

(English:) **Act on the Alternative Civilian Service of Conscientious Objectors  
(Alternative Civilian Service Act)**  
(German) *Gesetz über den Zivildienst der Kriegsdienstverweigerer  
(Zivildienstgesetz – ZDG)*

(English.): In the new version dated 17 May 2005

**C o n t e n t s**

	<b>Chapter One</b>	
	<b>Tasks and Organisation of Alternative Civilian Service</b>	
§ 1	Tasks of Alternative Civilian Service	
§ 2	Organisation of Alternative Civilian Service	
§ 2a	Advisory Committee for Alternative Civilian Service	
§ 3	Places Providing Employment	
§ 4	Recognition of Institutions Providing Employment	
§ 5	Setting up of Alternative Civilian Service Group Organisations	
§ 5a	Transfer of Administrative Tasks	
§ 6	Costs	
	<b>Chapter Two</b>	
	<b>Fitness; Exemptions from Alternative Civilian Service</b>	
§ 7	Fitness	
§ 8	Incapacity to Render Alternative Civilian Service	
§ 9	Exclusion from Alternative Civilian Service	
§ 10	Exemption from Alternative Civilian Service	
§ 11	Deferment from Alternative Civilian Service	
§ 12	Applications for Exemption and Deferment	
§ 13	Procedure in the Case of Deferment	
§ 14	Civil Defence or Disaster Control	
§ 14a	Development Aid Abroad	
§ 14b	Other Services Abroad	
§ 14c	Voluntary Year	
§ 15	Special Provisions for Police Law Enforcement Officers	
§ 15a	Equivalent Employment Relationships	
§ 16	Declaration of Unavailability	
§ 17	Decisions Regarding Military Service Exemptions	
§ 18	Reimbursement of Expenditures and Loss of Earnings	
	<b>Chapter Three</b>	
	<b>Enlistment into Alternative Civilian Service</b>	
§ 19	Induction	
§ 19a	Relocation of the Permanent Abode	

§ 20	Statements from Witnesses and Experts	
§ 21	Revocation of the Induction Notice	
§ 22	Credit for Other Service	
§ 22a	Credit for Military and Alternative Civilian Service for Other Countries	
§ 23	Alternative Civilian Service Supervision	
§ 23a	Allocation	
	<b>Chapter Four</b>	
	<b>The Legal Position of the Person Obligated to Render Alternative Civilian Service</b>	
§ 24	Term of Alternative Civilian Service	
§ 25	The Commencement of Alternative Civilian Service	
§ 25a	Orientation for Alternative Civilian Service	
§ 25b	Instruction for Alternative Civilian Service	
§ 25c	Civil Rights	
§ 26	Respect for the Basic Democratic Order	
§ 27	Fundamental Duties	
§ 28	Confidentiality	
§ 29	Political Activity	
§ 30	Official Orders	
§ 30a	Obligations of the Superior	
§ 31	Official Accommodation; Catered Meals	
§ 32	Working Hours; Internal Operations	
§ 32a	Employment During a Labour Dispute	
§ 33	Secondary Occupation	
§ 34	Liability	
§ 35	Welfare; Monetary Remuneration and Payment in Kind; Travel Expenses; Vacation	
§ 36	Personnel Records and Appraisals	
§ 36a	(deleted)	
§ 37	Participation of the Person Rendering Alternative Civilian Service	
§ 38	Religion	
§ 39	Medical Examinations	
§ 40	Maintaining Health; Medical Operations	
§ 41	Applications and Complaints	
	<b>Chapter Five</b>	
	<b>Termination of Alternative Civilian Service; Grant of a Pension</b>	

§ 42	Termination of Alternative Civilian Service	
§ 43	Discharge	
§ 44	Time of the Termination of Alternative Civilian Service	
§ 45	Exclusion	
§ 45a	Notification in Criminal Cases	
§ 46	Certification of Period of Service and Reference	
§ 47	Pensions	
§ 47a	Grant of a Pension in Special Cases	
§ 47b	Accident Insurance in Special Cases	
§ 48	Therapeutic Treatment in Special Cases	
§ 49	Payment of Sickness Benefits in Special Cases	
§ 50	Compensation for Alternative Civilian Service Injuries	
§ 51	Grant of Pensions	
§ 51a	Transitional Provisions on the Occasion of the Establishment of German Unity	
	<b>Chapter Six</b>	
	<b>Criminal Fines, Administrative Fines and Disciplinary Provisions</b>	
§ 52	Absence Without Leave	
§ 53	Desertion from Service	
§ 54	Non-compliance with Orders	
§ 55	Participation	
§ 56	Exemption from Fines	
§ 57	Administrative Offences	
§ 58	Disciplinary Offence	
§ 58a	Punishment of Disciplinary Offences	
§ 58b	Relationship of Disciplinary Measures to Criminal and Administrative Measures	
§ 58c	Formal Merit Awards	
§ 59	Disciplinary Measures	
§ 60	Content and Extent of Disciplinary Measures	
§ 61	Disciplinary Superior	

§ 62	Investigations	
§ 62a	Stay of Proceedings	
§ 62b	Hearing	
§ 63	Discontinuation of Proceedings	
§ 64	Imposition of a Disciplinary Measure	
§ 65	Disciplinary Order; Complaint	
§ 66	Appeal to the Administrative Court	
§ 67	Cancellation of the Disciplinary Order	
§ 68	Enforcement	
§ 69	Information	
§ 69a	Deletion	
§ 70	Power to Grant a Pardon	
	<b>Chapter Seven</b>	
	<b>Special Administrative Provisions</b>	
§ 71	Form and Notification of Administrative Decisions; Service	
§ 72	Objection	
§ 73	Appeal Against the Induction Notice	
§ 74	Exclusion of the Suspensive Effect of the Objection and the Appeal	
§ 75	Appeals Against Decisions by the Administrative Court	
§ 76	Rights of the Legal Representative	
§ 77	Scope of Application	
	<b>Chapter Eight</b>	
	<b>Final Provisions</b>	
§ 78	Mutatis Mutandis Application of Other Legal Provisions	
§ 79	Provisions Applicable in the Event of War	
§ 80	Restrictions on Fundamental Rights	
§ 81	Transitional Provisions on the Occasion of the Amendment Act dated 27 September 2004 (Federal Law Gazette I p. 2358)	

### Chapter One

#### Tasks and Organisation of Alternative Civilian Service

##### § 1

#### Tasks of Alternative Civilian Service

Recognised conscientious objectors shall perform tasks during alternative civilian service which serve the public good predominantly in the social area.

##### § 2

#### Organisation of Alternative Civilian Service

(1) This Act shall be executed by means of direct federal administration unless it contains a provision to the contrary. An independent higher federal authority shall be established for this purpose under the name of the "Federal Office for the Alternative Civilian Service" (*Bundesamt für den Zivildienst*), which shall be subject to the authority of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (*Bundesministerium für Familie, Senioren, Frauen und Jugend*).

(2) Upon recommendation by the federal government, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth shall appoint a Federal Commissioner for the Alternative Civilian Service (*Bundesbeauftragter für den Zivildienst*), who is hereinafter referred to as the "Federal Commissioner". The Federal Commissioner shall perform the tasks for which the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth is

responsible in the area of alternative civilian service unless it makes a provision to the contrary.

§ 2a

**Advisory Committee for Alternative Civilian Service**

(1) The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth shall establish an advisory committee for alternative civilian service. The Advisory Committee must advise the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth on questions concerning alternative civilian service including the question of which tasks that are outside the social area should be allocated to persons obliged to render alternative civilian service.

(2) The advisory committee shall be composed of

1. seven representatives from organisations which represent the interests of conscientious objectors and persons rendering alternative civilian service; four of the representatives must be persons rendering alternative civilian service,
2. seven representatives from associations of recognised institutions providing employment,
3. one representative from the Protestant Church and one representative from the Catholic Church,
4. one representative from the trade unions and one representative from the employers' associations,
5. two representative from the *Länder* (German federal states),
6. one representative from leading municipal organisations.

(3) The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth shall as a rule appoint members of the advisory council for duration of four years. The persons mentioned in sub-section 2 shall make recommendations in relation hereto. The persons rendering alternative civilian service (sub-section 2 no. 1) must be appointed for the duration of their term of service. Each member shall have a personal deputy.

(4) The meetings of the advisory council shall be convened and chaired by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth pursuant to the terms of rules and regulations yet to be issued by it.

§ 3

**Places Providing Employment**

Persons obliged to render alternative civilian service shall render alternative civilian service at a recognised institution providing employment or in an alternative civilian service group organisation (places providing employment). In cases of urgent need, they may also be employed in the administration of the alternative civilian service.

§ 4

**Recognition of Institutions Providing Employment**

(1) An institution providing employment may obtain recognition by submitting an application if

1. it performs, in particular, tasks in the social area, tasks in the area of environmental protection, tasks related to nature conservation and landscape conservation; mainly institutions providing employment in the social area shall be recognised,
2. it provides a guarantee that the employment, management and care of the person rendering alternative civilian service are in accordance with the character of alternative civilian service; employment is not in accordance with the character of alternative civilian service, in particular, if the burden to be placed on the person rendering alternative civilian service would lead to his being treated in an obviously discriminatory manner as compared to how other persons rendering alternative civilian service or persons rendering military service are treated,
3. it declares that it is willing to employ persons obliged to render alternative civilian service who comply with the requirements specified by it, even though it has not consented to the particular person obliged to render alternative civilian service provided that the unique character of the employment does not place special demands on the particular person obliged to render alternative civilian service that extend beyond the requirements specified and
4. it declares that it is willing to grant persons appointed by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and the Federal Office for the Alternative Civilian Service the right to examine all the work done by the persons rendering alternative civilian service and their individual tasks, and it declares that it is willing to provide unlimited support to the Federal Court of Audit (*Bundesrechnungshof*) in relation to the audit of federal funds spent. Recognition shall be granted for specific places of service. Conditions may be attached to recognition.

(2) Recognition must be withdrawn or revoked if one of the requirements mentioned in sub-section 1 did not exist or no longer exists. It may also be revoked for other important reasons, in particular, if a condition is not fulfilled or not fulfilled within a set time limit.

§ 5

**Setting up of Alternative Civilian Service Group Organisations**

Alternative civilian service group organisations shall be set up according to need upon order by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth shall select their seats after hearing the *Land* involved.

§ 5a

### Transfer of Administrative Tasks

(1) The places providing employment may be assigned administrative tasks. If *Land* agencies are assigned these administrative tasks, they shall be considered to be acting on behalf of the Federation.

(2) With their consent, the following may be assigned administrative tasks

1. Associations for the institutions belonging to them which provide employment,
2. *Länder* for the institutions providing employment in relation to the public-law organisations which are subject to their supervision.

Administrative costs may be reimbursed to a reasonable extent.

### § 6

#### Costs

(1) The institutions providing employment shall provide at their own expense accommodation, food and work clothing for the persons rendering alternative civilian service. They shall bear the administrative costs that they incur by employing the persons rendering alternative civilian service.

(2) The institutions providing employment shall pay on behalf of the Federation the persons rendering alternative civilian service the amounts of remuneration owed to them. The institutions providing employment shall later be reimbursed on a quarterly basis 100% of their expenses for the mobility bonus and 70% of their expenses for the other remuneration. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth shall agree with the Federal Ministry of Finance (*Bundesministerium der Finanzen*) on the reimbursement of uniform lump sums.

(3) The institutions providing employment may be given grants to reduce their expenses for accommodation, food and work clothing of the persons rendering alternative civilian service if, and to the extent that, this is necessary,

1. in order to maintain an adequate number of alternative civilian service positions to allow all the available recognised conscientious objectors to be enlisted into alternative civilian service and
2. in order to maintain employment positions that are particularly suitable for alternative civilian service

In agreement with the Federal Ministry of Finance, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth shall issue general administrative regulations for the implementation of sentence 1. The grants may only be given to the extent that the budget makes funds available.

## Chapter Two

### Fitness; Exemptions from Alternative Civilian Service

### § 7

#### Fitness

Fitness for alternative civilian service shall be determined by fitness for military service. Persons who are fit for military service shall be considered fit for alternative civilian service; persons who are temporarily not fit for military service shall be considered temporarily not fit for alternative civilian service and persons who are not fit for military service shall be considered not fit for alternative civilian service.

### § 8

#### Incapacity to Render Alternative Civilian Service

Any person who is not capable of rendering alternative civilian service shall not be enlisted into alternative civilian service.

### § 9

#### Exclusion from Alternative Civilian Service

The following persons shall be excluded from alternative civilian service

1. any person who has been sentenced by a German court to at least one year of imprisonment for a criminal offence or who has been sentenced to six months' or more imprisonment for an intentional act which is punishable pursuant to the provisions on crimes against peace (*Friedensverrat*), high treason (*Hochverrat*), endangering the democratic state governed by the rule of law or treason (*Landesverrat*) and the provisions on endangering external security, unless the entry of the sentence in the central register has been deleted,
2. any person who has been found by a court to not have the capacity to serve in public office,
3. any person who is subject to measures of correction and preventative detention in § 64 or § 66 of the German Criminal Code (*Strafgesetzbuch*) provided the measures have not been completed.

