



Federal Ministry
of Education
and Research

Reform of Vocational Education and Training in Germany

The 2005 Vocational Training Act
(Berufsbildungsgesetz 2005)

Impressum

Published by

Bundesministerium
für Bildung und Forschung/
Federal Ministry of Education and Research (BMBF)
Publications and Website Division
11055 Berlin

Orders

In writing to the publisher
Postfach 30 02 35
53182 Bonn
or by
Tel.: 01805 – 262 302
Fax: 01805 – 262 303
(0.12 Euro/Min. from the German fixed network)
E-Mail: books@bmbf.bund.de
Internet: <http://www.bmbf.de>

Bonn, Berlin 2005

Printed on recycled paper

Reform of Vocational Education and Training in Germany

– The 2005 Vocational Training Act –
(Berufsbildungsgesetz 2005)

Introduction

In July 2004, the Federal Government submitted a draft of an act to reform the system of vocational education and training. Under this Vocational Training Reform Act [*Berufsbildungsreformgesetz – BerBiRefG*], the Vocational Training Act of 1969 [*Berufsbildungsgesetz – BBiG*] and the Vocational Training Promotion Act of 1981 [*Berufsbildungsförderungsgesetz – BerBiFG*] were completely revised and consolidated into a single instrument.¹

The aim of the reform is to impart to young people entering the working world the vocational competence required for successful pursuit of a broad-based occupational activity, i.e. the full range of skills that will enable them to meet the constantly changing demands of the workplace and thus lay the foundation for a self-determined life. At the same time, an important prerequisite will be created for safeguarding Germany's position as a high-quality business location.

Upon the conclusion of the parliamentary deliberations, the German Bundestag passed the bill on 27 January 2005 by a large majority² and the Bundesrat gave its consent on 18 February 2005. Underpinned by a broad consensus in both the German Bundestag and the Bundesrat, the revised Vocational Training Act entered into force on 1 April 2005.³

Clarification of spheres of competence

In the course of the legislative process, but also in the parallel deliberations of the Commission on Federalism, agreement was reached that the current distribution of powers between the Federation and the Länder is appropriate: The Federation accordingly has the power to enact legislation governing vocational training provided outside of schools, whereas the Länder are responsible for school-based vocational education and training. The revised Vocational Training Act responds to this by conceding the Länder greater scope for action at the interfaces of the two spheres of competence – in matters such as the admission of graduates of full-time vocational school training courses to examinations administered by the chambers, for example, or the crediting of previously acquired vocational school qualifications. The Länder are also accorded scope to independently address specific administrative and organizational issues, such as deciding which Land authority shall be responsible for the revocable recognition of technical qualifications.

¹ Bundestag Printed Paper 15/3980.

² Bundestag Printed Paper 15/4752.

³ Federal Law Gazette (BGBl.), Part I, p. 931.

Internationalization

Through the incorporation of the new arrangements in section 2 subsection (3) and section 76 subsection (3), the option of completing parts of initial training abroad for periods of limited duration has also been enshrined in the Vocational Training Act. Under the law, a stay abroad is now treated as part of a person's initial training as long as it serves the purpose of training. Since the time spent abroad does not interrupt the initial training relationship in such cases, there is no need for additional regulations addressing issues such as the obligation to pay an allowance, the recognition of skills, knowledge and qualifications acquired abroad, or the person's status as a trainee under the law governing social insurance and taxation. A stay abroad requires the agreement of both parties to the initial training contract. It is still possible for trainees to spend time abroad within the framework of a leave of absence or time off and then leave it to the competent body to rule on whether the stay may be credited towards their initial training or not.

Greater flexibility in the framing of ordinances

The statutory authority to issue initial training regulations enshrined in section 4 in conjunction with section 5 of the revised Vocational Training Act is essentially based on the previous statutory authority under section 25 of the 1969 Vocational Training Act. A clear distinction is now made between the minimum content which must be included in initial training regulations and additional content which may be incorporated into initial training regulations on an optional basis.

In particular, it has been made clear in the list of optional additional content that training by stages, insofar as it only leads to certification in a recognized training occupation pursuant to the Vocational Training Act upon completion of the final stage, presumes the existence of a contract throughout the entire period of training (section 21 subsection (1), second sentence). This does not apply in the case of the newly regulated "unorthodox" form of training by stages (section 5 subsection (2), No. 4), i.e. when an intermediate stage already leads to certification in a recognized training occupation pursuant to the Vocational Training Act.

The possibility of taking the final examination in two parts administered at different times (so-called "extended final examination") has been enshrined as an equivalent standard option in the law governing vocational education and training. Incorporation of this option has led to changes especially in the part of the Vocational Training Act governing examinations.

Likewise new is the possibility of providing in the initial training regulations for the teaching and testing of additional skills that are of relevance for initial training. Such provision can consist of the inclusion of additional optional modules in the

initial training regulations as well as the inclusion of parts of other initial and further training regulations. This will serve to not only broaden marketable skills and thus enhance employability but also more effectively dovetail initial and further training.

The so-called “experimentation clause” (section 6 of the revised Vocational Training Act), i.e. the statutory basis for the authorization of testing, has been broadened in a number of respects. Firstly, through the isolation of this statutory basis from the context of the so-called exclusivity principle pursuant to section 28 subsections (1) and (2) of the 1969 Vocational Training Act, the point has been clarified that testing authorization ordinances need not be limited to exceptions to the exclusivity principle. Secondly, the thrust of testing authorization ordinances, which was already oriented towards new forms of initial training and new training occupations, has been broadened to cover new types of examinations.

Restructuring of the interface between schools and companies

The decision as to whether and to what extent previous education or training at a vocational school or other vocational training facility may be credited towards a subsequent initial training programme has been transferred to the sphere of competence of the Länder. Starting in 2009 at the latest, moreover, a joint application by the parties to the contract governing the initial training relationship will be required herefor.

The regulations governing admission to the final examination have also been amended for so-called “outsiders”. Section 43 subsection (2) of the revised Vocational Training Act now stipulates that the decision as to which qualification pathways are as a rule to be deemed equivalent to initial training pursuant to the Vocational Training Act shall be transferred to the Land governments. This affords the Länder the opportunity to offer high-calibre marketable qualifications through full-time vocational school training courses that are implemented in line with the structures and content of initial training pursuant to the Vocational Training Act and lead to a final examination administered pursuant to the Vocational Training Act. On the one hand, this arrangement merges the power of decision (establishment of full-fledged school-based training courses by the Länder) with the responsibility for integrating such courses into the system of vocational education and training. On the other hand, it also serves in particular to eliminate unnecessary and cost-intensive time spent in the education and training system.

Especially teachers at part-time vocational schools [Berufsschulen] have now been given an opportunity within the framework of so-called “expert opinions” to have a say in parts of the final examination. Part-time vocational school performance can thus have a greater impact on the outcome of the final examination than was previously the case. On application of the trainee, moreover, a record of part-time

vocational school performance can now be entered on the actual examination certificate issued by the chamber.

In certain cases, teachers on the vocational training committee are granted voting rights.

Other changes in examinations

In addition to the aforementioned expert opinions from third parties, the board of examiners may now also charge at least two members of the board of examiners itself with the assessment of non-oral examination performance in individual areas. Section 42 subsection (2) of the revised Vocational Training Act thus establishes an exception to – without affecting the essence of – the principle that decisions be taken by committee.

Clarifications and adjustments

Training within the framework of collaborative training ventures, which was already possible in the past, has now been legally acknowledged. In addition, cooperation between learning locations has been expressly recognized.

Part-time initial training has been made possible in special cases (for single parents or for persons with family members who are in need of long-term care, for example).

The provisions contained in sections 20 to 24 and scattered through Part 6 of the 1969 Vocational Training Act concerning the suitability of training premises and training staff have been consolidated into a new division and subjected to a uniform set of rules (sections 27 to 33 of the revised Vocational Training Act). The special provisions previously contained in Part 6 of the 1969 Vocational Training Act concerning the designation of the competent body have been consolidated in sections 71 to 75 of the revised Vocational Training Act. The previous differentiation according to economic sectors, trades and occupations has thereby essentially been abandoned in favour of a more transparent system.

Federal Institute for Vocational Education and Training

A key change in the provisions governing the Federal Institute for Vocational Education and Training is a reduction of the number of organs. The functions of the previous Central Committee and the previous Permanent Committee have been consolidated under a new Board. At the same time, the number of members of the Board has been reduced from 53 to 29. The equal weighting of the votes of the four groups comprising the Board has thereby been retained. The committees of experts

have been eliminated, as has the Länder Committee, whereby the tasks of the Länder Committee can largely be shouldered by the parallel Bund-Länder Coordinating Committee. The reduction in the number of organs of the Federal Institute for Vocational Education and Training has been accompanied by the establishment of a new Research Council. This step was taken in response to developments in institutional research in recent years.

Vocational Training Act (Berufsbildungsgesetz – BBiG)

of 23 March 2005
(Federal Law Gazette [BGBl.], Part I, p. 931)⁴

– non-official publication –

Table of Contents

Part 1 General Provisions

Section 1	Vocational Training Terms and Objectives
Section 2	Learning Locations of Vocational Training
Section 3	Scope

Part 2 Vocational Training

Chapter 1 Initial Training

Division 1 Organization of Initial Training; Recognition of Training Occupations

Section 4	Recognition of Training Occupations
Section 5	Initial Training Regulations
Section 6	Testing of New Training Occupations, New Forms of Initial Training and New Types of Examinations
Section 7	Crediting of Previous Vocational Education and Training towards the Period of Initial Training
Section 8	Reduction and Extension of the Period of Initial Training
Section 9	Power to Make Training Arrangements

⁴The Act entered into force on 1 April 2005.

Division 2
Initial Training Relationship

Subdivision 1
Establishment of the Initial Training Relationship

- Section 10 Contract
- Section 11 Contract Document
- Section 12 Invalid Agreements

Subdivision 2
Obligations of Trainees

- Section 13 Conduct During Initial Training

Subdivision 3
Obligations of Training Employers

- Section 14 Initial Training
- Section 15 Time Off
- Section 16 Certificate

Subdivision 4
Allowance

- Section 17 Entitlement to an Allowance
- Section 18 Assessment of the Allowance and Date of Payment
- Section 19 Continued Payment of the Allowance

Subdivision 5
Beginning and End of the Initial Training Relationship

- Section 20 Probationary Period
- Section 21 End
- Section 22 Termination
- Section 23 Compensation for Damages in the Event of Premature Termination

Subdivision 6
Miscellaneous Provisions

- Section 24 Subsequent Employment
- Section 25 Mandatory Applicability
- Section 26 Other Contractual Relationships

Division 3
Suitability of Training Premises and Training Staff

- Section 27 Suitability of Training Premises
- Section 28 Suitability of Training Employers and Instructors
- Section 29 Personal Qualifications
- Section 30 Technical Qualifications
- Section 31 Application to Europe
- Section 32 Supervision of Suitability
- Section 33 Prohibition of the Engagement of Trainees and the Provision of Initial Training

Division 4
Register of Initial Training Relationships

- Section 34 Institution, Maintenance
- Section 35 Entry, Amendment, Deletion
- Section 36 Application

