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## **ACT ON THE EXECUTION OF PRISON SENTENCES AND MEASURES OF REFORM AND PREVENTION INVOLVING DEPRIVATION OF LIBERTY**

### **(Prison Act)**

Prison Act of 16 March 1976 (Federal Law Gazette Part I p. 581, 2088), as last amended by  
Article 27 of the Act of 5 October 2021 (Federal Law Gazette I p. 4607)

#### **PART ONE Application**

##### **Section 1**

This Act shall regulate the execution of sentences of imprisonment in penal institutions and  
of measures of reform and prevention involving deprivation of liberty.

#### **PART TWO Execution of Prison Sentences**

##### **FIRST TITLE Principles**

##### **Section 2 Objectives of Execution**

By serving his prison sentence the prisoner shall be enabled in future to lead a life in social  
responsibility without committing criminal offences (objective of treatment). The execution of  
the prison sentence shall also serve to protect the general public from further criminal  
offences.

##### **Section 3 Prison Regime**

- (1) Life in penal institutions should be approximated as far as possible to general living  
conditions.
- (2) Any detrimental effects of imprisonment shall be counteracted.
- (3) Imprisonment shall be so designed as to help the prisoner to reintegrate himself into life  
at liberty.

##### **Section 4 Prisoner's Status**

- (1) The prisoner shall participate in the drawing up of his treatment programme and in achieving the objective of treatment. His willingness to this effect shall be awakened and encouraged.
- (2) The prisoner shall be subject to such restrictions of his liberty as are laid down in this Act. Unless the Act provides for a special regulation, only such restrictions may be imposed on him as are indispensable to maintain security or to avert a serious disturbance of order in the penal institution.

## **SECOND TITLE**

### **Programming of Treatment**

#### **Section 5**

##### **Procedure of Admission**

- (1) No other prisoners may be present in the course of the procedure of admission.
- (2) The prisoner shall be informed of his rights and obligations.
- (3) The prisoner shall undergo a medical examination promptly after his admission, and shall be introduced to the Head of the Institution or to the head of the admission unit.

#### **Section 6**

##### **Treatment Examination. Prisoner's Participation**

- (1) Subsequent to the procedure of admission, steps shall be taken to ascertain the prisoner's personality and background. This may be dispensed with if it appears to be unnecessary in view of the length of the sentence to be served.
- (2) The examination shall embrace all facts that are needed to be known for reasonable treatment of the prisoner serving his sentence and for his integration into society after his release. It shall be particularly carefully examined in the case of inmates who have been sentenced in respect of a criminal offence in accordance with Sections 174 to 180 or 182 of the Criminal Code to determine whether transfer to a socio-therapeutic institution is advisable.
- (3) The treatment programme shall be discussed with the prisoner.

#### **Section 7**

##### **Treatment Programme**

- (1) A treatment programme shall be drawn up on the basis of the treatment examination (Section 6).
- (2) The treatment programme shall refer to at least the following treatment measures:
  1. detention in a closed or open institution;
  2. transfer to a socio-therapeutic institution;
  3. allocation to residential groups and treatment groups;
  4. work and basic training or further training;
  5. participation in further training activities;
  6. special measures of relief and treatment;
  7. relaxation of conditions of imprisonment; and
  8. measures necessary to prepare release.
- (3) The treatment programme shall be kept in line with the prisoner's development and with further results of the study of his personality. To this end, adequate periods of time shall be allocated in the treatment programme.
- (4) A renewed decision shall be taken in the case of inmates who have been sentenced to more than two years' imprisonment in respect of a criminal offence in accordance with

Sections 174 to 180 or 182 of the Criminal Code concerning transfer to a socio-therapeutic institution in each case on expiry of six months.

### **Section 8** **Transfer. Temporary Transfer**

(1) Notwithstanding the execution scheme, the prisoner may be transferred to another institution competent for the execution of the prison sentence:

1. if thereby the prisoner's treatment or his integration after release will be promoted; or
2. if this is necessary for reasons of penal organisation or for other important reasons.

(2) The prisoner may be transferred temporarily to another penal institution for an important reason.

### **Section 9** **Transfer to a Socio-Therapeutic Institution**

(1) A prisoner shall be transferred to a socio-therapeutic institution if he has been sentenced to more than two years' time-limited imprisonment in respect of a criminal offence in accordance with Sections 174 to 180 or 182 of the Criminal Code, and treatment in a socio-therapeutic institution in accordance with Section 6 (2) second sentence or Section 7 (4) is advisable. The prisoner shall be transferred back if the purpose of treatment cannot be achieved for reasons inherent in the prisoner's personality.

(2) Other prisoners may, with their consent, be transferred to a socio-therapeutic institution if the special therapeutic remedies and social aids of that institution appear advisable for their resocialisation. In these cases, transfer shall require the consent of the head of the socio-therapeutic institution.

(3) Sections 8 and 85 shall remain unaffected.

### **Section 10** **Open and Closed Institutions**

(1) A prisoner shall, with his consent, be committed to an open institution or unit if he meets the special requirements for such treatment and, in particular, if it is not to be feared that he might evade serving his prison sentence or abuse the opportunities offered by an open institution to commit criminal offences.

(2) Prisoners shall otherwise be committed to closed institutions. Moreover, a prisoner may be committed to a closed institution or be re-transferred to it if this is necessary for his treatment.

### **Section 11** **Relaxation of Conditions of Imprisonment**

(1) In order to relax the conditions of imprisonment the following measures may, in particular, be ordered:

1. that the prisoner may regularly perform work outside the institution under the supervision of a prison officer (outside work) or without such supervision (work release); or
2. that the prisoner may leave the institution for a certain period of the day under the supervision of a prison officer (short leave under escort) or without such supervision (short leave).

(2) Such relaxation may be ordered with the prisoner's consent if it is not to be feared that he might evade serving his prison sentence or abuse the relaxation of imprisonment to commit criminal offences.

### **Section 12** **Short Leave under Escort for Special Reasons**

A prisoner may be escorted out of the prison even without his consent if this is necessary for special reasons.

### **Section 13** **Leave from Custody**

- (1) A prisoner may be granted leave from custody for up to twenty-one calendar days per year. Section 11 (2) shall apply mutatis mutandis.
- (2) Leave should, as a rule, not be granted until after the prisoner has served at least six months of his sentence.
- (3) A prisoner sentenced to imprisonment for life may be granted leave after he has been imprisoned for ten years, including any preceding remand detention or any other deprivation of liberty, or after he has been transferred to an open institution.
- (4) Prisoners who, though eligible for committal to an open institution, are kept in a closed institution for special reasons may be granted leave in accordance with the rules applicable to service in open institutions.
- (5) Leave shall not interrupt execution of the sentence.

### **Section 14** **Instructions, Cancellation of Relaxation and Leave**

- (1) The Head of the Institution may impose instructions on the prisoner regarding relaxation and leave.
- (2) He may cancel relaxation and leave
  1. where, as a result of the circumstances that have subsequently arisen, he would be justified in refusing such measures; or
  2. where the prisoner abuses the measures; or
  3. where the prisoner fails to comply with instructions.

He may cancel relaxation and leave which takes effect in the future if the prerequisites for their being granted have not been fulfilled.

### **Section 15** **Preparations for Release**

- (1) The conditions of imprisonment shall be relaxed in preparation for release (Section 11).
- (2) The prisoner may be transferred to an open institution or unit (Section 10) if this serves to prepare his release.
- (3) Within three months prior to the release, special leave for up to one week may be granted for preparing the release. Sections 11 (2), 13 (5) and 14 shall apply mutatis mutandis.
- (4) Prisoners who are on work release (Section 11 (1) No. 1) may be granted special leave for up to six days per month within nine months prior to their release. Sections 11 (2), 13 and 14 shall apply mutatis mutandis. The first sentence of subsection (3) shall not apply.

### **Section 16** **Date and Time of Release**

- (1) On the last day of his term of imprisonment the prisoner should be released as early as possible, at all events during the morning.
- (2) In the event of the term of imprisonment ending on a Saturday or Sunday, a statutory holiday, the first working day after Easter or Whitsun, or on a day in the period between 22 December and 2 January, the prisoner may be released on the working day preceding such day or period, provided that this is reasonable in view of the length of the term served and is not barred by any reasons connected with after-care.
- (3) Release may take place earlier, two days at the most, if there are compelling reasons showing that this is material for the prisoner regarding his integration.

## **THIRD TITLE** **Prisoners' Accommodation and Food**

## **Section 17**

### **Accommodation during Work and Leisure Time**

- (1) The prisoners shall work all together. The same shall apply to vocational training, vocational further training, as well as to work-therapeutic and other occupation during working hours.
- (2) The prisoners may spend their leisure time in community with the others. In view of the conditions in the institution regarding space, staff and organisation, the Head of the Institution may set up special rules for participation in joint activities.
- (3) Joint accommodation during working hours and leisure time may be restricted
  1. where a detrimental influence on other prisoners is to be feared;
  2. where the prisoner is being examined in accordance with Section 6, but for no longer than two months;
  3. where security or order in the institution so requires; or
  4. where the prisoner gives his consent.

## **Section 18**

### **Accommodation at Night**

- (1) During the night the prisoners shall be lodged alone in their cells. Joint accommodation shall be admissible where a prisoner is in need of assistance, or where there is danger to a prisoner's life or health.
- (2) In open institutions prisoners may, with their consent, be accommodated jointly during the night where any detrimental influence is not to be feared. In closed institutions, joint accommodation at night shall be permissible only temporarily and for compelling reasons, apart from the cases referred to in subsection (1).

## **Section 19**

### **Furnishing of Cell by the Prisoner and his Personal Effects**

- (1) The prisoner shall be allowed to furnish his cell with articles of his own to a reasonable extent. He shall be permitted to keep photographs of closely-related persons or friends and souvenirs of personal value.
- (2) Devices and articles which make it impossible to keep the cell under supervision or which jeopardise security or order in the institution in any other way can be excluded.

## **Section 20**

### **Clothing**

- (1) The prisoner shall wear prison clothing. He shall be given special overclothes for leisure time.
- (2) The Head of the Institution shall permit the prisoner to wear his own clothing when he is taken out under escort, unless it is to be feared that he might abscond. The Head may also give such permission on other occasions, provided the prisoner sees to cleaning, repairs and regular changes at his own expense.

## **Section 21**

### **Food in the Institution**

The composition and nutritional value of the food in the institution shall be monitored by medical officers. Special food shall be provided on orders from a medical officer. The possibility is to be provided for a prisoner to obey religious instructions with regard to the consumption of food.

## **Section 22**

### **Purchases**

- (1) The prisoner shall be allowed to buy food and luxuries, as well as cosmetics, from his house money (Section 47) or from his pocket money (Section 46), selecting from among an

assortment offered through the mediation of the institution. The institution should provide an assortment which takes account of the prisoners' wishes and needs.

(2) Articles which jeopardise security or order in the institution may be excluded from purchase. On orders from a medical officer a prisoner may, wholly or partially, be forbidden to buy individual items of food and luxuries if it is to be feared that they might seriously impair his health. In hospitals and sick wards the purchase of individual items of food and luxuries may be forbidden or restricted generally on orders from a medical officer.

(3) If, through no fault of his own, a prisoner has no house or pocket money he shall be permitted, to a reasonable extent, to use his own money for purchases.

#### **FOURTH TITLE**

#### **Visits, Correspondence, as well as Leave, Short Leave and Short Leave under Escort on Specific Occasions**

##### **Section 23**

##### **Principle**

The prisoner shall have the right to communicate with persons outside the institution within the scope of the provisions of this Act. Communication with persons outside the institution shall be encouraged.

##### **Section 24**

##### **Right to Have Visitors**

(1) The prisoner shall be allowed to have visitors at regular intervals. The total duration shall be at least one hour per month. Everything else in regard thereto shall be regulated by the institution rules.

(2) Over and above this, visits should be permitted if they promote the prisoner's treatment or integration, or if they serve to deal with personal, legal or business matters that cannot be dealt with by the prisoner in writing, taken care of by third persons, or postponed until the time of the prisoner's release.

(3) For reasons of security a visit may be made subject to the visitor being searched.

##### **Section 25**

##### **Prohibition of Visits**

The Head of the Institution may prohibit visits

1. if security or order in the institution would be jeopardised;
2. of visitors who are not relatives of the prisoner within the meaning of the Criminal Code if it is to be feared that they might have some detrimental influence on the prisoner or hamper his integration.

##### **Section 26**

##### **Visits from Defence Counsel, Attorneys and Notaries**

Visits from defence counsel, as well as from attorneys or notaries, in a legal matter concerning the prisoner, shall be permitted. Section 24 (3) shall apply mutatis mutandis. Inspection of the contents of the documents and other records brought along by defence counsel shall not be permissible. Section 29 (1) second and third sentences shall remain unaffected.

##### **Section 27**

##### **Supervision of Visits**

(1) Visits may be supervised for reasons of treatment or of security or order in the institution unless information is available in individual cases indicating that there is no need for supervision. The conversation may be monitored only if this is necessary for these reasons in individual cases.

(2) A visit may be terminated if, in spite of some warning, visitors or prisoners infringe any of the provisions of this Act or any orders made in pursuance of this Act. A warning shall not be given when it is imperative to terminate the visit immediately.

(3) Visits by defence counsel shall not be monitored.

(4) Articles may be handed over in the course of a visit only if permission has been given. This shall not apply to any documents and other records handed over in the course of defence counsel's visit, or to documents and other records handed over in the course of a visit from an attorney or notary to deal with a legal matter concerning the prisoner; on the occasion of a visit from an attorney or notary, such handing over may be made subject to permission for reasons of security or order in the institution. Section 29 (1) second and third sentences shall remain unaffected.

### **Section 28**

#### **Right of Correspondence**

(1) The prisoner shall have the right to dispatch and receive letters without any restriction.

(2) The Head of the Institution may forbid correspondence with specific persons

1. if security or order in the institution would be jeopardised, or
2. in the case of persons who are not relatives of the prisoner within the meaning of the Criminal Code if it is to be feared that the correspondence might have some detrimental influence on the prisoner or hamper his integration.

