaining to the register pursuant to Section 91a and to the conditions and the procedure for data transfer,
12. to stipulate how the place of residence of foreigners who have been granted temporary protection in accordance with Section 24 (1) can be relocated to another Member State of the European Union,
13. to define details regarding the requirements pertaining to photographs and fingerprints and to the design of and issuance arrangements for the forms to be used in implementation of this Act and the recording and incorporation of features in encoded form pursuant to Section 78a (4) and (5),
- 13a. to set out rules pertaining to travel documents for foreigners, travel documents for refugees and travel documents for stateless persons with an electronic storage and processing medium in accordance with Council Regulation (EC) no. 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States (Official Journal no. L 385 of 29 December 2004, p. 1) and Regulation (EC) no. 444/2009 of the European Parliament and of the Council of 28 May 2009 amending Council Regulation (EC) no. 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States (Official Journal no. L 142 of 6 June 2009, p. 1) and to define details regarding the preparation of documents with an electronic storage and processing medium pursuant to Section 78 in accordance with Council Regulation (EC) no. 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (Official Journal no. L 157 of 15 June 2002, p. 1) and Council Regulation (EC) no. 380/2008 of 18 April 2008 amending Regulation (EC) no. 1030/2002 laying down a uniform format for residence permits for third-country nationals (Official Journal no. L 115 of 29 April 2008, p. 1) and, in this respect, to stipulate the following pertaining to travel documents and documents pursuant to Section 78:

- a) the procedure and the technical requirements for the recording and quality assurance of the photograph and of the fingerprints and protection against unauthorised access to the data stored in the electronic storage and processing medium,
- b) age limits for the collection of fingerprints and exemptions from the obligation to submit fingerprints and photographs,
- c) the order in which the fingerprints shall be stored in cases where an index finger is missing, the quality of the fingerprint is inadequate, or where the fingertip is damaged,
- d) the form and the details of the procedure relating to the transfer of all application data from the foreigners authorities to the producer of the documents and to the temporary storage of the application data at the foreigners authority and the producer's facilities,
- e) the storage of the fingerprints and the photograph at the foreigners authority until the document is handed out,
- f) the right of the holder of the document to inspect the data stored in the electronic storage medium,
- g) the requirements pertaining to the technical systems and components to be employed in order to record the photograph and fingerprints electronically, to ensure the quality thereof and to transfer the application data from the foreigners authority to the producer of the documents, as well as the procedure to check adherence to these requirements,
- h) details regarding the processing of the fingerprint data and of the digital photograph,
- i) details regarding the serial number and the machine-readable personal data page,
- j) the obligations of foreigners residing in the federal territory with regard to the issuance and extension, loss and relocation, presentation and surrender of documents pursuant to Section 78 and applications for new documents pursuant to Section 78.

The Federal Ministry of the Interior shall further be authorised, via statutory instruments with the approval of the Bundesrat, to stipulate details of the procedure to check adherence to the requirements pursuant to Section 34, no. 4 of the Identity Card Act and details pertaining to the electronic proof of identity pursuant to Section 34, nos. 5 to 7 of the Identity Card Act.

14. to determine that the
- a) registration authorities,
 - b) authorities concerned with matters of nationality and certifying authorities pursuant to Section 15 of the Federal Expellees Act,
 - c) authorities concerned with passports and identity cards,
 - d) social welfare and youth welfare offices,
 - e) judicial, police and regulatory authorities,
 - f) Federal Employment Agency,

- g) tax offices and main customs offices,
- h) trading standards authorities,
- i) diplomatic missions abroad and
- j) institutions providing basic security for job seekers

shall be required to furnish the foreigners authorities with personal data on foreigners, information on official acts and other measures relating to foreigners and other information on foreigners without prior request; the statutory instrument shall define the type and scope of data, the measures and the other items of information to be transferred; data may only be provided where necessary in order for the foreigners authorities to discharge their duties under this Act or in accordance with provisions relating to foreigners in other acts;

15. to set out rules pertaining to the electronic transfer of data for specialised purposes between the authorities charged with implementing this Act, concerning the following:
 - a) the technical principles of the structure of the standard used,
 - b) the data transfer procedure and
 - c) the authorities participating in the electronic transfer of data relating to foreigners.

(2) The Federal Ministry of the Interior shall further be authorised to determine, via statutory instrument with the approval of the Bundesrat, that

1. every foreigners authority shall keep a file on foreigners who are or have been resident in their regions, who have filed an application with the authority or have provided the authority with notification of entry and residence and for or against whom the authority has undertaken a measure or taken a decision under the law pertaining to foreigners,
2. every diplomatic mission abroad may keep a file on visas applied for, granted, refused, recalled, annulled, revoked and rescinded as well as on visa applications withdrawn, and the diplomatic missions abroad may share with each other the data stored therein and
3. the authorities charged with implementing this Act shall keep any other file which is necessary in discharging their duties.

