

# **Federal Budget Code<sup>1</sup>**

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Federal Budget Code of 19 August 1969 (Federal Law Gazette I, p. 1284), as last amended by Article 11 of the Act of 14 August 2017 (Federal Law Gazette I, p. 3122).

## **Part I**

### **General regulations concerning the budget**

#### **Section 1 – Adoption of the budget**

The budget shall be adopted for one or two financial years – making separate provision for each year – before the beginning of the first financial year, by way of the Budget Act<sup>2</sup>. Only the aggregate budget (section 13 subsection (4)) shall be promulgated together with the Budget Act.

#### **Section 2 – Purpose of the budget**

The budget shall serve to determine, and provide cover for, the financial requirement which is expected to be necessary for the accomplishment of the Federation's tasks during the period for which authorisation is granted. The budget shall be the basis for budgetary and financial management. The requirements of overall economic equilibrium shall be taken into account during its preparation and execution.

#### **Section 3 – Effects of the budget**

(1) The budget shall authorise the administration to effect expenditures and to enter into commitments.

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<sup>1</sup> This working translation of the *Bundeshaushaltsordnung (BHO)* is provided by the Language Service of the Federal Ministry of Finance. Only the German text of this Act is authentic.

<sup>2</sup> *Haushaltsgesetz*

(2) The budget shall neither establish nor cancel any claims or liabilities.

#### **Section 4 – Fiscal year**

The financial year (fiscal year) shall be the calendar year. The Federal Ministry of Finance may provide other arrangements for individual areas.

#### **Section 5 – General administrative regulations, provisional and final budgetary and financial management**

The Federal Ministry of Finance shall issue the general administrative regulations concerning this Code as well as concerning the provisional and final budgetary and financial management.

#### **Section 6 – Necessity of expenditures and commitment appropriations**

When the budget is being prepared and executed, only those expenditures and those authorisations to enter into commitments to effect expenditures in future years (commitment appropriations) which are necessary for the accomplishment of the Federation's tasks shall be taken into consideration.

#### **Section 7 – Efficiency and economy, cost and activity accounting**

(1) The principles of efficiency and economy shall be observed in preparing and executing the budget. These principles shall impose an obligation to examine the extent to which government tasks or economic activities serving public purposes may be accomplished through divestiture and denationalisation or privatisation.

(2) Appropriate economic feasibility studies shall be conducted for all measures that have a fiscal impact. The risk allocation associated with such measures shall also be taken into consideration in the process. In suitable cases, private-sector providers shall be given the opportunity to demonstrate whether and to what extent they can perform government tasks or economic activities serving public purposes with equal or greater efficiency (expression of interest procedure).

(3) Cost and activity accounting shall be introduced in suitable areas.

### **Section 8 – Principle of universality**

All revenues shall serve as cover for all expenditures. Revenues may be restricted to usage for specific purposes insofar as this is prescribed by a law or permitted in the budget.

### **Section 9 – Budget officer**

(1) Every agency which manages revenues or expenditures shall appoint a budget officer, unless this task is assumed by the head of the agency personally. The budget officer should be directly subordinate to the head of the agency.

(2) It shall be incumbent upon the budget officer to prepare the documents required for financial planning and for the draft budget (bids), as well as to execute the budget. In addition, the budget officer shall be involved in all measures of financial importance. During the execution of the budget he or she may delegate tasks.

### **Section 10 – Provision of information to the Bundestag and the Bundesrat**

(1) The Federal Government shall enclose with its bills, including the treaties that are to be submitted under paragraph (2) of Article 59 of the Basic Law<sup>3</sup>, as well as with the draft regulations and directives of the European Communities, an overview of their effects on the budget and financial planning of the Federation, the *Länder* and the municipalities (or associations of municipalities). Moreover, an indication should be given as to how the planned additional expenditures of the Federation can be counterbalanced. The first and second sentences above shall also apply to bills submitted by the Bundesrat.

(2) The Federal Government shall inform the Bundestag and the Bundesrat of any considerable changes in the development of the budget and of their effects on financial planning.

(3) The Federal Government shall assist those members of the Bundestag who intend to present motions reducing revenues or increasing expenditures in calculating the financial effects.

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<sup>3</sup> *Grundgesetz*

### **Section 10a – Matters necessitating secrecy**

(1) In the case of expenditures the use of which is to be kept secret, the budget may determine that the audit by the Federal Court of Auditors shall be conducted under section 19, first sentence, number 1 or 2 of the Federal Court of Auditors Act<sup>4</sup>.

(2) For compelling reasons of secrecy, the Bundestag may in exceptional instances make the authorisation of expenditures that are to be managed under operating budgets which are to be kept secret dependent, in the budget legislation procedure, on the authorisation of such operating budgets by a committee of Budget Committee members (Confidential Committee), which shall be elected by the Bundestag for the duration of the legislative period in analogous application of section 2 of the Act governing the Parliamentary Control of Intelligence Activities by the German Federation<sup>5</sup> of 29 July 2009 (Federal Law Gazette I, p. 2346). Insofar as its right to scrutiny suffices, the Confidential Committee shall have the same rights as the Parliamentary Control Panel; sections 5, 6, 7, 8, 12 and 13 of the Act governing the Parliamentary Control of Intelligence Activities by the German Federation of 29 July 2009 (Federal Law Gazette I, p. 2346) shall apply accordingly. Unless the Bundestag decides otherwise, the Federal Ministry of Finance shall submit the operating budgets for the intelligence services to the Confidential Committee for approval. The Confidential Committee shall inform the Budget Committee in good time of the final totals of the operating budgets. The members of the Confidential Committee shall be obliged to keep secret any matters which become known to them through their activity. The Chair of the Parliamentary Control Panel, his or her deputy and a designated member may participate in the sessions of the Confidential Committee in an advisory capacity. In the sessions to consult on and to execute the operating budgets of the intelligence services this shall also apply to the members of the Parliamentary Control Panel.

(3) In the cases falling under subsection (2) above, the Federal Court of Auditors shall conduct its audit under section 19, first sentence, number 1 of the Federal Court of Auditors Act and shall inform the Confidential Committee, the Parliamentary Control Panel as well as the responsible supreme federal authority and the Federal Ministry of Finance of the result of its audit of the annual account and of the budgetary and financial management. The responsible supreme federal authority shall inform the President of the Bundesrat on demand.