### **Section 29**

#### **Monitoring of Correspondence**

(1) The prisoner's correspondence with his defence counsel shall not be monitored. Where the sentence of imprisonment which the prisoner is serving has been imposed for an offence under Section 129a, also in conjunction with Section 129b (1) of the Criminal Code, Section 148 (2) and Section 148a of the Code of Criminal Procedure shall apply mutatis mutandis; this shall not apply where the prisoner is in an open institution, or where in his case the conditions of imprisonment have been relaxed in accordance with Section 11 (1) No. 1 or the second half of No. 2, or where leave from custody has been granted in accordance with Section 13 or Section 15 (3), provided that in a case where the conditions of imprisonment have been relaxed, or where leave from custody has been granted, there is no ground on which the Head of the Institution is authorised in accordance with Section 14 (2) to cancel relaxation and leave. The second sentence shall also apply where, following the sentence of imprisonment which the prisoner is serving, a sentence of imprisonment for a criminal offence under Section 129a, also in conjunction with Section 129b (1) of the Criminal Code has to be executed.

(2) The prisoner's letters to Parliamentary bodies of the Federation and of the Länder and to the members thereof shall likewise not be monitored, provided that the letters are addressed to such Parliamentary bodies and properly show the sender. The same shall apply to letters to the European Parliament and its members, the European Court of Human Rights, the European Commission for Human Rights, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the Data Protection Commissioners of the Federation and the Länder. Letters from the agencies named in the first and second sentences addressed to the prisoner shall not be monitored if the identity of the sender can be ascertained free of doubt.

(3) Other correspondence may be supervised where this is necessary for reasons of security or order in the institution.

### **Section 30**

#### **Forwarding and Custody of Letters**

(1) The prisoner shall dispatch and receive his letters through the mediation of the penal institution, except where other modes are permitted.

(2) Incoming and outgoing letters shall be forwarded without delay.

(3) The prisoner shall retain incoming letters in his custody unsealed, except where other modes are permitted; he may hand them in, in sealed form, to be kept with his personal effects.

### **Section 31 Interception of Letters**

(1) The Head of the Institution may intercept letters

1. if the objective of treatment or security or order in the institution might otherwise be jeopardised,
2. if, knowing of their contents, forwarding them would constitute an offence subject to a criminal sentence or a administrative fine,
3. if they contain grossly incorrect or grossly distorting descriptions of the conditions in the institution,
4. if they contain serious insults,
5. if they might jeopardise the integration of another prisoner, or
6. if they are written in some secret code, illegible, unintelligible or written in a foreign language without any compelling reason.

(2) Outgoing letters which contain incorrect statements may be accompanied by an official letter if the prisoner insists on dispatch.

(3) If a letter has been intercepted, the prisoner shall be informed thereof. Intercepted letters shall be returned to the sender or, where this is impossible or inadvisable for special reasons, shall be kept in official custody.

(4) Letters in respect of which censorship is barred under Section 29 (1) and (2) may not be intercepted.

### **Section 32 Telephone Calls and Telegrams**

The prisoner may be given permission to make telephone calls or dispatch telegrams. The provisions relating to visits and correspondence shall respectively apply mutatis mutandis with regard to telephone calls and telegrams. If it is necessary to monitor telephone conversations, the prisoner's interlocutor shall be informed of the intended monitoring by the prisoner or the prison authority immediately after the connection has been established. The prisoner shall be informed in good time prior to commencement of the telephone conversation of the intended monitoring and of the obligation to notify in accordance with the third sentence.

### **Section 33 Parcels**

(1) The prisoner may receive parcels containing food and luxuries three times a year at reasonable intervals. The prison authority may determine the date and maximum quantities for each consignment and for individual commodities. Approval must be given to receive further parcels or parcels with different contents. Section 22 (2) shall apply mutatis mutandis to articles which are barred.

(2) Parcels shall be opened in the prisoner's presence. Articles which are barred may be stored with his personal effects or returned to the sender. Any articles that are not handed over, and by the dispatch or storage of which persons may be injured or property be damaged, may be destroyed. The prisoner shall be informed of the measures carried out accordingly.

(3) The receipt of parcels may be forbidden temporarily if this is necessary on account of jeopardy to security or order in the institution.



(4) The prisoner may be permitted to dispatch parcels. The prison authority may check their contents for reasons of security or order in the institution.

**Section 34  
(repealed)**

**Section 35**

**Leave, Short Leave and Short Leave under Escort for Important Reasons**

(1) The Head of the Institution may grant a prisoner short leave or leave for up to seven days if there is an important reason; leave for any important reason other than that of a critical illness or the death of a relative may not exceed seven days per year. Sections 11 (2), 13 (5) and 14 shall apply mutatis mutandis.

(2) Leave granted in accordance with subsection (1) shall not be counted as regular leave.

(3) If no short leave or leave can be granted for any of the reasons set out in Section 11 (2), the Head of the Institution may have the prisoner taken out under escort. Any expense for this shall be borne by the prisoner. A claim thereto shall not be asserted where this would hamper treatment or integration.

**Section 36  
Court Hearings**

(1) The Head of the Institution may grant a prisoner short leave or leave for the purpose of attending a court hearing if it can be assumed that he will answer the summons and that there is no danger of his absconding or abusing such opportunity (Section 11 (2)). Sections 13 (5) and 14 shall apply mutatis mutandis.

(2) Where a prisoner has been summoned to appear before a court and no short leave or leave is granted, the Head of the Institution shall, with the prisoner's consent, have him taken out under escort for the hearing, provided that this is not barred by overriding reasons based on the danger that he may abscond or abuse the opportunity (Section 11 (2)). Upon the request of a court, the Head of the Institution shall produce the prisoner, provided a warrant to appear has been issued.

(3) The prison authority shall inform the court of the steps that have been taken.

**FIFTH TITLE  
Work, Basic Training and Further Training**

**Section 37  
Assignment**

(1) The particular aim of work, basic and further training shall be to furnish the prisoner with skill and knowledge to make him capable of earning a livelihood after his release, or to preserve or promote such skill and knowledge.

(2) The prison authority should allocate to the prisoner some economically productive work, taking into account his abilities, skill and inclinations.

(3) Prisoners with an aptitude should be given an opportunity for vocational further training, retraining for a new job, or participation in other activities of basic or further training.

(4) Where a prisoner who is fit for work cannot be given any economically productive work or an opportunity to participate in any of the activities referred to in subsection (3) he shall be given some other reasonable form of occupation.

(5) If a prisoner is not fit to perform some economically productive work, he shall be given some occupation of a therapeutic nature.

**Section 38  
Classes**

(1) For prisoners with an aptitude who failed to complete the secondary modern school, provision shall be made to attend classes in the subjects taught at secondary modern schools or classes corresponding to those of a special school for mentally retarded or handicapped children. As far as vocational training is concerned, vocational school classes

shall be provided; this shall also apply to further vocational training, as far as the type of measure requires this.

(2) Classes shall take place during working hours.

### **Section 39**

#### **Free Employment, Self-Occupation**

(1) The prisoner should be permitted to take up employment, vocational training or further vocational training outside the institution on the basis of free employment if this serves, within the scope of the treatment programme, the aim of teaching, preserving or promoting skill and knowledge for earning a livelihood after release, and if this is not barred by any overriding reasons of prison organisation. Section 11 (1) No. 1 and subsection (2), as well as Section 14, shall remain unaffected.

(2) The prisoner may be permitted to occupy himself.

(3) The prison authority may demand that any remuneration to be credited to the prisoner's account be remitted to it.

### **Section 40**

#### **Final Certificate**

A document certifying the completion of a measure of basic or further training may not disclose the participant's imprisonment.

### **Section 41**

#### **Duty to Work**

(1) The prisoner shall be obliged to perform the work allocated to him and in keeping with his physical abilities, or work-therapeutic or other occupation which he is able to perform owing to his physical state. For up to three months a year he may be obliged to perform some auxiliary work in the institution, and if he consents also for a longer period. The first and second sentences shall not apply to prisoners who are older than 65 years, nor to expectant mothers or mothers nursing a baby, as far as there are statutory provisions prohibiting employment in order to protect mothers who are gainfully employed.

(2) Participation in any of the measures referred to in Section 37 (3) shall require the prisoner's consent. Such consent shall not be withdrawn at an inopportune time.

(3)

### **Section 42**

#### **Exemption from Duty to Work**

(1) Where a prisoner has been engaged in any of the activities allocated in accordance with Section 37 or has performed some auxiliary work in accordance with the second sentence of Section 41 (1) for a period of one year he shall be entitled to claim exemption from the duty to work for eighteen working days. Credit shall be made for any periods during which the prisoner was prevented from working owing to some illness, but not exceeding six weeks a year.

(2) Any leave from prison (Sections 13 and 35), to the extent to which it falls within working hours and except where it is granted on account of a critical illness or the death of a relative, shall be taken into account in the period of exemption.

(3) During the period of exemption payment of the earnings last paid to the prisoner shall be continued.

(4) Any leave regulations applying to any employment outside the institution shall remain unaffected.

### **Section 43**

#### **Remuneration for Work, Leave and Taking into Account of the Exemption for the Time of Release**

(1) The work of the prisoner shall be recognised by remuneration for work and release from work which may also be used as leave from detention (leave from work) or which can be taken into account for the time of release.

(2) A prisoner performing some work allocated to him, engaging himself in some other occupation or performing some auxiliary work in accordance with the second sentence of Section 41 (1) shall be paid remuneration for work. The assessment of remuneration for work shall be based on the rate - as defined in Section 200 - of the reference figure in accordance with Section 18 of the Fourth Book of the Social Code (basic remuneration). A daily rate shall be the two-hundred-and-fiftieth part of the basic remuneration; remuneration for work may be assessed on the basis of a rate per hour.

(3) Remuneration for work may be in accordance with a graduated scale according to the prisoner's efficiency and the type of work. It shall not be lower than 75 per cent of the basic remuneration, unless the prisoner's output fails to come up to the minimum required.

(4) Where a prisoner engages himself in some work-therapeutic occupation allocated to him, he shall be paid remuneration for work where this is appropriate to the nature of his occupation and to his output.

(5) The prisoner shall be informed of remuneration for work in writing.

(6) If the prisoner has exercised an activity for two consecutive months assigned in accordance with Section 37, or has performed some auxiliary activity in accordance with the second sentence of Section 41 (1), he shall on his request be released from work for a working day. The arrangement contained in Section 42 shall remain unaffected. The period in accordance with the first sentence shall be interrupted by times in which the prisoner is prevented from working through no fault of his own as a result of illness, short leave under escort, short leave, leave from detention, release from the duty to work or other reasons for which he is not responsible. Occupation periods of less than two months shall not be taken into account.

(7) The prisoner may request release in accordance with subsection (6) to be granted in the shape of leave from detention (leave from work). Section 11 (2), Section 13 (2) to (5) and Section 14 shall apply *mutatis mutandis*.

(8) Section 42 (3) shall apply *mutatis mutandis*.

(9) If the prisoner does not file a request in accordance with subsection (6) first sentence or subsection (7) first sentence, or if the release cannot be granted in line with the provision contained in subsection (7) second sentence, the release in accordance with subsection (6) first sentence shall be taken into account by the prison for the prisoner's time of release.

(10) Taking into account in accordance with subsection 9 shall be ruled out

1. where life imprisonment or preventive detention is being served and a time of release has not yet been determined,
2. in the event of suspension of execution of the remainder of a prison sentence or of preventive detention on probation, where taking into account is no longer possible between the ruling of the court until the time of release,
3. if this is ordered by the court because in suspension of execution of the remainder of a prison sentence or of preventive detention on suspension the circumstances of the prisoner or the impact to be anticipated for him from suspension require such execution until a certain point in time,
4. if execution is dispensed with in accordance with Section 456a (1) of the Code of Criminal Procedure,
5. if the prisoner is released from detention by way of a pardon.

(11) Where taking into account in accordance with subsection (10) is ruled out, the prisoner shall receive on his release for his activities in accordance with subsection (2) as compensation an additional 15 per cent of the remuneration granted to him in accordance with subsections (2) and (3) or the trainee's grant afforded to him in accordance with Section 44. The right shall not arise until release; prior to release, the right shall be neither interest-bearing, assignable nor inheritable. Where taking into account is ruled out in accordance with subsection (10) No. 1, the compensation shall be credited to the prisoner's own money

(Section 52) after serving in each case ten years of life imprisonment or preventive detention, unless he is released prior to this point in time; Section 57 (4) of the Criminal Code shall apply mutatis mutandis.

**Section 44**  
**Trainee's Grant**

(1) Where a prisoner takes part in vocational training, further vocational training, or attends classes, and where he is exempt from the duty to work for such purpose, he shall be paid a trainee's grant, except where he is entitled to such payments for his living as are granted to free persons on such occasions. The subordinate ranking of social welfare assistance in accordance with section 2 subsection (2) of the Twelfth Book of the Social Code (Sozialgesetzbuch) shall remain unaffected.

(2) Section 43 (2) and (3) shall apply mutatis mutandis to the determination of the amount of the trainee's grant.

(3) Where a prisoner attends classes or takes part by hours or days in any of the other activities allocated in accordance with Section 37 (3), he shall be paid a trainee's grant amounting to the remuneration for work which he would otherwise have been paid.

**Section 45**  
**Compensation for Loss of Earnings**

(yet to come into effect)

**Section 46**  
**Pocket Money**

Where a prisoner through no fault of his own receives no remuneration for work and no trainee's grant, he shall be paid a reasonable amount of pocket money if he is in need.

**Section 47**  
**House Money**

(1) The prisoner shall be permitted to spend three-sevenths per month of his earnings regulated in this Act (house money) and of the pocket money (Section 46) on purchases (Section 22 (1)) or to use it for other purposes.

(2) For prisoners who have a free contract of employment (Section 39 (1)) or who are permitted to occupy themselves (Section 39 (2)) a reasonable amount of house money from their earnings shall be allocated.

**Section 48**  
**Statutory Instruments**

For the implementation of Sections 43 to 45, the Federal Ministry of Justice and Consumer Protection shall have powers to issue, in agreement with the Federal Ministry for Economic Affairs and Energy, and with the consent of the Bundesrat, statutory instruments concerning the rates of remuneration.