### § 10

#### Exemption from Alternative Civilian Service

(1) The following persons shall be exempt from alternative civilian service

1. ordained members of the Protestant clergy,
2. members of the Roman Catholic clergy who have been ordained as deacons,
3. full-time religious leaders of other faiths whose position is comparable to that of a member of the Protestant clergy or of a member of the Roman Catholic clergy who has been ordained as a deacon,
4. severely disabled persons.

(2) Recognised conscientious objectors

1. whose father, mother, brother or sister died as a consequence of a military or an alternative civilian service injury,
2. whose two siblings have rendered
  - a) basic military service of the duration specified in § 5 (1a) of the Military Service Act (*Wehrpflichtgesetz*),
  - b) alternative civilian service of the duration specified in § 24 (2),
  - c) service in civil defence or disaster control pursuant to § 14 (1) of this Act or pursuant to § 13a (1) sentence 1 of the Military Service Act,
  - d) service in development aid abroad pursuant to § 14a (1) of this Act or pursuant to § 13b (1) of the Military Service Act,
  - e) service abroad pursuant to § 14b (1),
  - f) service of at least nine months' duration in relation to a voluntary year pursuant to the laws for the promotion of a voluntary social year or pursuant to the laws for the promotion of a voluntary ecological year,
  - g) service in an equivalent employment relationship pursuant to § 15a (1),
  - h) military service of no more than two years' duration as a voluntary regular soldier
3. or who:
  - a) are married,
  - b) are registered life partners or
  - c) exercise joint parental care or who exercise sole parental care.

must be exempted upon application.

#### § 11

##### **Deferment from Alternative Civilian Service**

(1) The following persons shall be deferred from alternative civilian service

1. persons who are temporarily not fit for alternative civilian service,
2. persons who, apart from the cases falling within § 9, are serving an imprisonment sentence, persons who are in detention, youths who are serving an imprisonment sentence or youths who are in detention or persons who have been remanded in custody pending trial or who have been committed to a psychiatric hospital pursuant to § 63 of the Code of Criminal Procedure (*Strafprozessordnung*).

(2) Recognised conscientious objectors shall upon application be deferred from alternative civilian service if they are preparing for religious office.

(3) If a recognised conscientious objector has accepted his nomination for election to the *Bundestag* or to a *Land* parliament or to the European parliament, he must be deferred until the election. If

he has accepted election, during the term of his mandate he may only be inducted upon his own application.

(4) A recognised conscientious objector may be deferred upon application if his enlistment would inflict considerable hardship on him for personal, in particular, domestic, financial or professional reasons. Such hardship usually occurs where,

1. the induction of the recognised conscientious objector
  - a) would endanger the care of his family, the care of needy relatives or other needy persons, whom he is obliged to support for legal or moral reasons or
  - b) would probably cause a serious crisis for his first-degree relatives,
2. the recognised conscientious objector is indispensable for the maintenance and continuation of his own or the family business,
3. the induction of the recognised conscientious objector
  - a) would interrupt education leading to a school qualification,
  - b) would interrupt studies at a university or university of applied sciences (*Fachhochschule*) in respect of which he has already commenced the third semester of the studies at the time planned for commencing alternative civilian service, or would interrupt another educational segment of which one-third had been completed or
  - c) would interrupt vocational training which had already been commenced

or would prevent commencement of vocational training in respect of which a legally binding promise has been made or been secured by contract.

(5) A recognised conscientious objector may be deferred from alternative civilian service if criminal proceedings are pending against him and it is expected that the punishment will be an imprisonment sentence, detention, youth imprisonment or another measure of correction and preventative detention that deprives a person of his liberty, or if his induction would seriously endanger the order or reputation of alternative civilian service or a place providing employment.

#### § 12

##### **Applications for Exemption and Deferment**

(1) Applications pursuant to § 10 (2) and § 11 (2) and (4) of this Act, which pursuant to § 11 (2) sentence 2 and § 20 of the Military Service Act did not have to be made in writing, electronically or by recording at the district alternative national service office at the earliest following notice of recording by the recording authority (§ 15 (1) sentence 2 of the Military Service Act) and at the latest by the end of mustering, must be submitted in writing, electronically

1352

or by recording at the Federal Office for the Alternative Civilian Service.

(2) Documentary evidence which the applicant possesses or which he can obtain without unreasonable expense must be attached to applications pursuant to § 10 (2) and pursuant to § 11 (4). In the case of applications pursuant to § 11 (2), the following must be submitted

1. evidence of a proper theological course of study or a proper theological education
2. a declaration from the responsible regional church office, episcopal authority, higher religious order or the equivalent higher authority of another religious confession that the recognised conscientious objector is preparing for religious office.

### § 13

#### Procedure in the Case of Deferment

(1) Deferments pursuant to § 11 (1), (4) and (5) must be granted for a limited period. In all of the cases in § 11 (4), except for sentence 2 no. 1 letter b and no. 3, a recognised conscientious objector may be deferred from alternative civilian service for such length of time that still allows him to be inducted before he reaches the age limit applicable to him pursuant to § 24 (1) sentences 1 to 4. In exceptional cases in which induction would inflict unreasonable hardship, he may in addition be deferred beyond this limit.

(2) If an application pursuant to § 11 (2) or (4) is made after mustering, a decision in respect thereof may be postponed until induction unless the applicant shows that he has a justified interest in an immediate decision.

(3) Deferments must be revoked if the reason for the deferment has ceased to exist; the recognised conscientious objector must be heard before revocation.

(4) After the expiration of the time limit for deferment, the recognised conscientious objector shall be available for alternative civilian service notwithstanding § 19 (4).

### § 14

#### Civil Defence or Disaster Control

(1) Recognised conscientious objectors who before attaining the age of 23 have agreed with the consent of the responsible authorities to serve voluntarily for at least six years as helpers in civil defence or disaster control shall not be inducted into alternative civilian service provided that they participate in civil defence or disaster control. This applies also where the responsible authority authorises interruption of participation if the actual six-year participation upon which the minimum obligation is based can still be fulfilled before the conscientious objector attains the age of 30.

(2) The responsible authorities are obliged to notify the Federal Office for the Alternative Civilian Service if the prerequisites for not enlisting recognised

conscientious objectors into alternative civilian service exist or cease to exist.

(3) If a responsible authority gives notice that a recognised conscientious objector has agreed to participate as a helper in civil defence or disaster control with the consequence that he may not be enlisted into alternative civilian service, then the Federal Office for the Alternative Civilian Service must inform the recognised conscientious objector that he will not be enlisted into alternative civilian service for the duration of his participation.

(4) If recognised conscientious objectors have participated in civil defence or disaster control for six years, their duty to render alternative civilian service will cease to exist; this shall not apply to alternative civilian service in the event of war. Approved interruptions to participation (sub-section 1 sentence 2) shall be considered participation if they do not exceed a total of six months. If the participation prematurely ceases for reasons not associated with the person or conduct of the recognised conscientious objectors, then the time spent in civil defence or disaster control shall be credited against alternative civilian service on a pro rata basis to the extent that it exceeds half of the period pursuant to sentence 1.

### § 14a

#### Development Aid Abroad

(1) Recognised conscientious objectors shall not be inducted into alternative civilian service until they have attained the age of 30 if they have agreed with a development aid institution recognised pursuant to § 2 of the Development Aid Workers' Act (*Entwicklungshelfer-Gesetz*) in connection with such institution's needs to render service for at least two years in development aid abroad or they have agreed to continue to train to later work as a development worker, and this is confirmed by the Federal Ministry for Economic Co-operation and Development (*Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung*).

(2) Furthermore, recognised conscientious objectors shall not be inducted into alternative civilian service if, and for as long as, they fulfil the requirements of § 1 (1) or (2) of the Development Aid Workers' Act.

(3) If recognised conscientious objectors have rendered service in development aid abroad for the minimum period mentioned in sub-section 1, their duty to render alternative civilian service will extinguish; this shall not apply to alternative civilian service in the event of war. If the recognised conscientious objector's service in development aid abroad is prematurely terminated for reasons for which he is not responsible, the time spent in development aid abroad shall be credited against alternative civilian service to the extent that it exceeds the minimum time by which development aid abroad is longer than alternative civilian service.

(4) The development aid institutions are obliged to notify the Federal Office for the Alternative Civilian Service if the prerequisites for not enlisting

recognised conscientious objectors into alternative civilian service exist or cease to exist.

§ 14b

**Other Services Abroad**

(1) Recognised conscientious objectors shall not be inducted into alternative civilian service if they

1. have contractually agreed vis-à-vis an institution recognised pursuant to sub-section 3 to render service abroad commencing before they have attained the age of 23, which service is intended to promote the peaceful coexistence of mankind and which is at least two months longer than the alternative civilian service that they would otherwise have had to render and
2. they render this service free of charge.

The institutions are obliged to notify the Federal Office for the Alternative Civilian Service if the prerequisites for not enlisting recognised conscientious objectors into alternative civilian service exist or cease to exist.

(2) If recognised conscientious objectors show before they attain the age of 24 that they have rendered service for the minimum period mentioned in sub-section 1 no. 1, their duty to render alternative civilian service will extinguish; this shall not apply to alternative civilian service in the event of war. If the service is prematurely terminated, the time spent in service shall be credited against alternative civilian service to the extent that it exceeds two months.

(3) Pursuant to sub-section 1, a legal person may be recognised as an institution of alternative civilian service, if it

1. is a non-profit organisation and directly and exclusively serves tax-privileged purposes as defined in §§ 51 to 68 of the General Fiscal Code (*Abgabenordnung*),
2. offers a guarantee that its projects serve the interests of the Federal Republic of Germany and
3. has its seat in the Federal Republic of Germany.

The decision regarding an institution's application for recognition shall be made by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth in agreement with the Federal Foreign Office (*Auswärtiges Amt*). The recognition may be restricted to specific projects of the institution. § 4 (1) sentence 3 and § 4 (2) shall apply mutatis mutandis.

§ 14c

**Voluntary Year**

(1) A recognised conscientious objector will not be enlisted into alternative civilian service if, after he has been recognised as a conscientious objector, he has agreed in writing to serve a voluntary year pursuant to the laws for the promotion of a voluntary social year or the laws for the promotion of a voluntary ecological year. Service of the voluntary year shall commence

no later than one year after the agreement and before he attains the age of 23. The service shall comprise full-time voluntary employment for a period of at least twelve months, which shall include a period of training of 25 days as well as 26 days of vacation (full-time position). The agreement to serve the voluntary year shall be with an institution that is recognised pursuant to the laws for the promotion of a voluntary social year or the laws for the promotion of a voluntary ecological year.

(2) Pursuant to sub-section 1 sentence 3, the institutions are obliged to notify the Federal Office for the Alternative Civilian Service if the prerequisites for not enlisting the recognised conscientious objector into alternative civilian service exist or cease to exist.

(3) If recognised conscientious objectors show before they attain the age of 24 that they have rendered service for the minimum period specified in sub-section 1 no. 1, their duty to render alternative civilian service will extinguish; this shall not apply to alternative civilian service in the event of war. If the service is prematurely terminated, the time spent in service shall be credited against alternative civilian service to the extent that it exceeds a period of two months.

(4) Upon application, the institutions (pursuant to sub-section 1 sentence 3) shall receive reimbursement of their expenses for training, an appropriate allowance and the social security contributions for the recognised conscientious objector on a quarterly basis from the Federal Office for the Alternative Civilian Service for a maximum of twelve months. The institution shall not be entitled to reimbursement of expenses if it does not fulfil its obligations to the recognised conscientious objector or its other obligations as a recognised institution. If the prerequisites of sentence 1 are not satisfied, if they cease to be satisfied later or if the recognised conscientious objector ceases his service prematurely, the institution shall return the overpaid amounts.

(5) The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth may issue a decree, which does not require the consent of the *Bundesrat* (upper house of the German parliament), to regulate all further details, in particular, regarding the prerequisites of a full-time position pursuant to sub-section 1, regarding notifications pursuant to sub-section 2, regarding proof pursuant to sub-section 3 sentence 1, regarding the amount and use of the grants issued pursuant to sub-section 4 as well as regarding the creation of new places [of employment] for recognised conscientious objectors as a prerequisite for receiving a grant. The decree may provide for an obligation on the part of the institutions to supply information regarding the statutory retirement pension scheme, the work and the place of work of the persons rendering alternative civilian service.

§ 15

**Special Provisions for Police Law Enforcement Officers**

(1) A recognised conscientious objector who is

member of the police force or who has received written notice of his acceptance for this service shall not be enlisted into alternative civilian service until he has ceased this service.

(2) The responsible authorities shall be obliged to notify the Federal Office for the Alternative Civilian Service if the acceptance is revoked and the person leaves the police force; the same shall apply if the person does not enter the service in spite of being accepted for it.

(3) § 14 (3) shall apply mutatis mutandis if a responsible authority gives notice that a recognised conscientious objector has entered the police force or has received written notice of his acceptance for this service and it is expected that he will commence his service within six months following receipt of the acceptance.

#### § 15a

##### **Equivalent Employment Relationships**

(1) Recognised conscientious objectors, who are prevented from rendering alternative civilian service for reasons of conscience, shall not be inducted into alternative civilian service for the time being if they declare that they wish to enter into an employment relationship with the usual working hours in a hospital or other institution for the treatment, nursing and care of people or if they have already entered into such an employment relationship. This shall only apply if the employment relationship is supposed to commence or commenced after the person was recognised as a conscientious objector and before he attained the age of 22; furthermore, the term of employment must exceed the term of alternative civilian service that the recognised conscientious objector otherwise would have had to serve by at least one year.