Section 97 subsection (4) shall remain unaffected.

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<sup>4</sup> *Bundesrechnungshofgesetz*

<sup>5</sup> *Gesetz über die parlamentarische Kontrolle nachrichtendienstlicher Tätigkeit des Bundes*

## **Part II**

### **Preparation of the budget**

#### **Section 11 – Complete and single budget, current year principle**

- (1) A budget shall be prepared for every fiscal year.
- (2) The budget shall contain the following:
  1. all the revenues expected during the fiscal year,
  2. all the expenditures expected to be effected in the fiscal year, and
  3. all the commitment appropriations expected to be required in the fiscal year.

#### **Section 12 – Period of validity of the budgets**

- (1) The budget may be prepared for two fiscal years, each year being dealt with separately.
- (2) The budget may be composed of an administrative and a financial budget; both of these may be prepared for two fiscal years, each year being dealt with separately. The periods for which authorisation is granted for these two budgets may commence in successive fiscal years.
- (3) If the budget is composed of an administrative and a financial budget, the administrative budget shall contain the following:
  1. the administrative revenues to be expected,
  2. the administrative expenditures (personnel expenditures and current expenditures on goods and services in the administration) expected to be effected,
  3. the commitment appropriations expected to be required to effect administrative expenditures.

#### **Section 13 – Departmental budgets, aggregate budget, system of classification by object**

- (1) The budget shall consist of the departmental budgets and the aggregate budget.

(2) The departmental budgets shall contain the revenues, expenditures and commitment appropriations of a single branch of the administration or specific classes of revenues, expenditures and commitment appropriations. The departmental budgets shall be sub-divided into chapters and titles. The sub-division into titles shall be governed by administrative regulations on the classification of budget revenues and expenditures by type (the system of classification by object).

(3) At least the following items shall be presented separately in the system of classification by object:

1. under revenues: taxes, administrative revenues, revenues from the sale of assets, incoming loan repayments, grants and subsidies, revenues from borrowing, not counting borrowing to maintain orderly cash management (liquidity loans), withdrawals from reserves and revenues from coin;
2. under expenditures: personnel expenditures, non-personnel administrative expenditures, interest expenditures, grants to political subdivisions, subsidies to enterprises, expenditures on debt repayment, debt service relief, allocations to reserves, expenditures on investments. Expenditures on investments shall be expenditures on:
  - a) construction measures, insofar as they do not relate to military installations,
  - b) the acquisition of movable assets, unless budgeted for as non-personnel administrative expenditures or unless the expenditures are expenditures for military procurement,
  - c) the acquisition of fixed assets,
  - d) the acquisition of holdings and other capital assets, of claims on and equity interests in enterprises, of securities, as well as on increasing the capital of enterprises,
  - e) loans,
  - f) recourse to guarantees,

- g) grants and subsidies to finance expenditures for the purposes designated under letters a) to f) above.

(4) The aggregate budget shall contain:

1. a summary of revenues, expenditures and commitment appropriations in the departmental budgets (budgetary summary),
2. a computation of the permissible borrowing under the Act on the Implementation of Article 115 of the Basic Law of 10 August 2009 (Federal Law Gazette I p. 2702, 2704) in the applicable version,
3. a computation of the financial balance (financing summary). The financial balance is derived by comparing revenues (with the exception of revenues from borrowing on the credit market, withdrawals from reserves, revenues from cash surpluses as well as revenues from coin), on the one hand, and expenditures (with the exception of expenditures on the repayment of debts incurred on the credit market, allocations to reserves, and expenditures to cover a cash shortfall), on the other hand,
4. a presentation of the revenues from borrowing and of the expenditures on debt repayment (borrowing plan).

#### **Section 14 – Summaries relating to the budget, system of classification by function**

(1) The budget shall have the following annexes:

1. presentations of revenues and expenditures
  - a) classified according to specific types (summary of data classified by object),
  - b) composed according to specific functional areas (summary of data classified by function),
  - c) arranged in a breakdown grouping together the data shown under letter a) and letter b) above (cross-section of the budget);
2. a summary of the pass-through items of revenue and expenditure in the budget;

3. a summary of the established posts of tenured civil servants and the posts of salaried staff and wage earners.

These annexes shall be attached to the draft budget.

(2) The summary of data classified by function shall be governed by administrative regulations on the composition of revenues and expenditures in the budget according to functional areas (the system of classification by function).

### **Section 15 – Gross budgeting, resources managed independently**

(1) Revenues and expenditures shall be budgeted in full and separately from each other. This shall not apply to revenues from borrowing on the credit market and the related expenditures on repayments. In addition, exceptions to the first sentence above may be permitted in the budget, particularly for incidental expenses and incidental receipts in the case of acquisitions or sales. In the cases falling under the third sentence above, the computation of the amount budgeted shall be attached to the budget as an annex or included in the explanatory notes.

(2) Expenditures may be budgeted for independent management if this is in the interests of economical management. Resources managed independently shall be available beyond the end of the current fiscal year. Revenues obtained from such management shall accrue to the resources managed independently. For the purposes of rendering accounts, only the granting of the funds to the agencies concerned shall be shown as expenditure.

### **Section 16 – Commitment appropriations**

The commitment appropriations shall be budgeted separately for the respective expenditures. If commitments can be spread over two or more fiscal years, the annual amounts should be indicated in the budget.

### **Section 17 – Individual budgeting, explanatory notes, established posts**

(1) Revenues shall be budgeted separately according to origin, and expenditures and commitment appropriations shall be budgeted separately according to purpose and, insofar as is required, they shall be explained. Explanatory notes may be declared binding.

(2) In the case of expenditures on a measure covering several years, the expected aggregate costs shall be indicated when initially taken up in the budget and, in the budgeting on each subsequent occasion, the financial settlement shall also be outlined.

(3) Earmarked revenues and the corresponding expenditures shall be identified as such.

(4) Expenditures and commitment appropriations relating to a common purpose should not be budgeted under different titles.

(5) Established posts shall be stated in the budget in terms of pay grades and official titles. They may only be set up for the performance of tasks which permit the establishment of civil service posts and which are normally of a permanent nature.

(6) Posts other than established posts shall be indicated in the explanatory notes.

### **Section 18 – Borrowing authorisations**

(1) Revenues from borrowing to cover expenditures may be taken up in the budget only up to the amount of the permissible borrowing under the Act on the Implementation of Article 115 of the Basic Law in the applicable version.