**Section 49**  
**Maintenance**

(yet to come into effect)

**Section 50**  
**Contribution to Detention Costs**

(1) As a part of the costs of the execution of the legal consequences of an offence (Section 464a (1) second sentence of the Code of Criminal Procedure) the penal institution shall levy a contribution to detention costs from the prisoner. A contribution to detention costs shall not be levied if the prisoner

1. receives remuneration in accordance with this Act, or
2. through no fault of his own is unable to work, or

3. is not working because he is not obliged to work.

If the prisoner who through no fault of his own is unable to work for a consecutive period of more than one month or is not working because he is not obliged to work, has income relating to this period, he must pay the contribution to detention costs for the time up to the amount of the income relating to it. The prisoner must be left an amount which corresponds to the mean remuneration for work in the penal institutions of the Land. The claim shall not be asserted if this is necessary in order not to put at risk the reintegration of the prisoner into society.

(2) The contribution to detention costs shall be levied to the amount determined in accordance with Section 17 (1) No. 4 Book Four of the Social Code on average for evaluation of the payments in kind. The Federal Ministry of Justice and Consumer Protection shall determine the average amount for each calendar year in accordance with the evaluations of the payments in kind applicable on 1 October of the previous year, separated in each case for the area named in Article 3 of the Unification Treaty and for the territory in which the Prison Act already applied prior to accession becoming effective, and shall provide notice of it in the Federal Gazette. In the event of self-catering, the amounts provided for catering shall not be levied. The occupancy capacity determined shall be decisive for the value of the accommodation. The contribution to detention costs may also be taken into account against the non-assignable part of the remuneration, but not so as to constitute a burden on the house money and on the claims of family members entitled to maintenance.

(3) In the Land Berlin, the average amount applicable to the territory named in Article 3 of the Unification Treaty shall apply as standard.

(4) Self-occupation (Section 39 (2)) may be made dependent on the prisoner making a monthly contribution to detention costs in advance up to the amount of the rate named in subsection (2).

(5) For the payment of the contribution to detention costs, the Land Governments may give rise to other competences by means of a statutory instrument. In this case too, the contribution to detention costs is a task for the administration of justice; Sections 109 to 121 shall apply mutatis mutandis to the court proceedings.

#### **Section 51 Tide-over Money**

(1) The earnings regulated in this Act and the earnings of those prisoners who work under a free contract of employment (Section 39 (1)) or who are permitted to occupy themselves (Section 39 (2)) shall be used to compile a fund of tide-over money which is meant to ensure that the prisoner and the persons entitled to be supported by him have the necessary means of subsistence for the first four weeks after his release.

(2) The tide-over money shall be paid to the prisoner on being released. The prison authority may remit it wholly or in part to the probation officer or to an agency engaged in the care of released prisoners, who will decide in what manner the money shall be paid to the prisoner within the first four weeks after his release. The probation officer and the agency engaged in the care of released prisoners shall be obliged to retain the tide-over money separate from their own funds. With the prisoner's consent the tide-over money may be remitted to the person entitled to maintenance.

(3) The Head of the Institution may allow the tide-over money to be used for expenditure serving the prisoner's integration into society.

(4) The right to disbursement of the tide-over money shall not be assignable. Where it does not come up to the amount laid down in subsection (1) above, the prisoner's right to disbursement of his own money shall also not be assignable in the amount of the difference. Any cash of the released prisoner to whom money has been paid on account of the rights which are not attachable under the first or second sentence shall not be subject to attachment for a period of four weeks from the date of release to the extent to which it corresponds to that portion of the claims for the time between attachment and the expiry, of the four weeks.

(5) Subsection (4) shall not apply to an attachment on account of the claims for maintenance referred to in Section 850 d (1) first sentence of the Code of Civil Procedure (Zivilprozeßordnung). However, so much money shall be left to the released prisoner as he requires for his essential subsistence and for the fulfilment of his other statutory maintenance.

**Section 52**  
**Prisoner's Own Money**

Any earnings of the prisoner's that are not used as house money, contribution to detention costs or tide-over money shall be credited to the prisoner's own money.

**SIXTH TITLE**  
**Exercise of Religion**

**Section 53**  
**Spiritual Welfare**

- (1) The prisoner shall not be denied religious welfare by a chaplain of his religion. At his request, he shall receive assistance in establishing contact with a chaplain of his religion.
- (2) The prisoner shall be permitted to have fundamental religious writings in his possession. He may be deprived of them only in the event of gross abuse.
- (3) The prisoner shall be permitted, to a reasonable extent, to retain articles for religious use.

**Section 54**  
**Religious Activities**

- (1) The prisoner shall have the right to attend Divine Service and other religious activities of his denomination.
- (2) The prisoner shall be admitted to Divine Service or to religious activities of another religious community if the chaplain of that religion agrees.
- (3) The prisoner may be excluded from attending Divine Service or other religious activities where this is required by overriding reasons of security or order; prior to this the chaplain shall be heard.

**Section 55**  
**Ideological Communities**

Sections 53 and 54 shall apply mutatis mutandis to members of ideological communities.

**SEVENTH TITLE**  
**Medical Services**

**Section 56**  
**General Rules**

- (1) Care shall be taken of the prisoner's physical and mental health. Section 101 shall remain unaffected.
- (2) The prisoner shall support all measures necessary for the protection of health and hygiene.

**Section 57**  
**Health Examinations, Preventive Medical Services**

- (1) Prisoners who have reached the age of thirty-five shall be entitled to a medical examination of their health every other year with a view to an early diagnosis of diseases, particularly of cardio-vascular and renal diseases, as well as of diabetes.
- (2) Once a year, at the most, prisoners shall be entitled to an examination with a view to an early diagnosis of cancerous diseases, women at the earliest from the beginning of their twentieth year of age, men at the earliest from the beginning of their forty-fifth year of age.
- (3) The prerequisite for the examinations specified in subsections (1) and (2) shall be

1. they concern diseases which can be treated effectively,

2. the preliminary or early stage of these diseases is detectable by diagnostic measures,
3. the symptoms of the disease can be detected with sufficient clarity by medical instruments, and
4. there are sufficient physicians and facilities for a thorough diagnosis and treatment of the cases where a suspected disease is found.

(4) Women prisoners shall be entitled to an examination of their children accommodated with them in the institution until they have reached the age of six, with a view to an early diagnosis of diseases which may endanger the physical or mental development of their children to a not insignificant extent.

(5) Prisoners who have reached the age of fourteen, but are still under twenty, may have a dental examination once every six months in each calendar year with a view to the prevention of dental diseases. The examinations should cover the condition of the gums; information on causes and prevention of diseases, drawing of diagnostic comparisons concerning oral hygiene, condition of the gums and susceptibility to decay, motivation and instruction regarding oral hygiene, as well as measures to harden dental enamel.

(6) Prisoners shall be entitled to medical treatment and the supply of drugs, dressing material, medicines and aids provided that they are necessary

1. to remedy a weak state of health which would probably lead to a disease in the foreseeable future;
2. to counteract risks to the development of a child's health, or
3. to avoid the need for long-term care.

#### **Section 58 Therapeutic Treatment**

Prisoners shall be entitled to therapeutic treatment provided that it is necessary to diagnose or cure a disease, prevent it from deteriorating or alleviate its symptoms. Therapeutic treatment shall include in particular

1. medical treatment,
2. dental treatment, including supply of dental prosthetics,
3. supply of drugs, dressing material, medicines and medical aids, and
4. medical and supplementary services with a view to rehabilitation, as well as functional tests and occupational therapy, unless barred by the interests of imprisonment.

#### **Section 59 Supply of Medical Aids**

Prisoners shall be entitled to be supplied with visual and hearing aids, prosthetic appliances, orthopaedic and other aids which are necessary in a particular case to ensure the effectiveness of therapeutic treatment or to compensate for a disability, unless this would be unreasonable in view of the short imprisonment term, and provided that the aids are not to be regarded as articles of general use in everyday life. This right shall also include any necessary alteration to, repair and replacement of such aids, as well as training in their use unless barred by the interests of imprisonment. There shall be no right to be supplied with new visual aids unless there has been a change in vision of at least 0.5 dioptries. A right to be supplied with contact lenses shall only exist in exceptional cases in which they are indispensable for medical reasons.

### **Section 60**

#### **Therapeutic Treatment while on Leave**

While on leave or short leave, the prisoner shall be entitled to claim, from the prison authority, therapeutic treatment only inside the penal institution responsible for him.

### **Section 61**

#### **Type and Extent of Benefits**

The relevant provisions of the Social Code and the regulations made in pursuance thereof shall apply to the type of health examinations and preventive medical services, as well as the extent of these benefits and of the benefits regarding therapeutic treatment, including the supply of medical aids.

### **Section 62**

#### **Contribution to the Costs of Dentures and Dental Crowns**

The Judicial Administrations of the Länder shall determine by way of general administrative provisions the amounts to be granted in respect of costs for dental treatment and technical benefits concerning the supply of dentures. They may determine that the entire costs be taken over.

### **Section 62a**

#### **Suspension of Claims**

Claims to benefits in accordance with Sections 57 to 59 shall be suspended as long as the prisoner is subject to health insurance on the basis of free employment (Section 39 subsection (1)).

### **Section 63**

#### **Medical Treatment for Social Integration**

With the prisoner's consent, the prison authority should permit medical treatment to be performed, in particular operations or prosthetic measures which promote his social integration. He shall have to bear part of the costs if this is justified in view of his financial circumstances and if the objective of treatment is not endangered thereby.

### **Section 64**

#### **Outdoor Exercise**

A prisoner who does not work in the open air shall be given an opportunity to stay in the open air for at least one hour per day, weather permitting at the fixed time.

### **Section 65**

#### **Removal**

(1) A sick prisoner may be removed to a prison hospital or to any other penal institution more suitable for the treatment of his disease.

(2) Where a prisoner's disease cannot be diagnosed or treated in a penal institution or prison hospital, or where it is not possible to remove the prisoner to a prison hospital in time, he shall be taken to a hospital outside the institution.

### **Section 66**

#### **Notification of Illness or Death**

(1) Where a prisoner has fallen seriously ill, a close relative of his, a person enjoying his confidence or the statutory representative shall be notified without delay. The same shall apply in case of a prisoner's death.

(2) The prisoner's request to notify also other persons should be complied with as far as possible.

## **EIGHTH TITLE**

### **Leisure Activities**



**Section 67**  
**General**

The prisoner shall be given an opportunity to engage in leisure activities. He should be given an opportunity to attend classes, including sports, to watch television lessons, to attend courses and to take part in other further training activities, in hobby groups, discussion groups, as well as sports activities, and to make use of a library.

**Section 68**  
**Newspapers and Periodicals**

- (1) The prisoner shall be permitted to subscribe to newspapers and periodicals, within reason, through the mediation of the institution.
- (2) Newspapers and periodicals the distribution of which is subject to a criminal sentence or an administrative fine shall be excluded. Specific issues or parts of newspapers or periodicals may be withheld from the prisoner if they might considerably jeopardise the objective of treatment or of security or order in the institution.

**Section 69**  
**Radio and Television**

- (1) The prisoner shall be permitted to listen to the institution's radio programme and watch television together with others. The programmes should be selected in such a way that wishes and needs for political information, education and entertainment will reasonably be accommodated. Radio and television programmes may temporarily be switched off, or individual prisoners may be forbidden to listen or watch, if this is indispensable to maintain security or order in the institution.
- (2) A prisoner may be allowed to have his own radio and television sets only on the conditions set out in Section 70.

**Section 70**  
**Possession of Articles for Recreational Purposes**

- (1) The prisoner shall, within reason, be permitted to be in possession of books and other articles on further education or for recreational purposes.
- (2) This shall not apply where the possession, surrender or use of such article
1. would be subject to a criminal sentence or an administrative fine, or
  2. would jeopardise the objective of treatment, security or order in the institution.
- (3) Permission may be suspended where the prerequisites of subsection (2) are met.

**NINTH TITLE**  
**Social Assistance**

**Section 71**  
**Principle**

The prisoner may avail himself of the social assistance of the institution in order to solve his personal difficulties. Assistance shall aim to enable the prisoner to settle and regulate his affairs himself.

**Section 72**  
**Assistance on Admission to the Institution**

- (1) On his admission to the institution the prisoner shall be assisted in causing the necessary measures to be taken for needy relatives and in securing his property outside the institution.
- (2) The prisoner shall be given advice as to the continuation of social insurance.

**Section 73**  
**Assistance During Imprisonment**

The prisoner shall be supported in his endeavours to exercise his rights and duties, in particular to exercise his voting right, to see to the maintenance of persons entitled thereto, and to settle any damage caused by his offence.

**Section 74**  
**Pre-Release Assistance**

In order to prepare for release, the prisoner shall be given advice regarding the settlement of his personal, financial and social affairs. Such advice shall include the naming of the agencies competent for social benefits. The prisoner shall be assisted in finding employment, accommodation and personal assistance for the time after release.

**Section 75**  
**Release Grant**

(1) Where the prisoner's own funds are not sufficient, the institution shall give him a grant for his travel expenses and some tide-over grant, and if necessary adequate clothing.

(2) Account shall be taken when assessing the amount of the tide-over grant of the length of imprisonment, of the prisoner's personal commitment to his work, and of the economy with which he spent his own money and his house money during his term of imprisonment.

Section 51 (2) second and third sentences shall apply mutatis mutandis. The tide-over grant may, wholly or in part, be remitted to the person entitled to maintenance.

(3) The claim to a grant for travel expenses and the money actually paid for travel expenses shall be exempt from attachment. Section 51 (4) first and third sentences and (5) shall apply mutatis mutandis to the claim to a tide-over grant and to any cash remaining after payment of such tide-over grant to the prisoner.

**TENTH TITLE**  
**Special Provisions for Woman Prisoners**

**Section 76**  
**Benefits in the Event of Pregnancy and Maternity**

(1) Where a prisoner is pregnant or has recently given birth to a child, due regard shall be given to her state of health. The provisions of the Law for the Protection of Gainfully Employed Mothers (Gesetz zum Schutz der erwerbstätigen Mütter) relating to the arrangement of working places shall be applied mutatis mutandis.

(2) During pregnancy and in the course of, and after, confinement, the prisoner shall be entitled to medical care and midwifery in the penal institution. Medical care during pregnancy shall include in particular examinations to diagnose pregnancy and prophylactic examinations including medical laboratory tests.

(3) For confinement the pregnant woman shall be taken to a hospital outside the institution. Where this is not advisable for special reasons, confinement shall take place in a penal institution with a maternity ward. Upon confinement assistance by a midwife and, where necessary, by a medical officer shall be given.