(2) If a recognised conscientious objector shows before attaining the age of 24 that he was in such an employment relationship for the minimum duration mentioned in sub-section 1, his duty to render alternative civilian service will extinguish. If the recognised conscientious objector's employment relationship is prematurely terminated for reasons for which he is not responsible, the time spent in the employment relationship shall be credited against alternative civilian service to the extent that it exceeds one year.

#### § 16

##### **Declaration of Unavailability**

(1) In order to balance the public interest in enlisting persons into alternative civilian service and the public interest in covering the manpower requirements for tasks outside of alternative civilian service, a person obliged to render alternative civilian service may be declared unavailable for alternative civilian service if the latter public interest is paramount as long as such person is indispensable for the work that he performs outside of the alternative civilian service. The federal government shall issue with the consent of the *Bundesrat* general administrative provisions regarding the rules for

balancing manpower requirements.

(2) The [decision regarding the] unavailability [of a person] shall be based on the recommendations of the responsible administrative authority. If they are bodies under public law, churches and religious communities shall have the right to recommend that their personnel [be declared unavailable]. The federal government is authorised to regulate by way of decree with the consent of the *Bundesrat* the powers and the procedure in regard to declarations regarding unavailability. In the decree [the federal government] may transfer the power to appoint the responsible authorities to the highest federal authorities or to the governments of *Länder* with the power to further transfer such power to the highest *Länder* authorities; the highest federal authority or the government of a *Land* entitled to make recommendations may, to the extent that *Land* law permits, also regulate the right to recommend in general administrative provisions. The decree also regulates how differences of opinion between the Federal Office for the Alternative Civilian Service and the administrative authority making the recommendations should be handled with consideration given to the differing concerns. The decree further regulates how long a person may be declared unavailable and which expert agencies in the public administration and industry must be heard.

(3) The employer of the person obliged to render alternative civilian service shall be obliged to notify the Federal Office for the Alternative Civilian Service if the prerequisites for declaring the person to be unavailable cease to exist. Persons obliged to render alternative civilian service who are not in an employment or work relationship shall be obliged to notify [the Federal Office for the Alternative Civilian Service] that the prerequisites have ceased to exist themselves.

#### § 17

##### **Decisions Regarding Military Service Exemptions**

The decisions of the military service authorities regarding military service exemptions shall also apply to alternative civilian service.

#### § 18

##### **Reimbursement of Expenditures and Loss of Earnings**

The necessary expenditures arising for recognised conscientious objectors as a consequence of the examination of their availability for alternative civilian service as well the loss of earnings resulting from being ordered to appear for a personal interview shall be reimbursed in accordance with the provisions applicable to [reimbursement of such expenditures and loss of earnings in connection with] mustering by the military service authorities.

### **Chapter Three**

#### **Enlistment into Alternative Civilian Service**

## § 19

**Induction**

(1) The persons obliged to render alternative civilian service shall be inducted into an alternative civilian service relationship in accordance with the induction orders of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth if they have not been transferred to an alternative civilian service relationship pursuant to sub-section 2. Any person who is discharged from basic military service because he has been recognised as a conscientious objector shall be inducted into alternative civilian service immediately.

(2) If a soldier is recognised as a conscientious objector, the military service relationship may be converted into an alternative civilian service relationship pursuant to this Act by a written notice given in agreement with the office specified by the Federal Ministry of Defence (*Bundesministerium der Verteidigung*). The notice shall specify the time of the conversion as well as the location and time at which alternative civilian service shall commence. The person obliged to render alternative civilian service shall report for alternative civilian service in accordance with the conversion notice.

(3) The person obliged to render alternative civilian service may not demand to be enlisted to serve at a specific location. He may not be inducted to render his alternative civilian service at an institution providing employment where he had already been employed before being inducted. Sentence 2 shall not apply if the person obliged to render alternative civilian service directly provides care for the severely handicapped or seriously ill and an interruption of this care would cause an indefensible and unavoidable impairment or burden for those receiving care.

(4) Persons obliged to render alternative civilian service who were not held to be available within the last two years before they were inducted shall be heard before their induction.

(5) The induction notice shall state the location and time at which alternative civilian service shall commence as well as the duration of the alternative civilian service to be rendered. The notice shall point out the criminal consequences of failure to appear for induction.

(6) The induction notice shall be issued at least four weeks before the date of induction. This shall not apply in the case of sub-section 1 sentence 2.

## § 19a

**Relocation of the Permanent Abode**

(1) The obligation to render military service shall not be extinguished or suspended if the recognised conscientious objector relocates his permanent abode

1. to a place outside of the Federal Republic of Germany during his term of alternative civilian service,
2. to a place outside of the Federal Republic of Germany without the approval required pursuant

to § 23 (4) or

3. to a place outside of the Federal Republic of Germany without leaving the Federal Republic of Germany.

(2) If a recognised conscientious objector relocates his permanent abode to a place outside of the Federal Republic of Germany without the approval required pursuant to § 23 (4), he shall be enlisted into alternative civilian service pursuant to the provisions of this Act.

## § 20

**Statements from Witnesses and Experts**

If testimony from a witness or an expert is required in order to check the availability of a recognised conscientious objector, the local court (*Amtsgericht*) in the area in which the witness or expert has his or her place of residence or place of abode may request his or her testimony; in this event, it must state in its request the facts in respect of which the witness or expert will be expected to give testimony. The provisions of the Judicature Act (*Gerichtsverfassungsgesetz*) with respect to remedies (§§ 156 et seq.) and the provisions of the Code of Civil Procedure (*Zivilprozessordnung*) shall apply *mutatis mutandis*. The decision as to whether the witness or expert must be sworn in shall be at the discretion of the local court. The local court shall also decide on the legality of a refusal on the part of the witness to testify, provide an expert opinion or take an oath; the decision may not be challenged.

## § 21

**Revocation of the Induction Notice**

If after the induction notice has been served it is held that the recognised conscientious objector is not available, the induction notice shall be revoked. The revocation notice must be issued in writing and served.

## § 22

**Credit for Other Service**

Time served in military service or the federal border guard (*Grenzschutzdienstpflicht*) due to an obligation to render service in the border guard shall be credited against the term of alternative civilian service. This shall not apply to days on which the person obliged to render alternative civilian service

1. is absent from service without excuse,
2. refuses to render service without excuse,
3. receives a stay of execution of the induction notice,
4. is on a leave of absence without monetary remuneration or payment in kind to the extent that these days would have had to have been served at a subsequent date if the person was not recognised as a conscientious objector,

5. is serving an imprisonment sentence or is in detention, is a youth serving an imprisonment sentence or is in detention or is in disciplinary detention if these days would have had to have been served at a subsequent date if the person was not recognised as a conscientious objector, or
6. has been remanded in custody pending trial while rendering service and the custody pending trial was followed by a non-appealable sentence,

and therefore did not render alternative civilian service.

#### § 22a

##### **Credit for Military and Alternative Civilian Service for Other Countries**

(1) In particular cases, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth may credit in whole or in part military service rendered outside of the Federal Armed Forces (*Bundeswehr*) or other service rendered instead of military service against alternative civilian service pursuant to this Act. The military service or other service rendered instead of military service shall be credited if it was rendered pursuant to statute; this shall also apply if the Federal Ministry of Defence approved the service outside of the Federal Armed Forces.

(2) The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth may transfer the power mentioned in sub-section 1 to the Federal Office for the Alternative Civilian Service. Applications for a credit of military service, which was rendered outside of the Federal Armed Forces, as well as for other service, which was rendered instead of military service, shall be submitted to the Federal Office for the Alternative Civilian Service; the latter may request a statutory declaration from the person obliged to render alternative civilian service as evidentiary proof of the foregoing.

#### § 23

##### **Alternative Civilian Service Supervision**

(1) Recognised conscientious objectors shall be subject to alternative civilian service supervision. This supervision ends at the end of the year in which they attain the age of 32.

(2) During the period of the alternative civilian service supervision, the recognised conscientious objector shall notify the Federal Office for the Alternative Civilian Service within a week of any change of address unless he has fulfilled his general obligation to register pursuant to the provisions of the *Land* registration laws within this time limit. Furthermore, the recognised conscientious objector must immediately notify the Federal Office for the Alternative Civilian Service where

1. he intends to be away from his permanent place of residence for more than eight weeks,
2. events have occurred which would justify an exemption from alternative civilian service

pursuant to §§ 8, 9, 10 (1), § 11 (1) and (3), §§ 14 to 14b as well as § 15,

3. the prerequisites for enlistment into alternative civilian service in discontinuous blocks of time have ceased to exist (§ 24 (3)) and the prerequisites for a deferment prematurely cease to exist,
4. his vocational training is concluded or changed or he changes his profession if the plan is that he should take on special tasks in alternative civilian service.

Recognised conscientious objectors shall take precautions to ensure that notices from the Federal Office for the Alternative Civilian Service reach them without delay.

(3) The military services authorities shall supply the Federal Office for the Alternative Civilian Service with the data supplied by the registration authorities pursuant to § 24a of the Military Service Act regarding persons who are not subject to military draft supervision for the purpose of alternative civilian service supervision. The Federal Office for the Alternative Civilian Service shall delete the data that is not required for this purpose.

(4) Furthermore, during the period of alternative civilian service supervision, recognised conscientious objectors must obtain the approval of the Federal Office for the Alternative Civilian Service if they wish to leave the Federal Republic of Germany for more than three months unless the prerequisites of § 1 (2) of the Military Service Act have already been fulfilled. They must obtain approval if they wish to remain abroad for longer than the approved period of time or if a shorter stay abroad, which did not require approval, is extended to more than three months. The approval shall be granted for the period of time in which it is not planned to induct the recognised conscientious objector into alternative civilian service. It shall be granted beyond this period of time to the extent that a refusal would represent a particular – in the event of war an intolerable – hardship for the recognised conscientious objector; § 13 (1) shall be applied accordingly. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth may allow exemptions from the obligation to obtain approval.

(5) Where a recognised conscientious objector has rendered the term of alternative civilian service referred to in § 24 (2) sentence 1, he shall only be subject to the obligations mentioned in sub-section 2 sentence 1 numbers 2 to 4 if the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth orders this to ensure alternative civilian service in the event of war.

(6) Recognised conscientious objectors shall be exempt from the obligations referred to in sub-section 2 where

1. they are not fit for alternative civilian service,
2. they are permanently excluded from alternative civilian service,
3. they are exempt from alternative civilian service,
4. they would be exempt from alternative civilian service if they would not be considered for

induction for one of the reasons referred to in § 14a to § 15a.

This shall not apply to the requirement to give notice of the reason for exemption from alternative civilian service.

(7) In special cases, recognised conscientious objectors may be exempt in whole or in part from the obligations referred to in sub-section 2, as long as they would not be considered for induction.

(8) § 24b of the Military Service Act shall apply *mutatis mutandis* with regard to the ascertainment of the abode of recognised conscientious objectors during the alternative civilian service supervision.

### § 23a

#### Allocation

The police may be requested to bring persons obliged to render alternative civilian service, who have without excuse not appeared in compliance with their induction notice or a conversion order pursuant to § 19 (2), to the place named in the induction notice or conversion order. To take the person obliged to render alternative civilian service into custody, the police are entitled to enter and search for him in his home or any of his other premises. The same shall apply, except at night, in relation to other homes or premises if the person obliged to render alternative civilian service flees to such homes or premises to escape the immediate risk of being taken into custody by the police.

## Chapter Four

### The Legal Position of the Person Obligated to Render Alternative Civilian Service

#### § 24

##### Term of Alternative Civilian Service

(1) Alternative Civilian Service shall be rendered by persons obliged to render alternative civilian service, who have not yet attained the age of 23 at the time that their term of service is fixed to commence. In derogation from sentence 1, alternative civilian service shall be rendered by persons obliged to render alternative civilian service, who have not yet attained the age of 25 at the time that their term of service is fixed to commence, if they

1. could not be inducted into alternative civilian service before attaining the age of 23 due to a deferment pursuant to § 11 and the reason for the deferment has ceased to exist,
2. could not be inducted into alternative civilian service before they attained the age of 24 due to their obligation to render another service abroad (§ 14b), due to an obligation to serve a voluntary year (§ 14c) or due to equivalent employment (§ 15a),
3. could not be inducted into alternative civilian

service before they attained the age of 23 due to an unapproved stay abroad (§ 23 (4)) or

4. qualify as discharged from alternative civilian service pursuant to § 44 (2) and pursuant to sub-section 4 have an obligation to render subsequent service.

In derogation from sentences 1 and 2, alternative civilian service shall be rendered by persons obliged to render alternative civilian service, who at the time that the service is fixed to commence

1. have not yet attained the age of 32 if during their basic military service they mainly serve/served as specialists, or
2. have not yet attained the age of 30 if they were not enlisted into alternative civilian service before attaining the age of 23 because they were obliged to render service as a helper in civil defence or disaster control (§ 14) or because they were obliged to render service in development aid (§ 14a).

In the case of persons obliged to render alternative civilian service, who due to recognition proceedings pursuant to the provisions of the Act on Conscientious Objection (*Kriegsdienstverweigerungsgesetz*) could not be inducted before they attained the age of 23 or before an existing exemption from basic military service took effect, the period of time within which the alternative civilian service shall be rendered, shall be extended by the duration of the recognition proceedings. However, it shall not be extended beyond their attainment of the age of 25. § 79 no. 1 shall not be affected thereby.

(2) The term of alternative civilian service shall correspond to the term of basic military service (§ 5 (1a) of the Military Service Act). § 79 no. 1 shall not be affected thereby. In the case of alternative civilian service rendered in separate blocks of time pursuant to § 5 (2) sentences 1 and 2 of the Military Service Act, the first block shall be six months' long. The other blocks of time shall be fixed in the induction notice.

(3) Persons obliged to render alternative civilian service may render their alternative civilian service in discontinuous blocks of time if it would otherwise be necessary to defer their alternative civilian service for reasons of particular hardship.

(4) Days on which a person who is obliged to render alternative civilian service does not render alternative civilian service due to

1. his being absent from alternative civilian service without excuse,
2. his refusing to work without excuse,
3. his receiving a stay of execution of the induction notice,
4. his serving an imprisonment sentence or being in detention, or his being a youth serving an imprisonment sentence or being in detention or
5. his being remanded in custody pending trial, which was then followed by a non-appealable sentence,

must be served subsequently.

§ 25

**The Commencement of Alternative Civilian Service**

The alternative civilian service relationship shall commence at the time which is fixed in the induction notice for the commencement of service of the person obliged to render alternative civilian service or at the time which is fixed in the conversion notice for the conversion pursuant to § 19 (2).

§ 25a

**Orientation for Alternative Civilian Service**

(1) At the commencement of their term of service, persons obliged to render alternative civilian service shall receive courses of instruction regarding

1. the character and tasks of alternative civilian service as well as about their rights and duties as persons rendering alternative civilian service,
2. civic questions and
3. the tasks that it is planned that they shall perform to the extent that this is necessary.

(orientation for alternative civilian service)

(2) The institutions providing employment and the associations which own institutions providing employment may be assigned with their agreement the task of running the courses of instruction mentioned in sub-section 1. If *Land* agencies are assigned the task of providing instruction, they shall be considered to be acting on behalf of the Federation. The cost of the courses of instruction may be reimbursed to a reasonable extent; the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth may set uniform refund rates.

(3) In the case of the instruction pursuant to sub-section 1 no. 2, the treatment of political topics may not be limited to the presentation of a one-sided opinion. The entire instruction shall be so designed that the person rendering alternative civilian service shall not be influenced to favour or oppose a particular political direction.

(4) The person obliged to render alternative civilian service shall be housed in official accommodation for the duration of the orientation for alternative civilian service. § 19 (3) sentence 1 shall apply *mutatis mutandis*.

§ 25b

**Instruction for Alternative Civilian Service**

(1) At the commencement of his term of service, the person obliged to render alternative civilian service shall also receive instruction at the institution providing employment in the tasks that it is planned that he will perform (instruction for alternative civilian service). The instruction for alternative civilian service shall convey the knowledge and skills that the person rendering alternative civilian service requires in order to perform his intended tasks; this instruction shall take into consideration whether or not the person

obliged to render alternative civilian service has already taken part in the orientation for alternative civilian service pursuant to § 25a (1) no. 3. The duration of the instruction for alternative civilian service shall be in accordance with the type of tasks [to be later performed] and the prior education of the person rendering alternative civilian service; in the case of nursing and nursing care the instruction shall as a rule last for at least four weeks. The person rendering alternative civilian service may not assume his intended tasks until after the instruction for alternative civilian service has been completed.

(2) In the event that the type of task to be performed by the person rendering alternative civilian service is changed, sub-section 1 shall apply *mutatis mutandis*.

§ 25c

**Civil Rights**

The person rendering alternative civilian service shall have the same civil rights as any other citizen. Within the context of the requirements of alternative civilian service, his rights shall be restricted by his statutory obligations.

§ 26

**Respect for the Basic Democratic Order**

The person rendering alternative civilian service must show respect for the free basic democratic order as defined in the Basic Law in all his conduct.

§ 27

**Fundamental Duties**

(1) The person rendering alternative civilian service must render his service conscientiously. He must adjust to fit into the community in which he renders his service. He shall ensure that his conduct does not endanger the peace at his place of service nor the atmosphere of cooperation within the place providing employment.

(2) When off-duty and outside of the alternative civilian service accommodation, the person rendering alternative civilian service must ensure that his conduct does not seriously detract from the reputation of alternative civilian service or of the institution providing employment at which he is serving.

(3) He must accept the risks associated with the service he is rendering, in particular, when this is necessary in order to save the life of another person or to prevent threatened harm to the public.

(4) He must accept any training necessary for the purpose of rendering alternative civilian service.

§ 28

**Confidentiality**

(1) The person obliged to render alternative civilian

service must keep confidential all matters to which he becomes privy in the course of his alternative civilian service activities, even after he leaves the alternative civilian service. This shall not apply to notices in official correspondence or matters that are obvious or too insignificant to demand secrecy.

(2) The person obliged to render alternative civilian service may not make statements or give testimony about such matters before a court or out-of-court without approval. § 62 of the Federal Civil Service Act (*Bundesbeamtengesetz*) shall apply *mutatis mutandis* subject to the proviso that the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth shall decide whether the approval should be refused.

(3) The statutory duty of the person obliged to render alternative civilian service to report criminal offences shall not be affected thereby.

### § 29

#### **Political Activity**

(1) The person rendering alternative civilian service may not take action, while rendering his service, in favour of or in opposition to a political direction. The right to express his opinion in conversations with others shall not be affected thereby.

(2) Within the alternative civilian service accommodation and facilities, the free expression of an opinion shall not disturb the peaceful life of the group together when off-duty. The person rendering alternative civilian service may, in particular, not solicit for a political group by giving speeches, by distributing papers or publications, or by acting as a representative of a political organisation. The mutual respect [of all parties] may not be endangered.

### § 30

#### **Official Orders**

(1) The person rendering alternative civilian service shall follow official orders given by the President of the Federal Office for the Alternative Civilian Service, the head of the place providing employment as well as by other persons including other persons rendering alternative civilian service, who have been assigned duties related to management and supervision (superiors). The person rendering alternative civilian service must be made aware of the fact that the other had been assigned this position.

(2) If the person rendering alternative civilian service voices reservations regarding the legality of an official order and the legality of the order is upheld, he must obey the order unless it was not issued for an official reason or would violate human dignity or compliance would result in the perpetration of a criminal or administrative offence.

(3) Where the person rendering alternative civilian service follows an official order, he shall be exempt from personal responsibility to the extent that following this order does not result in the perpetration of a criminal or administrative offence and he is aware or should be aware of this since it is obvious from the circumstances known that the act is illegal.

### § 30a

#### **Obligations of the Superior**

The superior must care for the persons rendering alternative civilian service under his supervision. He has the duty to supervise. He may only give official orders for official purposes and only while giving due consideration to the law and official provisions.

### § 31

#### **Official Accommodation; Catered Meals**

The person rendering alternative civilian service is obliged to follow official orders, to live in official accommodation and to take part in the catered meals. Official accommodation is any accommodation assigned by the Federal Office for the Alternative Civilian Service or by the place providing the employment.

### § 32

#### **Working Hours; Internal Operations**

(1) The working hours of the person rendering alternative civilian service shall be in accordance with the provisions which apply or would apply to a comparable employee at his assigned place of work. If there are no such provisions, the provisions applicable to the working hours of federal civil servants shall apply *mutatis mutandis*.

(2) Outside of the working hours applicable pursuant to sub-section 1, the person rendering alternative civilian service shall take part in official training and undertake tasks which are related to his official accommodation or which are otherwise necessary for the rendering of alternative civilian service (internal operations).

(3) The time required for the person rendering alternative civilian service to perform the tasks pursuant to sub-section 2 shall not exceed two hours daily.

### § 32a

#### **Employment During a Labour Dispute**

During a labour dispute that directly affects the institution providing employment, the person rendering alternative civilian service may not be employed to perform a task that, as a consequence of the labour dispute, cannot otherwise be performed at the institution providing employment.

### § 33

#### **Secondary Occupation**

(1) The person rendering alternative civilian service shall obtain approval before engaging in a secondary occupation; this approval may only be refused if the secondary occupation would endanger the rendering of his alternative civilian service or would be contrary to official requirements.

(2) No approval shall be required for the administration of his own assets or assets in respect of which he has granted rights of use to a third party or for literary, scientific, artistic activities or for holding speeches. These activities may be prohibited to the extent that they endanger the rendering of his alternative civilian service or would be contrary to official requirements.

#### § 34

##### **Liability**

(1) If a person rendering alternative civilian service has breached his duties intentionally or through gross negligence, he shall compensate the employer whose tasks he has performed for the damage incurred. If several persons rendering alternative civilian service are jointly responsible for the damage incurred, they shall be jointly and severally liable for the damage.

(2) Claims pursuant to sub-section 1 shall become statute barred three years from the date upon which the employer becomes aware of the damage and of who is liable to pay compensation; regardless of whether the employer has gained this knowledge, such claims shall become statute barred ten years after the offence was committed. If the employer has compensated a third party for the damage, the date upon which the employer becomes aware of the damage shall be replaced [as the relevant date] by the date upon which the employer recognised the third party's claim for compensation or a non-appealable decision on the claim was rendered by a court of law against the employer.

(3) If the person rendering alternative civilian service compensates the employer and the latter has a compensation claim against a third party, such compensation claim shall pass to the person rendering alternative civilian service.

#### § 35

##### **Welfare; Monetary Remuneration and Payment in Kind; Travel Expenses; Vacation**

(1) Unless this Act contains a provision to the contrary, the same provisions as those applicable to a soldier of the lowest rank, who is rendering military service due to his obligation to render military service, shall apply to welfare, monetary remuneration and payment in kind, travel expenses and vacation for the persons obliged to render alternative civilian service,

(2) After rendering [his first] three months of alternative civilian service, a person rendering alternative civilian service may be granted a salary in accordance with Payment Group 2 if this is justified by his aptitude, qualifications and performance. A person rendering alternative civilian service who is paid in accordance with Payment Group 2 may, after rendering six months of alternative civilian service, be granted a salary in accordance with Payment Group 3 if this is justified by his aptitude, qualifications and performance. In agreement with the Federal Ministry of Finance and the Federal Ministry of Defence, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth shall issue administrative

provisions for the implementation of sentences 1 and 2.

(3) The responsible federal ministry shall conclude contracts with corporate bodies and health profession associations to ensure medical care for persons rendering alternative civilian service as well as contracts with public railways to defer payment of travel expenses.

(4) The person rendering alternative civilian service shall receive work clothing free of charge. He is obliged to wear these [work cloths] at work and during internal operations. He shall only be entitled to claim damages for the replacement of his own clothing due to wear and tear and any damage that occurred during his rendering of alternative civilian service if he did not receive work clothes or was not required to wear them.

(5) If objects which the person rendering alternative civilian service had with him while rendering his alternative civilian service are damaged or destroyed by accident or lost, he shall be entitled to receive compensation in relation thereto. If exceptional expenses are incurred in providing first aid after an accident, the person rendering alternative civilian service shall be reimbursed for the documented necessary expenses. Damaged, destroyed or lost items of the personal clothing of the person obliged to render alternative civilian service shall only be replaced pursuant to sentences 1 and 2 and only under the conditions specified in sub-section 4 sentence 3. Sentences 1 to 3 shall also apply in the event of other accidents, which result in a pension claim pursuant to § 47 and § 47a. § 50 (5) shall apply mutatis mutandis.

(6) (deleted)

(7) In the event that a person rendering alternative civilian service dies, the provisions of § 17 of the Civil Service Benefits Act (*Beamtenversorgungsgesetz*) applicable to the payments for the month of death shall be applied mutatis mutandis.

(8) Where the person rendering alternative civilian service dies during his alternative civilian service relationship as a consequence of an injury suffered in the course of alternative civilian service, the parents or adoptive parents, if they lived together in a joint household with the deceased at the time of his death, shall receive a death benefit in an amount that is in accordance with the corresponding provisions for soldiers obliged to render military service. § 50 (5) shall apply mutatis mutandis.

#### § 36

##### **Personnel Records and Appraisals**

(1) Personnel records must be kept for each person obliged to render alternative civilian service; these records must be kept confidential and protected against unauthorised access. The term "personnel records" covers all documents including the data saved in the form of files, which is related to the person obliged to render alternative civilian service, to the extent that there is a direct connection between them and his alternative civilian service (personnel records data); these records shall also include all

documents related to the ascertainment of the person's fitness for alternative civilian service (fitness records). Excluded from the personnel records are those special documents, which are objectively relevant for purposes other than the alternative civilian service relationship, in particular, documents regarding medical examinations and treatment; access to the latter shall only be granted to the medical service and personnel responsible for medical care. The data of personnel records may only be used without the consent of the person obliged to render alternative civilian service for the purpose of implementing this Act as well as for the institution and conduct of proceedings to withdraw or revoke the person's recognition as a conscientious objector; this shall also apply to the processing of such data (storage, editing, transmission, locking and deletion) and usage in automated files.

(2) Personal data regarding the person obliged to render alternative civilian service may only be collected to the extent that it is required for the establishment, conduct, termination or winding up of the alternative civilian service relationship or for the implementation of organisational, personnel and social measures, in particular, for the purpose of personnel planning and the deployment of personnel, or when it is allowed by a statutory provision. From 1 January 1994 onwards, questionnaires with which such personal data is gathered must be approved by the highest responsible administrative authority.