(2) The Budget Act shall determine the amount up to which the Federal Ministry of Finance may borrow:

1. to cover expenditures,
2. to maintain orderly cash management (liquidity loans). Insofar as these loans have been repaid, fresh recourse may be taken to the authorisation. Liquidity loans may fall due no later than six months after the end of the fiscal year for which they have been taken out.

(3) The authorisations under subsection (2) number 1 above shall be valid until the end of the subsequent fiscal year and, if the Budget Act is not promulgated in time for the next-but-one fiscal year, they shall be valid until that Budget Act is promulgated. The authorisations under subsection (2) number 2 above shall be valid until the end of the current fiscal year and, if the Budget Act for the next fiscal year is not promulgated in time, they shall be valid until that Budget Act is promulgated.

### **Section 19 – Carry-over**

(1) Investment expenditures and expenditures from earmarked revenues may be carried over. Other expenditures may be declared eligible for carry-over in the budget, if this promotes their efficient and economical use.

(2) Funds shall be budgeted in order to cover expenditures which are to be carried over (unexpended balances). These funds should be calculated in such a way that they suffice to cover the unexpended balances that will have to be spent in the next fiscal year; unexpended balances for which funds can probably be provided from cash underspends in the next fiscal year shall not be taken into consideration.

### **Section 20 – Virement**

(1) Within the same chapter, virement shall be permitted

1. mutually

between expenditures on the salaries of salaried staff and the wages of wage earners,

2. in one direction

a) from expenditures on tenured civil servants' pay to expenditures on the salaries of salaried staff and the wages of wage earners,

b) from expenditure on assistance payments to expenditure on civil servants' medical care.

(2) Expenditures and commitment appropriations may respectively be declared eligible for mutual or one-way virement in the budget if there is an administrative or material connection or if doing so promotes their efficient and economical use.

(3) Expenditures and commitment appropriations budgeted without any detailed indication of their purpose may not be declared eligible for virement.

### **Section 21 – Lapsing and conversion notes**

(1) Expenditures and established posts shall be designated as lapsing in the future insofar as they are unlikely to be required in subsequent fiscal years.

(2) Established posts shall be designated as posts to be converted in the future insofar as it is likely that they can be converted into established posts of a lower pay grade or into posts for salaried staff or wage earners in subsequent fiscal years.

### **Section 22 – Blocking note**

Expenditures which, for special reasons, should not be effected for the time being or for which no commitments should be entered into as yet shall be designated in the budget as blocked.

The same shall apply to commitment appropriations. In exceptional cases, it may be stipulated by way of a blocking note that the prior consent of the Bundestag is required in order to effect expenditures or take recourse to commitment appropriations.

### **Section 23 – Allocations**

Expenditures and commitment appropriations in respect of payments to be made to agencies not belonging to the federal administration in order to accomplish specific tasks (allocations) may only be budgeted if the Federation has considerable interest in performance by such agencies and this interest cannot be satisfied at all or to the necessary extent without the allocations.

### **Section 24 – Construction measures, major procurements, major development projects**

(1) Expenditures and commitment appropriations for construction measures may not be budgeted until plans, cost calculations and explanations are available showing the type of work, the cost of the construction measures, of the land transfer and of the installations, as well as the proposed method of financing and a time schedule. An estimate of the annual burdens on the budget which will be incurred after completion of the measure shall be enclosed with these documents.

(2) Expenditures and commitment appropriations for major procurements and development projects may not be budgeted until plans and estimates of the costs and cost sharing are available. Subsection (1), second sentence, above shall apply accordingly.

(3) Exceptions to subsections (1) and (2) above shall only be permissible if, in an individual case, it is not possible to complete the documents on time and if the Federation would sustain any disadvantage from a postponement of budgeting. The need for an exception shall be

substantiated in the explanatory notes. Expenditures and commitment appropriations relating to measures for which no documents are yet available shall be blocked.

(4) Subsections (1) to (3) above shall be applied accordingly to separately budgeted expenditures and commitment appropriations relating to allocations if a total of more than 50 percent of the costs is covered by allocations from the Federation, *Länder* and municipalities. The Federal Ministry of Finance may permit exceptions.

### **Section 25 Surplus, shortfall**

(1) A surplus or a shortfall shall be the difference between the revenues actually received (actual revenues) and the expenditures actually effected (actual expenditures).

(2) A surplus shall be used, in particular, to reduce the borrowing requirement or to repay debts or allocated to the reserve for counterbalancing cyclical fluctuations. If the surplus is used for repaying debts or is allocated to the reserve for counterbalancing cyclical fluctuations, it shall be taken up in the next budget that is to be adopted. Section 6 subsection (1), third sentence, of the Act to Promote Economic Stability and Growth<sup>6</sup> of 8 June 1967 (Federal Law Gazette I, p. 582) shall remain unaffected.

(3) A shortfall shall be taken up at the latest in the budget for the next-but-one fiscal year. It may be covered by revenues from borrowing only insofar as the possibilities for borrowing have not been exhausted.

### **Section 26 – Federal enterprises, special funds, recipients of allocations**

(1) Federal enterprises shall prepare operating budgets if it is not practical for them to be run on the basis of the revenues and expenditures of the budget. The operating budget or a summary of the operating budget shall be attached to the budget as an annex or included in the explanatory notes. Only the funding to be supplied or the transfers to be received shall be taken up in the budget. Established posts shall be stated in the budget in terms of pay grades and official titles.

(2) In the case of special funds, only the funding to be supplied and the transfers to be received shall be taken up in the budget. Summaries of the revenues, expenditures and

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<sup>6</sup> *Gesetz zur Förderung der Stabilität und des Wachstums der Wirtschaft*

commitment appropriations of the special funds shall be attached to the budget as annexes or included in the explanatory notes.

(3) Summaries of the revenues and expenditures of

1. public-law entities that are to be fully or partially supported by the Federation, and
2. agencies not belonging to the federal administration which receive allocations from the Federation to cover all of their expenditures or a blanket share of the expenditures.

are to be attached to the budget as annexes or included in the explanatory notes. The Federal Ministry of Finance may permit exceptions.

### **Section 27 – Bids**

(1) The bids shall be sent to the Federal Ministry of Finance by the agency responsible for the departmental budget on the date that is to be determined by the Federal Ministry of Finance. The Federal Ministry of Finance may demand that organisational charts and tables of establishments are enclosed with the bids.