**Section 77**  
**Drugs, Medicines and Dressing Material**

In the case of pregnancy complaints and in connection with, confinement drugs, medicines and dressing materials shall be supplied.

**Section 78**  
**Type, Extent and Suspension of Benefits in the Event of Pregnancy and Maternity**

Sections 60, 61, 62a and 65 shall apply mutatis mutandis to the benefits provided in accordance with sections 76 and 77.

**Section 79**  
**Notification of Birth**

In notifying the Registrar of the birth no mention shall be made of the penal institution as the place of the child's birth, of the relation of the notifying person to the institution, or of the mother's imprisonment.

**Section 80**  
**Mothers with Children**

- (1) Where a woman prisoner's child is not yet subject to compulsory school attendance he may, with the consent of the person entitled to determine the child's place of residence, be accommodated in the penal institution where his mother is, provided this would be for his welfare. Prior to such accommodation the Youth Welfare Office shall be consulted.
- (2) Accommodation shall be given at the expense of the person liable to pay for the child's maintenance. Assertion of the claim to the refund of costs may be disregarded where the joint accommodation of mother and child would thereby be jeopardised.

**ELEVENTH TITLE**  
**Security and Order**

**Section 81**  
**Principle**

- (1) The prisoner's sense of responsibility for an orderly community life in the institution shall be awakened and encouraged.
- (2) The duties and restrictions imposed on the prisoner in order to maintain security and order in the institution shall be chosen in such a manner that they are in a reasonable proportion to their purpose and do not affect the prisoner more and longer than necessary.

**Section 82**  
**Conduct**

- (1) The prisoner shall obey the Institution Rules regarding the timetable (working hours, leisure time, and night's rest). He shall not disturb orderly community life by his behaviour towards the institution staff, co-prisoners and other persons.
- (2) The prisoner shall obey orders from the institution staff even if he feels aggrieved by them. He shall not leave an area allocated to him without permission.
- (3) He shall keep his cell and the articles given to him by the institution in good order and treat them with care.
- (4) The prisoner shall report without delay any circumstances which may mean a danger to the life, or a considerable danger to the health, of a person.

**Section 83**  
**Personal Possession. Prisoner's Own Money**

- (1) The prisoner shall be allowed to retain in his possession or accept only those articles which are given to him by the prison authority or with the latter's consent. Without such consent he shall be allowed to accept articles of minor value from another prisoner; however, the prison authority may make acceptance and possession of such articles subject to their consent.
- (2) Articles which the prisoner has brought with him into the institution and which he is not permitted to retain in his possession shall be retained for him where this is possible in view of nature and volume. Money shall be credited to his account as his own money. The prisoner shall be given an opportunity to dispatch his belongings which he will not require during imprisonment and for his release, or to use his own money freely, unless it will be required as tide-over money.
- (3) Where a prisoner refuses to remove from the institution any property which he has brought with him into the institution and which, according to nature and volume, it is not possible to retain, the prison authority shall be entitled to have such articles removed from the institution at the prisoner's expense.
- (4) The prison authority shall have powers to destroy or render unusable any records and other objects which supply information about the security measures of the institution.

#### **Section 84 Search**

(1) It shall be permissible to search prisoners, their belongings and the cells. When male prisoners are searched only men shall be present; when female prisoners are searched only women shall be present. The sense of shame shall not be offended.

(2) A search of the body connected with stripping shall be permissible only where there is imminent danger or upon orders from the Head of the Institution in the individual case. When male prisoners are searched only men shall be present; when female prisoners are searched only women shall be present. It shall be carried out in private. Other prisoners shall not be present.

(3) The Head of the Institution may make a general order to the effect that prisoners be searched in accordance with subsection (2) upon admission to the institution, subsequent to contact with visitors and after each absence from the institution.

#### **Section 85 Safe Custody**

A prisoner may be transferred to an institution more suitable for his safe custody if there is increased danger of his escaping or if his behaviour or condition constitutes in any other way a danger to security or order in the institution.

#### **Section 86 Identification Measures**

(1) To secure imprisonment the following identification measures shall be permissible:

1. taking finger and palm prints,
2. taking photographs with the knowledge of the prisoner,
3. ascertaining external physical characteristics, and
4. taking measurements.

(2) The identification data obtained in this way shall be included in the prisoner's personal file. They may also be kept in registers of the criminal investigation department. The data collected in accordance with subsection (1) may only be processed for the purposes named in subsection (1) and Section 87 (2) and to prevent or prosecute criminal offences, as well as to prevent or prosecute administrative offences which endanger security or order in the institution.

(3) Persons who have been treated for identification purposes in accordance with subsection (1) shall be entitled to demand after their release from imprisonment that the identification data obtained be destroyed, with the exception of photographs and the description of physical characteristics, as soon as the execution of the judicial decision on which imprisonment was based has been completed. They shall be informed about this right on being identified at the latest on their release.

#### **Section 86a Photographs**

(1) Irrespective of Section 86, in order to maintain security and order in the institution, photographs of the prisoner may be taken and identified with the names of the prisoners and their date and place of birth. The photographs may only be taken with the knowledge of the prisoner.

(2) The photographs may only be

1. used by prison staff if verification of the identity of prisoners is necessary in the context of carrying out their tasks,
2. transmitted

- a) to the police execution authorities of the Federation and the Länder where this is necessary to avert an immediate danger to significant legal interests within the institution,
  - b) in accordance with 87 (2).
- (3) The photographs shall be destroyed or erased on release of the prisoners from prison, or after their transfer to another institution.

#### **Section 87 Right to Apprehend**

- (1) A prisoner who has escaped or otherwise remains outside the penal institution without permission may be apprehended by the prison authorities, or upon their instructions, and be returned to the institution.
- (2) Data collected in accordance with Section 86 (1) and collected in accordance with Sections 86a and 179 and necessary for identification or apprehension may be transmitted to the enforcement and criminal prosecution authorities if this is necessary for purposes of search and apprehension of the prisoner who has escaped or is otherwise outside the institution without authorisation.

#### **Section 88 Special Precautions**

- (1) Special precautions may be ordered in respect of a prisoner where, in view of his behaviour or on account of his mental state, there is increased danger of his escaping or danger of violent attacks against persons or property or the danger of suicide or self-injury.
- (2) The following measures shall be permissible as special precautions:
- 1. deprivation or withholding of articles,
  - 2. observation, including the use of optical-electronic devices,
  - 3. segregation from other prisoners,
  - 4. deprivation or restriction of outdoor exercise,
  - 5. detention in a specially-secured cell containing no dangerous objects, and
  - 6. use of physical restraints.
- (3) Measures in accordance with subsection (2) Nos. 1 and 3 to 5 shall likewise be permissible where the danger of a prisoner being freed or a considerable disturbance of order in the institution cannot be avoided or remedied in any other way.
- (4) On the occasion of short leave under escort, production before a court or transport, the use of physical restraints shall also be permissible where there is increased danger of escape for any reasons other than those referred to in subsection (1).
- (5) Special precautions shall be continued only as long as is required by their purpose.

#### **Section 89 Solitary Confinement**

- (1) Continuous segregation of a prisoner (solitary confinement) shall not be permissible unless this is indispensable for reasons inherent in the prisoner's person.
- (2) Solitary confinement for a total duration of more than three months per year shall require the consent of the supervisory authority. This period shall not be deemed to be interrupted by the fact that the prisoner attends Divine Service or takes part in outdoor exercise.

#### **Section 90 Use of Physical Restraints**

Restraint devices should, as a rule, be applied to prisoners only on their hands or feet. In the prisoner's interest, the Head of the Institution may order a different mode of restraint. The restraints shall be temporarily loosened where this is necessary.

### **Section 91**

#### **Orders for Special Precautions**

(1) Special precautions shall be ordered by the Head of the Institution. In case of imminent danger, other prison officers may give provisional orders for such precautions. The decision of the Head of the Institution shall be obtained without delay.

(2) Where a prisoner is under medical treatment or observation, or where his mental state is the reason for the precaution, the medical officer shall be heard in advance. Where this is not possible because danger is imminent, his opinion shall be obtained without delay.

### **Section 92**

#### **Supervision by Medical Officer**

(1) Where a prisoner is detained in a specially secured cell or being held in physical restraints (Section 88 (2) Nos. 5 and 6) the medical officer shall visit him soon and, if possible, daily thereafter. This shall not apply where a prisoner is placed in physical restraints for the purpose of short leave under escort, of being produced before a court, or of transport (Section 88 (4)).

(2) The medical officer shall be consulted regularly as long as a prisoner is deprived of daily outdoor exercise.

### **Section 93**

#### **Compensation for Expenditure**

(1) The prisoner shall be obliged to compensate the prison authority for any expenditure caused by him through intentional or grossly negligent self-injury or injury to another prisoner. Claims under other statutory provisions shall not be prejudiced.

(2) Where such claims are asserted also that portion of the house money (Section 47) which exceeds three times the daily rate of the basic remuneration in accordance with Section 43 (2) may be used.

(3) The claims referred to in subsection (1) may be brought before the ordinary courts.

(4) Set-off or enforcement of the claims referred to in subsection (1) shall be waived where this would hamper the prisoner's treatment or integration.

## **TWELFTH TITLE**

### **Direct Coercion**

#### **Section 94**

##### **General Conditions**

(1) The staff of penal institutions shall be permitted to use direct coercion where they are lawfully carrying out penal measures or precautions and the object aimed at thereby cannot be achieved in any other means.

(2) Direct coercion against persons other than prisoners may be used where such persons undertake to free prisoners or to unlawfully enter the institution premises, or where they are found on such premises without permission.

(3) The right to use direct coercion as established in other provisions shall not be prejudiced.

#### **Section 95**

##### **Definitions**

(1) Direct coercion shall mean the effect on persons or property by physical force, its aids and by arms.

(2) Physical force shall mean any direct physical effect on persons or property.

(3) Aids of physical force shall mean in particular restraint devices.

(4) Weapons shall mean the officially permitted side-arms and firearms, as well as irritants.

#### **Section 96**

##### **Principle of Proportionality**

(1) From among several possible and suitable measures of direct coercion those shall be chosen which will presumably least affect the individual and the general public.

(2) Direct coercion shall not be applied where any damage likely to be caused thereby would obviously be out of proportion to the result striven for.

**Section 97**  
**Acting upon Orders**

(1) Where direct coercion is ordered by a superior or any other person so authorised, the prison officers shall be obliged to apply it, except where the order violates human dignity or was not given for official purposes.

(2) The order may not be obeyed if a criminal offence would be committed thereby. If a prison officer nevertheless obeys it, he shall be culpable only if he recognises, or if it is obvious in the circumstances known to him, that a criminal offence will be committed thereby.

(3) Any doubts regarding the lawfulness of the order shall be communicated by the prison officer to the person giving the order, provided this is possible in the circumstances. Deviating provisions of general civil service law concerning the communication of such doubts to a superior (Section 36 (2) and (3) of the Civil Service Law Skeleton Act) shall not be applied.

**Section 98**  
**Warning**

A warning shall be given prior to the application of direct coercion. Such warning may be dispensed with only where the circumstances do not allow it to be given, or where direct coercion must be used immediately in order to prevent an unlawful act which would constitute a criminal offence, or to avert imminent danger.

**Section 99**  
**General Provisions for the Use of Firearms**

(1) Firearms may be used only where other measures of direct coercion have already failed or do not offer any prospect of success. They shall be used against persons only where the purpose will not be achieved by the use of arms against things.

(2) Firearms shall be used only by the prison officers designated for this purpose, and only to make a person unfit for attack or escape. They shall not be used if it is evident that third persons would very likely be endangered thereby.

(3) A warning shall be given prior to the use of firearms. A warning shot shall also be deemed to constitute such a warning. Firearms shall be only used without such warning if this is necessary to avert imminent danger to life or limb.

**Section 100**  
**Special Provisions for the Use of Firearms**

(1) Firearms shall be used against persons only

1. if the persons fail to lay down a weapon or other dangerous implement in spite of being repeatedly requested to do so,
2. if the persons are mutinous (Section 121 of the Criminal Code), or
3. for the purpose of preventing their escape or to recapture them.

No firearms shall be used for the purpose of preventing escape from an open institution.

(2) Firearms may be used against other persons if such persons undertake to free prisoners by force or to enter an institution by force.

**Section 101**  
**Coercive Measures in the Field of Medical Care**

(1) Medical examinations and treatment under coercion, as well as forced feeding, shall be permissible only in case of danger to life, in case of serious danger to the prisoner's health, or in case of danger to other persons' health; such measures must be reasonable for the persons concerned and may not entail a serious danger to the prisoner's life or health. The

prison authority shall not be obliged to execute such measures as long as it can be assumed that the prisoner acts upon his own free will.

(2) For the purpose of health protection and hygiene, a coercive physical examination shall be permissible in addition to that in subsection (1) if it does not involve an operation.

(3) The measures shall be carried out only upon orders from, and under the supervision of a medical officer, except where first aid is rendered in case a medical officer cannot be reached in time and any delay would mean danger to the prisoner's life.

## **THIRTEENTH TITLE**

### **Disciplinary Action**

#### **Section 102**

##### **Conditions**

(1) Where a prisoner culpably violates any of the obligations imposed on him by, or in pursuance of this Act, the Head of the Institution may order that disciplinary action be taken against him.

(2) Disciplinary action shall be dispensed with if it is sufficient to give the prisoner a caution.

(3) Disciplinary action shall also be permissible where criminal proceedings or proceedings concerning an administrative fine are instituted on account of the same misconduct.

#### **Section 103**

##### **Types of Disciplinary Action**

(1) The following types of disciplinary action shall be permissible:

1. reprimand,
2. restriction or forfeiture of the right of disposal over the house money and of the privilege to make purchases for a period not exceeding three months,
3. restriction or forfeiture of the privilege of reading materials, for a period not exceeding two weeks, and of the privilege to listen to the radio or to watch television, for a period not exceeding three months; simultaneous forfeiture, however, only for a period not exceeding two weeks,
4. restriction or deprivation of articles to be used for some occupation during leisure time, or of the privilege to participate in joint activities, for a period not exceeding three months,
5. segregation, during leisure time, for a period not exceeding four weeks,
6. (repealed),
7. forfeit of the allocated work or occupation for a period not exceeding four weeks, combined with loss of the earnings regulated in this Act,
8. restriction of communication with persons outside the institution to urgent cases, for a period not exceeding three months, and
9. disciplinary detention, for a period not exceeding four weeks.