(3) Access to personnel records shall be restricted to those persons who are responsible for personnel management tasks and then only to the extent that this is necessary for the purpose of implementing this Act; it shall also be restricted to those persons who are concerned with the proceedings to withdraw or revoke [the person's recognition as a conscientious objector] as mentioned in sub-section 1 and then only to the extent necessary for these proceedings. The personnel records of a person obliged to render alternative civilian service may be passed on to other offices and doctors within the jurisdiction of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth to the extent that this is necessary in accordance with the intended purpose of the alternative civilian service relationship. Doctors who prepare a medical opinion at the request of the Federal Office for the Alternative Civilian Service may receive the personnel records of a person obliged to render alternative civilian service without his consent. Sentences 1 to 3 shall apply mutatis mutandis to information supplied from the personnel records. To the extent that information suffices, documents shall not be transferred. In the absence of a special statutory provision, information may not be supplied to a third party unless this is necessary to avoid severe detriment to public welfare or to protect a legitimate, higher ranking interest of the third party or for the conduct of the proceedings to withdraw or revoke [the person's recognition as a conscientious objector] as mentioned in sub-section 1. The person obliged to render alternative civilian service shall be informed in writing regarding the information supplied and the recipient. If the Federal Office for the Alternative Civilian Service is informed by the office requesting the information that notifying [the relevant person obliged to render alternative civilian service]

would endanger the public safety and order or that it would be detrimental to the public welfare, [it shall be relieved of] the duty to notify. Automatic access to the data by other authorities is impermissible unless a special statute contains a provision to the contrary.

(4) The person obliged to render alternative civilian service shall be heard in the event of complaints, allegations or appraisals, which are unfavourable for him or could be detrimental to him, as well as before any value judgments are added to his personnel records. His remarks shall be added to his personnel records. The records kept pursuant to sentences 1 and 2 shall be removed from the personnel records and destroyed upon the request of the person obliged to render alternative civilian service after three years unless they were included in an official appraisal of the person obliged to render alternative civilian service or they must be kept for a longer time limit pursuant to another statutory provision before deletion. The time limit for clearance of the records will always be interrupted if criminal or disciplinary proceedings are initiated against the person obliged to render alternative civilian service.

(5) The personnel records of the person obliged to render alternative civilian service shall be kept after the termination of the alternative civilian service relationship for as long as is necessary, in particular, for the purpose of fulfilling the obligation to render service or for pension law reasons. Unless they are taken over by the Federal Archives, the records shall be destroyed when the person obliged to render alternative civilian service has attained the age of 60 if not earlier. Sentences 1 and 2 shall apply mutatis mutandis for the information saved in [computer] files. § 12 (4) sentences 1 and 2 of the Act on Conscientious Objection shall not be affected thereby.

(6) The person obliged to render alternative civilian service shall have the right to examine all of his personnel records after the termination of his alternative civilian service relationship. A person authorised [by the person obliged to render alternative civilian service] shall be allowed to examine the records unless this would be in conflict with official interests. This shall also apply to the survivors if they show credible reasons for believing that they have a legitimate interest. Sentences 2 to 3 shall apply mutatis mutandis to information supplied from the personnel records.

(7) The person obliged to render alternative civilian service shall have a right to also examine other records, which contain personal data about him and which were processed or used in connection with his alternative civilian service relationship unless there are statutory provisions to the contrary. The examination of these records shall be impermissible if the personal data of the person affected is interconnected with the data of third parties or with information that although not related to specific persons is nonetheless information that must be kept confidential and in both cases the interconnection is such that separation cannot be accomplished or can only be accomplished with a disproportionately high degree of effort. In this case, the person obliged to render alternative civilian service must be supplied information.

(8) The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth shall issue a decree, which shall not require the approval of the *Bundesrat*, that regulates the details of the following.

1. the setting up and management of the personnel records of the person obliged to render alternative civilian service including for the period after the termination of the alternative civilian service relationship,
2. the procedures for passing on, storing and destroying information or the location of personnel records including their conveyance and deletion or the location of information stored in automated files as well as the offices involved,
3. the setting up and operation of automated files including the possible ways of accessing the stored information,
4. the manner in which [persons] are allowed to examine [records] and how information is supplied from the personnel records or an automated file and
5. the authority of persons as defined in § 203 (1) numbers 1 and 2 of the Code of Criminal Procedure, who supply free medical care to the person obliged to render alternative civilian service and who the employer instructs to examine the person obliged to render alternative civilian service or to prepare a medical opinion, to reveal personal data that is protected by the doctors' obligation of secrecy.

§ 36a

(deleted)

§ 37

**Participation of the Person Rendering Alternative Civilian Service**

The participation of the person rendering alternative civilian service is regulated in the Act on the Spokesperson for Persons Rendering Alternative Civilian Service (*Gesetz über den Vertrauensmann der Zivildienstleistenden*) dated 16 January 1991 (Federal Law Gazette (*Bundesgesetzblatt*) I p. 47, 53).

§ 38

**Religion**

The person rendering alternative civilian service has the right to practise his religion freely. Participation in church services shall be voluntary.

§ 39

**Medical Examinations**

(1) The recognised conscientious objector shall be medically examined

1. before induction if there are reasons to believe that he is not fit for alternative civilian service or that he is temporarily not fit for alternative civilian service; this must be assumed if he was deferred from alternative civilian service as a consequence of being temporarily unfit or if he requests this and was not held to be available within the two years before the induction;
2. immediately after entering the alternative civilian service;
3. during alternative civilian service if there are reasons to believe that he
  - a) is not fit for alternative civilian service or has become temporarily unfit for alternative civilian service or
  - b) has suffered an injury in the course of rendering his alternative civilian service;
4. before being discharged if there are reasons to believe that he has suffered an injury in the course of rendering his alternative civilian service or if he requests a discharge.

(2) The recognised conscientious objector must appear for and accept a medical examination if it has been ordered; § 23a shall apply *mutatis mutandis*. Invasive medical examinations which substantially affect the physical integrity of the person obliged to render alternative civilian service or which involve substantial risk to his life or health may only be undertaken with his consent. The former do not include simple medical measures such as the taking of blood samples from an ear lobe, a finger or a vein or an x-ray examination.

(3) The right of the person rendering alternative civilian service in connection with an examination pursuant to sub-section 1 no. 4 to obtain a medical opinion from a doctor of his choice shall not be affected thereby. The Federal Office for the Alternative Civilian Service may also collect other evidence; § 20 shall apply *mutatis mutandis*.

§ 40

**Maintaining Health; Medical Operations**

(1) The person rendering alternative civilian service shall do everything within his power to maintain or recover his health. He may not injure his own health intentionally or through gross negligence.

(2) He need only accept invasive medical measures affecting his physical integrity if the measures in question serve to prevent or treat a contagious disease. § 26 (2) sentence 3 of the Infectious Diseases Protection Act (*Infektionsschutzgesetz*) dated 20 July 2000 (Federal Law Gazette I p. 1045) shall not be affected thereby.

(3) If the person rendering alternative civilian service refuses a reasonable medical treatment and as a consequence his ability to render his alternative civilian service or his fitness for work suffers, it shall be possible to refuse him a pension that he would otherwise be entitled to. Medical treatment that involves substantial risk to the life or health of the person rendering alternative civilian service shall not

be considered reasonable medical treatment; an operation shall also not be considered reasonable medical treatment if it is a severely invasive medical measure affecting his physical integrity.

§ 41

**Applications and Complaints**

(1) The person rendering alternative civilian service may present applications and complaints; in doing so, he must go through the proper channels. The proper channels for complaints extend to the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

(2) If his complaint is against the head of the place providing employment, he may lodge his complaint with the President of the Federal Office for the Alternative Civilian Service; if his complaint is against this person, he may lodge his complaint with the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth directly.

(3) Joint complaints are not permissible.

**Chapter Five**

**Termination of Alternative Civilian Service;  
Pension**

§ 42

**Termination of Alternative Civilian Service**

The period of alternative civilian service shall be terminated by discharge or exclusion.

§ 43

**Discharge**

(1) A person rendering alternative civilian service shall be discharged where

1. the period of time fixed for alternative civilian service has expired,
2. he was not obliged to render military service or his obligation to render military service is suspended or ends,
3. the muster notice, induction notice or conversion notice that determined his availability has been revoked pursuant to § 19 (2),
4. he has been deferred pursuant to § 11 (2) or (4),
5. the induction notice should have been withdrawn or revoked pursuant to §§ 8, 10, 11 (1) to (3), or for a reason for exemption from alternative civilian service pursuant to §§ 14 to 15a,
6. one of the reasons for exemption from alternative civilian service pursuant to §§ 8, 10 and 11 (1) no. 2 and (3) occurs,
7. based on his conduct up to now, his continued service would seriously endanger proper order

within the alternative civilian service,

8. he has been declared unavailable,
9. the notice recognising him as a conscientious objector has been withdrawn or revoked,
10. he has notified the Federal Office for the Alternative Civilian Service in writing that he no longer refuses on grounds of conscience to render military service involving the use of arms,
11. he is temporarily unfit to render alternative civilian service and it is unlikely that he will be fit enough to render alternative civilian service within the term fixed for his alternative civilian service and he has applied for or agreed to his discharge.

(2) A person rendering alternative civilian service may be discharged

1. upon his request, if his remaining in alternative civilian service would inflict considerable hardship on him for personal, in particular domestic, professional or financial reasons, and these reasons have developed since the date for his induction was fixed or after the conversion pursuant to § 19 (2) or have developed in addition to reasons that existed earlier; § 11 (4) sentence 2 no. 1 and 2 as well as § 13 (1) sentences 2 and 3 shall apply mutatis mutandis;
2. if he has been sentenced to imprisonment or detention for three months or more or has been sentenced to youth imprisonment without probation; the same shall apply if the suspension of the youth imprisonment sentence with probation is revoked.

§ 44

**Time of the Termination of Alternative Civilian Service**

(1) In the event of discharge, the alternative civilian service relationship shall be terminated at the end of the day of the discharge.

(2) If the person rendering alternative civilian service is absent from work at the place providing employment on the day that he should have been discharged without express permission or if he has received a stay of execution of the induction notice, he shall be considered to be discharged at the end of this day. His obligation to render subsequent service under the conditions specified in § 24 (4) shall not be affected thereby.

(3) Where at the time that he should be discharged the person rendering alternative civilian service is undergoing medical treatment as an in-patient at his doctor's orders, his alternative civilian service for which he was inducted shall end,

1. when his medical treatment as an in-patient is over, but at the latest three months after the [regular] date of his discharge, or
2. if he declares in writing within the three months that he does not consent to the extension of his alternative civilian service relationship - on the day that this declaration is submitted.

§ 45

**Exclusion**

(1) A person rendering alternative civilian service shall be excluded from alternative civilian service if a German court of law within the territory in which the Basic Law applies issues a judgment recognising the punishments, measures or incidental consequences referred to in § 9 (1). The alternative civilian service relationship shall terminate at the end of the day upon which the judgment becomes non-appealable.

(2) If in the event of a new trial none of the punishments, measures or incidental consequences are recognised, the person excluded may not be disadvantaged by his exclusion from the fulfilment of the obligation to render military service.

§ 45a

**Notification in Criminal Cases**

(1) In criminal cases against persons rendering alternative civilian service § 125c (1) to (6) of the Civil Service Law Framework Act (*Beamtenrechtsrahmengesetz*) shall apply mutatis mutandis.

(2) The notifications shall be marked "Confidential Personnel Matter" (*Vertrauliche Personalsache*) and sent to the Federal Office for the Alternative Civilian Service.

§ 46

**Certification of Period of Service and Reference**

(1) Any person who has rendered alternative civilian service shall receive a certificate confirming his period of service after termination of same.

(2) After termination of his alternative civilian service, he shall receive, if he so requests and has actually served at least three months, a reference that shall include information about the nature and duration of his service, about his personal conduct and his performance during his service.

(3) Under the conditions specified in sub-section 2, he shall receive a preliminary reference within a reasonable period of time before the termination of his alternative civilian service.

§ 47

**Pensions**

(1) The provisions of the Federal Pension Act (*Bundesversorgungsgesetz*) shall apply mutatis mutandis to the grant of a pension to a person obliged to render alternative civilian service who has been injured while rendering his alternative civilian service and who suffers the health and financial consequences of his injury after his alternative civilian service relationship has terminated unless this Act contains a provision to the contrary. In the same manner, the survivors of an injured person [who rendered alternative civilian service] shall receive a pension upon request. § 64e of the Federal Pension Act shall not apply.

(2) An alternative civilian service injury is an injury to health, which is caused by rendering alternative civilian service, which is caused by an accident that occurs while rendering alternative civilian service or which is caused by conditions peculiar to the alternative civilian service.

(3) An alternative civilian service injury is also an injury to health which has been caused by

1. an attack on the person rendering alternative civilian service due to
  - a) his behaving in a manner in accordance with his duty
  - or
  - b) his belonging to the alternative civilian service,
2. an accident which the person rendering alternative civilian service or the person who previously rendered alternative civilian service
  - a) has on his journey to or from a necessary measure related to a therapeutic treatment, a spa treatment, an exercise for disabled persons as part of group treatment or related necessary measures to promote the vocational chances of persons in rehabilitation pursuant to § 26 of the Federal Pension Act, or has on his journey to or from a personal appearance in connection with pensions for injured persons requested by a responsible authority or court, or
  - b) has during the implementation of one of the measures listed under letter a.