The agency responsible for the departmental budget shall also send the bids to the Federal Court of Auditors. The Federal Court of Auditors may comment on them.

### **Section 28 – Preparation of the draft budget**

(1) The Federal Ministry of Finance shall examine the bids and prepare the draft budget. It may amend the bids after consultation with the agencies concerned.

(2) The responsible federal minister may obtain a decision by the Federal Government on matters of fundamental or considerable financial importance. Where the Federal Government takes such a decision with the Federal Minister of Finance dissenting or abstaining, the latter shall have the right to lodge an objection. The details shall be regulated by the rules of procedure of the Federal Government.

(3) The Federal Ministry of Finance shall notify the Federal Government of any deviations from the bids of the Federal President, the German Bundestag, the Bundesrat, the Federal Constitutional Court, the Federal Court of Auditors or the Federal Commissioner for Data Protection and Freedom of Information, unless such amendments have been assented to.

### **Section 29 – Decision on the draft budget**

(1) The draft of the Budget Act shall be adopted by the Federal Government with the draft budget.

(2) Revenues, expenditures, commitment appropriations and notes which the Federal Ministry of Finance has not included in the draft budget shall be subject, upon a motion by the responsible federal minister, to the adoption of a decision by the Federal Government if matters of fundamental or considerable financial importance are concerned. The same shall apply to regulations in the draft of the Budget Act. Section 28 subsection (2), second sentence, shall be applied accordingly to the decision of the Federal Government. The details shall be regulated by the rules of procedure of the Federal Government.

(3) If the draft budget deviates from the bids of the Federal President, the German Bundestag, the Bundesrat, the Federal Constitutional Court, the Federal Court of Auditors or the Federal Commissioner for Data Protection and Freedom of Information, and if consent has not been given to such amendments, then the parts on which no agreement has been reached shall be attached unamended to the draft budget.

### **Section 30 – Time limit for submission**

The draft of the Budget Act shall be submitted to the Bundesrat and the Bundestag together with the draft budget before the beginning of the fiscal year, as a rule not later than the first week of the Bundestag's session following 1 September.

### **Section 31 – Finance report**

The Federal Ministry of Finance shall present, with the draft of the Budget Act and the draft budget, a report on the current state of the public finances and their probable development in relation to the overall economic trend.

### **Section 32 – Additions to the draft budget**

Parts I and II shall be applied accordingly to additions to the draft of the Budget Act and the draft budget.

### **Section 33 – Supplementary budget acts**

Parts I and II shall be applied accordingly to supplements to the Budget Act and to the budget. Drafts shall be submitted by the end of the fiscal year.

## **Part III**

### **Execution of the budget**

#### **Section 34 – Collection of revenues, management of expenditures**

- (1) Revenues shall be collected on time and in full.
- (2) Expenditures may only be effected as and when they are required for the purpose of efficient and economical administration. The funds shall be managed in such a way that they suffice to cover all expenditures falling under the individual purposes prescribed.
- (3) Subsection (2) above shall apply accordingly to recourse to commitment appropriations.

#### **Section 35 – Gross accounting, specific accounting**

- (1) All revenues and expenditures shall be entered in full under the titles provided for this purpose, unless other arrangements result from section 15 subsection (1), second and third sentences.
- (2) Expenditures relating to a common purpose may be effected from different titles only insofar as the budget so permits. The same shall apply to recourse to commitment appropriations.

#### **Section 36 – Lifting of blocks**

Expenditures which have been designated by a law or in the budget as blocked may be effected and commitments to effect such expenditures may be entered into only with the advance approval (prior consent) of the Federal Ministry of Finance. In the cases falling under section 22, third sentence, the Federal Ministry of Finance shall obtain the prior consent of the Bundestag.

#### **Section 37 – Excess and extrabudgetary expenditures**

- (1) Excess and extrabudgetary expenditures shall require the prior consent of the Federal Ministry of Finance. Such consent may be granted only in the event of an unforeseen and

compelling need. A need shall not be considered compelling, in particular, if the individual case is such that a Supplementary Budget Act<sup>7</sup> can be introduced in time or the expenditure can be postponed pending the next Budget Act. A Supplementary Budget Act shall not be required if in the individual case the additional expenditure does not exceed an amount to be specified in the Budget Act or if legal obligations have to be fulfilled. Section 8 of the Act to Promote Economic Stability and Growth shall remain unaffected.

Subsection (1) above shall also apply to measures which may result in commitments for the Federation for which no expenditure has been taken up in the budget.

(3) Excess and extrabudgetary expenditures should be counterbalanced by savings on other expenditures in the same departmental budget.

(4) The Bundestag and the Bundesrat shall be notified of excess and extrabudgetary expenditures every three months; in cases of fundamental or considerable financial importance this shall be done without delay.

(5) Expenditures which have been budgeted without any detailed indication of their purpose may not be exceeded.

(6) Additional expenditures in the case of expenditures eligible for carry-over (advance expenditures) shall be counted against the next year's authorisation for the same purpose if the conditions stated in subsection (1), first and second sentences, above are fulfilled. The Federal Ministry of Finance may permit exceptions.

### **Section 38 – Commitment appropriations**

(1) Measures which may commit the Federation to effect expenditures in future fiscal years shall be permissible only if the budget provides authorisation to do so. The Federal Ministry of Finance may permit exceptions in the event of an unforeseen and compelling need; section 37 subsection (1), third sentence, shall be applied accordingly. A Supplementary Budget Act shall not be required if in the individual case the total amount of the excess or extrabudgetary commitment appropriation does not exceed an amount to be specified in the Budget Act or if legal obligations have to be fulfilled.

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<sup>7</sup> *Nachtragshaushaltsgesetz*

(2) Recourse to commitment appropriations shall require the prior consent of the Federal Ministry of Finance if

1. there are to be considerable deviations from the information designated in section 16, or
2. annual amounts are not indicated in the cases falling under section 16, second sentence.

The Federal Ministry of Finance may waive its powers.

(3) In the case of measures under subsection (1) above which are of fundamental or considerable financial importance, the Federal Ministry of Finance shall be informed of the commencement and course of negotiations.

(4) Commitments for current transactions may be entered into without the conditions stated in subsections (1) and (2) above being met. There shall also be no requirement for a commitment appropriation where commitments which will lead to expenditures in the following fiscal year are entered into against expenditures eligible for carry-over. The details shall be regulated by the Federal Ministry of Finance.