(2) Disciplinary detention shall be imposed only for serious or repeated misconduct.

(3) Several disciplinary measures may be combined with one another.

(4) The measures under subsection (1) Nos. 3 to 8 should, as far as possible, be ordered only where the misconduct has some connection to the privileges to be restricted or forfeited. This shall not apply where they are combined with disciplinary detention.

#### **Section 104**

##### **Execution of Disciplinary Action Suspension on Probation**

(1) Disciplinary action shall, as a rule, be executed immediately.



(2) Disciplinary action may, wholly or in part, be suspended on probation for a period not exceeding six months.

(3) Where the right of disposal over the house money is restricted or forfeited, the house money accruing during such period shall be credited to the tide-over money.

(4) Where the prisoner's communication with persons outside the institution is restricted, he shall be given an opportunity to communicate this to a person with whom he corresponds or who usually visits him. Correspondence with the recipients referred to in Section 29 (1) and (2), with courts and judicial authorities in the Federal Republic, and with attorneys and notaries in a legal matter concerning the prisoner, shall not be restricted.

(5) Disciplinary detention shall be executed in solitary confinement. The prisoner may be detained in a special detention room which shall meet the requirements of a cell destined for occupation during daytime and at night. Subject to orders to the contrary, the prisoner's privileges under Sections 19, 20, 22, 37, 38 and 68 to 70 shall be suspended.

#### **Section 105 Disciplinary Powers**

(1) Disciplinary action shall be ordered by the Head of the Institution. Where the misconduct is committed en route to another institution for the purpose of transfer, the Head of such destination institution shall be competent.

(2) The supervisory authority shall decide in cases where the prisoner's misconduct was directed against the Head of the Institution.

(3) Disciplinary action against a prisoner ordered while he was in another penal institution or in remand detention shall be executed on request. Section 104 (2) shall remain unaffected.

#### **Section 106 Procedure**

(1) The facts shall be elucidated. The prisoner shall be heard. The findings shall be recorded in writing; the prisoner's defence shall be noted down.

(2) In case of serious disciplinary offences the Head of the Institution should, before making a decision, discuss the matter in consultation with other persons who participate in the prisoner's treatment. The medical officer of the institution shall be consulted before an order is made for disciplinary action to be taken against a prisoner who is under medical treatment, or against a pregnant woman or a mother feeding a baby.

(3) The decision shall be disclosed to the prisoner verbally by the Head of the Institution, and shall be recorded in writing together with the reasons in brief.

#### **Section 107 Medical Officer's Participation**

(1) Before disciplinary detention is executed, the medical officer shall be consulted. The prisoner shall be under medical supervision during such detention.

(2) Disciplinary detention shall not be executed or shall be interrupted where the prisoner's health would be endangered.

### **FOURTEENTH TITLE Legal Remedies and Court Procedure**

#### **Section 108 Right to Complain**

(1) The prisoner shall be given an opportunity to apply to the Head of the Institution with requests, suggestions and complaints on matters concerning himself. Regular consulting hours should be held.

(2) When a representative of the supervisory authority inspects the institution, it shall be ensured that a prisoner can apply to him in matters concerning the prisoner himself.

(3) The option of lodging a disciplinary complaint shall remain unaffected.

## **Section 109**

### **Application for a Court Ruling**

- (1) A measure regulating individual matters in the field of execution of imprisonment or of execution of measures of reform and prevention involving deprivation of liberty may be contested by applying for a court ruling. The application may also request imposition of the obligation to order a measure that was refused or omitted.
- (2) The application for a court ruling shall be admissible only if the applicant claims that his rights were infringed by the measure or by its refusal or omission.
- (3) If the measure that has been requested or contested by the applicant serves to implement Section 66c subsection (1) of the Criminal Code during execution of preventive detention or execution of the preceding prison sentence, the applicant shall be assigned, proprio motu, an attorney for court proceedings, unless the participation of an attorney appears unnecessary because of the straightforwardness of the factual and legal situation or it is evident that the applicant is able to sufficiently exercise his rights himself. The judge presiding over the court competent pursuant to Section 110 shall decide on the appointment and revocation thereof.

## **Section 110**

### **Competence**

Competence to deal with the application shall be vested in the criminal chamber responsible for execution of sentences in whose district the prison authority concerned has its seat.

## **Section 110a**

### **Electronic Files; Powers to Issue Statutory Instruments**

- (1) The court files may be maintained in electronic form. The Land governments shall determine by statutory instrument the time onwards from which the files are to be maintained in electronic form. In doing so they may limit the introduction of electronic files to individual courts or to certain generally determined proceedings, and may provide that files established in hard copy continue to be maintained in hard copy, even after the introduction of electronic files; if use is made of this limitation option, it may be stipulated in the statutory instrument that an administrative provision, to be published by notice, will specify the proceedings in which the files are to be maintained in electronic form. These powers may be delegated by statutory instrument to the competent Land ministries.
- (2) The Land governments shall determine by statutory instrument the organisational and, in accordance with the state of the art, technical framework conditions applicable to the use of electronic files, including the data protection, data security and accessibility requirements to be met. They may delegate this power by statutory instrument to the competent Land ministries.
- (3) The Federal Government shall determine by statutory instrument with the consent of the Bundesrat the standards applicable to the transmission of electronic files between authorities and courts, as well as those applicable to the inspection of electronic files. It may delegate this power to the competent Federal ministries by statutory instrument without the consent of the Bundesrat.

## **Section 111**

### **Parties to Proceedings**

- (1) Parties to the court proceedings shall be
1. the applicant, and
  2. the prison authority which has ordered the contested measure to be taken, or which has refused or omitted to take the measure applied for.
- (2) The competent supervisory authority shall be the party under subsection (1) No. 2 in proceedings before the Higher Regional Court or the Federal Court of Justice.

### **Section 112**

#### **Time Limit for Filing an Application. Restoration to the Status Quo Ante**

- (1) The application shall be filed within two weeks after service or written notification of the measure or its refusal, either in writing or to be recorded by the court registry.
- (2) Where the applicant was prevented from observing the time limit through no fault of his own he shall, upon request, be granted restoration to the status quo ante.
- (3) The request for restoration to the status quo ante shall be made within two weeks after the obstacle has been removed. The facts submitted in substantiation of the request shall be shown prima facie at the time when the request is made or in the course of the proceedings on the request. The omitted legal act shall be made up for within the period allowed for filing an application. Where this has taken place, restoration to the status quo ante may be granted even in the absence of a request.
- (4) Where one year has elapsed since the end of the filing period which was not observed, the request for restoration to the status quo ante shall be inadmissible, except where it was impossible to file the request before the expiry of the one-year period owing to force majeure.

### **Section 113**

#### **Application for Carrying Out a Measure**

- (1) Where the applicant objects to the omission to carry out a measure, the application for a court ruling shall not be made before the expiry of three months after the application for the measure to be carried out has been made, unless an earlier invocation of the court is required on account of special circumstances of the case.
- (2) Where there is sufficient justification for the fact that the measure applied for has not yet been carried out, the court shall stay the proceedings until a period fixed by it has expired. Such period may be extended. If the measure applied for is carried out within the prescribed period, the lawsuit shall be deemed to have been disposed of as regards the merits of the case.
- (3) The application under subsection (1) shall be admissible only before the expiry of one year after the application for the measure to be carried out has been made, except where the making of such an application before the expiry of the one-year period was impossible owing to force majeure, or was omitted in the special circumstances of the individual case.

### **Section 114**

#### **Suspension of a Measure**

- (1) The application for a court ruling shall not have any deferring effect.
- (2) The court may suspend the execution of the contested measure if a danger exists that the realisation of a right of the applicant's may be thwarted or seriously impaired, and if this is not barred by a superior interest in immediate execution. The court may also make an interim injunction; Section 123 (1) of the Administrative Court Rules shall apply mutatis mutandis. The decisions shall not be subject to appeal; they may be modified or set aside by the court at any time.
- (3) The application for a decision in accordance with subsection (2) shall be admissible even before an application for a court ruling is made.

### **Section 115**

#### **Court Ruling**

- (1) The court shall rule without an oral hearing by way of an order. The order shall comprise a brief synopsis of the essential content of the status of the facts and the dispute. As regards the details, reference may be made to documents contained in the case file, which shall be precisely described by origin and date, in so far as such documents sufficiently substantiate the status of the facts and the dispute. The court may refrain from providing an explanation of the reasons for its decision, if it holds to the reasoning of the decision being contested and establishes this in its decision.

- (1a) The court may order audio-visual transmission to the prison and to the courtroom simultaneously of a hearing where a personal appearance on the part of the prisoner is dispensed with. The transmission shall not be recorded. The decision pursuant to subsection (1) shall not be subject to appeal.
- (2) Where the measure is unlawful and any of the applicant's rights have been infringed thereby, the court shall rescind the measure. If the measure has already been executed, the court may also order that, and in what manner, the execution has to be rescinded by the prison authority, provided the matter is ripe for a ruling.
- (3) If the measure has, prior to that, become devoid of purpose as a result of withdrawal or in some other way, the court shall declare upon request that the measure was unlawful if the applicant has a legitimate interest in such a declaration.
- (4) Where the refusal or omission of the measure is unlawful and the applicant's rights have been infringed, the court shall thereby declare that the prison authority is obliged to execute the official act applied for, provided the matter is ripe for decision. Otherwise the court shall declare that the authority is obliged to notify the applicant, paying heed to the legal view taken by the court.
- (5) Where the prison authority has powers to act according to its discretion, the court shall also examine whether the measure or its refusal or omission is unlawful because the statutory limits of discretion have been exceeded or the discretion has been exercised in a way that is incompatible with the object of such powers.

#### **Section 116**

##### **Appeal**

- (1) The court ruling of the criminal chamber responsible for execution of sentences may be impugned by means of an appeal if it is necessary to make a re-examination possible for the improvement of the law or of ensuring uniform practice of the courts.
- (2) The appeal may be founded only on the allegation that the decision is based on a violation of the law. The law shall be deemed to have been violated if a statutory provision has not been applied, or has not been applied correctly.
- (3) The appeal shall have no deferring effect. Section 114 (2) shall apply mutatis mutandis.
- (4) The provisions of the Code of Criminal Procedure concerning the appeal shall apply mutatis mutandis to the appeal, unless this Act provides otherwise.

#### **Section 117**

##### **Competence for the Appeal**

Jurisdiction to rule on the appeal shall be vested in a Criminal Division of the Higher Regional Court in whose district the criminal chamber responsible for execution of sentences has its seat.

#### **Section 118**

##### **Form. Time Limit. Reasons**

- (1) The appeal shall be filed with the court against whose decision the appeal is made, within one month from the service of the court's decision being made. Furthermore, a statement shall be made within that same period as to the degree to which the decision is being challenged and its rescission is being requested. Reasons for such application shall be given.
- (2) The reasons shall show whether the decision is being challenged on account of a violation of a statutory provision on the procedure, or on account of a violation of another statutory provision. In the former case, the facts constituting the defect shall be stated.
- (3) The applicant, in his capacity as appellant, shall be permitted to appeal only by way of a document signed by an attorney, or by having it recorded by the court registry.

#### **Section 119**

##### **Decision on Appeal**

- (1) The Criminal Division shall decide without an oral hearing by way of an order.

(2) Only the appeal motions and, where the appeal is based on procedural defects, only those facts which are stated in the reasons given for the appeal, shall be subject to re-examination by the court.

(3) No reasons shall be required for an order dismissing the appeal if the Criminal Division unanimously holds that the appeal is inadmissible or manifestly ill-founded.

(4) To the extent to which the appeal is held to have merits, the decision being challenged shall be quashed. The Criminal Division may decide in place of the criminal chamber responsible for execution of sentences if the matter is ripe for decision. Otherwise, the matter shall be remitted to the criminal chamber responsible for execution of sentences for a new decision.

(5) The Criminal Division's decision shall be final.

### **Section 119a**

#### **Accompanying Judicial Review of Execution of Prison Sentence Where Preventive Detention Has Been Ordered or Reserved**

(1) Where placement in preventive detention has been ordered or reserved, the court shall, during execution of the prison sentence, after expiry of the time periods referred to in subsection (3), determine proprio motu

1. whether, during such past time period, the prison authority provided the prisoner with care which meets the requirements of Section 66c subsection (2) in conjunction with subsection (1) No. 1 of the Criminal Code;
2. which particular measures, to the extent that care did not comply with the requirements set out in No. 1 and there is no substantial change in the factual situation, the prison authority must provide to the prisoner in the future in order to satisfy the statutory requirements concerning care.

(2) The prison authority may at any time apply for a decision pursuant to subsection (1), provided there is a legitimate interest in doing so. After preparation of the treatment programme for the first time or a substantial change thereto, the prison authority may also request a determination on whether the measures proposed in the treatment programme would, if they were to be provided in the event of there being no substantial change in the factual situation, constitute the care described in Section 66c subsection (2) in conjunction with subsection (1) No. 1 of the Criminal Code; in this case the court must make the determinations pursuant to subsection (1) also if the time period pursuant to subsection (3) has not yet expired.

(3) Proprio motu decisions shall be given every two years. Where a decision is taken pursuant to subsection (1), also in conjunction with subsection (2) second sentence, the court may, having regard to the total duration of the prison sentence still to be executed, determine a longer time period, which shall not exceed five years. The time period for the first proprio motu decision shall begin to run upon commencement of execution of the prison sentence, and the time period for any further decision shall begin to run upon pronouncement of a first-instance decision pursuant to subsection (1).

(4) Where decisions are taken in accordance with subsections (1) and (2) second sentence, the criminal chamber responsible for execution of sentences shall be composed of three judges including the presiding judge.

(5) A complaint may be lodged against the court decision.

(6) The prisoner shall be assigned, proprio motu, an attorney for the court proceedings. The prisoner, the prison authority and the executing authority shall be heard before a decision is given. In all other cases, Section 109 subsection (3), second sentence, Sections 110 and 110a as well as the statutory instruments issued on the basis thereof, Sections 111, 115 subsection (1), first and second sentences, as well as Sections 117, 118 subsection (1), first sentence, and Section 119 subsection (1) and (5) shall apply mutatis mutandis.