(4) Alternative civilian service, as defined in this provision, shall also mean

1. official trips, official errands and official activities performed at the designated place that are related to alternative civilian service,
2. the participation of a person rendering alternative civilian service at official events.

(5) Alternative civilian service shall also include

1. the appearance of a person rendering alternative civilian service at the order of an authority responsible for the operation of alternative civilian service,
2. the travel in connection with entering alternative civilian service and the travel in connection with returning from alternative civilian service upon its termination,
3. the travel in connection with alternative civilian service to and from the place providing employment,

The connection with the alternative civilian service shall be considered uninterrupted if the person rendering alternative civilian service does not take the direct route between his home and the place providing employment because

- a) his child, who lives with him in one household, is being placed in someone else's care due to his alternative civilian service or due to the

professional activities of his wife,

- b) he shares a vehicle with other persons rendering alternative civilian service or with working persons or with persons who are insured in the statutory accident insurance scheme for the journey to and from the place providing employment.

If the person rendering alternative civilian service has accommodation at the place of employment or in its vicinity because his permanent family home is too far away from his place of employment or because he is obliged to live in official accommodation, then sentence 1 no. 3 and sentence 2 shall also apply to the journey to and from his family home.

(6) Damage to an aid carried on his body, eyeglasses, contact lenses or dentures shall be considered the equivalent of an injury to health as defined in sub-section 2.

(7) For recognition of an injury to health as a consequence of an injury, it shall suffice that a causal connection seems probable. If the only reason that the probability required for recognition of an injury to health as a consequence of an injury is not considered to exist is that medical science is unsure of the cause of the affliction ascertained, the injury may be recognised with the consent of the Federal Ministry of Health and Social Security (*Bundesministerium für Gesundheit und Soziale Sicherung*) as an injury to health as a consequence of an injury; the consent may be granted in general. Intentional self-inflicted injury shall not be considered an injury [arising in connection with] alternative civilian service.

(8) § 60 of the Federal Pension Act shall apply subject to the proviso that the grant of the pension does not commence before the day after the alternative civilian service relationship is terminated; Subject to the proviso that the grant of the pension first commences on the day after the alternative civilian service relationship is terminated, § 60 (1) of the Federal Pension Act shall also apply if the first application is submitted within a year after the alternative civilian service relationship has been terminated. In derogation from § 61 of the Federal Pension Act, if a recognised conscientious objector, whose survivors would be entitled to the grant of a pension pursuant to sub-section 1, is missing and presumed dead, the grant of a pension to the survivors shall commence at the earliest on the first day of the month that follows the month in which the last payment of the remuneration for the service rendered was paid.

(9) If claims from an alternative civilian service injury overlap with claims from an injury pursuant to § 1 of the Federal Pension Act or pursuant to other Acts, which the Federal Pension Act declares to be applicable, a uniform pension shall be fixed which takes into consideration the total reduction in earning capacity resulting from the injury.

(10) § 36 of the Federal Pension Act shall not apply in the case of a recognised conscientious objector who has died during his alternative civilian service if the Federal Office for the Alternative Civilian Service takes care of the burial and transport.

(11) § 55 of the Federal Pension Act shall also be

applied in the event that it overlaps with claims pursuant to sub-section 1.

#### § 47a

##### **Grant of a Pension in Special Cases**

If a person rendering alternative civilian service was on a leave of absence in order to perform duties that serve the public interest or official interests, he or his survivors may with the consent of the Federal Ministry of Health and Social Security be granted a pension for an injury to health which the person rendering alternative civilian service suffered through this activity or through an accident while performing his tasks in the same manner as in the case of an alternative civilian service injury. Consent shall generally be granted.

#### § 47b

##### **Accident Insurance in Special Cases**

(1) If a claimant pursuant to § 47 (1) in conjunction with § 10 (4) or (5) of the Federal Pension Act or a benefit recipient pursuant to the same section suffers an injury to health arising from an accident while undergoing an in-patient measure pursuant to § 47 (1) in conjunction with § 12 (1) or (4) or § 26 of the Federal Pension Act or during the necessary journey to or from [the measure], he shall receive upon request the grant of a pension for the health and financial consequences of the injury by way of mutatis mutandis application of the provisions of the Federal Pension Act. This shall apply mutatis mutandis if the claimant or the benefit recipient complies with the request of a responsible benefit provider or court to appear in person in connection with the grant of a pension and in the process has an accident.

(2) Sub-section 1 shall apply mutatis mutandis if a person rendering nursing care at a spa treatment pursuant to § 47 (1) in conjunction with § 12 (3) of the Federal Pension Act has an accident.

(3) If an accompanying person who is not insured pursuant to § 2 (1) no. 1 or 9 of the Seventh Book of the Code of Social Law (*Siebttes Buch Sozialgesetzbuch*) suffers an injury to his health as the result of an accident whilst accompanying an injured person on a journey made necessary as a consequence of the injury as defined in § 47 (3) no. 2 a or whilst accompanying an injured person during the implementation of a measure referred to therein, sub-section 1 sentence 1 shall apply mutatis mutandis. Sentence 1 shall not apply if the injury to the health of the accompanying person is at the same time an alternative civilian service injury as defined in § 47 (2).

(4) § 47 (6) shall apply mutatis mutandis.

#### § 48

##### **Therapeutic Treatment in Special Cases**

(1) Any person who has rendered alternative civilian service and who requires therapeutic

treatment due to a health problem upon termination of his alternative civilian service relationship shall receive benefits in accordance with the provisions of § 10 (1) and (3), § 11 and § 11a as well as §§ 13 to 24a of the Federal Pension Act. In applying the provisions mentioned in sentence 1, the health problem ascertained shall be treated as a recognised injury related impairment.

(2) The benefits pursuant to sub-section 1 shall be granted for a period of up to three years after the termination of the alternative civilian service relationship. If a claim pursuant to § 47 is recognised before this period expires, the benefits shall only be granted up to the date of the claim's recognition. In special cases, such benefits can be extended in agreement with the Federal Ministry of Health and Social Security beyond the three-year period. They shall be deducted from the claims pursuant to § 47.

(3) No right to the benefits mentioned in sub-section 1 shall exist,

- a) if, and insofar as, an insurer (§ 29 (1) of the Fourth Book of the Code of Social Law (*Viertes Buch Sozialgesetzbuch*)) is obliged to provide corresponding benefits or benefits must be granted on the basis of another Act other than the Second Book of the Code of Social Law (*Zweites Buch Sozialgesetzbuch*) or the Twelfth Book of the Code of Social Law (*Zwölftes Buch Sozialgesetzbuch*),
- b) if, and insofar as, a corresponding contractual claim exists other than a claim based on a private health insurance scheme or accident insurance scheme,
- c) if the claimant has an income that exceeds the annual income limit of the statutory health insurance scheme, or
- d) if the health problem is the consequence of his own intentional act.

#### § 49

##### **Payment of Sickness Benefits in Special Cases**

§§ 16 to 16f of the Federal Pension Act shall apply in relation to a recognised conscientious objector, who has rendered alternative civilian service and at the time of the termination of his alternative civilian service relationship is unable to work due to an injury suffered in the course of alternative civilian service, subject to the following provisos:

1. Where the recognised conscientious objector was not employed in a gainful occupation, he shall be considered unable to work if he cannot pursue a gainful occupation or take part in vocational training or can do so only at the risk of worsening his condition. The date that the alternative civilian service relationship was terminated shall be considered the date that the inability to work commenced.
2. The income that the recognised conscientious objector earned before he became unable to work shall still be considered to have been reduced by the inability to work if the reduction in income

resulting from the termination of the alternative civilian service relationship occurs due to the expiration of the period fixed for such relationship.

3. Ten-eighths of the monetary remuneration and payments in kind paid to the person obliged to render alternative civilian service shall be considered income earned before the onset of the inability to work. Where the person obliged to render alternative civilian service received income in the last calendar month before the time fixed for his induction, this income shall be considered the relevant income if to do so is more advantageous for him.

#### § 50

##### **Compensation for Alternative Civilian Service Injuries**

(1) Recognised conscientious objectors shall receive compensation for the consequences of an alternative civilian service injury in the amount of the basic pension and the additional allowance for the severely disabled pursuant to § 30 (1) and § 31 of the Federal Pension Act.

(2) If an alternative civilian service injury overlaps with an injury as defined in § 1 of the Federal Pension Act or an Act that the Federal Pension Act declares to be applicable, the resulting total reduction in the ability to be employed in a gainful occupation must be ascertained. A sum in the amount of the basic pension, which is allotted for the reduction in earning capacity resulting from the injury as defined in the Federal Pension Act or the Act that the Federal Pension Act declares to be applicable, shall be deducted from the resulting amount of compensation. The remaining amount must be granted as compensation.

(3) § 47 (7) sentence 2 and § 47a shall apply.

(4) Payment of the compensation shall commence in the first month that the prerequisites therefore are satisfied. § 60 (4) sentences 1 and 2 and § 62 (2) and (3) of the Federal Pension Act shall apply *mutatis mutandis*. The claimant shall only have a right to compensation for the period up to the termination of his alternative civilian service. If a person obliged to render alternative civilian service is missing, a right to compensation shall only exist for the period up to the end of the month in which the Federal Office for the Alternative Civilian Service determines that it is probable that the missing person has died. If the missing person returns, his right to compensation shall be renewed and back-payments shall be paid for the service rendered.

(5) The right to compensation may not be assigned, pledged or garnished. It is permissible to set off a demand for repayment of compensation that was overpaid.

#### § 51

##### **Grant of Pensions**

(1) The authorities which are responsible for the implementation of the Federal Pension Act on behalf

of the Federation shall grant pensions pursuant to §§ 47 to 49.

(2) In matters concerning § 35 (5) and (8) and § 50, the Act on the Administrative Procedure for Pensions and Related Benefits for War Victims (*Gesetz über das Verwaltungsverfahren der Kriegsopferversorgung*), §§ 60 to 62 as well as §§ 65 to 67 of the First Book of the Code of Social Law (*Erstes Buch Sozialgesetzbuch*) and the Tenth Book of the Code of Social Law (*Zehntes Buch Sozialgesetzbuch*) shall apply *mutatis mutandis*. The Act on the Administrative Procedure for Pensions and Related Benefits for War Victims, the First and Tenth Book of the Code of Social Law and the provisions of the Social Security Courts Act (*Sozialgerichtsgesetz*) regarding preliminary proceedings shall be applied *mutatis mutandis* in matters dealt with in sub-section 1 if the grant of pensions for the injured is not based on the grant of benefits for war victims pursuant to §§ 25 to 27i of the Federal Pension Act.

(3) A lawsuit may be brought before the courts with jurisdiction in social security law matters in disputes in matters dealt with in sub-section 1 if the grant of pensions for the injured is not based on the grant of benefits for war victims pursuant §§ 25 to 27i of the Federal Pension Act or § 35 (5) and (8) and § 50. The provisions of the Social Security Courts Act shall apply *mutatis mutandis* subject to the following provisos:

1. If a court with jurisdiction in social security law matters has rendered a non-appealable decision in matters dealt with in § 35 (5) and (8) and § 50 regarding the question of an alternative civilian service injury or injury to health as defined in § 47a and the causal connection between an injury to health and a requirement in § 47 (2) to (7) or § 47a or if a court with jurisdiction in social security law matters has rendered a non-appealable decision regarding the existence of an injury to health as defined in § 47 (7) sentence 2, such decision shall insofar also be binding in relation to a legal dispute regarding a claim pursuant to § 47 (1) based on the same cause; in matters dealt with in sub-section 1, clause 1 shall apply *mutatis mutandis*.
2. If a *Land* is named in proceedings in relation to the grant of pensions and benefits for war victims, it shall be replaced by the Federal Republic of Germany.
3. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth shall represent the Federal Republic of Germany. The [Ministry] can issue a standing order to assign [the task of] representation [in such matters] to other authorities; the order must be published in the Federal Law Gazette.
4. Numbers 2 and 3 shall only apply in matters related to § 35 (5) and (8) and § 50.

(4) § 88 (8) and (9) of the Act on Soldiers' Pensions (*Soldatenversorgungsgesetz*) shall apply *mutatis mutandis*.

§ 51a

### **Transitional Provisions on the Occasion of the Establishment of German Unity**

The federal government is authorised to issue by way of decree with the consent of the *Bundesrat* transitional provisions for alternative civilian service injuries of persons obliged to render alternative civilian service which give due consideration to the special circumstances in the territory mentioned in Article 3 of the Unification Treaty (*Einigungsvertrag*). The authority to issue provisions by way of a decree shall extend, in particular, to the type of pension granted, the basis for calculating it, its amount and suspensive provisions which are contrary to this Act.

## **Chapter Six**

### **Criminal Fines, Administrative Fines and Disciplinary Provisions**

#### **§ 52**

#### **Absence Without Leave**

Any person who leaves alternative civilian service or is absent from it without leave and is deliberately or negligently absent for more than three full calendar days shall be punishable by imprisonment of up to three years.