(5) Subsections (1) to (4) above shall not be applied to treaties within the meaning of the first sentence of paragraph (2) of Article 59 of the Basic Law.

### **Section 39 – Guarantees, loan commitments**

(1) The assumption of surety obligations, guarantees or other warranties which may result in expenditures in future fiscal years shall require an authorisation, by a federal law, for a specified amount.

(2) Loan commitments and the assumption of surety obligations, guarantees or other warranties shall require the prior consent of the Federal Ministry of Finance. It shall be involved in the negotiations. It may waive its powers.

(3) In the case of measures under subsection (2) above, the responsible agencies shall reserve the right for themselves or their representatives to examine the parties concerned at any time in order to establish

1. whether the conditions for the loan commitment or for the fulfilment of such are or have been met,
2. whether, if a guarantee is assumed, recourse to the Federation is a possibility, or whether the conditions for such recourse are or have been met.

In exceptional cases the choice may be made, with the prior consent of the Federal Ministry of Finance, not to reserve a right of examination.

#### **Section 40 – Other measures of financial importance**

(1) The issuing of statutory instruments and administrative regulations, the conclusion of collective wage agreements, the granting of payments outside or in excess of the collectively agreed scale and the setting or amendment of charges for administrative services shall require the prior consent of the Federal Ministry of Finance if these arrangements may result in reductions in revenue or additional expenditures in the current fiscal year or in future fiscal years. The first sentence above shall be applied to other measures of fundamental or considerable financial importance if they may result in reductions in revenue in the current fiscal year or in future fiscal years.

(2) Subsection (1), first sentence, above shall be applied accordingly to the participation of the Federation in measures taken by supranational or international institutions.

#### **Section 41 – Block on expenditure**

If developments in the revenues or expenditures so require, the Federal Ministry of Finance may, after consultation with the responsible federal ministry, make entering into commitments or effecting expenditures subject to its prior consent.

#### **Section 42 – Additional expenditures incurred for reasons of policy on the economic cycle**

In the case of bills submitted to the Bundestag and the Bundesrat under section 8 subsection (1) of the Act to Promote Economic Stability and Growth, the Bundestag may reduce the expenditures.

### **Section 43 – Cash funds, working funds**

(1) Within the framework of the cash funds available, the Federal Ministry of Finance shall authorise the responsible authorities to have the necessary payments made up to a specific amount (working funds) within their area of jurisdiction and within a specific period of time.

(2) The Federal Ministry of Finance should invest cash funds not required for immediate use in such a way that they can be made use of when the need arises.

### **Section 44 – Allocations, administration of resources or assets**

(1) Allocations may only be granted if the conditions stated in section 23 are fulfilled. In the process, the means by which proof is to be furnished that the allocations have been used in keeping with their purpose shall be determined. Moreover, a right of examination shall be established for the responsible agency or its representatives. Administrative regulations concerning proof of correct use and auditing by the Federal Court of Auditors (section 91) shall be issued with the agreement of the Federal Court of Auditors.

(2) If federal funds or assets of the Federation are to be administered by agencies not belonging to the federal administration, subsection (1) above shall be applied accordingly.

(3) Subject to their agreement, private-law entities may be authorised to perform administrative tasks in connection with allocations, acting in their own name and using measures available under public law, provided that such entities can be expected to ensure proper accomplishment of the tasks assigned to them and that such authorisation is in the public interest. Such authorisation and its revocation shall be undertaken by the responsible federal ministry; in cases where such authorisation is granted, the Federal Ministry of Finance shall be notified accordingly. The authorised entity shall be subject to the supervision of the responsible federal ministry, which may assign such supervision to subordinate authorities. In cases of state liability resulting from third-party claims, the Federation shall have recourse against authorised private-law entities that are found to have engaged in intentional wrongdoing or gross negligence.

### **Section 44a**

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### **Section 45 – Material and temporal restrictions**

(1) Expenditures may be effected and recourse taken to commitment appropriations only for the purpose designated in the budget, insofar and as long as that purpose is ongoing, and only

up to the end of the fiscal year. If the Budget Act for the next fiscal year is not promulgated in time, commitment appropriations to which no recourse has been taken shall be valid until the promulgation of that Budget Act.

(2) In the case of expenditures eligible for carry-over, unexpended balances may be accumulated which shall remain available for the particular prescribed purpose beyond the fiscal year up to the end of the second fiscal year following the authorisation. In the case of buildings, the fiscal year in which the major parts of the building are put into use shall take the place of the fiscal year of authorisation. The Federal Ministry of Finance may permit exceptions in individual cases.

(3) Recourse to unexpended balances shall require the prior consent of the Federal Ministry of Finance; this prior consent may be granted only if expenditures totalling the same amount are not effected in the same or in another departmental budget by the end of the current fiscal year or if funds have been budgeted to cover the unexpended balances (section 19 subsection (2)).

(4) The Federal Ministry of Finance may permit expenditures to be carried over in specially substantiated individual cases, insofar as expenditures are still to be effected in the next fiscal year on measures that have already been authorised.

#### **Section 46 – Virement**

As long as they are available, expenditures eligible for virement may be used to cover another item of expenditure in accordance with section 20 subsection (1) or in accordance with the relevant virement note.

#### **Section 47 – Lapsing and conversion notes**

(1) Expenditures designated in the budget as lapsing in the future may no longer be used following the date on which the condition for the lapsing referred to in the budget is fulfilled. The same shall apply to established posts.

(2) If an established post is designated as lapsing in the future, but no further details are given, the next established post to become vacant in the same pay grade for tenured civil servants specialising in the same field may not be refilled.

(3) If an established post is designated as a post to be converted in the future without the conditions being defined, the next established post to become vacant in the same pay grade

for tenured civil servants specialising in the same field shall be considered converted, upon becoming vacant, into the post indicated in the conversion note.

(4) Subsections (1) to (3) above shall apply accordingly to posts for salaried staff and wage earners.

**Section 48 – Maximum age for obtaining the status of tenured civil servant or soldier or for transferring tenured civil servants to positions at the federal level**

(1) Appointments to tenured civil service or transfers of tenured civil servants to positions at the federal level may occur only if

1. the applicant has not yet reached the age of 50 or
2. there is an exceptional shortage of equally qualified younger applicants and the appointment or transfer would be of significant benefit to the Federation.