(7) In the case of subsequent decisions, all courts shall be bound by the final determinations pursuant to subsections (1) and (2), second sentence.

## **Section 120**

### **Mutatis mutandis Application of Other Provisions**

(1) If the authority in the cases referred to in Section 114 subsection (2), second sentence, as well as Section 115 subsection (2), second sentence, and subsection (4) does not comply with the obligation imposed on it by the provisional order or by the decision, Section 172 of the Administrative Court Rules shall apply mutatis mutandis. In all other cases, the provisions of the Code of Criminal Procedure and the statutory instruments issued on the basis of Section 32a subsection (2), second sentence, and subsection (4) first sentence No. 6, of Section 32b subsection (5) and of Section 32f subsection (6) of the Code of Criminal Procedure shall apply mutatis mutandis, unless this Act provides otherwise.

(2) Where legal aid is to be granted, the provisions of the Code of Civil Procedure shall apply mutatis mutandis.

## **Section 121**

### **Costs of Proceedings**

(1) It shall be determined in the decision at the conclusion of the proceedings who has to pay the costs of the proceedings and the necessary expenses.

(2) Where an applicant is unsuccessful or withdraws his application, he shall pay the costs of the proceedings and the necessary expenses. Where the matter has been disposed of prior to a decision in accordance with subsection (1) in a way other than by withdrawal of the application, the court shall decide on the costs of the proceedings and the necessary expenses at its judicial discretion.

(3) In the case of first-instance court decisions pursuant to Section 119a, the costs of the proceedings and the necessary expenses shall be borne by the Treasury. The second sentence of subsection (2) shall not apply in a case under Section 115 (3).

(4) Sections 464 to 473 of the Code of Criminal Procedure shall apply mutatis mutandis in other respects.

(5) For the costs of the proceedings under Sections 109 et seqq. even a portion of the house money (Section 47) exceeding three times the daily rate of the basic remuneration in accordance with Section 43 (2) may be used.

## **Section 121a**

### **Jurisdiction of the Courts for Measures Subject to Judicial Scrutiny**

(1) To the extent that pursuant to the prison acts a measure requires a prior judicial order or judicial authorisation, the local court in whose district the measure is carried out shall have jurisdiction.

(2) If a Land maintains an institution used for the execution of prison sentences and measures of reform and prevention involving deprivation of liberty on the territory of another Land, the Länder involved may agree that the local court in whose district the supervisory authority responsible for the institution has its seat shall have jurisdiction for judicial decisions within the meaning of subsection (1).

## **Section 121b**

### **Court Procedure in Measures Subject to Judicial Scrutiny**

(1) Court proceedings within the meaning of Section 121a shall be governed by the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction. The provisions applicable to placement matters under Section 312 No. 4 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction shall apply mutatis mutandis. The complaint shall be decided upon by the Regional Court, the appeal shall be decided upon by the Federal Court of Justice.

(2) No costs shall be imposed for the proceedings.

## **FIFTEENTH TITLE**

### **Execution of Sentence and Remand detention**

**Section 122  
(repealed)**

**SIXTEENTH TITLE  
Socio-Therapeutic Institutions**

**Section 123  
Socio-Therapeutic Institutions and Units**

(1) Socio-therapeutic institutions separate from the other institutions shall be provided for treatment under Section 9.

(2) For special reasons, socio-therapeutic units may also be provided for in other penal institutions. The provisions governing the socio-therapeutic institution shall apply to these units mutatis mutandis.

**Section 124  
Leave in Preparation for Release**

(1) The Head of the Institution may grant special leave not exceeding six months to a prisoner in preparation of release. Section 11 subsection (2) and Section 13 subsection (5) shall apply mutatis mutandis.

(2) The person granted leave should be given instructions for his leave. He may in particular be ordered to subject himself to a person designated by the institution for his care and to return to the institution for short periods of time.

(3) Section 14 subsection (2) shall apply mutatis mutandis. Leave shall be cancelled if this is necessary for the treatment of the prisoner.

**Section 125  
Admission on a Voluntary Basis**

(1) A former prisoner may temporarily be re-admitted to the socio-therapeutic institution upon his request if the objective of his treatment is endangered and a stay in the institution is justified on that ground. Admission may be revoked at any time.

(2) Measures of execution shall not be enforced by direct coercion being exerted on the person so admitted.

(3) Such person shall be released immediately upon his request.

**Section 126  
After-care**

The number of specialist staff for the socio-therapeutic institution shall be such as to also secure after-care for the prisoners to the extent that such care cannot be otherwise guaranteed.

**PART THREE  
Special Provisions on the Execution of Measures of Reform and Prevention Involving  
Deprivation of Liberty**

**FIRST TITLE  
Preventive Detention**

**Section 129  
Objective of Detention**

The person under preventive detention shall be safely detained for the protection of the general public. He shall be helped to integrate himself into life at liberty.

**Section 130  
Application of Other Provisions**

The provisions concerning the execution of prison sentences (Sections 3 to 119, and 120 to 126) shall apply mutatis mutandis to preventive detention unless stipulated otherwise hereinafter.

**Section 131  
Equipment**

The equipment of preventive detention institutions, in particular of the detention rooms, and special measures for promotion and care, shall help the detainee to organise his life in the institution reasonably and to protect him from adverse effects caused by extended deprivation of liberty. His personal needs shall be taken into account as far as possible.

**Section 132  
Clothing**

The detainee shall be allowed to use his own clothing, underclothing and bedding, unless this is barred for reasons of security, and provided that the detainee sees to the cleaning, repair and regular changes of such clothing at his own expense.

**Section 133  
Self-occupation. Pocket Money**

- (1) The detainee shall be allowed to occupy himself against remuneration if this serves the objective of giving, maintaining or promoting qualifications for employment after release.  
(2) Pocket money (Section 46) shall not be less than three times the daily rate of the basic remuneration in accordance with Section 43 (2).

**Section 134  
Preparations for Release**

In order to test and prepare release, the conditions of detention may be relaxed, and special leave for a period not exceeding one month may be granted. Section 124 shall remain unaffected in respect of detainees in a socio-therapeutic institution.

**Section 135  
Preventive Detention in Penal Institutions for Women**

Preventive detention of a woman may be executed in a penal institution for women if such institution is equipped for preventive detention.

**SECOND TITLE  
Detention in a Psychiatric Hospital and in a Detoxification Centre for Alcoholics or Drug Addicts**

**Section 136  
Detention in a Psychiatric Hospital**

Treatment of the detainee in a psychiatric hospital shall be governed by medical considerations. As far as possible, the detainee should be cured or his state of health be improved to such an extent that he is no longer dangerous. He shall be given the necessary supervision, care and nursing.

**Section 137  
Detention in a Detoxification Centre for Alcoholics or Drug Addicts**

The objective of the detainee's treatment in a detoxification centre for alcoholics or drug addicts shall be to cure his addiction and to remedy the abnormal attitude at the root of this addiction.

**Section 138  
Application of Other Provisions**

- (1) Detention in a psychiatric hospital or in a detoxification centre for alcoholics or drug addicts shall be governed by Land law unless Federal law provides otherwise. Section 51 (4) and (5), as well as Section 75 (3) shall apply mutatis mutandis.  
(2) Section 50 shall apply mutatis mutandis to levying the costs of accommodation on condition that in cases falling under Section 50 (1) second sentence remuneration received shall be replaced by the rendering of work allocated or facilitated, and in cases falling under Section 50 (1) fourth sentence the detainee must be left at his disposal an amount



corresponding to the cash amount received by a social welfare assistance recipient living in a facility and meeting a part of the cost of his accommodation himself. The special circumstances of detention with a view to reformation are to be taken into account in the evaluation of an occupation as work. The executing authority shall be responsible for levying costs; the Land Governments may give rise to other competences by means of a statutory instrument. The costs shall be levied in the form of a judicial administration fee.

(3) Sections 109 to 121 shall apply mutatis mutandis to court proceedings.

(4) To the extent that the prison acts require a measure to be subject to a prior judicial order or judicial authorisation, Sections 121a and 121b shall apply mutatis mutandis.

## **PART FOUR PRISON AUTHORITIES**

### **FIRST TITLE**

#### **Types and Equipment of Penal Institutions**

##### **Section 139 Penal Institutions**

Prison sentences and orders for preventive detention shall be executed in penal institutions of the Land Judicial Administrations.

##### **Section 140 Separate Execution**

(1) Placement in preventive detention shall be executed in separate institutions or in separate units of a penal institution intended for the execution of prison sentences.

(2) Women shall be accommodated separately from men in special penal institutions for women. For special reasons, separate units for women may be provided in institutions for men.

(3) Separate accommodation in accordance with subsections (1) and (2) may be departed from in order to make it possible for a prisoner to participate in measures of treatment in some other institution or in another unit.

##### **Section 141 Differentiation**

(1) For the execution of prison sentences facilities shall be made available in different institutions or units guaranteeing treatment to meet the different needs of prisoners.

(2) Closed institutions shall provide for safe accommodation, in open institutions there shall be no or only limited precautions against escape.

##### **Section 142 Facilities for Mothers with Children**

In penal institutions for women there shall be facilities where mothers can be accommodated with their children.

##### **Section 143 Size and Structure of Institutions**

(1) Penal institutions shall be structured in such a manner that treatment adapted to the needs of the individual prisoner is guaranteed.

(2) The penal institutions shall be organised in such a manner that the prisoners can be formed into groups which can be kept under supervision for care and treatment.

(3) No more than two hundred places should be planned for socio-therapeutic institutions and for penal institutions for women.

##### **Section 144 Size and Lay-out of Rooms**

(1) Rooms in which prisoners spend the night and their leisure time, as well as common rooms and visiting rooms, shall be comfortable or otherwise equipped in a manner meeting

their purpose. They shall have a sufficient cubic content of air and, for reasons of health, shall have sufficient heating and ventilation, floor space and size of windows.

(2) The Federal Ministry of Justice and Consumer Protection shall have powers to determine by means of a statutory instrument, with the consent of the Bundesrat, details regarding the cubic content of air, ventilation, floor space, size of windows, as well as heating and equipment of the rooms.

#### **Section 145 Determination of Capacity**

The supervisory authority shall determine the capacity of each institution in such a way that adequate accommodation during the night (Section 18) is guaranteed. It should be ensured that a sufficient number of places for work, basic and further training, as well as a sufficient number of rooms for religious welfare, leisure activities, sports, therapeutic measures and visits, are available.

#### **Section 146 Prohibition of Overcrowding**

(1) Detention rooms shall not be occupied by more persons than is permissible.

(2) Exceptions to this rule shall be permissible only temporarily and with the consent of the supervisory authority.

#### **Section 147 Facilities for Release**

Open facilities should be attached to closed institutions for the purpose of preparing for release, or separate open institutions shall be established.

#### **Section 148 Procurement of Work. Facilities for Vocational Training**

(1) The prison authority, in co-operation with the associations and agencies of industrial and economic life, should take care that each prisoner who is fit for work can do some economically profitable work, and should endeavour to promote and advise him in vocational matters and to procure a job.

(2) The prison authority shall ensure by suitable organisational measures that the Federal Employment Agency can execute its functions such as vocational guidance, placement in training and procurement of work.

#### **Section 149 Workshops, Facilities for Vocational Training**

(1) Provision shall be made in the institutions for the necessary workshops for the work to be allocated in accordance with Section 37 (2), as well as for the necessary facilities for vocational training (Section 37 (3)) and for work-therapeutic occupation (Section 37 (5)).

(2) The workshops and other facilities referred to in subsection (1) shall be adjusted to the conditions outside the institutions. The provisions on industrial safety and prevention of accidents shall be observed.

(3) Vocational training and work-therapeutic occupation may also take place in suitable establishments belonging to private enterprises.

(4) In the workshops and other establishments run by private enterprises, technical and industrial control may be transferred to members of such enterprises.

#### **Section 150 Penal Communities**

Penal communities may be formed between the Länder for the penal institutions referred to in Sections 139 to 149.

### **SECOND TITLE Supervision of Penal Institutions**

**Section 151**  
**Supervisory Authorities**

- (1) The Land Judicial Administrations shall exercise supervision over the penal institutions. They may delegate powers of supervision to Judicial Execution Offices.
- (2) Suitable specialists of the supervisory authorities shall have a share in the supervision of labour affairs, as well as of social work, further education, health matters and the other specialist treatment of prisoners; where a supervisory authority has no specialists of its own, the advice of experts shall be secured.

**Section 152**  
**Scheme of Execution**

- (1) The Land Judicial Administration shall regulate local competence and competence *ratione materiae* of the penal institutions in a scheme of execution.
- (2) The scheme of execution shall designate which convicted persons shall be committed to an allocation institution or unit. Transfer to a further prison may be determined on the basis of reasons of treatment and rehabilitation.
- (3) In other respects competence shall be determined according to general criteria.

**Section 153**  
**Competence for Transfers**

The Land Judicial Administration may reserve the right to determine transfers, or it may delegate such right to a central agency.

**THIRD TITLE**  
**Internal Structure of Penal Institutions**

**Section 154**  
**Co-operation**

- (1) All members of the prison services shall co-operate and contribute towards fulfilling the functions of the prison.
- (2) Close co-operation with the authorities and agencies engaged in the care of released prisoners, with probation officers, the supervisory agencies for the supervision of conduct, the Employment Agencies, the social insurance organisations and social assistance agencies, the relief facilities of other authorities, and charitable welfare institutions, shall be striven for. The prison authorities should co-operate with persons and associations whose influence may further the prisoner's rehabilitation.

**Section 155**  
**Institutional Staff**

- (1) The functions of the penal institutions shall be performed by prison officers. If there are special reasons, they may be delegated to other institutional staff or to persons working on a part-time basis or under a contract.
- (2) According to its function, each institution shall have the necessary number of staff of the different categories, including in particular prison officers, administrative staff, trade instructors, as well as chaplains, medical officers, teachers, psychologists and social workers.

**Section 156**  
**Head of the Institution**

- (1) For each penal institution an administrative-service officer shall be appointed full-time Head of the Institution. If there are special reasons, an institution may be headed by a higher intermediate-grade officer.
- (2) The Head of the Institution shall represent the institution vis-à-vis the outside world. He shall be responsible for the entire penal regime in the institution, unless certain functions have been transferred to, and are the responsibility of, other prison staff or are a matter of their joint responsibility.