The data to be recorded pursuant to sentence 1, no. 1 shall cover the foreigner's personal data, including his or her nationality and address, information relating to the passport, measures undertaken in accordance with the law pertaining to foreigners, entry in the Central Register of Foreigners and former addresses of the foreigner, the competent foreigners authority and the furnishing of records to another foreigners authority. Information relating to the use of a document pursuant to Section 78 (1) pertaining to the electronic proof of identity including its activation and deactivation as well as its blocking and unblocking shall also be recorded. The foreigners authorities' authorisation to store further personal data shall be determined by the data protection provisions of the respective Länder.

(3) The Federal Ministry of the Interior shall be authorised to appoint the competent body pursuant to Section 73 (1) and Section 73a (1) without the approval of the Bundesrat, by way of a statutory instrument issued in consultation with the Federal Foreign Office.

(3a) The Federal Ministry of the Interior shall be authorised, by way of a statutory instrument issued in consultation with the Federal Foreign Office without the approval of the Bundesrat, to stipulate, in accordance with Article 3 (2) of Regulation (EC) no. 810/2009, the states whose nationals must be in possession of an airport transit visa to pass through the international transit areas of German airports.

(4) The Federal Ministry of the Interior may issue and amend statutory instruments pursuant to sub-section 1, nos. 1 and 2 without the approval of the Bundesrat, insofar as this is necessary in order to fulfil an intergovernmental agreement or to safeguard public interests. A statutory instrument pursuant to sentence 1 shall expire no later than three months after coming into force. Its period of validity may be extended via statutory instrument with the approval of the Bundesrat.

Section 100

Linguistic adaptation

The Federal Ministry of the Interior may, via statutory instrument without the approval of the Bundesrat, replace the terms employed for persons in this Act with non-gender-specific or masculine and feminine terms, provided that this is possible without altering the contents of the provisions and is linguistically correct, and may undertake the subsequently necessary linguistic adaptations. The Federal Ministry of the Interior may publish the wording of this Act in the Federal Law Gazette after issuing a statutory instrument pursuant to sentence 1.

Section 101

Continued validity of previous rights of residence

(1) A right of unlimited residence or permanent residence permit issued prior to 1 January 2005 shall remain valid as a settlement permit in accordance with the purpose of residence and the circumstances forming the basis for its issuance. A permanent residence permit which has been granted pursuant to Section 1 (3) of the Act on Measures in Aid of Refugees Admitted under Humanitarian Relief Programmes of 22 July 1980 (Federal Law Gazette I, p. 1057) or in corresponding application of the aforesaid act and a subsequently issued right of unlimited residence shall remain valid as a settlement permit pursuant to Section 23 (2).

(2) The other residence authorisations shall remain valid as residence permits in accordance with the purpose of residence and the circumstances forming the basis for their issuance.

(3) A residence title to which the annotation “EC long-term residence permit” was appended prior to 28 August 2007 shall retain its validity as an EU long-term residence permit.

Section 102

Continued validity of other measures under the law relating to foreigners and consideration of prior periods

(1) Other measures undertaken prior to 1 January 2005 in accordance with the law pertaining to foreigners, in particular time limits and geographic restrictions, conditions and requirements, prohibitions and restrictions of political activities, expulsions, notices of intention to deport and deportations, including their legal consequences, limiting periods as to their effects and beneficial measures, the recognition of passports and passport substitute papers, exemptions from the passport obligation, rulings on costs and fees, shall remain valid. Measures and agreements in connection with the furnishing of security shall also remain valid, even if they relate in part or in full to periods after this Act comes into force. The

same shall apply to the effects by force of law resulting from the filing of applications pursuant to Section 69 of the Foreigners Act.

(2) The period of possession of a residence title for exceptional purposes or of a temporary suspension of deportation prior to 1 January 2005 shall count towards the qualifying period for the issuance of a settlement permit pursuant to Section 26 (4).

Section 103

Application of previous law

Sections 2a and 2b of the Act on Measures in Aid of Refugees Admitted under Humanitarian Relief Programmes in the version valid until 1 January 2005 shall continue to apply for persons who enjoy the status pursuant to articles 2 to 34 of the Convention relating to the Status of Refugees in accordance with Section 1 of the Act on Measures in Aid of Refugees Admitted under Humanitarian Relief Programmes of 22 July 1980 (Federal Law Gazette I, p. 1057). Section 52 (1), sentence 1, no. 4 shall apply *mutatis mutandis* in such cases.

Section 104

Transitional provisions

(1) Decisions on applications filed prior to 1 January 2005 for the granting of permanent residence permit or a right of unlimited residence shall be taken in accordance with the law applicable until that time. Section 101 (1) shall apply *mutatis mutandis*.

(2) In the case of foreigners who are in possession of a residence permit or a residence title for exceptional circumstances prior to 1 January 2005, for the purposes of the decision on granting a settlement permit or an EU long-term residence permit it shall be sufficient with regard to such foreigners' knowledge of the language if they are able to communicate verbally in the German language at a basic level. Section 9 (2), sentence 1, nos. 3 and 8 shall not apply.

(3) In the case of foreigners lawfully resident in Germany prior to 1 January 2005, Section 20 of the Foreigners Act shall apply in its most recently amended version with regard to the subsequent immigration of children born before this date, unless this Residence Act grants a more favourable legal status.

(4) The adult unmarried child of a foreigner whose compliance with the requirements of Section 51 (1) of the Foreigners Act has been incontestably established before this Act entered into force shall be granted a residence permit in appropriate application of Section 25 (2), if the child was a minor when the foreigner applied for asylum, he or she has been resident in the federal territory at least since compliance with the requirements pursuant to Section 51 (1) of the Foreigners Act was incontestably established and his or her integration is to be expected. Granting of the residence permit may be refused if the child has been sentenced to a term of youth custody or imprisonment of at least six months or to a fine of at least 180 daily rates in the past three years for an intentionally committed offence.

(5) Foreigners who have been recognised between 1 January 2004 and 31 December 2004 as being entitled to asylum or who have been found to meet the requirements pursuant to Section 51 (1) of the Foreigners Act in the said period or who have been issued a permanent residence permit pursuant to Section 1 of the Act on Measures in Aid of Refugees Admitted under Humanitarian Relief Programmes of 22 July 1980 (Federal Law Gazette I, p. 1057) in the said period or in corresponding application of the aforesaid Act shall be entitled to attend an

integration course once free of charge in accordance with Section 44 (1), unless they began to attend a German language course prior to 1 January 2005.

(6) Section 23 (2) in the version valid until 24 May 2007 shall continue to apply in such cases in which the order issued by the supreme Land authority on the basis of the version applying until 24 May 2007 provides for issuance of a settlement permit where special political interests of the Federal Republic of Germany prevail. Section 23 (2), sentence 5 and Section 44 (1), no. 2 shall apply mutatis mutandis to the affected foreigners and the dependants relocating their residence to the federal territory with the former.

(7) A settlement permit may also be issued to spouses, domestic partners and minor, unmarried children of a foreigner who were in possession of a residence title for exceptional circumstances pursuant to Section 31 (1) of the Foreigners Act or a residence permit pursuant to Section 35 (2) of the Foreigners Act prior to 1 January 2005, where the conditions of Section 26 (4) are met and they continue to meet the conditions according to which issuance of a residence title for exceptional circumstances pursuant to Section 31 of the Foreigners Act or of a residence permit pursuant to Section 35 (2) of the Foreigners Act was permissible.

(8) Section 28 (2) in the version applicable up to 5 September 2013 shall continue to apply to such dependants of German nationals who already held a residence title pursuant to Section 28 (1) on 5 September 2013.

(9) Foreigners who possess a residence permit pursuant to Section 25 (3), because the Federal Office or the foreigners authority have established that deportation bans exist in line with Section 60 (2), (3) or (7), sentence 2, in the version applicable before 1 December 2013, shall be deemed to be entitled to subsidiary protection pursuant to Section 4 (1) of the Asylum Procedure Act, and shall ex officio be issued a residence permit pursuant to Section 25 (2), sentence 1, second alternative, unless the Federal Office has informed the foreigners authority that grounds exist for refusing the person concerned such status in line with Section 25 (3), sentence 2, letters a to d in the version applicable before 1 December 2013. The periods of possession of a residence permit pursuant to Section 25 (3), sentence 1 in the version applicable before 1 December 2013 shall be equal to the periods of possession of a residence permit pursuant to Section 25 (2), sentence 1, second alternative. Section 73b of the Asylum Procedure Act shall apply mutatis mutandis.

Section 104a

Regulations governing old cases

(1) By way of derogation from Section 5 (1), no. 1 and (2), a foreigner whose deportation has been suspended should be granted a residence permit where he or she has been continuously resident in the federal territory for at least eight years on 1 July 2007, or, if he or she lives together with one or several minor, unmarried children as a family unit, where he or she has been continuously resident in the federal territory for at least six years on the said date, by virtue of his or her deportation having been suspended, his or her residence being permitted (pending asylum procedures) or a residence permit having been issued on humanitarian grounds and he or she

1. has sufficient living space at his or her disposal,
2. has a sufficient command of the spoken German language corresponding to level A2 of the Common European Framework of Reference for Languages,

3. furnishes proof that any children of school age actually attend school,
4. has not wilfully deceived the foreigners authority as to circumstances relevant to his or her situation under residence law and has not wilfully delayed or obstructed official measures to end his or her residence,
5. does not have any links to extremist or terrorist organisations and does not support such organisations and
6. has not been convicted of an offence wilfully committed in the federal territory; fines totalling up to 50 daily rates or up to 90 daily rates in the case of offences which, in accordance with the Residence Act or the Asylum Procedure Act, can only be committed by foreigners shall be ignored as a general principle.

Where the foreigner ensures his or her subsistence independently by means of an economic activity, the residence permit shall be granted pursuant to Section 23 (1), sentence 1. It shall otherwise be issued pursuant to sentence 1; it shall apply as a residence title pursuant to Chapter 2, Part 5; Sections 9 and 26 (4) shall not apply. The requirement stated in sentence 1, no. 2 may be waived until 1 July 2008. The requirement stated in sentence 1, no. 2 shall be waived if the foreigner is unable to meet it on account of a physical, mental or psychological illness or handicap or on grounds of old age.

(2) An adult unmarried child whose deportation has been suspended, who is the child of a foreigner whose deportation has been suspended and who has been continuously resident in the federal territory for at least eight years on 1 July 2007, or, if he or she lives together with one or several minor, unmarried children as a family unit, where he or she has been continuously resident in the federal territory for at least six years on the said date, by virtue of his or her deportation having been suspended, his or her residence being permitted (pending asylum procedures) or a residence permit having been issued on humanitarian grounds, may be granted a residence permit pursuant to Section 23 (1), sentence 1 where said child was a minor at the time of entering the federal territory and where it appears, on the basis of the child's education and way of life to date, that he or she is capable of integrating into the way of life which prevails in the Federal Republic of Germany. The same shall apply to a foreigner who has been continuously resident in the federal territory for at least six years as an unaccompanied minor by virtue of his or her deportation having been suspended, his or her residence being permitted (pending asylum procedures) or a residence permit having been issued on humanitarian grounds, where it appears, on the basis of the child's education and way of life to date, that he or she is capable of integrating into the way of life which prevails in the Federal Republic of Germany.

(3) If a family member living as part of a family household has committed offences pursuant to sub-section 1, sentence 1, no. 6, this shall lead to refusal of the residence permit for other family members according to this provision. Sentence 1 shall not apply to the spouse of a foreigner who has committed offences within the meaning of sub-section 1, sentence 1, no. 6 where the spouse otherwise meets the requirements of sub-section 1 and it is necessary to enable the continued stay of the spouse in order to avoid special hardship. Where, in exceptional cases, children are separated from their parents, their care and welfare in Germany must be ensured.

(4) The residence permit may be issued subject to the condition that the foreigner attend an integration interview or that an integration agreement be concluded. The residence permit shall entitle the holder to pursue an economic activity.

(5) The residence permit shall be issued with a period of validity until 31 December 2009. It shall be extended by two further years as a residence permit pursuant to Section 23 (1), sentence 1 if the foreigner's subsistence was ensured up to 31 December 2009 primarily by the foreigner on his or her own through the pursuit of an economic activity or if the foreigner has ensured his or her subsistence on his or her own on a non-temporary basis at least since 1 April 2009. In both cases, there must be reason to believe that the foreigner's subsistence will be for the most part ensured in the future. In the case of sub-section 1, sentence 4 the residence permit shall be issued with an initial period of validity extending only until 1 July 2008 and shall be extended only if the foreigner furnishes proof that he or she meets the conditions of sub-section 1, sentence 1, no. 2 by the aforesaid date at the latest. Section 81 (4) shall not apply.

(6) With regard to extension of the residence permit, derogation from sub-section 5 shall be possible in order to avoid cases of hardship. This provision shall apply in the case of

1. apprentices undergoing training in a recognised trade or on government-sponsored pre-vocational training measures,
2. families with children who are only temporarily reliant on supplementary social benefits,
3. single parents who are temporarily reliant on social benefits and who cannot reasonably be expected to take up employment pursuant to Section 10 (1), no. 3 of Book Two of the Social Code,
4. persons who are unable to work but whose subsistence and any necessary care is secured on a long-term basis by any other means without recourse to any public benefits, except where the benefits are based on paid contributions,
5. persons who are 65 years of age or older on 31 December 2009, if they have no family in their country of origin but do have dependants (children or grandchildren) who are permanently resident in the federal territory or German nationals and if it is thus ensured that no social benefits will be claimed for such persons.