Instead of the age of 50,

1. the age of 55 shall apply if the applicant's future pension costs are shared with his or her previous employer in accordance with the State Treaty on the Sharing of Pension Costs<sup>8</sup>, section 107b of the Civil Servants' Pensions and Benefits Act<sup>9</sup>, section 92b of the Military Pensions and Benefits Act<sup>10</sup> or the Military Chaplaincy Agreement<sup>11</sup> of 22 February 1957 (Federal Law Gazette 1957 II, p. 702), or

2. the age of 62 shall apply if the applicant has already acquired claims to Federation-paid pension benefits under laws or principles applicable to tenured civil servants or soldiers and if the intended position's pay grade is no higher than that of the applicant's most recent civil service pay grade.

(2) The first sentence of subsection (1) above shall apply to appointments of federal law enforcement officers and to transfers of law enforcement officers to the federal level, subject to the proviso that the age of 45 shall apply instead of the age of 50 for employment at the Federal Ministry of the Interior, at the Federal Criminal Police Office or with the German Bundestag's police services, and the age of 40 shall apply instead of the age of 50 for employment in other areas. In these cases, subsection (1), second sentence, number 2 above shall apply subject to the proviso that the age of 52 shall apply instead of the age of 62. Subsection (1), second sentence, number 1 above shall not apply.

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<sup>8</sup> *Versorgungslastenteilungs-Staatsvertrag*

<sup>9</sup> *Beamtenversorgungsgesetz*

<sup>10</sup> *Soldatenversorgungsgesetz*

<sup>11</sup> *Militärseelsorgevertrag*

(3) In cases where a person is appointed as a soldier, or where a soldier's status is converted from limited-term service to that of career soldier, the first sentence of subsection (1) above shall apply subject to the proviso that the age of 40 shall apply instead of the age of 50. In these cases, subsection (1), second sentence, number 2 above shall apply subject to the proviso that an expected period of service of over three years shall apply instead of the age of 62.

Subsection (1), second sentence, number 1 above shall not apply.

(4) Decisions regarding appointments to the status of tenured civil servant and transfers to positions at the federal level shall be taken by the supreme federal authority responsible for the relevant remit.

#### **Section 49 – Instalment in an established post**

(1) An office may only be conferred in conjunction with instalment in an established post that can be filled.

(2) Any tenured civil servant who is promoted may be installed in the appropriate established post that can be filled at that time with effect from the first day of the month in which his or her appointment becomes effective. He or she may be installed in an established post that can be filled with retroactive effect of three months at the most and on the first day of a given month if, during this time, he or she has performed the duties of this or an equivalent office and has fulfilled the conditions for promotion laid down in the laws concerning the civil service.

#### **Section 50 – Reallocation of resources and established posts**

(1) The Federal Government may reallocate resources and established posts if tasks are passed from one administration to another. A decision by the Federal Government shall not be required if the federal ministries concerned and the Federal Ministry of Finance agree on the reallocation.

(2) An established post may be reallocated to another administration with the prior consent of the Federal Ministry of Finance if there is an unforeseen, compelling and urgent need for personnel in that administration. A decision on the subsequent location of the established post shall be made in the next budget.

(3) In the case of secondments, the personnel expenditures for seconded tenured civil servants may, with the prior consent of the Federal Ministry of Finance, continue to be paid by the seconding administration until the next Budget Act is promulgated.

(4) Subsections (1) to (3) above shall apply accordingly to resources and posts for salaried staff and wage earners.

(5) In the case of tenured civil servants assigned to a representation of the Federation abroad, the Federal Ministry of Finance may, in specially substantiated exceptional cases, create an unfunded established post for a maximum duration of six months.

### **Section 51 – Special personnel expenditures**

Personnel expenditures not based on a law or a collective wage agreement may be effected only if funds are specially made available for this purpose.

### **Section 52 – Amenities and benefits in kind**

Members of the public service may be granted amenities and benefits in kind only against payment of an appropriate consideration, unless other arrangements are provided for by a law, a collective wage agreement or the budget. The Federal Government may permit exceptions as regards the use of official vehicles. Details regarding allocation, use, administration and the setting of the value in use of official housing shall be regulated by the Federal Ministry of Finance. Official housing with the exception of official housing provided for salaried staff and wage earners shall be stated in the budget.

### **Section 53 – Equitable payments**

Equitable payments may be granted only if funds are made available specially for this purpose.

### **Section 54 – Construction measures, major procurements, major development projects**

(1) Construction measures may be started only if detailed design drawings and cost computations are available, unless such measures are minor. Deviations from the documents designated in section 24 shall be permissible in the drawings and computations only if the change is not considerable; more extensive exceptions shall require the prior consent of the Federal Ministry of Finance.

(2) Sufficient documents shall be provided as a basis for major procurements and major development projects. Subsection (1), second sentence, above shall apply accordingly.

#### **Section 55 – Public invitations to tender**

(1) The conclusion of contracts for supplies and services must be preceded by a public invitation to tender or by a restricted invitation to tender that includes pre-qualification and short-listing, unless the nature of the transaction or special circumstances justify an exception. Pre-qualification and short-listing is a procedure in which a contracting authority, following a public call for expressions of interest, selects a restricted number of suitable enterprises on the basis of objective, transparent and non-discriminatory criteria and invites them to submit bids.

(2) Uniform guidelines shall be followed when concluding contracts.

#### **Section 56 – Advance performance**

(1) Payments by the Federation before services are rendered may be agreed upon or effected only if this is common practice or if it is justified by special circumstances.

(2) If payments are made to the Federation before they are due, an appropriate deduction may be granted in accordance with guidelines of the Federal Ministry of Finance.

#### **Section 57 – Contracts with members of the public service**

Contracts between members of the public service and the agencies where they are employed may be concluded only with the prior consent of the responsible federal ministry. The latter may delegate its power to subordinate agencies. The first sentence above shall not apply to public invitations to tender and auctions or in cases in which, generally, charges have been set.

#### **Section 58 – Amendment of contracts; settlements**

(1) The responsible federal ministry may

1. cancel or amend contracts to the disadvantage of the Federation only in specially substantiated exceptional cases,
2. conclude a settlement only if this is practical and economical for the Federation.

The responsible federal ministry may delegate its powers.

(2) Measures under subsection (1) above shall require the prior consent of the Federal Ministry of Finance, unless it waives this right.

### **Section 59 – Modification of claims**

(1) The responsible federal ministry may

1. defer claims only if the immediate collection would entail considerable hardship for the obligor and the claim will not be jeopardised by deferment. Appropriate interest should be charged for the deferment and as a rule it should be granted only against the provision of some security,
2. write off claims only if it is certain that collection will not be successful or if the costs of collection are in no relation to the amount of the claim,
3. remit claims only if the individual case is such that the collection would constitute a particular hardship for the obligor. The same shall apply to the refunding or crediting of payments effected and to the release of securities.

The responsible federal ministry may delegate its powers.

(2) Measures under subsection (1) above shall require the prior consent of the Federal Ministry of Finance, unless it waives this right.

(3) Other arrangements in legislation shall remain unaffected.

### **Section 60 – Advances, provisional custody**

(1) An item of expenditure may be entered as an advance only if there is a definite commitment to pay it but the expenditure cannot yet be entered finally. An advance shall be entered finally by the end of the second fiscal year following that in which it occurs; exceptions shall require the prior consent of the Federal Ministry of Finance.

(2) A payment received may be taken into provisional custody only for as long as it cannot be entered finally. Funds in provisional custody may only be used to effect related payments.

Liquidity loans shall be treated as provisional entries.

### **Section 61 – Internal settlements**

(1) Within the federal administration, assets may be surrendered for purposes other than those for which they were procured only if their full value is refunded, unless other arrangements

result from the budget. Expenses incurred by one agency on behalf of another shall be refunded; other arrangements laid down in legislation shall remain unaffected. Damages shall not be paid by one agency to another.

(2) Subsection (1) above shall not apply if the value of the assets to be surrendered or the expenses that are to be refunded do not exceed a specific amount to be set by the Federal Ministry of Finance, or if the Federal Ministry of Finance permits further exceptions.

(3) The value of the assets surrendered and the expenses shall always be refunded where federal enterprises or special funds of the Federation are involved. The same shall apply to damages. Other arrangements may be made by way of administrative agreement insofar as they are absolutely essential to simplifying the administrative processes.

(4) Subsections (1) to (3) above shall apply accordingly to the use of assets.

### **Section 62 – Liquidity reserve**

In order to ensure orderly cash management without recourse to borrowing authorisations (section 18 subsection (2) number 2), a liquidity reserve should be accumulated at the Deutsche Bundesbank by as regular an allocation of budget resources as possible.

### **Section 63 – Acquisition and sale of assets**

(1) Assets should be acquired only insofar as they are required for the accomplishment of the Federation's tasks in the foreseeable future.

(2) Assets may be sold only if they are not required for the accomplishment of the Federation's tasks in the foreseeable future. Immovable assets still required for the accomplishment of the Federation's tasks may be sold for the purposes of long-term own use if the Federation's tasks can demonstrably be performed more efficiently in this manner.

(3) Assets may be sold only for their full value. Exceptions may be permitted in the budget. The Federal Ministry of Finance may permit exceptions if the value is low or if urgent interests of the Federation are involved.

(4) Subsections (2) and (3) above shall apply accordingly to the assignment of the use of an asset.

### **Section 64 – Real property**

(1) Federally owned real property may be sold only with the prior consent of the Federal Ministry of Finance and the federal ministry responsible for federal assets; the federal ministries may decide not to participate.

(2) If real property is of considerable value or of special importance and its sale is not provided for in the budget, it may be sold only with the prior consent of the Bundestag and the Bundesrat, unless an exception to this rule is justified by compelling reasons. If such consent has not been obtained, the Bundestag and the Bundesrat shall be informed of the sale as soon as possible.

(3) A valuation shall be prepared for real property that is to be acquired or sold.

(4) Real rights in respect of federally owned real property may be created only against payment of an appropriate consideration. Such creation shall require the prior consent of the Federal Ministry of Finance and of the federal ministry responsible for federal assets; the federal ministries may decide not to participate.

(5) If real property is acquired, mortgages, land charges and annuity land charges may be assumed, if credited towards the purchase price, without the conditions stated in section 38 subsection (1) being fulfilled.

### **Section 65 – Holdings in private-law enterprises**

(1) Except in the cases falling under subsection (5) below, the Federation should take part in the founding of a private-law enterprise or take a holding in an existing enterprise with a legal form of this kind only if

1. there is an important interest on the part of the Federation and the purpose intended by the Federation cannot be achieved better or more efficiently in any other way,
2. the Federation's obligation to make contributions is limited to a specific amount,
3. the Federation is granted appropriate influence, particularly on the supervisory board or in an equivalent supervisory body,

4. it is ensured that the annual financial statements and the management report will be prepared and audited in analogous application of the regulations of Part Three of the Commercial Code<sup>12</sup> relating to large corporations, unless other more extensive legal regulations apply or this conflicts with any other legal regulations.

(2) The responsible federal ministry shall obtain the prior consent of the Federal Ministry of Finance and involve the federal ministry responsible for federal assets before the Federation acquires shares in an enterprise, increases its holding or sells all or part of it. The same shall apply in the case of any change in the nominal capital or the object of the enterprise or in the event of a change in the Federation's influence. The Federal Ministry of Finance shall be involved in the negotiations.

(3) The responsible federal ministry should use its influence to ensure that no enterprise in which the Federation directly or indirectly has a majority holding acquires a holding of more than one quarter of the shares of another enterprise, increases such a holding or sells all or part of it without the consent of that ministry. Before granting its consent, that ministry shall obtain the prior consent of the Federal Ministry of Finance and involve the federal ministry responsible for federal assets. The principles of subsection (1), numbers 3 and 4 and of the subsection (2), second sentence, above shall apply accordingly.

(4) The Federal Ministry of Finance and the federal ministry responsible for federal assets may waive their right to exercise the powers referred to in subsections (2) and (3) above.

(5) The Federation should participate in a cooperative only if the liability of the members towards the cooperative for the latter's debts is limited from the outset to a specific amount. The participation of the Federation in a cooperative shall require the prior consent of the Federal Ministry of Finance.

(6) The responsible federal ministry should use its influence to ensure that the members of the supervisory bodies of the enterprise who have been chosen or delegated at the Federation's behest also take the special interests of the Federation into consideration in their activities.