#### **§ 53**

#### **Desertion from Service**

(1) Any person who leaves alternative civilian service or is absent from it without authority in order to evade his obligation to render alternative civilian service permanently or in the event of war or in order to bring about the termination of his alternative civilian service relationship shall be punishable by imprisonment of up to five years.

(2) The attempt shall be punishable.

(3) If the perpetrator gives himself up within one month and if he is prepared to fulfil his duty to render alternative civilian service, then he shall be punishable by imprisonment of up to three years.

(4) The provisions on attempted participation pursuant to § 30 (1) of the Criminal Code shall apply to criminal offences pursuant to sub-section 1 *mutatis mutandis*.

#### **§ 54**

#### **Non-compliance with Orders**

(1) The following shall be punishable by imprisonment of up to three years,

1. refusal to follow an official order by opposing it in word or deed, or
2. insistence on not following an official order after it has been repeated

(2) If the perpetrator in cases within sub-section 1

no. 1 refuses to follow an official order which must not be immediately fulfilled, but nonetheless follows it in good time and voluntarily, the court may refrain from imposing a penalty.

(3) In the case of sub-section 1, the person rendering alternative civilian service shall not be acting illegally if the official order is not binding, in particular if it was not issued for official purposes or if it violates human rights or if following it would involve committing a criminal or an administrative offence. This shall also apply if the person rendering alternative civilian service wrongly assumes that the official order is binding.

(4) Where a person rendering alternative civilian service does not follow an official order because he wrongly assumes that by following it he would commit a criminal or an administrative offence, then he shall not be punishable pursuant to sub-section 1 if he was not able to avoid the erroneous assumption.

(5) Where a person rendering alternative civilian service wrongly assumes that an official order is not binding for other reasons and thus does not follow it, he shall not be punishable pursuant to sub-section 1 if he could not have avoided the erroneous assumption and he could not reasonably have been expected under the circumstances known to him to take legal action to defend himself against the supposedly non-binding order; if he could reasonably have been expected to do this, then the court may refrain from imposing a penalty pursuant to sub-section 1.

#### § 55

##### **Participation**

Any person who is guilty of incitement and aiding and abetting an illegal act, which constitutes an element of a criminal offence pursuant to this Act, and any person who is guilty of attempting to participate in desertion from service (§ 53 (4)) shall also be punishable even if he is not a person rendering alternative civilian service.

#### § 56

##### **Exemption from Fines**

Where a person rendering alternative civilian service commits a criminal offence under this Act, a fine pursuant to § 47 (2) of the Criminal Code may not also be imposed on him if there are special circumstances pertaining to the criminal offence or the personality of the perpetrator, which require that he be sentenced to imprisonment so as to safeguard discipline within the alternative civilian service.

#### § 57

##### **Administrative Offences**

- (1) Any person who wilfully or negligently
1. breaches a duty imposed on him pursuant to § 23 (4) sentence 1 or 2 during the alternative civilian service supervision

2. contravenes the duty laid down in § 39 (2) sentence 1 to report for an ordered examination and to endure the same.

shall be guilty of an administrative offence.

(2) The administrative offence may be punished by a fine.

(3) The administrative authority as defined in § 36 (1) no. 1 of the Act on Administrative Offences (*Gesetz über Ordnungswidrigkeiten*) shall be the Federal Office for the Alternative Civilian Service.

#### § 58

##### **Disciplinary Offence**

A person rendering alternative civilian service commits a disciplinary offence if he wilfully or negligently breaches his duties.

#### § 58a

##### **Punishment of Disciplinary Offences**

(1) Disciplinary offences may be punished by disciplinary measures.

(2) The responsible disciplinary superior shall decide in due exercise of his or her discretion if, and if so with what measures, he or she should intervene if a disciplinary offence is committed pursuant to this Act. In doing so, he or she must also take into account all of [the offender's] official and private conduct.

(3) If six months have expired since the disciplinary offence was committed, disciplinary measures may no longer be imposed. The time limit shall not commence as long as the facts are the subject-matter of investigations pursuant to § 62, a complaint pursuant to § 65 (2), proceedings before the administrative court pursuant to § 66, criminal proceedings or proceedings for an administrative fine.

(4) A disciplinary offence may only be punished in disciplinary proceedings once. Several breaches of duty by a person rendering alternative civilian service, which can be decided simultaneously, must be punished as one disciplinary offence.

#### § 58b

##### **Relationship of Disciplinary Measures to Criminal and Administrative Measures**

(1) Where a court or an authority has imposed a punishment or administrative measure, disciplinary measures may only be imposed in relation to the same facts if this is needed in addition in order to maintain order in the alternative civilian service or if the reputation of the alternative civilian service has been seriously damaged. Where the person rendering alternative civilian service is acquitted in criminal or administrative proceedings or where an act can no longer be prosecuted as an offence pursuant to § 153a (1) sentence 5 or (2) sentence 2 of the Code of Criminal Procedure after fulfilment of conditions and directions, disciplinary measures may

only be imposed in relation to the same matter if this is necessary in order to maintain order in alternative civilian service or if the reputation of the alternative civilian service would be seriously damaged.

(2) If a non-appealable disciplinary measure has been imposed and if subsequently a court or administrative authority imposes a punishment or administrative measure in relation to the same matter or if an act can no longer be prosecuted as an offence pursuant to § 153a (1) sentence 5 or (2) sentence 2 of the Code of Criminal Procedure after fulfilment of conditions and directions, the disciplinary measure must be cancelled upon application from the person rendering alternative civilian service or the person who previously rendered alternative civilian service if the disciplinary measure is not needed in addition pursuant to sub-section 1. This shall not apply if the disciplinary measure was expressly taken into account in the criminal or administrative proceedings.

(3) The application pursuant to sub-section 2 must be submitted to the President of the Federal Office for the Alternative Civilian Service, or if the decision was handed down by the administrative court (§ 66), to the latter. The decision must be served on the person rendering alternative civilian service, and if it was made by the administrative court, also on the President of the Federal Office for the Alternative Civilian Service.

(4) If the President of the Federal Office for the Alternative Civilian Service refuses to cancel the disciplinary measure, the person rendering alternative civilian service may apply for a decision by the administrative court. The application must be submitted in writing to the President of the Federal Office for the Alternative Civilian Service within two weeks from the service of the notice; there shall also be compliance with the time limit if the application is received by the administrative court within the same period. The administrative court shall make a final decision without an oral hearing. Sub-section 3 sentence 2, § 65 (1) sentence 3 and § 66 (3) shall apply *mutatis mutandis*.

#### § 58c

##### **Formal Merit Awards**

(1) Exemplary fulfilment of duties and excellent individual achievements may be honoured through formal merit awards.

(2) A formal merit award must be revoked if it is later established that the prerequisites for granting it did not exist. Reasons must be given for the revocation. The person rendering alternative civilian service must be given a hearing before the decision.

(3) If a formal merit award is revoked, it must be decided at the same time whether special holiday leave taken must be deducted from against annual holidays in whole or in part. Special holiday leave taken shall not be deducted from annual holidays if this would result in serious hardship.

(4) Sub-sections 1 to 3 shall also apply to persons who previously rendered alternative civilian service.

#### § 59

##### **Disciplinary Measures**

(1) Disciplinary measures are

1. reprimands,
2. restrictions on leave,
3. fines,
4. refusals to upgrade [the person rendering alternative civilian service] to a higher payment group,
5. downgrading [the person rendering alternative civilian service] to a lower payment group.

(2) Restrictions on leave and fines may be imposed simultaneously.

#### § 60

##### **Content and Extent of Disciplinary Measures**

(1) A reprimand is a formal criticism of specific breaches of duty by the person rendering alternative civilian service. Disapproving statements by a disciplinary superior (rebukes, warnings, objections and the like) which are not expressly referred to as reprimands shall not be disciplinary measures.

(2) A restriction on leave shall consist of a prohibition on leaving official accommodation without permission. It shall be for a minimum of one day's and a maximum of thirty days' duration. It may only be imposed on persons rendering alternative civilian service who live in official accommodation.

(3) Fines may not exceed the amount of four months' salary.

#### § 61

##### **Disciplinary Superior**

(1) The persons responsible for the exercise of disciplinary powers shall be the President and civil servants of the Federal Office for the Alternative Civilian Service appointed by him or her who are qualified to be judges.

(2) The President of the Federal Office for the Alternative Civilian Service may transfer disciplinary authority for the imposition of reprimands, restrictions on leave of up to ten days and fines of up to one month's salary to the heads of places providing employment and alternative civilian service schools and their representatives and the regional leaders of the Federal Office for the Alternative Civilian Service; the transfer may be revoked at any time. If the person rendering alternative civilian service is transferred before pending disciplinary proceedings have been discontinued or concluded through the imposition of a disciplinary measure, responsibility shall be transferred to the disciplinary superior referred to in sub-section 1.

(3) The disciplinary superior referred to in sub-section 1 shall be responsible if the disciplinary superior responsible pursuant to sub-section 2 sentence 1 is involved in the offence or personally

injured by it or considers himself or herself biased.

§ 62

**Investigations**

(1) If facts become known which justify a suspicion that a disciplinary offence has been committed, the responsible disciplinary superior shall instigate the investigations necessary to clarify the matter. In this connection, he or she must investigate not only the incriminating circumstances, but also the exonerating circumstances which are significant for the evaluation of the disciplinary measures. § 20 shall apply mutatis mutandis. The person rendering alternative civilian service must be informed of the investigations as soon as this can be done without endangering the purpose of the investigation. He must be allowed to inspect the file to the extent this is possible without endangering the purpose of investigation.

(2) Where a decision is based on factual findings which were made in a non-appealable judgment in criminal or administrative proceedings, such findings will be binding on the disciplinary superior if the disciplinary offence concerns the same matter.

(3) Factual findings in other legal proceedings shall not be binding; they may however be used in disciplinary proceedings without being re-examined.

§ 62a

**Stay of Proceedings**

Disciplinary proceedings that have been commenced may be stayed until criminal proceedings which are pending with regard to the same crime have been concluded. This shall not apply if the facts have been established or if no hearing in the criminal proceedings can take place for reasons associated with the person or conduct of the person rendering alternative civilian service.

§ 62b

**Hearing**

(1) The person rendering alternative civilian service must be given an opportunity to make a statement. A record of his statement must be made and submitted to him for signature.

(2) The involvement of a spokesperson in the punishment of disciplinary offences shall be based on § 22 of the Act on the Spokesperson for Persons Rendering Alternative Civilian Service (Federal Law Gazette I p. 47, 53). If there is no spokesperson, the works' council or staff council must be heard in relation to the person of the person rendering alternative civilian service and in relation to the matter; such person must be informed of the matter in advance.

§ 63

**Discontinuation of Proceedings**

If the investigations do not find that there was a disciplinary offence or if the disciplinary superior does not regard a disciplinary measure as admissible or appropriate, he or she shall discontinue proceedings and inform the person rendering alternative civilian service of this.

§ 64

**Imposition of a Disciplinary Measure**

(1) If the disciplinary superior does not discontinue the proceedings, he or she shall impose a disciplinary measure.

(2) If the disciplinary superior responsible pursuant to § 61 (2) sentence 1 does not consider his or her powers to be adequate, he or she may obtain the decision of the disciplinary superior referred to in § 61 (1).

(3) Notwithstanding the fact that another disciplinary superior has discontinued the proceedings the President of the Federal Office for the Alternative Civilian Service may impose a disciplinary measure in relation to the same matter.

§ 65

**Disciplinary Order; Complaint**

(1) The disciplinary measure shall be imposed through a written disciplinary order containing reasons; it must be served on or notified orally to the person rendering alternative civilian service. If it is notified orally, a record of this must be kept; the person rendering alternative civilian service must be handed a copy of the disciplinary order. He must be informed immediately in writing of his right to appeal against [the disciplinary order], of the place where he should lodge his appeal, of the form in which the appeal should be made and of the time limit for doing so.

(2) The person rendering alternative civilian service may submit a complaint, in writing or orally, about the disciplinary order made by the disciplinary superior pursuant to § 61 (2) sentence 1 to the latter or to the President of the Federal Office for the Alternative Civilian Service within two weeks of having the [disciplinary order] served on him or notified to him orally. If the complaint is made orally, a record of this must be kept and the person rendering alternative civilian service must sign such record. If the complaint is made to the disciplinary superior pursuant to § 61 (2) sentence 1, the latter must submit his comments on same to the President of the Federal Office for the Alternative Civilian Service within one week. His decision may not increase the severity of the disciplinary measure. The decision must be served. Sub-section 1 sentence 3 shall apply mutatis mutandis.

§ 66

**Appeal to the Administrative Court**

(1) Application may be made for a decision by the

administrative court against the disciplinary orders of the disciplinary superiors referred to in § 61 (1) or against the decisions of the President of the Federal Office for the Alternative Civilian Service pursuant to § 65 (2) sentence 4 within two weeks from the service or oral notification.

(2) The application must be made in writing to the President of the Federal Office for the Alternative Civilian Service and contain reasons; the time limit for submission of the application shall be deemed to have been complied with if the application is received by the administrative court within its term. The administrative court may order an oral hearing. It shall issue a formal decision on the disciplinary order; there shall be no appeal against its decision. In its decision it may confirm or cancel the disciplinary order or amend it to the advantage of the person rendering alternative civilian service. In addition, it may discontinue the disciplinary proceedings if it finds that there has been a disciplinary offence, but in view of the person rendering alternative civilian service's conduct as a whole a disciplinary measure is not needed. The decision must be served on the person rendering alternative civilian service.