(7) The Länder may order a residence permit pursuant to sub-sections 1 and 2 to be refused to nationals of certain states on grounds of national security for the Federal Republic of Germany. In order to ensure a nationwide uniform approach, the order shall require the approval of the Federal Ministry of the Interior.

Section 104b

Right of residence for integrated children of foreigners whose deportation has been suspended

By way of derogation from Section 5 (1), no. 1, (2) and Section 10 (3), sentence 1, a minor, unmarried child may be granted a residence permit in his or her own right pursuant to Section 23 (1), sentence 1 if the said child's parents or the parent possessing the sole right of care and custody are not granted a residence permit or an extension of the same pursuant to Section 104a and leaving the federal territory, where

1. the child has reached the age of 14 on 1 July 2007,
2. the child has been lawfully resident in Germany or resident in Germany by virtue of suspended deportation for at least six years,

3. the child has a good command of the German language,
4. on the basis of the child's education and way of life to date, he or she has integrated into the prevailing way of life in the Federal Republic of Germany and it is ensured that the child will remain integrated in this way of life in the future and
5. care and custody of the child are ensured.

Section 105

Continued validity of work authorisations

(1) A work permit issued before this Act entered into force shall remain valid until its period of validity expires. If a residence title is granted under this Act, the work permit shall be deemed to constitute approval of employment from the Federal Employment Agency. The conditions contained in the work permit shall be adopted into the residence title.

(2) A permission to work granted before this Act entered into force shall be deemed to constitute unqualified approval of employment from the Federal Employment Agency.

Section 105a

Provisions as to the administrative procedure

No derogations by way of Land law shall be permissible from the provisions set out in Section 4 (2), sentence 2 and 4, (5) sentence 2, Section 5 (3) sentence 3, Section 15a (4) sentence 2 and 3, Section 23 (1) sentence 3, Section 23a (1) sentence 1, (2) sentence 2, Section 43 (4), Section 44a (1) sentence 2, (3) sentence 1, Section 49a (2), Section 72 (1) to (4), Section 73 (2), (3) sentence 1 and 2, Sections 78, 78a, Section 79 (2), Section 81 (5), Section 82 (1) sentence 3, (3), Section 87 (1), (2) sentence 1 and 2, (4) sentence 1, 2 and 4, (5) and (6), Section 89 (1) sentence 2 and 3, (3) and (4), Section 89a (2), (4) sentence 2, (8), Sections 90, 90a, 90b, 91 (1) and (2), Section 91a (3), (4) and (7), Section 91c (1) sentence 2, (2) sentence 2, (3) sentence 4 and (4) sentence 2, Sections 99 and 104a (7) sentence 2, and from the provisions set out in Section 43 (4) and Section 99 pertaining to the administrative procedure.

Section 105b

Transitional provision for residence titles issued according to a standard form

Residence titles pursuant to Section 4 (1), sentence 2, nos. 2 to 4, which were issued by the end of 31 August 2011 according to a standard form in accordance with Section 78 of this Act, in the version valid until that date, shall be issued as a stand-alone document with an electronic storage and processing medium pursuant to Section 78 when a new residence title is issued or by the end of 31 August 2021 at the latest. This notwithstanding, the holders of a residence title pursuant to Section 4 (1), sentence 2, nos. 2 to 4 may apply for a stand-alone document with an electronic storage and processing medium pursuant to Section 78 if they can demonstrate a legitimate interest in the issuance of a new document.

Section 106

Curtailement of fundamental rights

(1) The fundamental rights of physical integrity (Article 2 (2), sentence 1 of the Basic Law) and freedom of the person (Article 2 (2), sentence 2 of the Basic Law) shall be curtailed under the terms of this Act.

(2) The procedure in connection with the deprivation of liberty shall be determined by Book Seven of the Act on Procedure in Family Matters and Non-Contentious Matters. If it is necessary to make a decision on the duration of custody awaiting deportation or detention pending exit from the federal territory, the local court of first instance may assign the proceedings by virtue of a non-appealable ruling to the court in whose district the foreigner is being held in custody awaiting deportation or in detention pending exit from the federal territory.

Section 107

City-state clause

The senates of the Lands of Berlin, Bremen and Hamburg shall be authorised to adapt the provisions of this Act regarding the competence of authorities to the special administrative structures of their Länder.