Division 5
Examinations

- Section 37 Final Examination
- Section 38 Object of the Examination
- Section 39 Boards of Examiners
- Section 40 Membership, Appointment
- Section 41 Chair, Quorum, Voting
- Section 42 Decisions, Assessment of the Final Examination
- Section 43 Admission to the Final Examination
- Section 44 Admission to Final Examinations Taken in Two Parts Administered at Different Times
- Section 45 Admission in Special Cases
- Section 46 Decision on Admission
- Section 47 Examination Rules
- Section 48 Interim Examinations
- Section 49 Additional Qualifications
- Section 50 Equivalence of Examination Certificates

Division 6
Representation of Interests

- Section 51 Representation of Interests
- Section 52 Authorization to Issue Ordinances

Chapter 2 Further Training

- Section 53 Further Training Regulations
- Section 54 Regulation of Further Training Examinations by the Competent Bodies
- Section 55 Consideration of Previous Qualifications Acquired Abroad
- Section 56 Further Training Examinations
- Section 57 Equivalence of Examination Certificates

Chapter 3 Retraining

- Section 58 Retraining Regulations
- Section 59 Regulation of Retraining Examinations by the Competent Bodies
- Section 60 Retraining for a Recognized Training Occupation
- Section 61 Consideration of Previous Qualifications Acquired Abroad
- Section 62 Retraining Measures; Retraining Examinations
- Section 63 Equivalence of Examination Certificates

Chapter 4 Vocational Training for Special Groups of Persons

Division 1 Vocational Training of Disabled Persons

- Section 64 Initial Training
- Section 65 Initial Training in Recognized Training Occupations
- Section 66 Initial Training Arrangements of the Competent Bodies
- Section 67 Further Training, Retraining

Division 2 Vocational Training Preparation

- Section 68 Target Group and Standards
- Section 69 Qualification Modules, Certificate
- Section 70 Supervision, Advice

Part 3 Organization of Vocational Training

Chapter 1 Competent Bodies; Competent Authorities

Division 1 Designation of the Competent Body

- Section 71 Competent Bodies
- Section 72 Designation by Ordinance
- Section 73 Competent Bodies in the Public Service
- Section 74 Extended Competence
- Section 75 Competent Bodies for the Purview of the Churches and Other Religious Communities Established under Public Law

Division 2

Supervision of Vocational Training

- Section 76 Supervision, Advice

Division 3

Vocational Training Committees of the Competent Body

- Section 77 Establishment
- Section 78 Quorum, Voting
- Section 79 Tasks
- Section 80 Rules of Procedure

Division 4

Competent Authorities

- Section 81 Competent Authorities

Chapter 2

Land Committees for Vocational Training

- Section 82 Establishment, Rules of Procedure, Voting
- Section 83 Tasks

Part 4

Vocational Training Research, Planning and Statistics

- Section 84 Objectives of Vocational Training Research
- Section 85 Objectives of Vocational Training Planning
- Section 86 Report on Vocational Education and Training
- Section 87 Purpose and Compilation of Vocational Training Statistics
- Section 88 Surveys

Part 5
Federal Institute for Vocational Education and Training

- Section 89 Federal Institute for Vocational Education and Training
- Section 90 Tasks
- Section 91 Organs
- Section 92 Board
- Section 93 President
- Section 94 Research Council
- Section 95 Disabled Persons Committee
- Section 96 Funding of the Federal Institute for Vocational Education and Training
- Section 97 Budget
- Section 98 Statutes
- Section 99 Staff
- Section 100 Supervision of the Federal Institute for Vocational Education and Training
- Section 101 Duty of Disclosure

Part 6
Provisions Governing Fines

- Section 102 Provisions Governing Fines

Part 7
Transitional and Concluding Provisions

- Section 103 Equivalence of Final Examination Certificates as a Consequence of German Unification
- Section 104 Continuation in Force of Existing Regulations
- Section 105 Transfer of Competences

Part 1
General Provisions

Section 1
Vocational Training Terms and Objectives

(1) For the purposes of this Act, the term “vocational training” shall mean vocational training preparation, initial training, further training and retraining.

(2) Vocational training preparation shall serve to impart basic skills required for the acquisition of vocational competence and thus facilitate placement in initial training in a recognized training occupation.

(3) Initial training shall, through a systematic training programme, impart the vocational skills, knowledge and qualifications (vocational competence) necessary to engage in a form of skilled occupational activity in a changing working world. Initial training shall also enable trainees to acquire the necessary occupational experience.

(4) Further training shall enable individuals to maintain and upgrade or broaden their vocational competence and advance their careers.

(5) Retraining shall qualify individuals for another form of occupational activity.

Section 2 Learning Locations of Vocational Training

(1) Vocational training shall be provided

1. in companies engaged in economic activity, in comparable institutions not engaged in economic activity, especially those of the public service, in establishments of members of the independent professions, and in households (in-company training);
2. in vocational schools (school-based vocational training); and
3. in other vocational training facilities outside the system of school-based and in-company training (non-company training).

(2) The learning locations specified in subsection (1) shall collaborate in the provision of vocational training (cooperation among learning locations).

(3) Parts of initial training may be completed abroad if this serves the purpose of training. The total duration of such training abroad shall not exceed one fourth of the duration of training specified in the initial training regulations.

Section 3 Scope

(1) This Act shall apply to vocational training insofar as such training is not provided in vocational schools covered by the education acts of the Länder.

(2) This Act shall not apply to

1. vocational training provided in study courses imparting specific vocational qualifications or in comparable study courses at higher education institutions on the basis of the Framework Act for Higher Education [*Hochschulrahmengesetz*] and the higher education acts of the Länder;
2. vocational training provided under an employment relationship governed by public law;
3. vocational training provided on merchant vessels flying the flag of the Federal Republic of Germany pursuant to the Law of the Flag Act [*Flaggenrechtsgesetz*], insofar as such vessels are not engaged in small-scale deep-sea fishing or in coastal fishing.

(3) Vocational training in occupations governed by the Crafts and Trade Code [*Handwerksordnung*] shall not be subject to sections 4 to 9, sections 27 to 49, sections 53 to 70, sections 76 to 80 and section 102 of this Act; in these respects the Crafts and Trade Code shall apply.

Part 2 Vocational Training

Chapter 1 Initial Training

Division 1 Organization of Initial Training; Recognition of Training Occupations

Section 4 Recognition of Training Occupations

(1) As a basis for an orderly and uniform system of initial training, the Federal Ministry of Economics and Labour or such other ministry as may be competent, acting in agreement with the Federal Ministry of Education and Research, may by ordinance which shall not require the consent of the Bundesrat officially recognize training occupations and issue initial training regulations for such occupations pursuant to section 5.

(2) Initial training in a recognized training occupation may only be provided on the basis of the initial training regulations.

(3) Young people under the age of 18 may not receive initial training in occupations other than recognized training occupations unless such initial training prepares them for advanced qualification pathways.

(4) If the initial training regulations for a training occupation are rescinded, existing initial training relationships shall continue to be governed by the provisions hitherto in force.

(5) The competent ministry shall inform the Länder of reorganization plans at an early stage and shall involve them in the consultation process.

Section 5 Initial Training Regulations

- (1) The initial training regulations shall specify
1. the designation of the training occupation to be recognized;
 2. the duration of initial training, which shall not be more than three or fewer than two years;
 3. the vocational skills, knowledge and qualifications to at least be imparted in

- the course of initial training (training occupation profile);
4. an outline of the syllabus and timetable to be followed when imparting the vocational skills, knowledge and qualifications (overall training plan);
 5. the examination requirements.

(2) The initial training regulations may provide that

1. initial training take place in progressive stages according to specific syllabuses and timetables; provision shall be made at the end of each stage for a certificate of competence qualifying trainees to both engage in a form of skilled occupational activity pursuant to section 1 subsection (3) and continue initial training in successive stages (training by stages);
2. the final examination be taken in two parts administered at different times;
3. notwithstanding section 4 subsection (4), initial training may, if the parties to the contract so agree, be continued in this training occupation pursuant to the new provisions, whereby credit shall be given for the period of training already undergone pursuant to the rescinded provisions;
4. initial training in another relevant occupation may be credited towards initial training in the occupation governed by the initial training regulations, taking into account the vocational skills, knowledge and qualifications acquired in the course of such previous training;
5. over and above the training occupation profile described in subsection (1), number 3, additional vocational skills, knowledge and qualifications may be imparted to supplement or broaden vocational competence;
6. parts of initial training be provided in suitable facilities outside the training premises if and to the extent necessary for the purposes of training (intercompany training);
7. trainees keep a written record of their initial training.

When framing initial training regulations, attention shall always be given to whether arrangements pursuant to numbers 1, 2 and 4 are sensible and feasible.

Section 6

Testing of New Training Occupations, New Forms of Initial Training and New Types of Examinations

For the purpose of developing and testing new training occupations, new forms of initial training and new types of examinations, the Federal Ministry of Economics and Labour or such other ministry as may be competent, acting in agreement with the Federal Ministry of Education and Research and after consulting the Board of the Federal Institute for Vocational Education and Training, may by ordinance which shall not require the consent of the Bundesrat permit exceptions to section 4 subsections (2) and (3) as well as sections 5, 37 and 48 which may also be limited to a specific type and number of training premises.

Section 7
Crediting of Previous Vocational Education and Training
towards the Period of Initial Training

(1) The Land governments may, after consulting the Land vocational training committee, by ordinance stipulate that attendance of a vocational school training course or initial training in some other facility be credited either wholly or in part towards the period of initial training. The authorization may in turn be transferred by ordinance to supreme Land authorities. The ordinance may provide that such crediting shall require a joint application by trainees and training employers.

(2) Crediting pursuant to subsection (1) shall require a joint application by trainees and training employers. The application shall be submitted to the competent body. It may be limited to parts of the maximum creditable period.⁵

Section 8
Reduction and Extension of the Period of Initial Training

(1) Upon a joint application by trainees and training employers, the competent body shall reduce the period of initial training if it is likely that the purpose of training will be achieved in the shorter period. In the event of legitimate interest, the application may also seek a reduction of the daily or weekly hours of training (part-time initial training).

(2) In exceptional cases the competent body may, on application by trainees, extend their period of initial training if such extension is necessary to enable them to achieve the purpose of their training. Training employers shall be consulted before a decision is taken pursuant to the first sentence.

(3) The Board of the Federal Institute for Vocational Education and Training may issue guidelines for the decision on reduction or extension of the period of initial training.

Section 9
Power to Make Training Arrangements

In the absence of other provisions, the competent body shall arrange for the provision of initial training within the framework of this Act.

Division 2
Initial Training Relationship

Subdivision 1
Establishment of the Initial Training Relationship

⁵ Subsection (2) shall enter into force on 1 August 2009. At the same time, subsection (1), third sentence, shall cease to be in force.

Section 10 Contract

(1) Persons engaging other persons for the purpose of the latter's initial training (training employers) shall conclude an initial training contract with the trainees.

(2) The legal provisions and principles governing contracts of employment shall apply to initial training contracts, insofar as this is not incompatible with the nature and purpose of the contract and the provisions of this Act.

(3) If statutory representatives conclude an initial training contract with their own child, they shall not be subject to the prohibition set out in section 181 of the Civil Code [*Bürgerliches Gesetzbuch*].

(4) No irregularity as regards the right to engage trainees or provide training shall affect the validity of an initial training contract.

(5) Several natural persons or legal entities may cooperate within the framework of a collaborative training venture to discharge the contractual obligations of training employers as long as responsibility for the individual stages of initial training and for the period of initial training as a whole is ensured (collaborative training).

Section 11 Contract Document

(1) After the conclusion of an initial training contract, training employers shall without delay, and in any event before the commencement of initial training, set down the essential stipulations of the contract pursuant to the second sentence in writing; the electronic form shall be excluded. The contract document shall at least specify

1. the nature, syllabus, timetable and purpose of the initial training, and in particular the form of occupational activity for which initial training is to be provided;
2. the commencement and the duration of initial training,
3. any initial training measures taking place outside the training premises;
4. the length of the normal daily hours of initial training;
5. the length of the probationary period;
6. the payment of an allowance and the rate to be applied;
7. the amount of holiday leave;
8. the conditions under which the initial training contract may be terminated;
9. a general reference to collective agreements, plant agreements or service agreements applicable to the initial training relationship.

(2) The document shall be signed by the training employers, the trainees and the trainees' statutory representatives.

(3) Training employers shall provide the trainees and their statutory representatives with a copy of the signed document without delay.

(4) Subsections (1) to (3) shall apply, mutatis mutandis, to amendments to the initial training contract.

Section 12 Invalid Agreements

(1) Any agreement restricting trainees in the pursuit of their occupational activity after the end of the initial training relationship shall be null and void. The foregoing shall not apply if trainees commit themselves during the last six months of the initial training relationship to entering into an employment relationship with their training employers after the end of the initial training relationship.

(2) Any agreement providing for

1. an obligation of trainees to pay compensation for their initial training;
2. contractual penalties;
3. the exclusion or limitation of claims to compensation for damages;
4. determination of the rate of compensation for damages as a lump sum shall be null and void.

Subdivision 2 Obligations of Trainees

Section 13 Conduct During Initial Training

Trainees shall make every effort to acquire the vocational competence necessary for them to achieve the purpose of their initial training. They shall in particular be obligated to

1. carefully perform the tasks entrusted to them as part of their initial training;
2. take part in initial training measures for which they have been granted time off under section 15;
3. follow the instructions given to them within the framework of their initial training by training employers, instructors or any other persons entitled to give them such instructions;
4. have regard for the rules of behaviour to be observed on the training premises,
5. use tools, machinery and other equipment with due care;
6. not reveal any business or trade secrets.

Subdivision 3 Obligations of Training Employers

Section 14 Initial Training

(1) Training employers shall

1. ensure that the vocational competence necessary for trainees to achieve the purpose of their initial training is imparted to them and provide such initial training systematically in accordance with a syllabus and a timetable and in a form appropriate to the aim in view so that the purpose of the training can be achieved within the specified period;
2. provide the initial training themselves or expressly entrust such training to an instructor;
3. furnish to trainees free of charge the materials, in particular tools and supplies, necessary for their initial training and the passing of their interim and final examinations, even if such examinations take place after the end of the initial training relationship;
4. urge trainees to attend part-time vocational school and to keep their written initial training records up to date, insofar as such records are required as part of their initial training, and inspect such records;
5. ensure that trainees are encouraged to develop their personality and that they are protected from physical or moral danger.

(2) Trainees shall only be entrusted with tasks that serve the purpose of their initial training and are commensurate with their physical abilities.

Section 15 Time Off

Training employers shall grant trainees the necessary time off to attend part-time vocational school and take examinations. The foregoing shall also apply to their participation in initial training measures taking place outside the training premises.

Section 16 Certificate

(1) At the end of the initial training relationship, training employers shall provide trainees with a written certificate. The electronic form shall be excluded. If training employers have not provided the initial training themselves, the certificate shall be signed by the instructor as well.

(2) The certificate must contain particulars of the nature, duration and purpose of the initial training as well as the vocational skills, knowledge and qualifications acquired by the trainees. If trainees so request, it shall also include particulars of their conduct and performance.

Subdivision 4 Allowance

Section 17

Entitlement to an Allowance

(1) Training employers shall pay trainees an appropriate allowance. It shall be so assessed in accordance with the trainees' age that it increases at least once a year as the initial training progresses.

(2) Account may be taken of benefits in kind at the rate fixed for the value of such benefits under section 17 subsection (1), first sentence, number 4, of Book Four of the Social Code [*Sozialgesetzbuch*], but not beyond 75 percent of the gross rate of the allowance.

(3) Employment beyond the agreed normal daily hours of initial training shall be remunerated separately or compensated by corresponding time off.

Section 18

Assessment of the Allowance and Date of Payment

(1) The allowance shall be assessed on a monthly basis. A month shall be deemed to have thirty days for the purpose of calculating the allowance due for individual days.

(2) The allowance due for the current calendar month shall be paid by the last working day of that month at the latest.

Section 19

Continued Payment of the Allowance

(1) Trainees shall also be paid the allowance

1. for time off granted under section 15;
2. for up to a maximum of six weeks if they
 - a) are available for initial training but training is not provided; or
 - b) are prevented for any other personal reason beyond their control from discharging their obligations under the initial training contract.

(2) If trainees are prevented for a valid reason from availing themselves of benefits in kind during the time their allowance continues to be paid, they shall be granted compensation in lieu thereof in accordance with the value determined for such benefits under section 17 subsection (2).

Subdivision 5

Beginning and End of the Initial Training Relationship

Section 20

Probationary Period

The initial training relationship shall begin with a probationary period. This period must last for at least one month but may not last longer than four months.

Section 21

End

(1) The initial training relationship shall end on the expiry of the period of initial training. In the case of training by stages, it shall end on the expiry of the last stage.

(2) If trainees pass their final examination before the expiry of their period of initial training, the initial training relationship shall end upon the announcement of the results by the board of examiners.

(3) If trainees fail to pass their final examination, the initial training relationship shall, if they so request, be extended until the next occasion on which they can repeat the examination, up to a maximum of one year.

Section 22

Termination

(1) The initial training relationship may be terminated without notice at any time during the probationary period.

(2) After the expiry of the probationary period, the initial training relationship may only be terminated

1. for a valid reason without notice;
2. by trainees on four weeks' notice if they wish to cease initial training or undergo initial training for another form of occupational activity.

(3) Notice of termination must be given in writing; in cases covered by subsection (2) it must also state the reasons for termination.

(4) If the initial training relationship is terminated for a valid reason, the termination shall be null and void if the circumstances upon which it is based have been known for more than two weeks to the party entitled to terminate. In cases where conciliation proceedings are instituted before an extrajudicial body, this time limit shall cease to run until such proceedings are concluded.

Section 23

Compensation for Damages in the Event of Premature Termination

(1) If the initial training relationship is prematurely terminated after the expiry of the probationary period, training employers or trainees shall be entitled to seek compensation for damages if the other party is responsible for the cause of termination. The foregoing shall not apply in cases covered by section 22 subsection (2), number 2.

(2) Such entitlement shall lapse if it is not asserted within three months after termination of the initial training relationship.

**Subdivision 6
Miscellaneous Provisions**

**Section 24
Subsequent Employment**

If trainees continue to work for their training employer immediately after their initial training relationship has ended, without any express agreement on the subject having been reached, an employment relationship shall be deemed to have been established for an indefinite period.

**Section 25
Mandatory Applicability**

Any agreement departing from the provisions of this part of this Act to the detriment of trainees shall be null and void.

**Section 26
Other Contractual Relationships**

Insofar as no employment relationship has been agreed, persons who are engaged to acquire vocational skills, knowledge and qualifications or occupational experience without undergoing initial training within the meaning of this Act shall be covered by sections 10 to 23 and section 25, subject to the proviso that the statutory probationary period may be shortened, the contract need not be set out in writing and, notwithstanding section 23 subsection (1), first sentence, no compensation for damages may be claimed if the contractual relationship is prematurely terminated after the expiry of the probationary period.

**Division 3
Suitability of Training Premises and Training Staff**

**Section 27
Suitability of Training Premises**

- (1) Trainees may only be engaged and given initial training if
1. the nature and equipment of the training premises are suitable for initial training; and
 2. the ratio between the number of trainees and the number of training places or the number of skilled staff employed is appropriate (unless such other ratio is not detrimental to initial training).

(2) Training premises where the necessary vocational skills, knowledge and qualifications cannot be imparted in their entirety shall be deemed to be suitable if these can be imparted through initial training measures taking place outside the training premises.

(3) The nature and equipment of training premises shall only be deemed to be suitable for initial training in occupations in the field of agriculture, including domestic service in agriculture, if the training premises have been recognized as such by the authority competent under Land law. The Federal Ministry of Consumer Protection, Food and Agriculture, acting in agreement with the Federal Ministry of Education and Research and after consulting the Board of the Federal Institute for Vocational Education and Training, may by ordinance which shall not require the consent of the Bundesrat lay down minimum standards for the size, equipment and standard of management of training premises.

(4) The nature and equipment of training premises shall only be deemed to be suitable for initial training in occupations in domestic service if the training premises have been recognized as such by the authority competent under Land law. The Federal Ministry of Economics and Labour, acting in agreement with the Federal Ministry of Education and Research and after consulting the Board of the Federal Institute for Vocational Education and Training, may by ordinance which shall not require the consent of the Bundesrat lay down minimum standards for the size, equipment and standard of management of training premises.

Section 28

Suitability of Training Employers and Instructors

(1) Trainees may only be engaged by training employers who have the necessary personal qualifications. Trainees may only be trained by persons who have the necessary personal and technical qualifications.

(2) Training employers who do not have the necessary technical qualifications or do not provide the initial training themselves may only engage trainees if they appoint instructors with the necessary personal and technical qualifications to directly impart the essential initial training content in a responsible manner on the training premises.

(3) Under the responsibility of the instructor, persons may also participate in the provision of initial training who are not themselves instructors but, notwithstanding the special prerequisites set out in section 30, possess the vocational skills, knowledge and qualifications as well as the personal qualifications necessary to impart subject matter covered by initial training.

Section 29

Personal Qualifications

Persons shall in particular be deemed to not have the necessary personal qualifications if they

1. are not allowed to employ children and young persons or
2. have been guilty of repeated or serious contraventions of this Act or of the provisions and regulations issued on the basis of this Act.

Section 30 **Technical Qualifications**

(1) Persons shall be deemed to have the necessary technical qualifications if they possess the vocational and skills, knowledge and qualifications as well as the teaching skills, knowledge and qualifications required to give initial training in the occupation and processes concerned.

(2) Persons shall be deemed to possess the necessary vocational skills, knowledge and qualifications if they

1. have passed the final examination in a technical field corresponding to the training occupation;
2. have passed a recognized examination at a training facility or before an examination authority or a final examination at a state or state-accredited school in a technical field corresponding to the training occupation; or
3. have passed a final examination at a German higher education institution in a technical field corresponding to the training occupation

and have been employed in a practical capacity for an appropriate period in their own occupation.

(3) In cases covered by subsection (2), number 2, the Federal Ministry of Economics and Labour or such other ministry as may be competent, acting in agreement with the Federal Ministry of Education and Research and after consulting the Board of the Federal Institute for Vocational Education and Training, may by ordinance which shall not require the consent of the Bundesrat prescribe which examinations are to be recognized for given training occupations.

(4) The Federal Ministry of Economics and Labour or such other ministry as may be competent, acting in agreement with the Federal Ministry of Education and Research and after consulting the Board of the Federal Institute for Vocational Education and Training, may by ordinance which shall not require the consent of the Bundesrat prescribe in respect of individual training occupations that notwithstanding subsection (2) persons shall only be deemed to possess the necessary vocational skills, knowledge and qualifications to be technically qualified if they

1. meet the prerequisites set out in subsection (2), number 2 or 3, and have been employed in a practical capacity for an appropriate period in their own occupation or if they
2. meet the prerequisites set out in subsection (2), number 3, and have been employed in a practical capacity for an appropriate period in their own occupation or
3. are licensed to practice an independent profession or have been appointed to public office.

(5) The Federal Ministry of Education and Research, after consulting the Board of the Federal Institute for Vocational Education and Training, may by ordinance which shall not require the consent of the Bundesrat prescribe that persons separately produce evidence that they have acquired the teaching skills, knowledge and qualifications required to give initial training in the occupation and processes concerned. The ordinance may also lay down rules for the subject matter, scope and completion of the measures constituting such evidence.

(6) The authority competent under Land law, after consulting the competent body, may revocably recognize persons not meeting the prerequisites set out in subsections (2), (4) or (5) as having the necessary technical qualifications.

Section 31 Application to Europe

(1) Recognition of the certificates of competence of a Member State of the European Union or of another State party to the Agreement on the European Economic Area shall be granted in cases covered by section 30 subsections (2) and (4) pursuant to Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration (Official Journal L19, p.16) and Council Directive 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC (Official Journal L 209, p.25), most recently amended by Directive 2001/19/EC of the European Parliament and of the Council of 14 May 2001 (Official Journal L 206, p. 1).

(2) Under the conditions set out in Article 4 of the Directives listed in subsection (1), recognition may be made contingent on the provision of evidence of professional experience pursuant to Article 4, paragraph 1, letter (a), of said Directives or on the completion of an adaptation period or the taking of an aptitude test pursuant to Article 4, paragraph 1, letter (b), of said Directives.

(3) The decision concerning recognition shall be taken by the competent body. The competent body may regulate the completion of adaptation periods and the taking of aptitude tests. The decision concerning a request for recognition, duly accompanied by the reasons for said decision, must be announced no later than four months after the submission of the complete documents by the applicant.

Section 32 Supervision of Suitability

(1) The competent body shall satisfy itself that training premises are suitable and that persons have the necessary personal and technical qualifications.

(2) If shortcomings are discovered and a remedy is possible without a likelihood of danger to trainees, the competent body shall order the training employers concerned to remedy the shortcomings within such period of time as it may specify.

If no remedy is possible, or if there is a likelihood of danger to trainees, or if the shortcomings are not remedied by the specified time, the competent body shall so inform the authority competent under Land law.

Section 33

Prohibition of the Engagement of Trainees and the Provision of Initial Training

(1) The authority competent under Land law may prohibit persons from engaging trainees or providing initial training at specific training premises if the said premises do not fulfil, or no longer fulfil, the conditions set out in section 27.

(2) The authority competent under Land law shall prohibit persons from engaging trainees or providing initial training if such persons do not have, or no longer have, the necessary personal or technical qualifications.

(3) The parties involved and the competent body shall be consulted before the prohibition is imposed. The foregoing shall not apply in cases covered by section 29 subsection (2), number 1.

Division 4

Register of Initial Training Relationships

Section 34

Institution, Maintenance

(1) The competent body shall institute and maintain a register of initial training relationships for recognized training occupations in which the essential stipulations of each initial training contract shall be entered. No fee shall be payable by trainees for the entry.

- (2) The essential stipulations for each initial training relationship shall include
1. the surname, first name, date of birth and address of the trainees;
 2. the sex, nationality, general-education school-leaving certificate, general-education or vocational school last attended, and school-leaving class of the trainees;
 3. the surname, first name and address of the statutory representatives, if necessary;
 4. the training occupation;
 5. the date of conclusion of the initial training contract, period of initial training, probationary period;
 6. the date of commencement of initial training;
 7. the name and address of the training employers, address of the training premises;
 8. the surname, first name and sex of the instructors and the nature of their technical qualifications.

Section 35

Entry, Amendment, Deletion

(1) An initial training contract and amendments to its essential stipulations shall be entered in the register if

1. the initial training contract complies with this Act and with the initial training regulations;
2. the persons engaging trainees and providing initial training have the necessary personal and technical qualifications and the training premises are suitable for the engagement of trainees and for the provision of their initial training; and
3. in the case of trainees under the age of 18 years, the medical certificate concerning the initial medical examination pursuant to section 32 subsection (1) of the Act on the Protection of Young People at Work [*Jugendarbeitsschutzgesetz*] is submitted for perusal.

(2) Entry shall be denied or an entry shall be deleted if the conditions for entry are not fulfilled and the shortcomings are not remedied in accordance with section 32 subsection (2). Furthermore, an entry shall be deleted if the medical certificate concerning the first re-examination pursuant to section 33 subsection (1) of the Act on the Protection of Young People at Work is not submitted for perusal at the latest on the date of the trainees' registration to take an interim examination or the first part of the final examination and if the shortcomings are not remedied in accordance with section 32 subsection (2).

(3) The data collected pursuant to section 34 subsection (2), numbers 1, 4, 6 and 7 may be transmitted to the Federal Employment Agency for the purposes of improving training placement, improving the reliability and up-to-dateness of training placement statistics and improving the ascertainment of supply and demand in the training place market. When transmitting data, steps shall be taken in keeping with the respective state of the art to ensure the protection and security of data and, in particular, to guarantee the confidentiality, integrity and attributability of data.

Section 36

Application

(1) Training employers shall apply to have an initial training contract entered in the register as soon as the contract is concluded. A copy of the document setting out the contract shall be enclosed with the application. The same shall apply, mutatis mutandis, to amendments to the essential stipulations of a contract.

(2) Training employers shall give notice of

1. any previous general or vocational education or training received by trainees,
2. the appointment of instructors.

Division 5 Examinations

Section 37 Final Examination

(1) Final examinations shall be administered in recognized training occupations. In the event of failure to pass, the final examination may be repeated twice. If the final examination is to be taken in two parts administered at different times, the first part of the examination may not be repeated alone.

(2) Examinees shall be issued a certificate. Training employers shall inform trainees of the results of the final examination upon the latter's request. In the case of final examinations taken in two parts administered at different times, trainees shall be informed of the results of the first part of the final examination in writing.

(3) Upon application by trainees, the certificate shall be accompanied by an English and French translation. Upon application by trainees, a record of their part-time vocational school performance may be entered on the certificate.

(4) No fee shall be payable by trainees in connection with their final examination.

Section 38 Object of the Examination

The object of the final examination shall be to determine whether examinees have acquired the necessary vocational competence. In the final examination examinees shall demonstrate that they have mastered the necessary vocational skills, possess the necessary vocational knowledge and qualifications, and are acquainted with the subjects taught at part-time vocational school as an essential part of their initial training. The examination shall be based on the initial training regulations.

Section 39 Boards of Examiners

(1) The competent body shall establish boards of examiners to administer final examinations. Two or more competent bodies may establish joint boards of examiners to operate under the responsibility of one such body.

(2) The board of examiners may, for the purposes of assessment of non-oral examination performance in individual areas, solicit expert opinions from third parties, in particular from vocational schools.

(3) Within the framework of the expert opinions solicited pursuant to subsection (2), the essential aspects of performance shall be documented and facts of relevance for the assessment shall be specified.

Section 40

Membership, Appointment

(1) The board of examiners shall consist of at least three members. The members must be experts in the fields covered by the examination and must be suitable persons to act as examiners.

(2) The membership of the board of examiners must include equal numbers of employers' and employees' representatives and at least one vocational school teacher. At least two thirds of the total membership must consist of employers' and employees' representatives. Each member shall have a substitute.

(3) Members shall be appointed by the competent body for a period not exceeding five years. The employees' representatives shall be appointed on the proposal of the trade unions and independent associations of employees concerned with matters of social or occupational policy established in the district of the competent body. The vocational school teacher shall be appointed in agreement with the authority responsible for the supervision of schools or such body as it may designate. If no members or an insufficient number of members are proposed within an appropriate time limit set by the competent body, the competent body shall appoint the necessary members according to its best judgment. Members of boards of examiners may be removed from the board for good cause after consultation with the parties involved in their appointment. The first, second, third, fourth and fifth sentences of this subsection shall apply, mutatis mutandis, to substitutes.

(4) Members of the board of examiners shall serve in an honorary capacity. Insofar as they receive no compensation from any other source, they shall be paid appropriate compensation for out-of-pocket expenses and loss of time, at a rate to be fixed by the competent body with the approval of the supreme Land authority.

(5) Departures from subsection (2) may only be made if the necessary number of members of a board of examiners cannot be appointed in any other manner.

Section 41

Chair, Quorum, Voting

(1) The board of examiners shall elect a member to serve as chair and another member to serve as deputy chair. The chair and the member serving as deputy chair shall not belong to the same group of members.

(2) A quorum of the board of examiners shall exist if two thirds of the members, subject to a minimum of three, are present. Decisions shall be taken by a majority of the votes cast. In the event of a tie, the chair shall have a casting vote.

Section 42

Decisions, Assessment of the Final Examination

(1) The board of examiners shall take decisions concerning the grades to be awarded for examination performance in individual areas and for overall examination performance as well as decisions concerning the passing or failing of the final examination.

(2) To prepare the decisions to be taken pursuant to subsection (1), the chair may charge at least two members of the board of examiners with the assessment of non-oral examination performance in individual areas. The persons so charged shall not belong to the same group of members.

(3) The members charged pursuant to subsection (2) shall document the essential aspects of performance and specify facts of relevance for the assessment.

Section 43

Admission to the Final Examination

(1) Trainees shall be admitted to the final examination if

1. they have completed their period of initial training or their period of initial training is due to end no later than two months after the date set for the examination;
2. they have taken the prescribed interim examinations and have kept the prescribed written initial training records; and
3. their initial training relationship has been entered in the register of initial training relationships or has not been so entered for a reason beyond the control of the trainees or their statutory representatives.

(2) Persons shall likewise be admitted to the final examination if they have undergone initial training at a vocational school or some other vocational training facility and this qualification pathway corresponds to initial training for a recognized training occupation. A qualification pathway shall correspond to initial training for a recognized training occupation if

1. it is equivalent in terms of subject matter, standards and duration to the respective initial training regulations;
2. it is pursued in a systematic manner, in particular within the framework of a syllabus and timetable; and
3. an appropriate proportion of practical specialized initial training is ensured through cooperation between learning locations.

The Land governments shall be authorized, after consulting the Land vocational training committee, to prescribe by ordinance which qualification pathways fulfil the conditions set out in the first and second sentences. The authorization may be further transferred by ordinance to supreme Land authorities.⁶

⁶ Note: Subsection (2), third and fourth sentences, shall cease to be in force on 1 August 2011.

Section 44
Admission to Final Examinations Taken in Two Parts
Administered at Different Times

(1) If the final examination is taken in two parts administered at different times, the decision on admission shall be taken separately for each part.

(2) Trainees shall be admitted to the first part of the final examination if they have completed the period of initial training prescribed in the initial training regulations and have fulfilled the conditions set out in section 43 subsection (1), numbers 2 and 3.

(3) Trainees shall be admitted to the second part of the final examination if, in addition to fulfilling the conditions set out in section 43 subsection (1), they have taken the first part of the final examination. The foregoing shall not apply if trainees have not taken the first part of the final examination for reasons beyond their control. In this case the first part of the final examination shall be taken together with the second part.

Section 45
Admission in Special Cases

(1) Trainees may, after consultation with their training employers and their part-time vocational school, be admitted to the final examination before the expiry of their period of initial training if their performance so warrants.

(2) Persons shall also be admitted to the final examination if they produce evidence that they have been employed in the occupation for which they wish to take the examination for a period at least one and a half times as long as is prescribed for the period of initial training. Periods of initial training in another relevant training occupation shall also be deemed to be periods of employment. The production of evidence of such minimum period of employment pursuant to the first sentence may be waived wholly or in part if applicants convincingly demonstrate, by producing certificates or in some other manner, that they have acquired the vocational competence justifying admission to the examination. Foreign education and training qualifications and periods of employment abroad shall thereby be taken into account.

(3) Former soldiers and soldiers who are temporary-career volunteers shall be admitted to the final examination pursuant to subsection (2), third sentence, if the Federal Ministry of Defence or such body as it may designate certifies that the applicants possess the vocational skills, knowledge and qualifications justifying their admission to the examination.

Section 46
Decision on Admission

(1) The decision on admission to the final examination shall be taken by the

competent body. If it deems that the conditions for admission have not been fulfilled, a decision shall be taken by the board of examiners.

(2) Trainees who have taken parental leave shall not incur any disadvantage for this reason when the decision on admission is taken.

Section 47 Examination Rules

(1) The competent body shall issue rules to be observed in connection with the final examination. Such rules shall require the approval of the competent supreme authority of the Land concerned.

(2) The examination rules must regulate admission to the examination, the structure of the examination, the criteria for assessment of performance, the issuance of examination certificates, the consequences of breaches of the examination rules, and the possibility of repeating the examination. They may provide that examination questions which have been drafted or selected at supraregional level or by a question drafting committee at the competent body be used for the examination, insofar as such questions have been drafted or selected by bodies or committees composed in accordance with section 40 subsection (2).

(3) The Board of the Federal Institute for Vocational Education and Training shall issue guidelines for the examination rules.

Section 48 Interim Examinations

(1) During their initial training, trainees shall be given an interim examination administered in accordance with the initial training regulations to ascertain the level of competence they have attained. Sections 37 to 39 shall apply, *mutatis mutandis*.

(2) If the initial training regulations provide that the final examination shall be taken in two parts administered at different times, subsection (1) shall not apply.

Section 49 Additional Qualifications

(1) Additional vocational skills, knowledge and qualifications pursuant to section 5 subsection (2), number 4, shall be tested and certified separately. The results of the examination pursuant to section 37 shall remain unaffected.

(2) Section 37 subsections (3) and (4) as well as sections 39 to 42 and section 47 shall apply, *mutatis mutandis*.

Section 50

Equivalence of Examination Certificates

(1) The Federal Ministry of Economics and Labour or such other ministry as may be competent, acting in agreement with the Federal Ministry of Education and Research and after consulting the Board of the Federal Institute for Vocational Education and Training, may by ordinance deem examination certificates acquired outside the scope of this Act to be equivalent to the corresponding final examination certificates issued on the basis of this Act if the initial training and the vocational skills, knowledge and qualifications evidenced by the examinations are of an equivalent standard.

(2) The Federal Ministry of Economics and Labour or such other ministry as may be competent, acting in agreement with the Federal Ministry of Education and Research and after consulting the Board of the Federal Institute for Vocational Education and Training, may by ordinance deem examination certificates acquired abroad to be equivalent to the corresponding final examination certificates issued on the basis of this Act if the vocational skills, knowledge and qualifications evidenced by the examinations are of an equivalent standard.

Division 6

Representation of Interests

Section 51

Representation of Interests

(1) Trainees whose practical vocational training is provided in some other vocational training facility outside the system of school-based and in-company training (section 2 subsection (1), number 3) with normally at least five trainees and who are not eligible to vote in elections to the works council pursuant to section 7 of the Works Constitution Act [*Betriebsverfassungsgesetz*], to the youth and trainee delegation pursuant to section 60 of the Works Constitution Act or to the representative body pursuant to section 36 of Book Nine of the Social Code (trainees undergoing non-company training) shall elect a separate body to represent their interests.

(2) Subsection (1) shall not apply to vocational training facilities operated by religious communities or to other vocational training facilities insofar as they have made equivalent arrangements of their own.

Section 52

Authorization to Issue Ordinances

The Federal Ministry of Education and Research may by ordinance which shall not require the consent of the Bundesrat specify the matters to be subject to participation, the composition of the representative bodies and the term of office of their members, the electoral procedure, in particular the determination of eligibility to vote and stand for election, as well as the nature and extent of participation.

Chapter 2 Further Training

Section 53 Further Training Regulations

(1) As a basis for a uniform system of further training, the Federal Ministry of Education and Research, acting in agreement with the Federal Ministry of Economics and Labour or such other ministry as may be competent and after consulting the Board of the Federal Institute for Vocational Education and Training, may by ordinance which shall not require the consent of the Bundesrat recognize further training qualifications and issue examination rules herefor (further training regulations).

(2) The further training regulations shall specify

1. the designation of the further training qualification;
2. the purpose, subject matter and requirements of the examination;
3. the conditions for admission to the examination; and
4. the examination procedure.

(3) Notwithstanding subsection (1), further training regulations in occupations in the field of agriculture, including domestic service in agriculture, shall be issued by the Federal Ministry of Consumer Protection, Food and Agriculture, acting in agreement with the Federal Ministry of Education and Research; further training regulations in domestic service shall be issued by the Federal Ministry of Economics and Labour, acting in agreement with the Federal Ministry of Education and Research.

Section 54 Regulation of Further Training Examinations by the Competent Bodies

Insofar as no ordinances have been issued pursuant to section 53, the competent body may issue rules for further training examinations. The competent body shall specify the designation of the further training qualification, the purpose, subject matter and requirements of the examinations, the conditions for admission to the examinations and the examination procedure.

Section 55 Consideration of Previous Qualifications Acquired Abroad

Insofar as the further training regulations (section 53) or the rules issued by the competent body (section 54) specify conditions for admission to the examinations, foreign education and training qualifications and periods of employment abroad shall be taken into consideration.

Section 56

Further Training Examinations

(1) The competent body shall establish boards of examiners to administer examinations in the area of further training. Section 37 subsections (2) and (3), sections 40 to 42, section 46 and section 47 shall apply, mutatis mutandis.

(2) Examinees shall on application be exempted by the competent body from taking individual parts of the examination if they have passed a comparable examination at a public or state- accredited education institution or training facility or before a state board of examiners and if their application for admission to the further training examination is submitted within five years of the announcement that they passed the other examination.

Section 57

Equivalence of Examination Certificates

The Federal Ministry of Economics and Labour or such other ministry as may be competent, acting in agreement with the Federal Ministry of Education and Research and after consulting the Board of the Federal Institute for Vocational Education and Training, may by ordinance deem examination certificates acquired outside the scope of this Act or abroad to be equivalent to the corresponding further training examination certificates issued on the basis of sections 53 and 54 if the vocational skills, knowledge and qualifications evidenced by the examinations are of an equivalent standard.

Chapter 3

Retraining

Section 58

Retraining Regulations

As a basis for an orderly and uniform system of retraining, the Federal Ministry of Education and Research, acting in agreement with the Federal Ministry of Economics and Labour or such other ministry as may be competent and after consulting the Board of the Federal Institute for Vocational Education and Training, may by ordinance which shall not require the consent of the Bundesrat specify

1. the designation of the retraining qualification;
 2. the purpose, subject matter, nature and duration of retraining;
 3. the requirements of the retraining examination and the conditions for admission to the examination; and
 4. the examination procedure for the retraining qualification
- taking into consideration the special requirements of adult vocational training (retraining regulations).

Section 59

Regulation of Retraining Examinations by the Competent Bodies

Insofar as no ordinances have been issued pursuant to section 58, the competent body may issue rules for retraining examinations. The competent body shall specify the designation of the retraining qualification, the purpose, subject matter and requirements of the examinations, the conditions for admission to the examinations and the examination procedure, taking into consideration the special requirements of adult vocational training.

Section 60

Retraining for a Recognized Training Occupation

Insofar as the retraining regulations (section 58) or the rules issued by the competent body (section 59) concern retraining for a recognized training occupation, they shall be based on the training occupation profile (section 5 subsection (1), number 3), the overall training plan (section 5 subsection (1), number 4) and the examination requirements (section 5 subsection (1), number 5). Sections 27 to 33 shall apply, *mutatis mutandis*.

Section 61

Consideration of Previous Qualifications Acquired Abroad

Insofar as the retraining regulations (section 58) or the rules issued by the competent body (section 59) specify conditions for admission to the examination, foreign education and training qualifications and periods of employment abroad shall be taken into consideration.

Section 62

Retraining Measures; Retraining Examinations

(1) Retraining measures shall, as regards their subject matter, nature, purpose and duration, meet the special requirements of adult vocational training.

(2) Retraining providers shall notify the competent body in writing of a retraining measure prior to the beginning of such measure. The notification obligation shall apply to the essential aspects of the retraining relationship. In the event that a retraining contract is concluded, a copy of the written contract shall be enclosed with the notification.

(3) The competent body shall establish boards of examiners to administer examinations in the area of retraining. Section 37 subsections (2) and (3), sections 40 to 42, section 46 and section 47 shall apply, *mutatis mutandis*.

(4) Examinees shall on application be exempted by the competent body from taking individual parts of the examination if they have passed a comparable examination at a public or state-accredited education institution or training facility or before a state board of examiners and if their application for admission to the

retraining examination is submitted within five years of the announcement that they passed other examination.

Section 63

Equivalence of Examination Certificates

The Federal Ministry of Economics and Labour or such other ministry as may be competent, acting in agreement with the Federal Ministry of Education and Research and after consulting the Board of the Federal Institute for Vocational Education and Training, may by ordinance deem examination certificates acquired outside the scope of this Act or abroad to be equivalent to the corresponding retraining examination certificates issued on the basis of sections 58 and 59 if the vocational skills, knowledge and qualifications evidenced by the examinations are of an equivalent standard.

Chapter 4

Vocational Training for Special Groups of Persons

Division 1

Vocational Training of Disabled Persons

Section 64

Initial Training

Disabled persons (section 2 subsection (1), first sentence, of Book Nine of the Social Code) shall receive initial training in recognized training occupations.

Section 65

Initial Training in Recognized Training Occupations

(1) Arrangements pursuant to sections 9 and 47 shall take into account the special circumstances of disabled persons. This shall apply in particular to the timetable and syllabus of initial training, the duration of examination periods, permission to use aids, and utilization of the assistance of third parties such as sign language interpreters for the hearing-impaired.

(2) Initial training contracts concluded with disabled persons shall be entered in the register of initial training relationships (section 34). Disabled persons shall be admitted to the final examination even if the conditions set out in section 43 subsection (1), numbers 2 and 3, have not been fulfilled.

Section 66

Initial Training Arrangements of the Competent Bodies

(1) In the case of disabled persons for whom initial training in a recognized training occupation is not an option due to the nature and gravity of their

disabilities, the competent bodies shall on application of the disabled persons or their statutory representatives make suitable training arrangements in line with the recommendations of the Board of the Federal Institute for Vocational Education and Training. The content of such initial training shall be developed from the content of recognized training occupations, taking into account the general labour market situation and trend. In the application to be submitted pursuant to the first sentence, evidence shall be produced of an initial training opportunity in the desired initial training programme.

(2) Section 65 subsection (2), first sentence, shall apply, *mutatis mutandis*.

Section 67 Further Training, Retraining

Sections 64 to 66 shall apply, *mutatis mutandis*, to the further training and retraining of disabled persons, insofar as this is necessary due to the nature and gravity of their disabilities.

Division 2 Vocational Training Preparation

Section 68 Target Group and Standards

(1) Vocational training preparation shall be targeted towards learning impaired or socially disadvantaged persons whose level of development is such that they cannot yet be expected to successfully complete initial training in a recognized training occupation. The subject matter, nature, purpose and duration of vocational training preparation must be geared to the special requirements of the persons mentioned in the first sentence, and such preparation must be accompanied by comprehensive socio-educational counselling and support.

(2) Vocational training preparation which is not provided within the framework of Book Three of the Social Code or other comparable publicly funded measures shall be governed by sections 27 to 33, *mutatis mutandis*.

Section 69 Qualification Modules, Certificate

(1) The basic skills required for the acquisition of vocational competence (section 1 subsection (2)) may be imparted in particular through discrete learning units of specific scope and duration which have been developed from the content of recognized training occupations (qualification modules).

(2) Providers of vocational training preparation shall issue a certificate to document the imparting of basic skills required for the acquisition of vocational competence. Details shall be regulated by the Federal Ministry of Education and Research, acting in agreement with such ministry as may be competent to issue

initial training regulations and after consulting the Board of the Federal Institute for Vocational Education and Training, by ordinance which shall not require the consent of the Bundesrat.

Section 70 Supervision, Advice

(1) The authority competent under Land law shall prohibit the provision of vocational training preparation if the conditions set out in section 68 subsection (1) have not been fulfilled.

(2) Providers shall notify the competent body in writing of their vocational training preparation measures prior to the beginning of such measures. The notification obligation shall apply to the essential stipulations of the contract concluded for such qualification measures as well as the necessary particulars set out in section 88 subsection (1), number 5.

(3) Subsections (1) and (2) and section 76 shall not apply if vocational training preparation is provided within the framework of Book Three of the Social Code or other comparable publicly funded measures. The foregoing shall not apply insofar as providers of vocational training preparation receive funding under section 421m of Book Three of the Social Code.

Part 3 Organization of Vocational Training

Chapter 1 Competent Bodies; Competent Authorities

Division 1 Designation of the Competent Body

Section 71 Competent Bodies

(1) The chamber of crafts and trades shall be the competent body for the purposes of this Act in matters relating to vocational training in the occupations of the crafts and trades.

(2) The chamber of industry and commerce shall be the competent body for the purposes of this Act in matters relating to vocational training in industrial and commercial occupations other than those of the crafts and trades.

(3) The chamber of agriculture shall be the competent body for the purposes of this Act in matters relating to vocational training in occupations in the field of agriculture, including domestic service in agriculture.

(4) The chambers of lawyers, patent attorneys and notaries shall be the competent bodies for the purposes of this Act in matters relating to vocational training of skilled staff in their respective specialties in the field of judicial administration; the same shall be true of the notaries' funds for their sphere of activity.

(5) The chambers of public accountants and chambers of tax advisers shall be the competent bodies for the purposes of this Act in matters relating to vocational training of skilled staff in their respective specialties in the field of auditing and tax consultancy.

(6) The chambers of physicians, dentists, veterinarians and pharmacists shall be the competent bodies for the purposes of this Act in matters relating to vocational training of skilled staff in their respective specialties in the health care professions.

(7) Insofar as vocational training preparation, initial training and retraining are provided in craft establishments subject to licensing, in craft establishments not subject to licensing and in establishments similar to craft establishments, the chamber of crafts and trades shall, notwithstanding subsections (2) to (6), be the competent body for the purposes of this Act.

(8) Insofar as chambers do not exist for individual occupational sectors specified in subsections (1) to (6), the given Land shall designate the competent body.

(9) Several chambers may agree that the tasks assigned to them by law in the field of vocational training shall be performed by one of them. Such agreement shall require the approval of the competent supreme federal or Land authority.

Section 72 Designation by Ordinance

The competent ministry, acting in agreement with the Federal Ministry of Education and Research, may by ordinance with the consent of the Bundesrat designate the competent body for occupational sectors not covered by section 71.

Section 73 Competent Bodies in the Public Service

(1) In the public service, the supreme federal authority shall designate for the Federation the competent body for its purview

1. in cases covered by sections 32, 33 and 76 of this Act as well as sections 23, 24 and 41a of the Crafts and Trade Code;
2. for vocational training in occupational sectors other than those covered by sections 71 and 72 of this Act.

The foregoing shall also apply to the legal entities, institutions and foundations established under public law which are subject to federal supervision.

(2) In the public service, the Länder shall for their purview as well as for the municipalities and the associations of municipalities designate the competent body for vocational training in occupational sectors other than those covered by sections 71 and 72. This shall also apply to the legal entities, institutions and foundations established under public law which are subject to supervision by the Länder.

Section 74 Extended Competence

Section 73 shall apply, mutatis mutandis, to training occupations in which initial training is provided in accordance with initial training regulations of the public service within the purview of the churches and other religious communities established under public law or outside the public service.

Section 75 Competent Bodies for the Purview of the Churches and Other Religious Communities Established under Public Law

The churches and other religious communities established under public law shall designate for their purview the competent body for vocational training in training occupations other than those covered by sections 71, 72 and 74. Sections 77 to 80 shall not apply.

Division 2 Supervision of Vocational Training

Section 76 Supervision, Advice

(1) The competent body shall supervise the provision of

1. vocational training preparation;
2. initial training; and
3. retraining

and shall provide support in the form of advice to the persons involved in vocational training. To this end it shall appoint training advisers.

(2) Training employers, retraining providers and providers of vocational training preparation measures shall upon request be obliged to furnish the information necessary for the purposes of supervision, produce documents and permit inspection of the training premises.

(3) Initial training undergone abroad pursuant to section 2 subsection (3) shall be supervised and supported by the competent body in an appropriate manner. If the duration of a period of initial training abroad exceeds four weeks, a plan agreed with the competent body shall be required.

(4) Persons obliged to furnish information may refuse to answer questions the reply to which would subject them personally or one of the relatives specified in section 52 of the Code of Criminal Procedure to the risk of prosecution in a criminal court or proceedings under the Regulatory Offences Act.

(5) The competent body shall inform the supervisory authority pursuant to the Act on the Protection of Young People at Work of observations which may be of significance for the implementation of said Act.

Division 3

Vocational Training Committee of the Competent Body

Section 77

Establishment

(1) The competent body shall establish a vocational training committee. The committee shall consist of six employers' representatives, six employees' representatives and six vocational school teachers, the teachers having the right to speak but not to vote.

(2) The employers' representatives shall be appointed on the proposal of the competent body, the employees' representatives on the proposal of the trade unions and independent associations of employees concerned with matters of occupational and social policy established in the district of the competent body, and the vocational school teachers by the authority competent under Land law; all appointments shall be for a period not exceeding four years.

(3) The members of the vocational training committee shall serve in an honorary capacity. Insofar as they receive no compensation from any other source, they shall be paid appropriate compensation for out-of-pocket expenses and loss of time, at a rate to be fixed by the competent body with the approval of the supreme Land authority.

(4) Members may be removed from the committee for good cause after consultation with the parties involved in their appointment.

(5) Each member shall have a substitute. Subsections (1) to (4) shall apply, mutatis mutandis, to substitutes.

(6) The vocational training committee shall elect a member to serve as chair and another member to serve as deputy chair. The chair and the deputy chair shall not belong to the same group of members.

Section 78

Quorum, Voting

(1) A quorum of the vocational training committee shall exist if more than half of the members who are entitled to vote are present. Decisions shall be taken by a majority of the votes cast.

(2) In order for a decision of the committee to become effective, the subject of the decision must have been mentioned in the notice of convocation, unless it is subsequently placed on the agenda with the consent of two thirds of the members who are entitled to vote.

Section 79

Tasks

(1) The vocational training committee shall be informed of and consulted on all important matters connected with vocational training. Within the scope of its tasks, it shall endeavour to steadily improve the quality of vocational training.

(2) Important matters in connection with which the vocational training committee is to be consulted shall include in particular:

1. the issuance of administrative principles concerning the suitability of initial training and retraining premises, the keeping of written initial training records, reduction of the period of initial training, early admission to the final examination, administration of examinations and the provision of intercompany and non-company training as well as the issuance of administrative guidelines for vocational training;
2. implementation of the measures recommended by the Land vocational training committee;
3. substantial changes to the content of the sample initial training contract.

(3) Important matters in connection with which the vocational training committee is to be informed shall include in particular:

1. the number and nature of the vocational training preparation and retraining measures reported to the competent body as well as the number and nature of the initial training relationships entered in the register;
2. the number and results of examinations administered as well as the experience gained in the process;
3. activities of the training advisers pursuant to section 76 subsection (1), second sentence;
4. new forms, subject matter and methods of vocational training for the geographical and technical sphere of competence of the competent body;
5. opinions or proposals communicated by the competent body to other bodies and authorities, insofar as these concern the implementation of this Act or of regulations issued on the basis of this Act;
6. construction of intercompany training centres of its own;
7. decisions pursuant to subsection (5) as well as budget estimates adopted for the provision of vocational training, with the exception of personnel costs;
8. procedures for settling disputes arising out of initial training relationships;
9. labour market issues, insofar as that they affect vocational training within the sphere of competence of the competent body.

(4) The vocational training committee shall decide on the regulations to be issued by the competent body on the basis of this Act for the provision of vocational training. The person entitled to represent the competent body may object within one week to decisions that are inconsistent with the law or the statutes. The objection must be substantiated and shall have suspensive effect. The vocational training committee shall review the matter and decide anew.

(5) Decisions the implementation of which requires more funding than is provided for in the current budget for vocational training shall require the consent of the bodies responsible for the budget in order to become effective. The same shall apply to decisions the implementation of which will require appropriations in subsequent fiscal years that substantially exceed the expenditure for vocational training under the current budget.

(6) Notwithstanding section 77 subsection (1), the teachers shall have the right to vote on matters relating to vocational training preparation and initial training insofar as the decisions concerned have a direct impact on the organization of school-based vocational training.

Section 80 Rules of Procedure

The vocational training committee shall draw up its own rules of procedure. Provision may be made in the rules of procedure for the establishment of subcommittees and for such subcommittees to include persons other than members of the committee. Section 77 subsections (2) to (6) and section 78 shall apply, *mutatis mutandis*, to the subcommittees.

Division 4 Competent Authorities

Section 81 Competent Authorities

(1) Within the purview of the Federation, the supreme federal authority or such authority as it may designate shall be the competent body within the meaning of section 30 subsection (6), sections 32 and 33, section 40 subsection (4), section 47, and section 77 subsections (2) and (3).

(2) If a supreme federal authority or a supreme Land authority is the competent body within the meaning of this Act, then no approval shall be required in the case of section 40 subsection (4), section 47, and section 77 subsection (3).

Chapter 2 Land Committees for Vocational Training

Section 82

Establishment, Rules of Procedure, Voting

(1) A Land vocational training committee shall be established under the government of each Land. It shall consist of equal numbers of representatives of the employers, the employees and the supreme Land authorities. Half of the representatives of the supreme Land authorities must be experts in matters relating to the school system.

(2) The members of the Land committee shall be appointed by the Land government for a period not exceeding four years; the employers' representatives shall be appointed on the proposal of the organizations of the chambers and employers' associations established at Land level, and the employees' representatives shall be appointed on the proposal of the trade unions and independent associations of employees concerned with matters of social or occupational policy established at Land level. Members of the Land committee shall serve in an honorary capacity. Insofar as they receive no compensation from any other source, they shall be paid appropriate compensation for out-of-pocket expenses and loss of time, at a rate to be fixed by the Land government or by such supreme Land authority as it may designate. Members may be removed from the committee for good cause after consultation with the parties involved in their appointment. The committee shall elect a member to serve as chair and another member to serve as deputy chair. The chair and the deputy chair shall not belong to the same group of members.

(3) Each member shall have a substitute. Subsections (1) and (2) shall apply, *mutatis mutandis*, to substitutes.

(4) The Land committee shall draw up its own rules of procedure, which shall require the approval of the Land government or of such supreme Land authority as it may designate. Provision may be made in the rules of procedure for the establishment of subcommittees and for such subcommittees to include persons other than members of the Land committee. Subsection (2), second sentence, shall apply, *mutatis mutandis*, to the subcommittees as regards the payment of compensation. Representatives of the supreme Land authorities involved, the municipalities and associations of municipalities, and the employment agency may attend the meetings of the Land committee and the subcommittees.

(5) A quorum of the Land committee shall exist if more than half of its members are present. Decisions shall be taken by a majority of the votes cast.

Section 83

Tasks

(1) The Land committee shall advise the Land government on vocational training issues arising in connection with the Land concerned. Within the scope of its tasks, it shall endeavour to steadily improve the quality of vocational training.

(2) In the interests of a uniform system of vocational training, the committee shall in particular work to promote cooperation between school-based vocational training and vocational training provided in accordance with this Act and to ensure that due regard is given to vocational training in the reorganization and further development of the school system. To better the regional training and employment situation, the Land committee may recommend steps to foster a coordinated approach in substantive and organizational matters and improve initial training opportunities.

Part 4

Vocational Training Research, Planning and Statistics

Section 84

Objectives of Vocational Training Research

The object of vocational training research shall be to

1. clarify the fundamentals of vocational training;
2. track domestic, European and international developments in vocational training;
3. identify standards for the subject matter and objectives of vocational training;
4. pave the way for further developments in the field of vocational training to meet changing economic, societal and technical requirements;
5. further the development of instruments and procedures for the provision of vocational training and promote the transfer of knowledge and technology.

Section 85

Objectives of Vocational Training Planning

(1) The object of vocational training planning shall be to lay the foundations for the coordinated development of vocational training in line with technical, economic and societal requirements.

(2) Vocational training planning shall in particular help to ensure that the nature, number, size and location of initial training establishments are such that a qualitatively and quantitatively sufficient supply of initial training places is guaranteed and that optimal use will be made of such training establishments while giving due consideration to the foreseeable demand and projected long-term need for initial training places.

Section 86

Report on Vocational Education and Training

(1) The Federal Ministry of Education and Research shall constantly track developments in vocational education and training and shall submit a corresponding report (Report on Vocational Education and Training) to the Federal

Government by 1 April each year. The report shall describe the current state and probable further development of vocational training. If there are indications that a regionally and sectorally balanced supply of initial training places may be at risk, the report shall include proposals for remedying such situation.

(2) The report shall specify

1. for the preceding calendar year
 - a) on the basis of the data furnished by the competent bodies, the initial training contracts entered in the register of initial training relationships pursuant to this Act or pursuant to the Crafts and Trade Code which were concluded during the twelve months prior to 1 October of the preceding year and were still in existence on 30 September of the preceding year, as well as
 - b) the number of initial training places offered to the Federal Employment Agency for placement which were not filled on 30 September of the preceding year and the number of persons registered with the Federal Employment Agency on that date as seeking initial training places;
2. for the current calendar year
 - a) the number of persons expected to be seeking initial training places up to 30 September of the current year,
 - b) an estimate of the number of initial training places expected to be on offer up to 30 September of the current year.

Section 87

Purpose and Compilation of Vocational Training Statistics

(1) Federal statistics shall be compiled for the purposes of planning and organizing vocational training.

(2) The Federal Institute for Vocational Education and Training and the Federal Employment Agency shall assist the Federal Statistical Office in the technical and methodological preparation of such statistics.

(3) The surveying and processing programme shall be designed in agreement with the Federal Institute for Vocational Education and Training in such a manner that the data compiled can be used for planning and organizing vocational training within the scope of the competences defined in a given case.

Section 88

Surveys

(1) The annual federal statistics shall comprise

1. for trainees: sex, nationality, training occupation, year of initial training; prematurely terminated initial training relationships indicating training occupation, sex, year of initial training, termination during the probationary period; newly concluded initial training contracts indicating

- training occupation, reduction of the period of initial training, sex, year of birth, previous education and training, employment agency district; follow-up contracts for training by stages indicating the training occupation;
2. for instructors: sex, technical qualifications and teaching qualifications;
 3. for examinees in the area of vocational training: sex, occupational sector, reduction of the period of training, form of admission to the examination, repetition of the examination, successful completion of the examination and designation of the qualification obtained;
 4. for training advisers: age according to age groups, sex, previous education and training, type of advisory activity, technical competence and visits paid to training premises;
 5. for participants in vocational training preparation measures, insofar as providers are subject to the notification obligation under section 70 subsection (2): sex, age, nationality.

(2) The competent bodies shall be obliged to furnish such information.

Part 5

Federal Institute for Vocational Education and Training

Section 89

Federal Institute for Vocational Education and Training

The Federal Institute for Vocational Education and Training is a federal institution with legal personality established under public law. Its headquarters shall be in Bonn.

Section 90

Tasks

(1) The Federal Institute for Vocational Education and Training shall carry out its tasks within the scope of the education policy of the Federal Government.

(2) The Federal Institute for Vocational Education and Training shall have the task of contributing to vocational training research by means of scientific research. This research shall be carried out on the basis of an annual research programme requiring the approval of the Federal Ministry of Education and Research. Further research tasks may be assigned to the Federal Institute for Vocational Education and Training by supreme federal authorities in agreement with the Federal Ministry of Education and Research. The substantive results of the research work carried out by the Federal Institute for Vocational Education and Training shall be published.

(3) The Federal Institute for Vocational Education and Training shall have the following further tasks:

1. in accordance with the instructions of the competent federal ministry,

- a) to take part in the drafting of initial training regulations and other ordinances to be issued under this Act or under Part Two of the Crafts and Trade Code;
 - b) to take part in the preparation of the Report on Vocational Education and Training;
 - c) to take part in the compilation of vocational training statistics pursuant to section 87;
 - d) to promote pilot schemes, including scientific monitoring and evaluation;
 - e) to take part in international cooperation in the field of vocational education and training;
 - f) to assume further administrative tasks of the Federation for the promotion of vocational education and training;
2. in accordance with general administrative provisions of the competent federal ministry, to implement the promotion of intercompany training centres and support the planning, establishment and further development of these facilities;
 3. to maintain and publish the register of recognized training occupations;
 4. to carry out the tasks described in the Distance Learning Protection Act in accordance with the guidelines issued by the Board and approved by the competent federal ministry and to contribute to the improvement and extension of vocational distance learning through the promotion of development projects.

(4) The Federal Institute for Vocational Education and Training may, with the consent of the Federal Ministry of Education and Research, conclude contracts with parties outside the federal administration for the assumption of further tasks.

Section 91 Organs

The organs of the Federal Institute for Vocational Education and Training shall be:

1. the Board;
2. the President.

Section 92 Board

(1) In addition to the tasks assigned to it under other provisions of this Act, the Board shall have the following further tasks:

1. It shall determine the affairs of the Federal Institute for Vocational Education and Training insofar as these have not been assigned to the President;
2. It shall advise the Federal Government on basic issues relating to vocational education and training and may submit an opinion on the draft Report on Vocational Education and Training;

3. It shall determine the annual research programme;
4. It may make recommendations concerning the uniform application of this Act;
5. It may state its views on the draft ordinances prepared by the Federal Institute for Vocational Education and Training pursuant to section 4 subsection (1), taking into account the corresponding draft framework curricula for school-based training;
6. It shall determine the affairs of the Federal Institute for Vocational Education and Training specified in section 90 subsection (3), numbers 3 and 4, and in section 97 subsection (4).

(2) The President shall inform the Board without delay of instructions to carry out tasks pursuant to section 90 subsection (3), number 1, and of administrative provisions issued pursuant to section 90 subsection (3), number 2.

(3) The Board shall consist of eight representatives each of the employers, the employees and the Länder as well as five representatives of the Federation. The representatives of the Federation shall have eight votes which may only be cast en bloc; they shall have no right to vote on matters concerning advice to the Federal Government on basic issues relating to vocational education and training, on the opinion concerning the draft Report on Vocational Education and Training, and within the framework of consultations pursuant to this Act. One representative each of the Federal Employment Agency, the organizations of municipal associations established at federal level and the Research Council may attend the meetings of the Board in an advisory capacity.

(4) The employers' representatives shall be appointed on the proposal of the organizations of the chambers, employers' associations and industrial associations established at federal level, the employees' representatives on the proposal of the trade unions organized at federal level, the federal representatives on the proposal of the Federal Government, and the representatives of the Länder on the proposal of the Bundesrat. They shall be appointed by the Federal Ministry of Education and Research for a period not exceeding four years.

(5) The Board shall elect for the period of one year one member to serve as chair and another member to serve as deputy chair. The chair shall be proposed in turn by the representatives of the employers, the employees, the Länder and the Federation.

(6) The members of the Board shall serve in an honorary capacity. Insofar as they receive no compensation from any other source, they shall be paid appropriate compensation for out-of-pocket expenses and for loss of earnings, at a rate to be fixed by the Federal Institute for Vocational Education and Training with the approval of the Federal Ministry of Education and Research. Such approval shall be granted in agreement with the Federal Ministry of Finance.

(7) Members may be removed from the Board for good cause after consultation with the parties involved in their appointment.

(8) The representatives shall have substitutes. Subsections (4), (6) and (7) shall apply, *mutatis mutandis*.

(9) The Board may, according to the provisions of the statutes, appoint subcommittees which may include as their members persons other than members of the Board. The membership of the subcommittees shall include representatives of the employers, the employees, the Länder and the Federation. Subsections (4) to (7) shall apply, *mutatis mutandis*, to the subcommittees.

(10) The Board shall not be bound by any instructions in the execution of its tasks.

Section 93 President

(1) The President shall represent the Federal Institute for Vocational Education and Training judicially and extrajudicially. He or she shall manage the administrative affairs of the Federal Institute for Vocational Education and Training and execute its tasks. Insofar as he or she is not obliged to observe instructions and general administrative provisions of the competent federal ministry (section 90 subsection (3), numbers 1 and 2), he or she shall execute these tasks in accordance with the guidelines of the Board.

(2) The President and the Deputy President shall be appointed by the Federal President – the former on the proposal of the Federal Government and the latter on the proposal of the Federal Ministry of Education and Research in agreement with the President – and simultaneously accorded civil servant status.

Section 94 Research Council

(1) The Research Council shall advise the organs of the Federal Institute for Vocational Education and Training by means of opinions and recommendations in respect of

1. the research programme of the Federal Institute for Vocational Education and Training;
2. the cooperation of the Institute with higher education institutions and other research institutions; und
3. the annual reports on the results of research by the Federal Institute for Vocational Education and Training.

(2) The Council shall receive all information necessary for the execution of its tasks from the President of the Federal Institute for Vocational Education and Training. Upon request the Council shall be informed in detail of the research work of the Federal Institute for Vocational Education and Training within the framework of an annual conference.

(3) The Council shall consist of up to seven recognized specialists in the area of vocational training research from Germany and abroad who are not staff of the

Federal Institute for Vocational Education and Training. They shall be appointed by the President of the Federal Institute for Vocational Education and Training in agreement with the Federal Ministry of Education and Research for a period of four years. One successive reappointment shall be possible. Four members of the Board, namely one representative each of the employers, the employees, the Länder and the Federation, may participate in the meetings of the Research Council without voting rights.

(4) The Research Council may adopt its own rules of procedure.

(5) Section 92 subsection (6) shall apply, *mutatis mutandis*.

Section 95 Disabled Persons Committee

(1) A permanent subcommittee of the Board shall be established for the purpose of advising the Federal Institute for Vocational Education and Training in respect of its tasks in the area of vocational education and training of disabled persons. This Disabled Persons Committee shall endeavour to ensure that consideration is given to the special vocational education and training requirements of disabled persons and that vocational education and training of disabled persons is coordinated with other measures to promote their participation in working life. The Federal Institute for Vocational Education and Training shall consider the proposals put forward by the Committee when taking decisions concerning the implementation of research projects pertaining to the vocational education and training of disabled persons.

(2) The Committee shall consist of 17 members who shall be appointed by the President for a period not exceeding four years. One reappointment shall be permitted. The members of the Committee shall be appointed on the proposal of the Advisory Council for the Participation of People with Disabilities (Section 64 of Book Nine of the Social Code) and, namely,

- one member to represent the employees,
- one member to represent the employers,
- three members to represent organizations of disabled persons,
- one member to represent the Federal Employment Agency,
- one member to represent the statutory pension insurance scheme,
- one member to represent the statutory accident insurance scheme,
- one member to represent private welfare organizations,
- two members to represent vocational rehabilitation institutions,
- six additional persons who are experts in the area of vocational education and training of disabled persons and are employed at vocational training establishments or outpatient services for the disabled.

(3) The Committee may invite disabled persons who are undergoing initial training, further training or retraining to participate in its deliberations.

Section 96

Funding of the Federal Institute for Vocational Education and Training

(1) Expenditure for the establishment and administration of the Federal Institute for Vocational Education and Training shall be met by federal grants. The amount of such federal grants shall be stipulated by the Budget Act.

(2) Expenditure for the discharge of assignments pursuant to Section 90 subsection (2), third sentence, and tasks pursuant to section 90 subsection (3), number 1, letter f), shall be met by the federal ministry authorizing same. Expenditure for the discharge of contracts pursuant to section 90 subsection (4) shall be met by the parties to said contracts.

Section 97

Budget

(1) The budget shall be drawn up by the President. The Board shall adopt the budget.

(2) The budget shall require the approval of the Federal Ministry of Education and Research. Such approval shall also apply to the expediency of the budget estimates.

(3) The budget shall be submitted to the Federal Ministry of Education and Research in good time before the submission of estimates for the federal budget, at the latest by 15 October of the preceding year.

(4) Excess and unbudgeted expenditure may be authorized by the Board on the proposal of the President. Such authorization shall require the consent of the Federal Ministry of Education and Research and the Federal Ministry of Finance. The first and second sentences shall apply, *mutatis mutandis*, to measures which may give rise to financial commitments for the Federal Institute for Vocational Education and Training for which no provision has been made under the budget.

(5) After the expiry of the fiscal year, the accounts shall be drawn up by the President. Discharge shall be incumbent upon the Board. Such discharge shall not require approval pursuant to section 109 subsection (3) of the Federal Budget Code.

Section 98

Statutes

(1) The statutes of the Federal Institute for Vocational Education and Training shall specify details of

1. the manner and method for the discharge of tasks (section 90 subsections (2) and (3)) as well as
2. the organization of the Institute.

(2) The Board shall adopt the statutes by a majority of four fifths of the votes of its members. The statutes shall require the approval of the Federal Ministry of Education and Research and shall be published in the Federal Gazette.

(3) Subsection (2) shall apply, *mutatis mutandis*, to amendments to the statutes.

Section 99

Staff

(1) The tasks of the Federal Institute for Vocational Education and Training shall be executed by civil servants and other staff classified as salaried employees and wage earners. The Federal Institute for Vocational Education and Training shall be employer within the meaning of section 121, number 2, of the General Act to Define the Scope of Civil Servants' Rights and Duties [*Beamtenrechtsrahmengesetz*]. The civil servants shall be indirect federal civil servants.

(2) The Federal Ministry of Education and Research shall appoint and dismiss the civil servants of the Federal Institute for Vocational Education and Training insofar as the right to appoint and dismiss civil servants whose office is listed in Federal Remuneration Scheme B is not exercised by the Federal President. The competent federal ministry may transfer its powers to the President.

(3) The highest service authority for the civil servants of the Federal Institute for Vocational Education and Training shall be the Federal Ministry of Education and Research. It may transfer its powers to the President. Section 187 subsection (1) of the Federal Civil Service Law [*Bundesbeamtengesetz*] and section 83 subsection (1) of the Federal Disciplinary Act [*Bundesdisziplinargesetz*] shall remain unaffected.

(4) The collective agreements and other provisions applicable to federal employees shall also apply to the salaried employees and wage earners of the Federal Institute for Vocational Education and Training. Exceptions shall require the prior consent of the Federal Ministry of Education and Research; such consent shall be granted in agreement with the Federal Ministry of the Interior and the Federal Ministry of Finance.

Section 100

Supervision of the Federal Institute for Vocational Education and Training

The Federal Institute for Vocational Education and Training shall, insofar as no provision is made under this Act for more extensive supervisory powers, be subject to the legal supervision of the Federal Ministry of Education and Research.

Section 101

Duty of Disclosure

(1) Natural persons and legal entities as well as authorities engaged in the provision of vocational training shall at the request of the parties authorized by the

Federal Institute for Vocational Education and Training furnish the information required for the execution of the latter's research tasks, produce the documents required therefor and permit inspections of workrooms, equipment and initial and continuing training areas during usual working and business hours. Obligations under labour law and civil service law to observe secrecy shall remain unaffected.

(2) Persons obliged to furnish information may refuse to furnish information in respect of any questions the reply to which would subject them personally or one of the relatives specified in section 52 of the Code of Criminal Procedure [*Strafprozessordnung*] to the risk of prosecution in a criminal court or proceedings under the Regulatory Offences Act [*Gesetz über Ordnungswidrigkeiten*].

(3) Information shall be provided free of charge unless otherwise provided.

(4) Specific data concerning personal or material circumstances which become known to the Federal Institute for Vocational Education and Training by virtue of subsection (1) shall be kept secret unless otherwise provided by legislation. Publications of results obtained on the basis of surveys and studies may not contain specific data.

Part 6 Provisions Governing Fines

Section 102 Provisions Governing Fines

(1) A regulatory offence shall be deemed to have been committed by any person who

1. contrary to section 11 subsection (1), first sentence, also in conjunction with subsection (4), fails to set down in writing the essential stipulations of a contract or any essential amendments thereto, or fails to do so correctly, completely, in the prescribed manner or in good time;
2. contrary to section 11 subsection (3), also in conjunction with subsection (4), fails to provide a copy of the document or fails to do so in good time;
3. contrary to section 14 subsection (2) entrusts trainees with a task which does not serve the purpose of their initial training;
4. contrary to section 15, first sentence, also in conjunction with the second sentence, fails to grant trainees time off;
5. contrary to section 28 subsection (1) or subsection (2) engages trainees or provides initial training;
6. acts contrary to an enforceable order pursuant to section 33 subsection (1) or subsection (2);
7. contrary to section 36 subsection (1), first or second sentence, each also in conjunction with the third sentence, fails to apply for an entry in the register specified therein, or fails to do so in good time, or fails to attach a copy of the document setting out the contract, or
8. contrary to section 76 subsection (2) fails to furnish information or fails to do

so truthfully, completely or in good time; fails to produce a document or fails to do so correctly, in its entirety or in good time; or fails to permit an inspection or fails to do so in good time.

(2) A regulatory offence may be punished by a fine of up to five thousand euros in the cases specified in subsection (1), numbers 3 to 6, and by a fine of up to one thousand euros in the remaining cases.

Part 7 Transitional and Concluding Provisions

Section 103 Equivalence of Final Examination Certificates as a Consequence of German Unification

Examination certificates issued in accordance with the *Systematik der Ausbildungsberufe*⁷ and the *Systematik der Facharbeiterberufe*⁸ and examination certificates issued in accordance with section 37 subsection (2) of this Act shall be equivalent.

Section 104 Continuation in Force of Existing Regulations

(1) Apprenticeship trades and semi-skilled occupations recognized prior to 1 September 1969 or training occupations comparably regulated prior to this date shall be deemed to be training occupations within the meaning of section 4 of this Act. The occupational profiles, vocational training plans, examination requirements and examination rules for these trades and occupations shall be applicable until the issuance of initial training regulations pursuant to section 4 and examination rules pursuant to section 47.

(2) The examination certificates issued prior to 1 September 1969 in trades and occupations deemed to be recognized training occupations pursuant to subsection (1) shall be equivalent to examination certificates issued in accordance with section 37 subsection (2) of this Act.

Section 105 Transfer of Competences

The Land governments shall be authorized to issue ordinances transferring to the competent bodies the competences pursuant to sections 27, 30, 32, 33 and 70 which have been assigned under this Act to the authorities competent under Land law.

⁷ Translator's note: Term used in the German Democratic Republic until the mid-1980s for the set of regulations governing training in skilled occupations.

⁸ Translator's note: Term used in the German Democratic Republic after the mid-1980s for the set of regulations governing training in skilled occupations.

Further Information

Federal Ministry of Education and Research:

Information on the reform of
vocational education and training

<http://www.bmbf.de/en/1644.php>

German Bundestag:

DIP – Documentation and Information
System for Parliamentary Materials
(for Bundestag printed papers)

<http://dip.bundestag.de/>

Promulgation of the Vocational Training Act in the Federal Law Gazette:

Gesetz zur Reform der beruf-
lichen Bildung (Berufsbildungs-
reformgesetz – BerBiRefG)
vom 23. März 2005

Bundesgesetzblatt – Jahrgang 2005,
Teil I Nr. 20 vom 31. März 2005,
Seite 931

Bundestag printed papers concerning the Vocational Training Reform Act:

- 15/3980** Entwurf eines Gesetzes zur Reform der beruflichen Bildung
(Berufsbildungsreformgesetz – BerBiRefG)
(draft of the Vocational Training Reform Act)
- 15/4752** Beschlussempfehlung und Bericht des Ausschusses Bildung,
Forschung und Technikfolgenabschätzung zum
Berufsbildungsreformgesetz
(recommendation for a decision and report of the Committee on
Education, Research and Technology Assessment on the Vocational
Training Reform Act)

This publication is distributed free of charge by the German Federal Ministry of Education and Research as part of its public relations work. It is not intended for commercial sale. It may not be used by political parties, candidates or electoral assistants during an election campaign. This applies to parliamentary, state assembly and local government elections as well as to elections to the European Parliament.

In particular the distribution of this publication at election events and at the information stands of political parties, as well as the insertion, printing or affixing of party political information, are regarded as improper use.

The distribution of this publication to third parties as a form of campaign publicity is also prohibited.

Regardless of how recipients came into possession of this publication and how many copies of it they may have, it may not be used in a manner that may be considered as showing the partisanship of the Federal Government in favour of individual political groups, even if not within the context of an upcoming election.



Federal Ministry
of Education
and Research