(3) The power to order a search in accordance with Section 84 (2), the special precautions in accordance with Section 88, and the disciplinary measures in accordance with Section 103, may be delegated only with the consent of the supervisory authority.

**Section 157**  
**Religious Welfare**

- (1) Chaplains shall be appointed on a full-time basis or engaged by contract in agreement with the respective religious community.
- (2) Where the small number of members belonging to a religious community does not justify such religious welfare as is laid down in subsection (1), religious welfare shall be permitted in some other way.
- (3) With the consent of the Head of the Institution, the prison chaplains may avail themselves of the services of free religious assistants and engage chaplains from outside the institution for Divine Service and for other religious activities.

**Section 158**  
**Medical Care**

- (1) Medical care shall be ensured by medical officers employed on a full-time basis. If there are special reasons, it may be delegated to physicians working on a part-time or contractual basis.
- (2) Sick prisoners should be nursed by persons who are registered in accordance with the Nursing Act or the Care Professions Act. Where such persons as defined in the first sentence are not available, custodial staff who have been given other training in sick nursing may also be employed.

**Section 159**  
**Conferences**

For the purpose of preparing and reviewing the treatment programme, and for the preparation of important decisions in the execution of imprisonment, the Head of the Institution shall hold conferences with those persons contributing substantially to the treatment.

**Section 160**  
**Prisoners' Co-Responsibility**

The prisoners and detainees should be given an opportunity to share in the responsibility for matters of joint interest which, depending on the type and function of the institution, are suited for their participation.

**Section 161**  
**Institution Rules**

- (1) The Head of the Institution shall set up institution rules. They shall require the consent of the supervisory authority.
- (2) The institution rules shall contain in particular the regulations regarding
1. visiting hours, frequency and duration of visits,
  2. working hours, leisure time and night's rest, and
  3. the possibilities of making requests and complaints or for applying to a representative of the supervisory authority.
- (3) A copy of the institution rules shall be made available in each cell.

**FOURTH TITLE**  
**Advisory Councils**

**Section 162**  
**Establishment of Advisory Councils**

- (1) Advisory Councils shall be established in the penal institutions.
- (2) Institutional staff shall not be members of Advisory Councils.
- (3) Details shall be regulated by the Länder.

### **Section 163**

#### **Functions of Advisory Councils**

Members of the Advisory Council shall participate in the organisation of the prison regime and in the treatment of prisoners. They shall support the Head of the Institution by making suggestions and proposals for improvement, and shall lend a hand in the prisoner's integration after release.

### **Section 164**

#### **Powers**

- (1) The members of the Advisory Council shall have powers, in particular, to accept requests, suggestions and complaints. They shall be allowed to gather information on accommodation, occupation, vocational training, food, medical services and treatment, as well as to inspect the institution and its facilities.
- (2) The members of the Advisory Council shall be allowed to visit the prisoners and detainees in their rooms. Interviews and correspondence shall not be supervised.

### **Section 165**

#### **Obligation to Observe Secrecy**

The members of the Advisory Council shall be under obligation not to disclose outside their office any matters of a confidential nature, in particular with regard to names and personalities of the prisoners and detainees. The same shall apply with regard to the time after their term of office has come to an end.

## **FIFTH TITLE**

### **Criminological Research in Prison**

#### **Section 166**

- (1) It shall be the task of the criminological service, in co-operation with the research institutions, to refine the prison regime, in particular the methods of treatment, on a scientific basis and to make its results available for the purposes of the administration of justice.
- (2) Section 186 (1) shall apply mutatis mutandis.

## **PART FIVE**

### **Execution of Further Measures Entailing Deprivation of Liberty in Penal Institutions, Data Protection in the Execution of Detention for Contempt of Court, of Detention to Secure Proceedings, of Coercive Detention to Induce Performance of a Personal Legal Obligation, and of Coercive Detention to Induce Payment of an Administrative Fine, Social Welfare and Unemployment Insurance, Final Provisions**

#### **FIRST TITLE**

### **Execution of Military Disciplinary Confinement in Civil Penal Institutions**

#### **Section 167**

##### **Principle**

Section 119 (5) and (6) of the Code of Criminal Procedure and the provisions on the execution of prison sentences (Sections 2 to 121b) shall apply mutatis mutandis to the execution of military disciplinary confinement in civil penal institutions unless provided otherwise hereinafter. Section 50 shall only apply to cases of occupation mentioned in Section 39.

#### **Section 168**

### **Accommodation, Visits and Correspondence**

- (1) Joint accommodation during work, leisure time and at night (Sections 17 and 18) shall be permissible only with the prisoner's consent. This shall not apply where military disciplinary confinement is executed by interruption of a prison sentence or detention in the execution of a measure of reform and prevention involving deprivation of liberty.
- (2) The prisoner shall be permitted to receive visits once a week.
- (3) Visits and correspondence may not be forbidden or supervised unless this is necessary for reasons of security or order in the institution.

#### **Section 169**

##### **Clothing, Underclothing and Bedding**

The prisoner shall be allowed to use his own clothing, underclothing and bedding, unless this is barred by reasons of security and provided that the prisoner sees to cleaning, repair and regular changes at his own expense.

#### **Section 170**

##### **Purchases**

Within reason, the prisoner shall be allowed to buy food and luxuries, as well as toiletries, through the mediation of the institution at his own expense.

### **SECOND TITLE**

#### **Execution of Detention for Contempt of Court, Detention to Secure Proceedings, Coercive Detention to Induce Performance of a Personal Legal Obligation, and Coercive Detention to Induce Payment of an Administrative Fine**

#### **Section 171**

##### **Principle**

Section 119 (5) and (6) of the Code of Criminal Procedure and the provisions on the execution of prison sentences (Sections 3 to 49, and 51 to 121b) shall apply mutatis mutandis to the execution of judicially ordered detention for contempt of court, detention to secure proceedings, coercive detention to induce performance of a personal legal obligation, and coercive detention to induce payment of an administrative fine, unless the nature and purpose of the detention preclude this, or unless provided otherwise hereinafter.

#### **Section 171a**

##### **Full Physical Restraint**

- (1) The use of physical restraints which fully deprive a prisoner of freedom of movement (full physical restraint) shall be permitted only to the extent that and for as long as there is a present and considerable danger of violence against persons, suicide or self-harm, and full physical restraint is indispensable for averting this danger.
- (2) Any full physical restraint that is anticipated to last for a short period of time shall be ordered by the Head of the Institution. In cases of imminent danger, other responsible prison officers may give the order for full physical restraint on a provisional basis. A decision by the Head of the Institution shall be obtained without delay.
- (3) Full physical restraint for more than a short period of time shall require a prior court order. In cases of imminent danger, the Head of the Institution or another responsible prison officer may give the order for full physical restraint on a provisional basis. A medical officer shall be involved without delay. The judicial decision shall be obtained without delay. A judicial decision shall not, or no longer, be necessary if it is already to be anticipated when the full physical restraint commences that the grounds for full physical restraint will have ceased to exist by the time the decision is issued, or if the full physical restraint has in fact ended before the judicial decision has been obtained and no repetition is to be expected. Where a judicial decision has been applied for and the full physical restraint has ended before the former has been obtained, this shall be communicated to the court without delay.
- (4) Throughout the course of full physical restraint, a medical officer shall ensure adequate medical supervision of the prisoner. Trained prison officers shall maintain watchful care of the prisoner by way of constant visual and verbal contact.

(5) The order, the essential grounds for this, the implementation, the duration and the type of supervision shall be documented by the institution.

(6) After full physical restraint not ordered by a court has ended, the prisoner shall be informed by the medical officer of his right to obtain a review by the competent court of the permissibility of the measure applied. The provision of this information shall be put on record.

#### **Section 172 Accommodation**

Joint accommodation during work, leisure time and at night (Sections 17 and 18) shall be permissible only with the prisoner's consent. This shall not apply where detention for contempt of court is executed by interruption of a prison sentence or detention in the execution of a measure of reform and prevention involving deprivation of liberty.

#### **Section 173 Clothing, Underclothing and Bedding**

The prisoner shall be allowed to use his own clothing, underclothing and bedding unless this is barred by reasons of security and provided that the prisoner sees to cleaning, repair and regular change at his own expense.

#### **Section 174 Purchases**

Within reason, the prisoner shall be permitted to buy food and luxuries, as well as toiletries, through the mediation of the institution at his own expense.

#### **Section 175 Work**

The prisoner shall not be obliged to perform any work, occupation or auxiliary work.

### **THIRD TITLE Remuneration for Work in Juvenile Penal Institutions and for Prisoners on Remand**

#### **Section 176 Juvenile Penal Institutions**

(1) Where a prisoner in a juvenile penal institution performs some work allocated to him, he shall be paid remuneration for work to be assessed in accordance with Section 43 (2) and (3), notwithstanding the provisions of the Youth Labour Protection Act concerning piece work and assembly line work. Where he performs some other occupation or auxiliary work allocated to him, he shall be paid remuneration for work in accordance with the first sentence if this is appropriate to the type of his occupation and his output. Section 43 (5) to (11) shall apply mutatis mutandis.

(2) (yet to come into effect)

(3) Prisoners who, through no fault of their own, do not receive remuneration for work or a trainee's grant shall be paid a reasonable amount of pocket money if they are in need.

(4) Sections 44 and 49 to 52 shall apply mutatis mutandis in other respects.

#### **Section 177 Remand Detention**

Where an untried prisoner performs some work, occupation or auxiliary work allocated to him, he shall be paid remuneration for work to be assessed and notified in accordance with Section 43 (2) to (5). In derogation from Section 200, the measurement of the remuneration for work shall be based on five percent of the reference figure in accordance with Section 18 of Book Four of the Social Code (basic remuneration). Section 43 (6) to (11) shall not apply. Section 176 (1) first and second sentences shall apply mutatis mutandis to young and adolescent remand detainees.

### **FOURTH TITLE Direct Coercion in Penal Institutions**

### **Section 178**

- (1) Sections 94 to 101 concerning direct coercion shall, subject to the following subsections, also apply to prison officers outside the scope of application of the Prison Act (Section 1).
- (2) In the execution of youth detention, of military disciplinary confinement, as well as of detention for contempt of court, detention to secure proceedings, coercive detention to induce performance of a personal legal obligation, and coercive detention to induce payment of an administrative fine, no firearms may be used to prevent escape or for re-capture (Section 100 (1) No. 3). This shall not apply where such military disciplinary confinement or detention for contempt of court, detention to secure proceedings, coercive detention to induce performance of a personal legal obligation, and coercive detention to induce payment of an administrative fine is executed by interruption of remand detention, service of a prison sentence or detention in the execution of a measure of reform and prevention involving deprivation of liberty.
- (3) In particular in the case of youth imprisonment, Land law may provide for further restrictions regarding the right to use firearms.

## **FIFTH TITLE**

### **Data Protection in the Execution of Detention for Contempt of Court, of Detention to Secure Proceedings, of Coercive Detention to Induce Performance of a Personal Legal Obligation, and of Coercive Detention to Induce Payment of an Administrative Fine**

#### **Section 179 Collection of Data**

- (1) The prison authority may collect personal data where knowledge of the data is necessary for the execution of detention under Section 171 with which it is entrusted in accordance with this Act.
- (2) Personal data shall be collected from the data subject. They may only be collected without the data subject's participation
1. if this is provided for or required by law or
  2. if
    - a) the data must be collected from other persons or agencies due to the nature of the task to be performed or
    - b) collecting the data from the data subject would require disproportionate effort and there are no indications that overriding interests of the data subject that merit protection would be adversely affected.
- (2a) If personal data are collected from the data subject on the basis of a legal provision requiring the data subject to provide information, or if the provision of information is a prerequisite for the granting of legal benefits, the data subject shall be informed of this, or otherwise be informed that the provision of information is voluntary. Insofar as required by the circumstances of the individual case or upon request, the data subject shall be informed of the legal provision and of the consequences of refusing to provide information. If personal data are collected from a non-public agency instead of from the data subject, the agency shall be informed of the legal provision requiring it to provide information, or otherwise be informed that the provision of information is voluntary.
- (3) Data on persons who are not prisoners may only be collected without their participation from persons or agencies outside the prison authority if the data are indispensable for security in the institution or to safeguard the execution of detention under Section 171, and the nature of the collection does not adversely affect data subjects' interests meriting protection.
- (4) In addition to the exceptions set out in these provisions, the rights and obligations under Articles 13 and 14 of Regulation (EU) 2016/679 of the European Parliament and of the



Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1; L 314, 22.11.2016, p. 72; L 127, 23.5.2018, p. 2) shall not apply if

1. in the case of collecting personal data without the knowledge of the data subject, not doing so would otherwise jeopardise the execution of detention under Section 171 or
2. in the case of collecting data from other persons or agencies, the data must be kept confidential in accordance with a legal provision or because of the nature of the data, namely due to overriding legitimate interests of a third party.

### **Section 180 Processing**

(1) The prison authority may process personal data if this is necessary for the execution of detention under Section 171 entrusted to it in accordance with this Act. The prison authority may oblige a prisoner to carry a photograph ID card on his person if this is necessary for reasons of security or order in the institution.

(2) If personal data are processed for a purpose other than that for which the data were collected, Section 23 of the Federal Data Protection Act shall apply.

(3) Over and above the purposes referred to in subsection (1) and Section 23 of the Federal Data Protection Act, personal data may be transferred to competent public agencies if this is necessary for the following purposes:

1. statutorily ordered statistics of the administration of justice,
2. decisions on benefits ceasing or being reduced on admission into a penal institution,
3. the initiation of assistance measures for the prisoner's family members (Section 11 (1) No. 1 of the Criminal Code),
4. official measures of the Federal Armed Forces in connection with the conscription and discharge of soldiers,
5. immigration law measures, or
6. the implementation of taxation.

Transmission for other purposes shall also be permissible if provided for by another statutory provision and explicitly relating to personal data on prisoners.

(4) The prison authority may inform public and non-public agencies on written application whether a person is in detention, as well as whether and when their release is likely to take place within a year where

1. the information is necessary to carry out tasks within the competence of the public agency, or
2. non-public agencies plausibly demonstrate a legitimate interest in this notification, and the prisoner does not have an interest in ruling out transmission that merits protection.