(3) The administrative court in the district in which the applicant was rendering service at the time the conduct that is alleged to constitute a disciplinary offence occurred shall have jurisdiction. If there are several administrative courts which might have jurisdiction, the administrative court in the district in which the person rendering alternative civilian service last rendered alternative civilian service shall have jurisdiction. § 45 sentence 3 and sentence 4 of the Federal Disciplinary Act (*Bundesdisziplinargesetz*) shall apply mutatis mutandis. The Federal Disciplinary Act shall apply to the composition of the administrative court and the proceedings unless they conflict with the provisions of this Act or unless this Act contains a provision to the contrary. An associate judge, who is rendering alternative civilian service in the district of the administrative court with jurisdiction, shall replace the associate judge from the civil service, who should belong to the administrative branch and, if possible, also be in the same civil servant's career group as the civil servant against whom the disciplinary proceedings are directed (§ 46 (1) sentence 3 of the Federal Disciplinary Act). The Federal Ministry of Justice (*Bundesministerium der Justiz*) shall appoint the associate judge for the duration of his term of alternative civilian service upon recommendation from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

(4) The continuation of the proceedings and a decision on the merits shall not be affected by the fact that the alternative civilian service relationship of the person rendering alternative civilian service terminates.

#### § 67

##### **Cancellation of the Disciplinary Order**

(1) If the administrative court in the case of § 66 (2) confirms the decision appealed against, or if it reduces the severity of the disciplinary measure, or if it discontinues the disciplinary proceedings pursuant

to § 66 (2) sentence 6, or if it finds that there has been no disciplinary offence and cancels the disciplinary order for this reason, then a renewed exercise of disciplinary power for or against the person rendering alternative civilian service shall only be admissible if there are significant facts or evidence which were not known to the court at the time of its decision. The President of the Federal Office for the Alternative Civilian Service shall retain the right to exercise disciplinary powers again.

(2) Furthermore, the President of the Federal Office for the Alternative Civilian Service may cancel a disciplinary order at any time and render a new decision on the merits. It shall only be permissible to increase the severity of the kind of disciplinary measure and its length if the disciplinary order has been cancelled within six months from its issue.

(3) The President of the Federal Office for the Alternative Civilian Service must cancel a disciplinary order and decide the case again on its merits if, after a disciplinary order has become non-appealable, a judgment on account of the same facts has been handed down and become non-appealable in criminal or administrative proceedings against the person rendering alternative civilian service and the factual findings of the judgment differ insofar as they are relevant from the factual findings in the disciplinary order.

(4) The person rendering alternative civilian service or the person who previously rendered alternative civilian service may apply to have a disciplinary measure which is no longer appealable cancelled if new facts or evidence are introduced which could lead to the cancellation of the disciplinary measure.

(5) § 62b (1), § 65 (1) sentence 3 and § 66 shall apply mutatis mutandis.

#### § 68

##### **Enforcement**

(1) The disciplinary measures shall be enforced by the disciplinary superior who imposed them; he or she may appoint the head of the place providing employment or such person's representative to enforce them unless such persons were involved in the offence or injured by it.

(2) The reprimand shall be considered enforced as soon as it has become non-appealable.

(3) Restrictions on leave, fines, refusal to upgrade [the person rendering alternative civilian service] to a higher payment group and downgrading [the person rendering alternative civilian service] to a lower payment group shall first be enforceable after the expiration of the third day following the service or notification of the disciplinary order. The time when the enforcement should commence shall be ordered officially by the superior authorised pursuant to subsection 1.

(4) A complaint pursuant to § 65 (2) will only delay the enforcement of a restriction on leave if it was lodged before the commencement of enforcement. An application for a decision by the administrative court pursuant to § 66 (1) shall not delay

1372

enforcement; the administrative court may stay enforcement.

(5) The restriction on leave must be enforced on successive days. The superior responsible for enforcement may order for control purposes that the person rendering alternative civilian service must report to his superiors at appropriate intervals. He may exempt the person rendering alternative civilian service for compelling reasons on one or more days for a certain time from the restrictions ordered; this shall not lead to an extension of the enforcement period.

(6) Fines shall be collected pursuant to the provisions of the Administrative Enforcement Act (*Verwaltungs-Vollstreckungsgesetz*). They may be deducted from salary or, if the alternative civilian service relationship terminates, from the discharge pay. In the case of enforcement against salary not more than one-half of a month's salary shall be retained. Fines may also be enforced after the day of discharge.

(7) Disciplinary measures may no longer be enforced six months after the disciplinary measure has become non-appealable. Compliance with the time limit shall exist if enforcement commences before its expiry.

#### § 69

##### Information

(1) Information about formal merit awards and about disciplinary measures shall only be given without the consent of the person rendering alternative civilian service or without the consent of the person who previously rendered alternative civilian service

1. to offices within the alternative civilian service, to courts and to public prosecutor's offices if this is necessary for the performance of the tasks within the responsibility of the recipient and
2. to persons injured for the purposes of safeguarding their rights.

It shall be permissible to also hand over documents under these circumstances. Information about formal merit awards and disciplinary measures which have been deleted or are ready for deletion shall only be given with the consent of the person rendering alternative civilian service or with the consent of the person who previously rendered alternative civilian service.

(2) The recipient may only process or use the information given for the purpose for which it was given to him or her.

#### § 69a

##### Deletion

(1) Entries in personnel records about disciplinary measures must be deleted after one year; the dossiers which came into being as a result thereof must be removed from the personnel records and deleted. Disciplinary measures which must be deleted

may no longer be taken into account.

(2) The time limit shall commence on the day upon which the disciplinary measure is imposed. It shall not terminate for as long as criminal or disciplinary proceedings are pending against the person rendering alternative civilian service or for as long as another disciplinary measure may be taken into account.

(3) If a disciplinary measure is cancelled it must be deleted. If it has affected the calculation of the time limit for deletion, the latter must be calculated again. Formal merit awards must be deleted if their rescission has become non-appealable.

(4) Following the expiration of the time limit, the recognised conscientious objector shall be considered to be unaffected by disciplinary measures during alternative civilian service; he may refuse to give any information about the disciplinary measure and the disciplinary offence. To this extent he may declare that no disciplinary measure has been imposed on him.

#### § 70

##### Power to Grant a Pardon

The Federal President shall have the power to grant a pardon with respect to disciplinary measures imposed pursuant to this Act and the exclusions pursuant to § 45 (1). It shall be exercised by him or her or delegated to someone else.

### Seventh Chapter

#### Special Administrative Provisions

#### § 71

##### Form and Notification of Administrative Decisions; Service

(1) Non-favourable administrative decisions based on this Act must be issued in writing.

(2) Administrative decisions issued pursuant to sub-section 1 must be served. In addition, [documents] shall be served if the same is laid down by this Act or by order of one of the offices responsible for the alternative civilian service.

(3) § 2 to § 15 of the Administration Service Act (*Verwaltungszustellungsgesetz*) apply to service; § 7 (1) applies subject to the proviso that minors must be served personally. The Federal Office for the Alternative Civilian Service shall arrange for service abroad; it shall take effect as public service.

#### § 72

##### Objection

(1) The Federal Office for the Alternative Civilian Service shall decide on objections to administrative decisions based on this Act.

1373

(2) An objection to an administrative decision which relates to the availability, enlistment or discharge of a recognised conscientious objector must be lodged within two weeks.

§ 73

**Appeal Against the Induction Notice**

If the muster notice has become non-appealable, it shall only be possible to exercise a legal remedy against the induction notice or the conversion notice pursuant to § 19 (2) if it is alleged that the same infringe a right.

§ 74

**Exclusion of the Suspensive Effect of the Objection and the Appeal**

(1) An objection against an induction notice, an objection to the cancellation of an induction notice, an objection to a fitness examination notice and an objection to a conversion notice pursuant to § 19 (2) shall have no suspensive effect.

(2) An appeal against a fitness examination notice, an appeal against an induction notification, an appeal against the cancellation of an induction notice, an appeal against a conversion notice pursuant to § 19 (2) and an appeal against a notice determining availability shall have no suspensive effect. The court must hear the Federal Office for the Alternative Civilian Service before ordering [that the above shall have] suspensive effect or that enforcement shall be terminated.

§ 75

**Appeals Against Decisions by the Administrative Court**

No appeal shall be allowed against a judgment if it concerns the availability, enlistment or discharge of a recognised conscientious objector, and no complaint shall be allowed against other decisions of the administrative court. This shall not apply to a complaint about the refusal of an appeal on law pursuant to § 135 in conjunction with § 133 of the Rules of the Administrative Courts (*Verwaltungsgerichtsordnung*) or a complaint about orders concerning recourse to the courts pursuant to § 17a (2) and (3) of the Judicature Act. § 17a (4) sentences 4 to 6 of the Judicature Act shall *mutatis mutandis* to orders concerning recourse to the courts.

§ 76

**Rights of the Legal Representative**

The legal representative of the recognised conscientious objector may make independent applications, lodge appeals and exploit legal remedies during the time limits for same if availability for alternative civilian service is involved.

§ 77

**Scope of Application**

§ 71 to § 76 shall not apply if administrative decisions are issued by offices other than those referred to in § 2 (1) and § 5a.

## Chapter Eight

### Final Provisions

#### § 78

##### Mutatis Mutandis Application of Other Legal Provisions

(1) The following apply mutatis mutandis to recognised conscientious objectors

1. the Work Place Protection Act (*Arbeitsplatzschutzgesetz*) subject to the proviso that in § 14a (2) the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and the office designated by it shall replace the Federal Ministry of Defence and the office designated by it and that in § 14a (6) the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth shall replace the Federal Ministry of Defence and that the duration of alternative civilian service shall replace the duration of basic military service;
2. the Maintenance Protection Act (*Unterhaltungssicherungsgesetz*) subject to the proviso that in § 23 the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth shall replace the Federal Ministry of Defence and that the duration of alternative civilian service shall replace the duration of basic military service.

(2) Unless this Act contains a provision to the contrary, the provisions of civil service law applying to military service on the basis of the obligation to render military service shall apply in the same way to alternative civilian service.

#### § 79

##### Provisions Applicable in the Event of War

The following special provisions shall apply in the event of war

1. § 4 (1) no. 6 of the Military Service Act shall apply mutatis mutandis.
2. § 24 (3) and § 43 (1) no. 1 shall not apply.
3. Persons obliged to render military service, who have applied to be recognised as conscientious objectors, may be inducted into alternative civilian service before a decision is made on their application for recognition.
4. Deferments pursuant to § 11 (2), (4) and (5) from the period before the commencement of the war shall expire; pursuant to § 14a (1) and (2), § 14b (1) and § 14c (1) persons obliged to render alternative civilian service who have not yet been inducted into alternative civilian service may be inducted. There shall be no deferments pursuant to § 11 (2) and (5). Deferments pursuant to § 11 (4) shall be permitted if enlistment into alternative civilian service in the event of war would be an

unreasonable hardship.

5. There is no need for a hearing in cases under § 19 (4).
6. § 15a (1) shall not apply if the recognised conscientious objector, who is prevented from rendering alternative civilian service for reasons of conscience, shows proof within four weeks from the occurrence of war that he is in an employment relationship with the usual working hours in a hospital or other institution for the treatment, nursing and care of people. § 15a (2) shall not apply.

#### § 80

##### Restrictions on Fundamental Rights

The fundamental right to physical integrity (Article 2 (2) sentence 1 of the Basic Law), the freedom of the person (Article 2 (2) sentence 2 of the Basic Law), freedom of movement (Article 11 (1) of the Basic Law) and the inviolability of the home (Article 13 of the Basic Law) and the right of petition (Article 17 of the Basic Law) shall be restricted pursuant to this Act.

#### § 81

##### Transitional Provisions on the Occasion of the Amendment Act dated 27 September 2004 (Federal Law Gazette I p. 2358).

(1) Persons obliged to render alternative civilian service, who are in an alternative civilian service relationship on 30 September 2004 and who have rendered alternative civilian service for nine months or longer, must be discharged at the end of this day. The person obliged to render alternative civilian service must be allowed contrary to sentence 1 to render alternative civilian service of a different duration to that fixed in the induction notice if he applies for this before his discharge.

(2) In relation to persons obliged to render alternative civilian service who do not fall within subsection 1, who are inducted for alternative civilian service for longer than nine months pursuant to § 24 (2) sentence 1 of this Act in conjunction with § 5 (1) sentence 4 of the Military Service Act, in the version applicable until the entry into force of this Act, the term of service shall be fixed again pursuant to § 24 (2) sentence 1 of this Act in conjunction with § 5 (1a) sentence 1 of the Military Service Act. Sub-section 1 sentence 2 shall apply mutatis mutandis.

(3) Recognised conscientious objectors who agreed or entered into a contract under previous law

1. to render other service abroad (§ 14b) or
2. to provide equivalent service (§ 15a)

must be released from the obligation or equivalent employment relationship upon request if they have rendered the service planned for after 1 October 2004 on 30 September 2004 or later.

(4) The obligation to participate shall terminate for recognised conscientious objectors who have agreed to serve voluntarily as helpers in civil defence or

1375

disaster control (§ 14 (1) sentence 1) if they have participated as planned for after 1 January 2002 on 31 December 2001 or later pursuant to § 14 (4).