

Legal provisions for persons receiving benefits in accordance with the second volume of the German Social Security Code (SGB-II)

DUTIES TO COOPERATE AND GENERAL INFORMATION

Section 1 (1) SGB-II

The basic financial security for persons seeking employment should reinforce the personal responsibility of persons of an employable age who are eligible for benefits and persons who share a dependent household with them and make a contribution to the fact that they can make a living on the basis of their own means and strengths without depending on basic financial security. It should provide support to persons of an employable age who are eligible for benefits when commencing employment or remaining in it and secure a livelihood, should they be unable to earn a living by other means. The principle of equality of men and women is to be complied with consistently.

Section 10 (1) SGB-II

The person who is of an employable age who is eligible for benefits can be expected to accept any employment unless he is unable to do the particular work offered to him for physical, mental or psychological reasons, or that the future practising of the work which he mainly did previously would be made much more difficult due to the fact that the previous employment includes special physical requirements or the carrying out of the work would endanger the upbringing of his child or his partner's child; the upbringing of a child who has attained the age of three years old is not as a rule endangered provided that the care of the child is ensured in a day care centre or with a day childminder within the meaning of the regulations of the eighth book or in any other manner; the responsible municipal funding bodies should work towards ensuring that a parent who is of an employable age is given preference and offered a place in a day care centre for his or her child, the practising of the work would not be compatible with the nursing of a family member and the nursing cannot be ensured in any other manner, the practising of the work is opposed by any other important reason.

Section 31 SGB-II (Excerpt)

Persons of an employable age who are eligible for benefits breach their obligations if, despite being instructed in writing about the legal consequences or the knowledge thereof,

1. they refuse to meet the obligations stipulated in the integration agreement or in the administrative act which replaces the integration agreement pursuant to Section 15 (1) Sentence 6 in particular to prove that they have made sufficient own efforts,
2. they refuse to accept or continue with reasonable work, vocational training or the opportunity of working, or the initiation of which, through their behaviour pursuant to Section 16d or work which is promoted by an employment subsidy pursuant to Section 16e,
3. they do not begin, discontinue a reasonable integration measure into work or give cause for the discontinuation.

This shall not apply if persons of an employable age who are eligible for benefits present and prove an important reason for their behaviour.

A breach of duty of persons of an employable age who are eligible for benefits is also to be assumed if

1. they have reduced their income or assets after attaining the age of 18 with the intention of creating the pre-requisites for the granting or increase of unemployment benefit II.
2. despite instructions about the legal consequences or the knowledge thereof they continue their non-economical behaviour,
3. their entitlement to unemployment benefit is suspended or has lapsed, because the job agency has determined the occurrence of a blocking period or the lapse of the entitlement according to the regulations of the third volume or
4. they meet the pre-requisites stated in the third volume for the occurrence of a blocking period which substantiate the suspension or lapse of an entitlement to unemployment benefit.

Section 31a SGB-II (Excerpt)

In the case of a breach of duty pursuant to Section 31 the unemployment benefit II will be reduced in a first stage by 30 per cent of the standard requirement which is decisive for the person of an employable age who is eligible for benefits pursuant to Section 20. In the case of the first repeated breach of duty pursuant to Section 31 the unemployment benefit II will be reduced by 60 per cent of the standard requirement which is decisive for the person of an employable age who is eligible for benefits pursuant to Section 20. With each further repeated breach of duty according to Section 31 the unemployment benefit II will cease to apply in full.

Section 32 SGB-II (Excerpt)

If persons eligible for benefits do not meet a request of the responsible authority despite having received written instructions pertaining to the legal consequences or the knowledge thereof, to report to the agency or to appear for a medical or psychological examination the unemployment benefit II or the social security benefit will respectively be reduced by 10 per cent of the standard requirement which is decisive for them pursuant to Section 20. This will not apply if persons who are eligible for benefits present and prove an important reason for their behaviour.

Section 34 SGB-II

A person who after attaining the age of 18 wilfully or gross negligently created the pre-requisites for the granting of benefits according to this volume to him or herself or to persons who share a dependent household with him or her without an important reason, is obliged to reimburse the benefits paid accordingly. The entitlement to reimbursement also comprises the paid contributions to the health, pension and nursing care insurance. The assertion of the entitlement to reimbursement is to be refrained from if this would represent a hardship.

Section 60 (1) of Vol. I of the German Social Security Code

A person who applies for or receives social security benefits is to:

1. state all facts which are relevant with regard to the benefit and if requested to do so by the responsible benefits agency, he is also to agree to the provision of the required information by third parties,
2. provide immediate notification of changes to the circumstances which are relevant with regard to the benefit or to declarations made in connection with the benefit,
3. stipulate evidence and when requested to do so by the responsible benefit agency, present documentary evidence or agree to their submission.

Section 66 (1) of Vol. 1 of the German Social Security Code

Should a person who applies for or receives social security benefits not meet his duty to cooperate pursuant to Section 60 ff. and should this result in a serious hindrance of the

clarification of the situation, the benefit agency can refuse or withdraw the benefit in part or as a whole until such time as the recipient cooperates as long as no proof is furnished of the benefit requirement being met, the foregoing does not require the agency to investigate. This will also apply accordingly if the applicant or person eligible for the benefit intentionally hinders the clarification of the situation.

Section 263 the German Penal Code (StGB) - extract

1. Any person who in the intention of gaining an illegal pecuniary benefit for himself or a third party, causes another party to suffer a pecuniary loss in that he causes an error to be made or maintained as a result of the committing of fraudulent misrepresentation or by distorting or suppressing real facts, is to be subjected to a prison sentence not exceeding five years or a fine.
2. The attempt is punishable.
3. The prison sentence amounts to between one and ten years in particularly serious cases.

Section 1 WoGG (Housing Benefit Act)

Recipients of benefits pursuant to SGB-II and SGB-XII, (Social Security Codes II & XII), which are subject to the inclusion of accommodation expenses with the calculation of the benefits, are not entitled to housing benefit (rent subsidy). Vice versa, the recipients of benefits pursuant to the WoGG are not entitled to benefits pursuant to SGB-II and SGB-XII

General information:

Application requirement/period the benefit is granted for:

Benefits payable pursuant to Social Security Code II (SGB-II) are principally only granted upon application (Section 37 SGB-II). The duration of the benefit payment is oriented to the period the benefit is granted for as stipulated in the approval notification. An application for continuation of payment is to be filed in good time before the benefit payments expire. Should you not file a corresponding application no benefits will be paid after expiry of the period the benefit is granted for. We would like to inform you that we will no longer pay any contributions to the health/, nursing care/ and pension insurance either from this time. The health insurance cover is to be ensured by you personally. Should you not be in possession of an application form for continuation of payment please contact the responsible benefits clerk.

Information on standard requirements:

The standard benefit is a lump-sum payment to cover regular and one-off requirements. This means that no additional benefits will be granted for these requirements. The standard requirements specifically cover the following:

Food, non-alcoholic drinks, clothing, shoes, accommodation (excluding rent payments), power and apartment maintenance, interior furnishings, household appliances and objects, health care, transport, communications, recreational activities, entertainment, culture, education, hotel and restaurant expenses, other goods and services.

Please note that you **cannot** receive **any separate aid** for these sectors.

Assets:

If you or the persons sharing a household with you have assets you are obliged to inform the responsible authority of the basic financial security for persons seeking employment hereof and submit the corresponding proof.

Assets exist within the meaning of the law if they exceed the following allowances:

Allowances (from 17 April 2010)			
Type of allowance	Allowance/age	Minimum allowance	Maximum allowance
Basic allowance	€ 150.00	resp. € 3,100.00	resp. € 9,750.00 * for persons who were born before 1 January 1958
Increased basic allowance for persons who were born before 1 January 1948	€ 520.00	resp. € 3,100.00	resp. € 33,800.00
Riester pension	Complete protection		
Other retirement provisions	€ 750.00	without	resp. € 48,750.00 ** for persons who were born before 1 January 1958
For necessary acquisitions	Allowance per person € 750.00	Shared dependent household	

* The maximum allowance increases to € 9,900.00 with persons who were born after 31 December 1957 and before 1 January 1964. With persons who were born after 31 December 1963 the allowance increases to a max. of € 10,050.00.

** The maximum allowances for the other retirement provisions or for monetary value claims increase to € 49,500.00 with persons who were born after 31 December 1957 and before 1 January 1964. In case of persons who were born after 31 December 1963 this amount increases to € 50,250.00.

Note:

- All basic allowances stated above shall respectively apply to persons eligible for benefits who are of age and their partners.
- The allowance for necessary acquisitions in the amount of Euro 750 applies to each person who is eligible for benefits and who lives in the shared dependent household.

Additional allowances:

- a basic allowance in the amount of Euro 3,100 for each minor child who is eligible for benefits,
- monetary value claims which serve as retirement provisions insofar as the holder cannot use these before retirement owing to a contractual agreement and the value of the monetary value claims does not exceed Euro 750 per completed year of life of the person who is of an employable age and requires assistance and his partner, a maximum however of respectively Euro 48,750.00. The maximum allowances for the other retirement provisions or for monetary value claims increase to Euro 49,500.00 with persons, who were born after 31 December 1957 and before 1 January 1964. This amount increases to Euro 50,250.00 with persons who were born after 31 December 1963.

Not to be taken into consideration as assets are:

- reasonable household effects,
- a reasonable motor vehicle for each person living in the shared dependent household who is of an employable age and requires assistance,

- retirement provisions in the amount of the assets explicitly promoted as retirement provisions according to federal law including its income and the promoted regular contributions to retirement provisions (Riester pension, Rürup pension, company pension plan)
- assets described by the owner as determined for retirement provisions to a reasonable extent if the person who is of an employable age and requires assistance or his partner are exempted from the insurance obligation in the statutory pension insurance,
- an owner-occupied house property of a reasonable size or a corresponding condominium,
- assets as long as they are as proven determined for the procurement or retention of a house property of a reasonable size in the need future provided that this serves or should serve for residential purposes of disabled persons or persons who are in need of nursing and this purpose would be endangered by the use or the exploitation of the assets,
- objects and rights insofar as their exploitation is obviously not cost-effective or would represent a special hardship for the person concerned. The life circumstances during the receipt of benefits for the basic financial security for persons seeking employment are decisive for the appropriateness.

Earmarked use of benefits

Insofar as you receive benefits for which the legislator has envisaged a special use (e.g. costs for the accommodation, costs for the heating, one-off aid) you are obliged to use the monies exclusively for this purpose. Otherwise it is possible that you will have to repay the benefits according to Section 47 SGB X in conjunction with Section 50 SGB X.

Health and nursing care insurance

Whilst you are receiving unemployment benefit II, you are compulsory insured in the state health and nursing care insurance as long as the insurance is not possible for you within the framework of a family insurance or you were covered by private insurance before receiving unemployment benefit II. The responsible authority pays the flat-rate health and nursing insurance contributions in the statutory amount to the health fund. Should benefits only be paid as a loan or as a one-off payment, there is no obligation to be insured within the framework of the SGB II..

Should you become compulsorily insured as a result of your receiving unemployment benefit II, the responsible authority always registers you with the health insurance company where you were insured prior to receiving benefits.

You will only be insured after the benefits have also been granted; the insurance cover then comes into reciprocal effect from the first day for which you were granted the benefits.

Accident insurance

You are insured against accidents if you have to visit a certain place after being especially required to do so by the responsible authority. You must immediately report an accident to the responsible authority.

Pension insurance

Whilst you are receiving unemployment benefit II periods of time will be reported and credited to the state pension insurance for you. However this does not apply to pupils, students, recipients of social security benefits and for persons eligible for benefits who only receive the benefits as a loan or as one-off aid.

Should you not be entitled to unemployment benefit II due to the fact that you do not require assistance, but are unemployed, please register as unemployed with your local job agency immediately. This means that you will avoid any legal disadvantages.

Absence

All persons who are eligible for benefits who are neither in an employment relationship, nor in a qualification scheme are entitled to be absent for **up to 21 days** a year without the benefit being reduced. However, this will only apply if activation measures are not delayed or prevented hereby and the absence was **previously approved by the personal contact**. If the planned absence exceeds 21 calendar days this will result in **the suspension of benefit payments from the first day of the non-approved absence**. A continued payment of the unemployment benefit II is only possible after the renewed report to the personal contact.

This will not apply with persons who have attained the age of 58 and have declared that they are no longer willing to work (Section 65 (4) SGB II). The persons can stay outside of their usual place of stay for **up to 17 calendar weeks** with the continued payment of the benefits. A **prior** notification is necessary.

Illness

Should you have become ill and be incapable of working you must inform your personal contact hereof immediately. By no later than before the expiry of the third calendar day after occurrence of the incapacity for work, upon request also earlier, you must submit a corresponding certificate of incapacity for work from your doctor which certifies the **first day of the illness** already. Upon request you are obliged to submit a transport incapacity certificate.

In case of an illness during an approved absence overseas the following points have to be complied with in order to secure your claims for benefits:

- the certificate of incapacity for work must be submitted to the health insurance which is responsible for the stay **immediately**,
- the personal contact is to be informed about the start and the expected duration of the incapacity for work **immediately**,
- the submitted certificate of the doctor must clearly certify the incapacity for work. A certificate about an illness is not sufficient.

Recipients of benefits who are already undergoing a measure, work opportunity or in an internship must also prove illnesses **from the first day of the illness** by sickness reports and comply with the regulations of the responsible authority or employer.

Account call procedure

Through the law governing the promotion of tax honesty of 23 December 2003 (Federal Law Gazette 2003 I P. 2931) financial authorities and certain other authorities have the possibility since 1 April 2005 to call existing data relating to account and depositary connections from the credit institutions through the Federal Central Department for Taxes (BZSt). The statutory regulations concerning account call procedures were last changed by the corporate tax reform law 2008 of 14 August 2007 (Federal Law Gazette I P. 1912).

Regulated is the automatic call of account information in Section 93 (7 to 10) as well as Section 93b Fiscal Code (AO). Further regulations are contained in the application decree relating to the Fiscal Code (AEAO) in the version of 2 January 2009.

We would like to draw your attention to the fact that according to Section 93 (9) of the Fiscal Code we can take advantage of this possibility if required.

Declaration of consent

I hereby consent that the job center, basic security for those seeking work, (the authority responsible for benefits pursuant to SGB II) makes copies of my application for benefits pursuant to SGB II, the last official decision concerning the granting of benefits, the official decision concerning the cancellation of benefits and the expert medical opinion available to the subject group 51.500101 (the authority responsible for benefits pursuant to SGB XII) in the state capital of Wiesbaden.

I declare that I agree with the transmission of personal data such as address, professional career and inhibitions to mediation to the responsible authorities of vocational integration measures for the purpose of participation.

I have been informed that in the case of the reduction of the standard benefit (sanction) by 30% and more the district social welfare department will be informed if minors reside in my household.

I confirm with my signature that I have received the information leaflet and agree with the declaration of consent.

Wiesbaden,

.....
Signature

Landeshauptstadt Wiesbaden
Sozialleistungs- und Jobcenter



Information in accordance with Article 13/Article 14 of the EU General Data Protection Regulation (GDPR)

The information below is intended to give you an overview of how we process your personal data and your rights under data protection law. Collection and processing of data serves to enable the provision of services in accordance with the Second German Social Code (SGB II).

1. Responsible for data processing

Landeshauptstadt Wiesbaden
Der Magistrat
Sozialleistungs- und Jobcenter
Konradinerallee 11, 65189 Wiesbaden

2. Official Data Protection Officer

Datenschutzbeauftragter der Landeshauptstadt Wiesbaden,
Postfach 3920; 65029 Wiesbaden

3. Legal basis for data processing

The Office for Basic Social Security and Refugees processes your data in order to process your claim to payments in accordance with the Second German Social Code (SGB II) and to provide such payments if applicable. Collection and processing of your data is limited to the data necessary in each case. The legal basis for data processing when fulfilling a statutory responsibility or obligation is Art. 6 Para. 1 lit. c and e and Art. 9 Para. 2 lit. b GDPR, in combination with § 35 Social Code First Book (SGB I), §§ 67 ff Social Code Tenth Book (SGB X - Sozialverwaltungsverfahren und Sozialdatenschutz), §§ 50 ff. SGB II and specific statutory provisions.

If we have explicitly requested your permission for data processing, the legal basis for data processing is Art 6 Para. 1 a and Art. 9 Para. 2 a GDPR in combination with § 67 b Para. 2 SGB X.

4. Categories of personal data:

The following personal data may be collected and processed by the Office for Basic Social Security and Refugees, depending on the statutory responsibility and legal basis:

Basic data:

customer number, needs unit number, last name, first name, date of birth, place of birth, maiden name, address, nationality, marital status, gender, tax ID, residency status, CNP / PKZ number, allocation number and date of allocation, AZR number, pension/social insurance number, care status, disability status and marker, telephone number (optional), email address (optional), bank details

Further possible personal data:

approval period, level of payment, type of payment, data on income and asset situation, data on duration and termination of employment and employers, data on maintenance or recourse claims, enforcement data, data on proceedings under the Administrative Offences Act (OWiG), data on tenancy and needs for accommodation and heating, data on health and care insurance and pension, health data, information on statutory care/guardianship, data on social security payments received, information on family situation, information on personal situation (curriculum vitae), certificates of school attendance and qualifications

5. Disclosure of personal data and collection of personal data

Personal data is disclosed to third parties exclusively on the basis of statutory authorisation and provisions (in particular due to the data protection regulations in SGB X). These third parties may include, for example: other providers of social security (e.g. Deutsche Rentenversicherung, health insurers, care insurers), the Federal Employment Office, tax offices, customs bodies, criminal justice authorities, and hazard prevention authorities (e.g. police, state prosecutors, constitutional protection), courts, other third parties such as local councils, Darmstadt Regional Council, the Hesse Ministry of Social Affairs and Integration, the Federal Ministry of Labour and Social Affairs, the Federal Central Tax Office, the Federal Office for Migration and Refugees, the Federal Audit Office, further inspection authorities of the federal state and State Capital Wiesbaden, order processors (e.g. IT service providers), landlords (if they receive payment directly), energy providers (if they receive payment directly), debt advisory services (only with permission of the person concerned), psycho-social support (only with permission of the person concerned).

Personal data is generally collected from the person concerned. Where there is a legal basis or you have provided your permission, data may also be collected from other public bodies, such as other providers of social security.

6. Period of data storage

The period of data storage is based on the various statutory retention periods. It is generally ten years for payment-related processes, but may be up to 30 years after termination of payments in individual cases.

7. Your rights

Please note your rights of access, rectification, erasure, limitation of processing, data portability and objection regarding all personal data processed. The legal basis for this is Art. 15 - 21 GDPR in combination with §§ 81, 83 and 84 SGB X.

Failure to provide data or objection to processing may result in legal disadvantages for you, such as the loss of statutory claims. This may also be the case if you retract permission that you have granted (Art. 13 Para. 2 lit. c and e GDPR).

8. Hesse Data Protection Officer

You have the right to submit complaints to the Hesse Data Protection Officer. Postal address:

Der Hessische Beauftragte für Datenschutz und Informationsfreiheit
Postfach 3163; 65021 Wiesbaden