The prisoner shall be told of such transmission unless it is to be feared that so doing will frustrate or make much more difficult the pursuance of the applicant's interest, and an assessment reveals that this interest of the applicant outweighs the interest of the prisoner in his prior hearing. If the hearing did not take place, the prisoner concerned shall be informed of the notification having been carried out by the prison authority.

(5) Files containing personal data may only be made available to other prison authorities, to the agencies mandated to carry out service or specialist supervision or to issue official instructions, to the courts responsible for giving detention decisions, as well as to the

authorities responsible for the execution of imprisonment and criminal prosecution; transmission to other public agencies shall be permissible where provision of information requires unjustifiable effort or where, according to the explanation supplied by the agencies requesting inspection of the files, provision of information is insufficient for the performance of their task. The same shall apply to transmission of files to the agencies mandated by the prison authority to draw up expert reports.

(6) If personal data which may be transmitted in accordance with subsections (1) to (3) are compiled in files together with further personal data of the data subject or of a third party in such a way that separation is not possible, or only possible with unjustifiable effort, transmission of these further data shall also be permissible unless the legitimate interests of the data subject or a third party in maintaining the confidentiality of these data obviously outweigh the interest in such transmission; processing of these data by the recipient shall not be permissible.

(7) Personal data gained in monitoring visits or correspondence, as well as in monitoring the content of parcels, may only be processed for the purposes listed in Section 23 (1) Nos. 3 to 5 of the Federal Data Protection Act, for court proceedings in accordance with Sections 109 to 121, or to preserve security or order in the institution.

(8) Personal data which have been collected in accordance with Section 179 (3) on persons who are not prisoners may only be processed to meet the purpose of collection, for the purposes regulated by Section 23 (1) Nos. 3 and 5 of the Federal Data Protection Act, or to prevent or prosecute criminal offences of considerable significance.

(9) The transmission of personal data shall not take place if the restrictions regulated in Section 182 (2), Section 184 (2) and (4) or special statutory rules on use oppose this.

(10) Responsibility for the permissibility of the transmission shall be borne by the prison authority. If transmission is effected at the request of a public agency, the latter shall bear the responsibility. In this case, the prison authority shall only examine whether the transmission request is within the context of the tasks of the recipient and subsections (7) to (9) do not oppose transmission, unless a special reason exists to examine the permissibility of the transmission.

(11) The notification obligation pursuant to Article 19 second sentence of Regulation (EU) 2016/679 shall not apply insofar as such notification would jeopardise the purpose of the transmission of the data.

### **Section 181**

#### **Purpose Limitation for Transmissions**

(1) Personal data transmitted by the prison authority to a public agency may only be processed for the purpose for which they were transmitted. The recipient may only process the data for other purposes if it would have been permissible to transmit them to it for these purposes too.

(2) Transmission to a non-public agency is only permissible if such agency has undertaken to the transmitting prison authority that it will process the data only for the purpose for which they are transmitted to it. Processing of such data for other purposes is permissible if transmission of the data would have been permitted for these purposes too and the transmitting prison authority has agreed to such processing.

### **Section 182**

#### **Protection of Special Categories of Personal Data**

(1) The religious or philosophical confession of a prisoner and personal data collected on the occasion of medical examinations may not be made general knowledge within the institution. Other personal data on the prisoner may be made general knowledge within the prison if this is necessary for ordered co-existence in the prison; Section 180 (7) to (9) shall remain unaffected.

(2) Personal data which have been entrusted to the persons named in Section 203 (1) Nos. 1, 2 and 6 of the Criminal Code by a prisoner as a secret, or which have otherwise become known about a prisoner, shall also be subject to confidentiality as against the prison

authority. The persons named in Section 203 (1) Nos. 1, 2 and 6 of the Criminal Code shall disclose themselves to the Head of the Institution where this is necessary for undertaking the tasks of the prison authority or to avert considerable dangers to the life and limb of the prisoner or of third parties. The physician shall be entitled to disclose secrets which became known to him in the context of general healthcare where this is indispensable to carry out tasks of the prison authority or to avert considerable dangers to the life and limb of the prisoner or of third parties. Other powers to disclose shall remain unaffected. The prisoner shall be informed prior to data collection of the powers to disclose in accordance with the second and third sentences.

(3) The data disclosed in accordance with subsection (2) may only be processed for the purpose for which they were disclosed or for which it would have been permissible for them to be disclosed, and only under the same preconditions under which a person named in Section 203 (1) Nos. 1, 2 and 6 of the Criminal Code would himself have been entitled. Under these preconditions, the Head of the Institution may generally permit direct disclosure to certain prison staff in general terms.

(4) Subsection (2) shall apply mutatis mutandis where physicians or psychologists are commissioned outside prison with examining or treating a prisoner, with the proviso that the commissioned physician or psychologist is also entitled to inform the prison doctor or the psychologist in the institution entrusted with treating the prisoner.

### **Section 183**

#### **Protection of the Data in Files and File Systems**

(1) The individual prison officer may gain knowledge of personal data only where this is necessary to carry out the tasks incumbent on him or for cooperation in accordance with Section 154 (1).

(2) Files and file systems containing personal data shall be protected in accordance with Articles 24, 25 and 32 of Regulation (EU) 2016/679 by the necessary technical and organisational measures against unauthorised access and unauthorised use. Medical files and notes shall be kept separately from other documents, and shall be especially safeguarded.

### **Section 184**

#### **Rectification, Erasure and Restriction of Processing**

(1) The personal data stored in file systems shall be erased at the latest two years after the prisoner's release or his transfer to another institution. Until expiry of the retention period for the prisoner's personal file, information on family name, first name, name at birth, date of birth, place of birth, date of entry and departure of the prisoner may be excluded from this where this is necessary to locate the prisoner's personal file.

(2) Personal data in files may only be processed on expiry of two years after the prisoner's release if this is indispensable

1. to prosecute criminal offences,
2. to implement academic research projects in accordance with Section 186 (1),
3. to remedy an existing lack of evidence,
4. to determine, assert or avert legal claims in connection with the execution of a detention under Section 171.

These restrictions on use shall end if the prisoner is once more admitted for the purposes of execution of a detention under Section 171, or the data subject has consented.

(3) Where files containing data subject to restricted processing in accordance with subsection (2) are retained, the following periods may not be exceeded:

prisoner personal files, medical files and notes	20 years,
prison register	30 years.

This shall not apply if it is to be presumed on the basis of specific facts that retention continues to be necessary for the purposes named in subsection (2) first sentence. The retention period shall commence with the calendar year following the year of placing on file. The archive law provisions of the Federation and the Länder shall remain unaffected.

(4) If it is determined that incorrect data have been transmitted, this shall be notified to the recipient if this is necessary to protect interests of the data subject that merit protection.

(5) (repealed)

#### **Section 185**

##### **Provision of Information to the Data Subject, Inspection of Files**

The data subject's right of access according to Article 15 of Regulation (EU) 2016/679 shall not apply where the conditions of an exception pursuant to Section 34 (1) of the Federal Data Protection Act are met. If the data subject has a right of access he shall be granted inspection of the files where the provision of information is insufficient to assert his legal interests, and he needs to inspect the files for this purpose. The Land Commissioner for Data Protection shall replace the Federal Commissioner in Section 34 (3) of the Federal Data Protection Act, and the corresponding Land authority shall replace the supreme federal authority.

#### **Section 186**

##### **Provision of Information and Inspection of Files for Academic Purposes and for Performance of the Tasks of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment**

(1) Section 476 of the Code of Criminal Procedure shall apply mutatis mutandis to the provision of information and inspection of files for academic purposes.

(2) During their visits to an institution, members of a delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment shall be granted access to prisoners' personal files and medical files and notes, or be provided with information from such files, insofar as this is strictly necessary for the performance of the Committee's tasks.

#### **Section 187**

(repealed)

#### **SIXTH TITLE**

##### **Adjustment of Federal Law**

#### **Section 188**

(repealed)

#### **Section 189**

##### **Ordinance on Costs Incurred by the Judicial Administration**

#### **SEVENTH TITLE**

##### **Social and Unemployment Insurance**

#### **Section 190**

##### **Reich Insurance Code**

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#### **Section 191**

##### **Salaried Employees' Pension Insurance Act**

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#### **Section 192**

##### **Miners' Pension Insurance Act**

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**Section 193**  
**Farmers' Health Insurance Act**

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**Section 194**  
**(repealed)**

**Section 195**  
**Deduction of Contribution Shares**

Where the prison authority has to pay contributions to the health and pension insurance and to the Federal Employment Agency, it may deduct from the remuneration for work, from the trainee's grant or from the compensation for loss of earnings an amount which would correspond to the prisoner's share in such contribution if he were paid these earnings as an employee.

**EIGHTH TITLE**  
**Restriction of Basic Rights. Effective Date**

**Section 196**  
**Restriction of Basic Rights**

By this Act the basic rights under Article 2 (2) first and second sentences (right to physical integrity and to freedom of the person), and Article 10 (1) (secrecy of post and telecommunications) of the Basic Law shall be restricted.

**Section 197**  
**(repealed)**

**Section 198**  
**Effective Date**

(1) Notwithstanding Sections 199 and 201, this Act shall enter into force on 1 January 1977, unless provided otherwise by subsections (2) and (3).

(2)

1. The following provisions shall enter into force on 1 January 1980:

Section 37 - Allocation of work

Section 39 (1) - Free employment

Section 41 (2) - Consent required for measures of further education -

Section 42 - Exemption from duty to work

Section 149(1) - Workshops, facilities for vocational training

Section 162(1) - Advisory councils –

2.

3.

(3) The following provisions shall be adjusted to the amendments which have now been made, and shall be put into force by special Federal legislation:

Section 41 (3) - Consent Required for Employment in Private Enterprises –

Section 45 - Compensation for Loss of Earnings –

Section 46 - Pocket Money –

Section 47 - House Money –

Section 49 - Maintenance –

Section 50 - Contribution to Detention Costs –

Section 65 (2) second sentence- Sick Benefits in Case of Stay in Hospital –

Section 93 (2) - Use of House Money –  
Section 176 (2) - Compensation for Loss of Earnings and Pocket Money in Juvenile Penal Institutions –  
Section 189 - Ordinance on Costs –  
Section 190 Nos.1 to 10 – and 13 to 18,  
Sections 191 to 193 - Social Insurance –  
(4) The decision on the entry into force of Section 41 (3) - consent required for employment in private enterprises – shall be made by 31 December 1983, and that on the continued effectiveness of Section 201 No. 1 – detention in open institutions – shall be made by 31 December 1985.

### **Section 199 Transitional Versions**

(1) The following shall apply until the entry into force of special Federal legislation in accordance with Section 198 (3):

1. Section 46 – Pocket Money - shall have the following version:

"Where a prisoner through no fault of his own receives no remuneration for work and no trainee's grant, he shall be paid a reasonable amount of pocket money if he is in need."

2. Section 47 – House Money – shall have the following version:

"(1) The prisoner shall be permitted to spend three-sevenths per month of his earnings regulated in this Act (house money) and of the pocket money (Section 46) on purchases (Section 22 (1)) or to use it for other purposes.

(2) For prisoners who have a free contract of employment (Section 39 (1)) or who are permitted to occupy themselves (Section 39 (2)) a reasonable amount of house money from their earnings shall be allocated."

3. (repealed)

4. Section 93 (2) - - Use of House Money – shall have the following version:

"(2) Where such claims are asserted also that portion of the house money (Section 47) which exceeds three times the daily rate of the basic remuneration in accordance with Section 43 (2) may be used."

5. Section 176 (3) – Pocket Money in Juvenile Penal Institutions - shall have the following version:

"(3) Prisoners who, through no fault of their own, do not receive remuneration for work or a trainee's grant shall be paid a reasonable amount of pocket money if they are in need."

6. (repealed)

(2) The following version of Section 9 (1) first sentence shall apply until 31 December 2002: "A prisoner should be transferred to a socio-therapeutic institution if he has been sentenced to more than two years' time-limited imprisonment in respect of a criminal offence in accordance with Sections 174 to 180 or 182 of the Criminal Code and treatment in a socio-therapeutic institution in accordance with Section 6 (2) second sentence or Section 7 (4) is advisable."

### **Section 200 Amount of Remuneration for Work**

The assessment of the remuneration for work in accordance with Section 43 shall be based on nine per cent of the reference figure in accordance with Section 18 of the Fourth Book of the Social Code.

### **Section 201**

#### **Transitional Provisions for Existing Institutions**

The following rules shall apply to institutions the construction of which was commenced prior to the coming into force of this Act:

1. In derogation from Section 10, prisoners may exclusively be detained in closed institutions as long as this is required by the conditions in the institutions regarding space, staff and organisation.
2. In derogation from Section 17, joint accommodation during work and leisure time may be restricted also if and as long as this is required by the conditions in the institutions regarding space, staff and organisation; joint accommodation during work, however, may be so restricted only until 31 December 1988 inclusive.
3. In derogation from Section 18, prisoners may also be accommodated jointly during the night as long as this is required by the conditions in the institutions regarding space. Joint accommodation of more than eight persons shall be permissible only until 31 December 1985 inclusive.
4. In derogation from Section 143 (1) and (2), penal institutions should be structured and organised in such a manner that treatment adapted to the needs of the individual prisoner is guaranteed, and that the prisoners can be made to form groups for care and treatment which can be kept under supervision.
5. In derogation from Section 145, the capacity of an institution may be determined in accordance with Nos. 2 and 3 above.

### **Section 202**

#### **Imprisonment and Youth Custody in the German Democratic Republic**

(1) The provisions on execution of youth imprisonment shall apply to execution of sentences of imprisonment imposed on juveniles and young adults in accordance with the Criminal Code of the German Democratic Republic, and the provisions on execution of youth detention shall apply to the execution of youth custody.

(2) The provisions of the Prison Act on execution of imprisonment shall otherwise apply to execution of a sentence of imprisonment that has become final and binding in accordance with the Criminal Code of the German Democratic Republic and to detention.

Over and above the purposes referred to in subsection (1) and Section 23 of the Federal Data Protection Act, personal data may be transferred to competent public agencies if this is necessary for the following purposes: