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Act on the Implementation of Measures of Occupational Safety and Health to Encourage Improvements in the Safety and Health Protection of Workers at Work (Arbeitsschutzgesetz, ArbSchG)

Occupational Safety and Health Act of 7 August 1996 (Federal Law Gazette I p. 1246), as amended by Article 6k of the Act of 16 September 2022 (Federal Law Gazette I p. 1454)

Part 1 General provisions

Section 1 Objective and scope

(1) This Act serves to safeguard and improve the safety and health protection of workers at work through measures of occupational safety and health. It applies to all sectors of activity and is also applicable in the exclusive economic area within the framework of the requirements set by the United Nations Convention on the Law of the Sea of 10 December 1982 (Federal Law Gazette 1994 II p. 1799).

(2) This Act shall not apply to the occupational safety and health of domestic workers employed in private households. It shall not apply to the occupational safety and health of workers on seagoing vessels and in establishments which are subject to the Federal Mining Act (*Bundesberggesetz*, BBergG) insofar as corresponding legal provisions apply to them.

(3) Obligations which employers are under in accordance with other legal provisions when it comes to guaranteeing the safety and health protection of workers at work shall remain unaffected. Sentence 1 shall apply mutatis mutandis to the obligations on and rights of the workers. Acts which obligate persons other than employers to take measures of occupational safety and health shall remain unaffected.

(4) In the case of religious communities under public law, the workers' representatives shall take the place of the works or staff councils in accordance with church law.

Section 2 Definitions

(1) For the purposes of this Act, 'measures of occupational safety and health' shall be measures taken to prevent accidents at work and occupational health risks, including measures to ensure decent working conditions.

(2) For the purposes of this Act, 'workers' shall be:

1. Employees,
2. Those employed for the purpose of their vocational training,

3. Persons comparable to employees within the meaning of section 5 (1) of the Labour Courts Act (*Arbeitsgerichtsgesetz*, ArbGG), excluding persons employed in homework and those equal in law to them,
4. Civil servants,
5. Judges,
6. Soldiers,
7. Those employed in workshops for the disabled.

(3) For the purposes of this Act, 'employers' shall be natural or legal persons and partnerships with legal personality employing the persons referred to in subsection (2).

(4) For the purposes of this Act, 'other legal provisions' shall be regulations concerning measures of occupational safety and health in other acts, in statutory instruments and accident prevention regulations.

(5) For the purposes of this Act, 'establishments' in the public sector shall be the agencies. 'Agencies' shall be the individual authorities, administrative offices and administrative operations of the Federation, the *Länder*, the municipalities and other corporations, institutions and foundations under public law, the federal and *Länder* courts, and the corresponding facilities of the armed forces.

Part 2 **Obligations on employers**

Section 3 **Basic obligations on employers**

(1) The employer has a duty to take the necessary measures of occupational safety and health taking account of the circumstances which influence the safety and health of workers at work. He shall examine the effectiveness of those measures and, where necessary, adapt them to changing circumstances. His aim in doing so shall be to improve the safety and health protection of the workers.

(2) When planning and implementing the measures referred to in subsection (1), the employer shall, in the light of the nature of the activities and the number of workers,

1. guarantee an appropriate organisation and provide the necessary means, and
2. take precautions so that the measures are, if required, observed when performing all activities and incorporated into the management structures, and workers are able to meet their duties to cooperate.

(3) The employer may not impose the costs of measures taken in accordance with this Act on the workers.

Section 4 **General principles**

When adopting measures of occupational safety and health the employer shall abide by the following general principles:

1. Work shall be shaped so as to avoid, as far as possible, any risk to life and physical and mental health and to keep the remaining risk as low as possible;
2. Risks shall be combated at their source;
3. When implementing the measures, consideration shall be given to the state of the art, occupational medicine and hygiene, as well as other established findings of ergonomics;

4. Measures shall be planned with the objective of properly linking technology, labour organisation, other conditions of work, social relations and the environmental influence on the work place;
5. Individual protective measures shall be subordinate to other measures;
6. Consideration shall be given to special risks to groups of workers requiring particular protection;
7. Workers shall be given appropriate training instructions;
8. Regulations with direct or indirect gender-specific effects shall be permissible only where this is imperative on biological grounds.

Section 5

Assessment of the conditions of work

- (1) The employer shall determine which measures of occupational safety and health are necessary by assessing the risk to workers associated with their work.
- (2) The employer shall carry out the assessment in the light of the nature of the activities. In cases where the conditions of work are similar, an assessment of one work place or one activity shall suffice.
- (3) A risk can in particular result from

1. the design and setup of the workstation and the work place,
2. physical, chemical and biological impacts,
3. the design, selection and use of work equipment, in particular of agents, machines, equipment and plants, as well as their handling,
4. the design of the working and production methods, work processes and working time and their interplay,
5. insufficient qualification and training of the workers,
6. psychological stress at work.

Section 6

Documentation

- (1) The employer must have at his disposal the documents required depending on the nature of the activities and the number of workers which indicate the outcome of the risk assessment, the measures of occupational safety and health determined by him and the outcome of a review of those measures. In cases where the risk is similar, it shall suffice for the documents to contain summary information.
- (2) The employer shall record accidents in his establishment on account of which a worker is killed or is injured to such an extent that he dies or is fully or partly unfit for work for more than three days.

Section 7

Assignment of tasks

When assigning tasks to workers the employer must take account, in the light of the nature of the activities, of whether the workers are capable of complying with the provisions and measures to be observed in regard to safety and health protection when performing those tasks.

Section 8

Cooperation between several employers

- (1) Where workers of several employers are working at one place of work, the employers shall be obliged to cooperate when it comes to implementing safety and health protection

regulations. Where necessary for the safety and health protection of the workers at work, the employers shall, in the light of the nature of the activities, in particular inform each other and their workers of the risks to the safety and health of the workers associated with the work and to coordinate measures to prevent those risks.

(2) The employer must, in the light of the nature of the activities, ensure that the workers of other employers who are working in his establishment have been given appropriate training instructions regarding the risks to their safety and health when performing their activities in his establishment.

Section 9 Special risks

(1) The employer shall take measures to ensure that only those workers have access to especially dangerous work areas who have previously been given appropriate training instructions.

(2) The employer shall take precautions to ensure that all workers who are or could be exposed to a significant immediate danger are informed about this danger as soon as possible and about the protective measures which have been taken or are to be taken. In the case of a significant immediate danger to their own safety or that of another person, the workers must be able themselves to take the appropriate measures to avert the danger or limit the damage if the responsible supervisor is not available; in doing so, account must be taken of the knowledge of the workers and the available technical means. Workers shall not suffer any disadvantages on account of their actions, unless they intentionally or gross negligently take inappropriate measures.

(3) The employer shall take measures which enable the workers, in the case of a significant immediate danger, to reach safety by immediately leaving their work places. Workers shall not suffer any disadvantages as a result. Where the significant immediate danger persists, the employer may request that workers take up their activities again only in particularly justified exceptional cases. The workers' statutory obligations to avert dangers to public safety, as well as sections 7 and 11 of the Act on the Legal Status of Soldiers (*Soldatengesetz*, SG) shall remain unaffected.

Section 10 First aid and other emergency measures

(1) The employer shall, in the light of the nature of the workstation and the activities, as well as the number of workers, take the necessary measures for first aid, fire-fighting and the evacuation of workers. In doing so he shall take account of the presence of other persons. He shall also ensure that in an emergency the necessary contact to agencies outside of the establishment, in particular as regards first aid, emergency medical care, rescue work and fire-fighting are established.

(2) The employer shall nominate those workers who are to take on the task of providing first aid, fire-fighting and evacuation of the workers. The number, training and equipment of the workers referred to in sentence 1 must stand in an appropriate relationship to the number of workers and the existing, special risks. Before nominating the workers, the employer shall hear the works and staff councils. Rights of participation over and above that shall remain unaffected. The employer may also himself perform the tasks referred to in sentence 1 if he has the training and equipment required in accordance with sentence 2.

Section 11 Preventive occupational health care

Notwithstanding the obligations resulting from other legal provisions, the employer shall enable workers to undergo regular preventive medical check-ups at their request depending on the risks to their safety and health at work, unless no health risk is to be expected on the basis of the assessment of the conditions of work and the protective measures taken.

Section 12

Training

(1) The employer shall give workers sufficient and appropriate training regarding safety and health protection at work during their hours of work. The training shall comprise instructions and explanations which are geared specifically to the workers' work place or area of work. Training must be given before workers take up their activity after recruitment or in the event of changes affecting their job or the introduction of new work equipment or new technology. The training must be adapted to developments pertaining to the risk and, if necessary, must be repeated on a regular basis.

(2) Where workers are supplied temporarily to another employer, the obligation to provide the training in accordance with subsection (1) shall be on the employer taking on the temporary workers. He shall give the training taking account of the qualification and experience of the persons supplied temporarily to him. The other obligations regarding health and safety protection on the employer hiring out the workers shall remain unaffected.

Section 13

Responsible persons

(1) In addition to the employer, the following shall also be responsible for fulfilling the obligations resulting from this Part:

1. His legal representative,
2. The organ of a legal entity authorised to represent that entity,
3. The partner of a commercial partnership authorised to represent that partnership,
4. Persons in charge of managing an undertaking or establishment within the context of the tasks and powers transferred to them,
5. Other persons obligated in accordance with subsection (2) or on the basis of a statutory instrument issued on the basis of this Act or in accordance with an accident prevention regulation within the context of the tasks and powers transferred to them.

(2) The employer may commission reliable persons with the requisite specialised knowledge in writing to take on the tasks incumbent upon him under this Act under their own responsibility.

Section 14

Information and hearing of public service workers

(1) Public service workers shall be informed about the risk to their safety and health to which they are exposed at work as well as about measures and devices for preventing those risks and the measures taken in accordance with section 10 (2) before taking up their activity and in the event of changes to their areas of work.

(2) Where a public sector operation has no representatives for the workers, the employer shall hear the workers in regard to all measures which may have an impact on the safety and health of the workers.

Part 3

Obligations on and rights of the workers

Section 15

Obligations on the workers

(1) The workers have a duty to ensure their safety and health at work to the best of their ability and pursuant to their employer's training and instructions. In accordance with sentence 1, workers shall also ensure the safety and health of persons affected by their acts or omissions.

(2) In the context of subsection (1), workers shall in particular use machines, equipment, tools, agents, means of transportation, other work equipment, protective devices and the personal protective equipment provided for their use according to their intended purpose.

Section 16

Special obligations to provide support

(1) Workers shall immediately report to their employer or the competent supervisor any significant immediate danger to safety and health and any defect in the protective system which they have identified.

(2) Together with the occupational physician and the occupational health specialist, workers shall support the employer in guaranteeing the safety and health protection of workers at work and in fulfilling his duties in line with official requirements. Notwithstanding their obligation under subsection (1), workers shall also notify the occupational health specialist, the occupational physician or the security officer pursuant to section 22 of the Seventh Book of the Social Code (*Siebttes Buch Sozialgesetzbuch*, SGB VII) of any dangers to safety and health and defects in the protective systems which they have identified.

Section 17

Rights of the workers

(1) Workers are entitled to make suggestions to their employer in regard to all aspects of safety and health protection at work. Section 125 of the Federal Civil Service Act (*Bundesbeamtengesetz*, BBG) shall apply mutatis mutandis to federal civil servants. Corresponding *Land* legislation shall remain unaffected.

(2) Where, based on specific indications, workers are of the opinion that the measures taken and means made available by the employer are not sufficient to guarantee safety and health protection at work and the employer does not remedy any complaints raised by the workers in this regard, they may contact the competent authority. The workers may suffer no disadvantages as a result thereof. The provisions referred to in subsection (1), sentences 2 and 3, and the provisions set out in the Military Law Complaints Code (*Wehrbeschwerdeordnung*, WBO) and in the Act on the Parliamentary Commissioner for the Armed Forces (*Gesetz über den Wehrbeauftragten des Deutschen Bundestages*, WBeauftrG) shall remain unaffected.

Part 4

Authorisations to issue statutory instruments

Section 18

Authorisations to issue statutory instruments

(1) The Federal Government is authorised to stipulate by way of a statutory instrument requiring the consent of the Bundesrat which measures the employer and other responsible persons must take and how workers must act in order to fulfil their respective obligations resulting from this Act. These statutory instruments may also determine that certain provisions of this Act shall apply to the protection of persons other than those referred to in section 2 (2).

(2) In particular, it may be determined by way of statutory instruments in accordance with subsection (1)

1. that and how the duration or place of employment or the number of workers must be restricted to avert certain risks,
2. that the use of certain work equipment or methods associated with special risks to workers is prohibited or is notified to the competent authority or must be permitted by that authority or that persons at particular risk may not be employed in that use,

3. that certain particularly dangerous operating equipment, including work and production methods, must be checked by an expert before being taken into operation, at regular intervals or by order of an authority,

3a. that adequate accommodation has to be provided for certain workers if this is necessary for reasons of safety, for the protection of health or for reasons to ensure decent working conditions and which requirements have to be met in that regard,

4. that workers must be given a preventive medical check-up before they take up or continue or after they have completed certain dangerous activities and which specific duties the physician has in that regard,

5. that committees are to be established and assigned the task of advising the Federal Government or the competent federal ministry in respect of the application of the statutory instruments, to determine regulations corresponding to the state of the art, occupational medicine and hygiene and other established findings of ergonomics and to determine regulations in regard to how the requirements set out in the statutory instruments can be met. The Federal Ministry of Labour and Social Affairs may officially publish the regulations and findings.

(3) In epidemic situations of national significance in accordance with section 5 (1) of the Protection Against Infection Act, the Federal Ministry of Labour and Social Affairs may issue special statutory instruments in accordance with subsection (1) for a limited period not requiring the consent of the Bundesrat. For a limited period of time that expires by 7 April 2023 at the latest, the Federal Ministry of Labour and Social Affairs may determine by a statutory instrument not requiring the consent of the Bundesrat that

1. specific statutory instruments under sentence 1 continue to apply after suspension of the epidemic situation of national significance according to section 5 (1) of the Protection Against Infection Act and it may amend them and it may also

2. enact specific statutory instruments under subsection (1).

Section 19

Legal acts of the European Communities and inter-governmental agreements

Statutory instruments in accordance with section 18 may also be issued insofar as this is necessary to implement legal acts of the Council or the Commission of the European Communities or the decisions of international organisations or inter-governmental agreements which affect matters addressed in this Act, in particular occupational safety and health obligations on persons other than those referred to in section 2 (3).

Section 20

Regulations applicable to the public service

(1) *Land* legislation shall regulate whether and to what extent the statutory instruments issued in accordance with section 18 apply to civil servants of the *Länder*, municipalities and other corporations, institutions and foundations under public law.

(2) The Federal Chancellery, the Federal Ministry of the Interior, Building and Community, the Federal Ministry of Transport and Digital Infrastructure, the Federal Ministry of Defence or the Federal Ministry of Finance may, insofar as they are competent in a respective case, determine in regard to specific activities in the federal public service, in particular in the Federal Armed Forces, the police, the civil protection and disaster management services, the customs or the intelligence services, by way of statutory instrument not requiring the consent of the Bundesrat that the provisions set down in this Act shall not apply in full or in part insofar as there is a compelling public interest, particularly in regard to the maintenance or restoration of public security. Statutory instruments within the meaning of sentence 1 shall be issued in consultation with the Federal Ministry of Labour and Social Affairs and, where the Federal Ministry of the Interior, Building and Community is itself not authorised, in

consultation with that ministry. At the same time, the statutory instruments shall determine how safety and health protection at work are guaranteed by other means giving consideration to the objectives of this Act. Regulations corresponding to sentences 1 and 3 may be determined by *Land* law in respect of activities in the public service of the *Länder*, municipalities and other corporations, institutions and foundations under public law which are directly accountable to the *Land* government.

Part 5 **Joint German Occupational Safety and Health Strategy**

Section 20a **Joint German Occupational Safety and Health Strategy**

(1) In accordance with the regulations laid down in this Part and in the interests of effective occupational safety and health provision, the Federal Government, the *Länder* and accident insurance providers shall develop a Joint German Occupational Safety and Health Strategy and shall guarantee its implementation and updating. In fulfilling their statutory tasks to prevent accidents in the work place, occupational diseases and occupational health risks and providing decent conditions of work, the Federal Government, the *Länder* and accident insurance providers shall contribute to achieving the goals of the Joint German Occupational Safety and Health Strategy.

(2) The Joint German Occupational Safety and Health Strategy comprises

1. the development of joint occupational safety and health goals,
2. the determination of priority areas of activity and of key points for work programmes and their implementation on the basis of common principles,
3. the evaluation of the occupational safety and health goals, areas of action and work programmes on the basis of appropriate indicators,
4. the determination of a coordinated procedure for the *Land* authorities competent in regard to occupational safety and health and accident insurance providers when it comes to advising and supervising establishments,
5. the creation of a set of comprehensible, well-structured and coordinated provisions and regulations.

Section 20b **National Occupational Safety and Health Conference**

(1) The task of developing, controlling and updating the Joint German Occupational Safety and Health Strategy referred to in section 20a (1), sentence 1, shall fall to the National Occupational Safety and Health Conference. It comprises three representatives with voting rights each of the Federal Government, the *Länder* and accident insurance providers and shall determine three deputies for each group. In addition, the central employer and employee organisations shall send up to three representatives each to the National Occupational Safety and Health Conference to deal with the matters referred to in section 20a (2), nos 1 to 3 and 5; they shall take part in meetings in an advisory capacity. The National Occupational Safety and Health Conference shall draw up its own rules of procedure; these shall, in particular, determine its modus operandi and decision-making procedure. The rules of procedure must be adopted by unanimous vote.

(2) All facilities dealing with safety and health at work may make suggestions to the National Occupational Safety and Health Conference in regard to occupational safety and health goals, areas of action and work programmes.

(3) The National Occupational Safety and Health Conference shall be supported by an Occupational Safety and Health Forum, which will generally meet once a year. The Occupational Safety and Health Forum shall involve expert representatives of the central employer and employee organisations, the professional and trade associations, the scientific

community, health and pension insurance providers, facilities active in the field of health and safety at work, as well as of facilities serving to promote employability. The Occupational Safety and Health Forum shall be tasked with ensuring the timely and active participation of experts from the specialist community in the development and updating of the Joint German Occupational Safety and Health Strategy and with advising the National Occupational Safety and Health Conference accordingly.

(4) Details regarding the procedure for submitting suggestions in accordance with subsection (2) and on the organisation of the Occupational Safety and Health Forum in accordance with subsection (3) shall be regulated in the rules of procedure of the National Occupational Safety and Health Conference.

(5) The business of the National Occupational Safety and Health Conference and of the Occupational Safety and Health Forum shall be managed by the Federal Institute for Occupational Safety and Health. Details regarding its *modus operandi* and procedures shall be determined in the rules of procedure of the National Occupational Safety and Health Conference.

Part 6 Concluding provisions

Section 21

Competent authorities, interaction with statutory accident insurance providers

(1) The supervision of occupational safety and health in accordance with this Act is a governmental task. The competent authorities shall monitor compliance with this Act and with the statutory instruments issued on the basis of this Act and shall advise employers when it comes to meeting their obligations. When selecting establishments for monitoring purposes, the competent authorities shall take into account the nature and extent of the operational risk potential.

(1a) In the process of monitoring in accordance with subsection (1), the competent *Land* authorities shall ensure that a minimum number of establishments are inspected in the course of a calendar year. Starting in the calendar year 2026, at least five per cent of the establishments in a *Land* shall be inspected in the course of a calendar year (minimum inspection rate). *Land* law may not allow deviation from the minimum inspection rate. Where a *Land* authority does not reach the minimum inspection rate, it shall be required to gradually increase the number of establishments inspected at least to the extent that the minimum inspection rate is reached in the calendar year 2026. The number of establishments in a *Land* shall be determined on the basis of the official statistics of the Federal Employment Agency of the preceding year.

(2) Unless provided otherwise, the tasks and powers of the statutory accident insurance providers shall be determined by the provisions of the Social Code. Insofar as the statutory accident insurance providers also take on tasks to guarantee the safety and health protection of workers in accordance with the Social Code within the framework of their preventive remit, they shall perform their activities exclusively within the framework of their independent powers.

(3) The competent *Land* authorities and the accident insurance providers shall cooperate closely on the basis of a Joint Advisory and Supervisory Strategy in accordance with section 20a (2) no. 4 and shall ensure the exchange of experience. This Strategy shall comprise the coordination of general principles regarding the methodological *modus operandi* in regard to

1. advising and supervising establishments,
2. determining the content of the main topics of consultation and supervision, coordinated or joint main actions and work programmes, and
3. promoting the sharing of data and other information, in particular regarding inspections of establishments and their key results.

In accordance with section 20 (2), sentence 3, of the Seventh Book of the Social Code, the competent *Land* authorities shall agree measures with the accident insurance providers which are necessary in the implementation of the joint work programmes in accordance with section 20a (2) no. 2 and the Joint Advisory and Supervisory Strategy; they shall evaluate target achievement on the basis of the indicators determined by the National Occupational Safety and Health Conference in accordance with section 20a (2) no. 3.

(3a) In relation to inspections carried out after 1 January 2023 and their results, the *Land* authorities competent in regard to occupational safety and health shall transmit the following information by way of electronic data transfer to the accident insurance provider competent in regard to the business premises inspected:

1. name and address of the establishment,
2. address of the business premises inspected if it is not identical with no. 1,
3. identification number,
4. economic sector to which the establishment belongs,
5. date of inspection,
6. number of workers at time of inspection,
7. existence of workers' representation,
8. type of support provided by safety specialists,
9. type of occupational health services provided,
10. evaluation of the organisation of occupational safety and health including
 - a) instruction,
 - b) preventive occupational health care and
 - c) First Aid and other emergency measures,
11. evaluation of the risk assessment including
 - a) the identification of risks and definition of measures,
 - b) review of the implementation of measures and their effectiveness,
 - c) the documentation of risks and measures,
12. administrative action taken in the form of statements, orders or fines.

The accident insurance providers may process the data transferred only for the purpose of fulfilling the tasks for which they are competent in accordance with section 17 (1) of the Seventh Book of the Social Code.

(4) The highest *Land* authority competent in regard to occupational safety and health may reach agreement with statutory accident insurance providers that they shall monitor compliance with this Act, certain provisions of this Act or the statutory instruments issued on the basis of this Act in areas of activity to be determined in more detail. The agreement shall set out the nature and extent of the supervision, as well as cooperation with the public safety and health authorities.

(5) Unless provided otherwise in the following, the authority competent in regard to implementation of this Act and of statutory instruments issued on the basis of this Act in establishments and administrations of the Federation shall be the Central Office for Occupational Safety and Health in the Federal Ministry of the Interior, Building and Community. Unless provided otherwise, the Accident Insurance Fund for the Federation and

the Railways, which is subject to the supervision of the Federal Ministry of the Interior, Building and Community in this regard, shall act on behalf of the Central Office for Occupational Safety and Health; expenses shall not be reimbursed. Insofar as the Railway Accident Insurance Fund was the accident insurance provider until 31 December 2014, the Accident Insurance Fund for the Federation and the Railways shall implement this Act in the public service within the area of responsibility of the Federal Ministry for Transport and Digital Infrastructure. As regards establishments and administrations within the areas of responsibility of the Federal Ministry of Defence and of the Federal Foreign Office as regards its foreign representations, the respective federal ministry, insofar as it is competent in a respective case, or the agency determined by it, shall implement this Act. Within the area of responsibility of the Federal Ministry of Finance, the Transport, Posts and Telecommunications Accident Insurance Fund shall implement this Act, insofar as the area of responsibility of the former Federal Ministry of Posts and Telecommunications is affected. Sentences 1 to 4 shall also apply to establishments and administrations belonging to the federal administration but for which an occupational accident insurance fund is the accident insurance provider. The competent federal ministries may agree with the occupational accident insurance funds in regard to these establishments and administrations that the Act will be implemented by the occupational accident insurance funds; expenses shall not be reimbursed.

Section 22

Powers of the competent authorities

(1) The competent authority may require that the employer or the responsible persons provide the information necessary for it to perform its supervisory task and to hand over relevant documents. Where workers of several employers are working at one place of work, the competent authority may require that the employers or the responsible persons submit the result of the coordination of the measures to be taken in accordance with section 8 (1) in writing. The person obliged to provide the information may refuse to supply any information in response to those questions or to hand over those documents if answering the questions or handing over the documents would expose them or one of their relatives referred to in section 383 (1) nos 1 to 3 of the Code of Civil Procedure (*Zivilprozessordnung*, ZPO) to the risk of prosecution of a criminal offence or of a regulatory offence. The person obliged to provide the information shall be informed of this fact.

(2) The persons commissioned with the supervision shall be authorised to enter, inspect and examine business premises, offices and working areas during business and working hours and to inspect the business documents of the person obliged to provide information insofar as this is necessary for the performance of their tasks. In addition, they shall be authorised to examine operating equipment, work equipment and personal protective equipment and to examine work procedures and processes, to undertake measurements and, in particular, to determine and investigate occupational health risks to which the causes of an accident at work, an occupational disease or a claim for damage can be ascribed. They shall be authorised to require the employer or a person authorised by him to accompany them. The employer or the person responsible must support the person tasked with the supervision in exercising their powers in accordance with sentences 1 and 2. Outside of the hours referred to in sentence 1, the persons authorised to carry out the supervisory activity may take the measures referred to in sentences 1 and 2 without the consent of the employer only to prevent imminent dangers to public safety or order. If the workplace is in a person's home, the persons authorised to carry out the supervisory activity may take the measures referred to in sentences 1 and 2 without the consent of the occupants or the persons entitled to use that home only to prevent imminent dangers to public safety or order. The person required to provide information shall acquiesce to the measures referred to in sentences 1, 2, 5 and 6. Sentences 1 and 5 shall apply *mutatis mutandis* if it is not clear whether persons are employed at the workplace but there are facts which justify this assumption. The basic right

to the inviolability of the home (Article 13 of the Basic Law (*Grundgesetz*, GG)) shall thus be restricted.

(3) The competent authority may in an individual case order

1. which measures the employer and the responsible persons or the workers shall take to fulfil their obligations under this Act and the statutory instruments issued on the basis of this Act,
2. which measures the employer and the responsible persons shall take to avert a specific danger to the life and health of the workers.

The competent authority shall set an appropriate deadline in regard to the carrying out of the order if there is a danger in delay. If an order in accordance with sentence 1 is not fulfilled before the deadline set or an order declared enforceable with immediate effect is not enforced immediately, the competent authority may forbid the work referred to in the order or the use or the operation of the work equipment referred to in the order. Measures taken by the competent authority in the public service which considerably compromise operations shall be taken in consultation with the highest federal or *Land* authority or the chief administrative official in the municipality.

Section 23

Operational data, cooperation with other authorities, annual report, Federal Specialist Office for Occupational Safety and Health

(1) The employer shall make report to the competent authority at a time to be determined by that authority in regard to

1. the number of workers and those to whom he gives homeworking, broken down by sex, age and nationality,
2. the name or designation and address of the establishment in which they are employed,
3. his name, his business name and his address, and
4. the sector of the economy to which his establishment belongs.

The Federal Ministry of Labour and Social Affairs is authorised to determine, by way of a statutory instrument requiring the consent of the Bundesrat, that agencies of the federal administration to whom the employer has already made the reports referred to in sentence 1 on the basis of a legal provision must pass on this information to the highest *Land* authority competent for the authority referred to in sentence 1 in writing or on machine relevant storage mediums or by data transmission. The statutory instrument may determine further details regarding the form of the information to be passed on and the deadline by which it must be passed on. The information passed on may be used only in the performance of the occupational safety and health tasks falling within the respective area of competence of the authority in accordance with section 21 (1).

(2) The persons tasked with supervision may reveal the business and trade secrets of which they learn when carrying out their supervisory activity to the statutory accident insurance provider for the protection of the insured persons or to the competent authority for the protection of the environment only in those cases regulated by law or in the prosecution of unlawful acts or to fulfil statutory tasks. Where the business and trade secrets comprise information concerning the environment within the meaning of the Environmental Information Act (*Umweltinformationsgesetz*, UIG), the authority to reveal that information shall be based on the provisions of the Environmental Information Act.

(3) Where, in an individual case, the competent authorities learn of specific indications

1. that foreigners are being employed or are performing activities without the required residence title in accordance with section 4 (3) of the Residence Act

(Aufenthaltsgesetz, AufG), a document confirming permission to stay or temporary suspension of deportation which authorise them to exercise the employment or a permit in accordance with section 284 (1) of the Third Book of the Social Code,

2. of violations against the duty to cooperate in accordance with section 60 (1), sentence 1, no. 2 of the First Book of the Social Code vis-à-vis an office of the Federal Employment Agency, a provider of statutory health, nursing care, accident or pension insurance or a social assistance agency or against the reporting obligation under section 8a of the Act on Benefits for Asylum-Seekers (Asylbewerberleistungsgesetz, ABLG),

3. of violations against the Act on Combating Clandestine Employment (Gesetz zur Bekämpfung von Schwarzarbeit, SchwarzArbG),

4. of violations against the Act on Temporary Employment Businesses (Arbeitnehmerüberlassungsgesetz, AÜG),

5. of violations against the provisions of the Fourth Book and the Seventh Book of the Social Code regarding the obligation to pay social insurance contributions,

6. of violations against the Residence Act,

7. of violations against tax legislation,

8. of violations against the Act on Safeguarding Employee Rights in the Meat Industry (Gesetz zur Sicherung von Arbeitnehmerrechten in der Fleischwirtschaft),

they shall notify the authorities responsible for prosecuting and imposing penalties on the violations referred to in numbers 1 to 8, the social assistance agency and the authorities referred to in section 71 of the Residence Act. In the cases referred to in sentence 1, the competent authorities shall in particular cooperate with the employment agencies, the main customs offices, the pension insurance providers, the health insurance funds, as the collecting agencies for social insurance contributions, the providers of statutory accident insurance, the authorities responsible for prosecuting and imposing penalties on violations against the Act on Combating Clandestine Employment under *Land* law, the social assistance agencies, the authorities referred to in section 71 of the Residence Act and the fiscal authorities.

(4) The competent highest *Land* authorities shall publish an annual report on the supervisory activity of their subordinate authorities. The annual report shall also include information regarding the fulfilment of information obligations resulting from international conventions or legal acts of the European Communities, insofar as these affect occupational safety and health.

(5) A Federal Specialist Office for Occupational Safety and Health shall be established at the Federal Institute for Occupational Safety and Health. It shall have the task of evaluating the annual reports of the *Länder* including the inspection rate in accordance with section 21 (1a) and of summarizing the results for the statistical report on the state of occupational safety and health and the incidence of accidents at work and occupational diseases in the Federal Republic of Germany in accordance with section 25 (1) of the Seventh Book of the Social Code. The Federal Ministry of Labour and Social Affairs may lay down the working methods and processes of the Federal Specialist Office for Occupational Safety and Health in the decree establishing the Federal Institute for Occupational Safety and Health.

Section 24

Authorisation to issue general administrative provisions

The Federal Government may, with the consent of the Bundesrat, issue general administrative provisions in particular on

1. implementing this Act and statutory instruments issued on the basis of this Act, in particular on what criteria are to be applied when establishments are selected for monitoring, what matters constitute the minimum to be checked in the context of an inspection and what monitoring results are to be recorded for reporting,
2. the form and structure of the annual reports referred to in section 23 (4), and
3. the information which the highest competent *Land* authorities must notify to the Federal Ministry of Labour and Social Affairs in regard to the accident prevention report referred to in section 25 (2) of the Seventh Book of the Social Code by a specific point in time.

Section 24a

Committee for Occupational Safety and Health

(1) A Committee for Occupational Safety and Health shall be established at the Federal Ministry of Labour and Social Affairs in which suitable persons from the ranks of public and private employers, the trade unions, the *Land* authorities, the statutory accident insurance providers and other suitable persons, in particular from the academic community, should be represented. The Committee should not consist of more than 15 members. A deputy member shall be designated for each member. Membership of the Committee shall be honorary. A member or a deputy member from the other committees established at the Federal Ministry of Labour and Social Affairs in accordance with section 18 (2) no. 5 should be represented in the Committee for Occupational Safety and Health as a permanent guest.

(2) The Federal Ministry of Labour and Social Affairs shall appoint the members of the Committee and the deputy members. The Committee shall draw up its own rules of procedure and elect a chair from among its members. The rules of procedure and the election of the chair shall require the approval of the Federal Ministry of Labour and Social Affairs.

(3) Insofar as no other committee at the Federal Ministry of Labour and Social Affairs established in accordance with section 18 (2) no. 5 is responsible, the tasks of the Committee for Occupational Safety and Health shall include

1. identifying state-of-the-art technology, occupational medicine and hygiene and other established findings of ergonomics relevant to the safety and health of workers,
2. identifying regulations and findings in regard to how the requirements set out in the present Act can be met,
3. drafting recommendations on occupational safety and health,
4. advising the Federal Ministry of Labour and Social Affairs in all matters relating to safety and health at work.

The working programme of the Committee for Occupational Safety and Health shall be agreed with the Federal Ministry of Labour and Social Affairs. The Committee shall work closely with the other committees at the Federal Ministry of Labour and Social Affairs established in accordance with section 18 (2) no. 5.

(4) The Federal Ministry of Labour and Social Affairs may announce the regulations and findings identified by the Committee for Occupational Safety and Health in the Joint Ministerial Gazette (*Gemeinsames Ministerialblatt*) and publish the recommendations. Employers shall take account of the regulations and findings that have been made public. When these regulations are complied with and these findings are observed, it can be assumed that the requirements set out in the present Act are met provided that they are covered by the relevant regulation. The requirements set out in statutory instruments in accordance with section 18 and any regulations and findings published in that context shall remain unaffected.

(5) Federal ministries and the highest *Land* authorities may send representatives to meetings of the Committee for Occupational Safety and Health. They shall be given the opportunity to speak during the meeting on request.

(6) The business of the Committee for Occupational Safety and Health shall be conducted by the Federal Institute for Occupational Safety and Health.

Section 25 **Administrative fines provisions**

(1) Whoever intentionally or negligently

1. contravenes a statutory instrument in accordance with section 18 (1) or section 19 insofar as it refers to this administrative fine provision in regard to a specific offence, or
2. contravenes
 - a) an enforceable order in accordance with section 22 (3) in their capacity as employer or person responsible, or
 - b) an enforceable order in accordance with section 22 (3), sentence 1, no. 1, in their capacity as worker,

shall be deemed to have committed a regulatory offence.

(2) In the cases referred to in subsection (1) no. 1 and no. 2 (b), a fine of no more than five thousand euros, in the cases referred to in subsection (1) no. 2 (a), a fine of no more than thirty thousand euros may be imposed as a penalty on the regulatory offence.

Section 26 **Criminal provisions**

A term of imprisonment of no more than one year or a fine shall be imposed as a penalty on anyone who

1. persistently repeats an act described in section 25 (1) no. 2 (a), or
2. endangers the life or health of a worker on account of an intentional act described in section 25 (1) no. 1 or no. 2 (a).