(7) If shares in enterprises are of special importance and their sale is not provided for in the budget, they may be sold only with the prior consent of the Bundestag and the Bundesrat,

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<sup>12</sup> *Handelsgesetzbuch*

unless an exception is justified by compelling reasons. If such consent has not been obtained, the Bundestag and the Bundesrat shall be informed of the sale as soon as possible.

### **Section 66 – Provision of information to the Federal Court of Auditors**

If there is a majority holding within the meaning of section 53 of the Budgetary Principles Act<sup>13</sup>, the responsible federal ministry shall use its influence to ensure that the Federal Court of Auditors is granted the powers defined in section 54 of the Budgetary Principles Act.

### **Section 67 – Right of examination by agreement**

If there is no majority holding within the meaning of section 53 of the Budgetary Principles Act, the responsible federal ministry should, insofar as the interests of the Federation so require, use its influence on enterprises other than stock corporations, partnerships limited by shares or cooperatives to ensure that the Federation is granted in the articles of association the powers under sections 53 and 54 of the Budgetary Principles Act. In the case of indirect holdings, this shall only apply if the holding exceeds one quarter of the shares and is held by an enterprise in which the Federation has a majority holding, either solely or in conjunction with other political subdivisions, within the meaning of section 53 of the Budgetary Principles Act.

### **Section 68 – Settlement of responsibility**

(1) The rights under section 53 subsection (1) of the Budgetary Principles Act shall be exercised by the federal ministry responsible for the holding. As regards the choice or appointment of auditors under section 53 subsection (1) number 1 of the Budgetary Principles Act, the responsible federal ministry shall exercise the rights of the Federation with the agreement of the Federal Court of Auditors.

(2) Any waiver of the rights stated in section 53 subsection (1) of the Budgetary Principles Act shall be declared by the responsible federal ministry with the agreement of the Federal Ministry of Finance, the federal ministry responsible for federal assets and the President of the Federal Court of Auditors.

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<sup>13</sup> *Haushaltsgrundsatzgesetz*

### **Section 69 – Provision of information to the Federal Court of Auditors**

The responsible federal ministry shall submit the following to the Federal Court of Auditors within three months after the general meeting called to receive or to adopt the annual financial statements for the financial year that has ended:

1. the documents to which the Federation has access in its capacity as shareholder or partner,
2. the reports which the members of the supervisory body chosen or delegated at its behest have to submit together with all the documents available to them relating to the enterprise,
3. the audit reports which are to be submitted to it under section 53 of the Budgetary Principles Act and with section 67 of this Code.

At the same time, it shall inform the Federal Court of Auditors of the results of its examination.

### **Section 69a – Parliamentary scrutiny of federal holdings**

(1) The Federal Government shall inform the German Bundestag of all fundamental and major issues relating to the Federation's holdings in private-law enterprises as well as the Federal Government's administration of holdings. The information shall also cover the Federation's holdings under section 112 subsection (2).

(2) The provision of information under subsection (1) above shall, as a rule, be performed to the body under section 3 of the Act on the Regulation of the Federation's Debt Management<sup>14</sup>. Section 3 subsection (2), second and third sentences, and subsection (3), of the Act on the Regulation of the Federation's Debt Management shall apply accordingly. The information provided shall be referred to the Budget Committee if the body so decides.

(3) If fundamental and major issues pursuant to subsection (1) above relate to the foundation, the acquisition, the sale of enterprises, or a change to existing holdings by the Federation, as well as transfers of major asset positions, the body under subsection (2) above should be informed promptly. The regulations stated in section 65 subsection (7) shall remain unaffected by this.

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<sup>14</sup> *Gesetz zur Regelung des Schuldenwesens des Bundes*

(4) The rights of the German Bundestag and its committees shall remain unaffected.

## **Part IV**

### **Payments, keeping of accounts and rendering of accounts**

#### **Section 70 – Payments**

Payments may be accepted or effected only by cash offices and payment offices. The order for the payment must be issued either in written form or electronically by the responsible ministry or the agency it has authorised. The Federal Ministry of Finance may permit exceptions.

#### **Section 71 – Keeping of accounts**

(1) Chronological accounts shall be kept of payments in accordance with the procedure provided in the budget or otherwise provided. Accounts shall be kept, in accordance with guidelines issued by the Federal Ministry of Finance, on commitments entered into and monetary claims of the Federation which are administered by federal authorities. The Federal Ministry of Finance may order accounts to be kept on other management operations.

(2) Revenues and expenditures in respect of outstanding incoming payments and unexpended balances (outstanding budgetary balances) from previous years

1. for which a title is provided in the budget for the current fiscal year shall be entered under such title,
2. for which no title is provided in the budget for the current fiscal year shall be entered in the position that would have been assigned to them had they been taken up in the budget.

(3) Subsection (2) number 2 above shall apply accordingly to extrabudgetary revenues and expenditures.

#### **Section 72 – Entry by fiscal years**

(1) Payments, commitments entered into, monetary claims and other management operations for which the keeping of accounts has been ordered under section 71, subsection (1), third sentence, shall be entered separately by fiscal year.

(2) All payments except those cases falling under subsections (3) and (4) below shall be entered in the accounts of the fiscal year in which they have been entered into or effected.

(3) Payments which were due in the preceding fiscal year but do not come in or are not effected until later shall be entered in the accounts of the preceding fiscal year, unless such accounts have been closed.

(4) The following shall be entered for the new fiscal year:

1. revenues falling due in the new fiscal year but which come in beforehand;
2. expenditures falling due in the new fiscal year but which must be effected beforehand to ensure receipt by the payee within the set period;
3. salaries, retirement benefits and like payments, and pensions or annuities payable in advance for the first month of the new fiscal year.

(5) Subsections (3) and (4) number 1 above shall not apply to taxes, fees, other levies, judicial and administrative fines or associated costs.

(6) Exceptions to subsections (2) to (4) above may be permitted in the budget.

### **Section 73 – Asset accounting, integrated accounting**

(1) Accounts or other records shall be kept on assets and debts. The details shall be regulated by the Federal Ministry of Finance with the agreement of the Federal Court of Auditors.

(2) The keeping of accounts on assets and debts shall be connected with the keeping of accounts on revenues and expenditures.

### **Section 74 – Accounts of federal enterprises**

(1) Federal enterprises which prepare operating budgets under section 26 subsection (1), first sentence, and for which accounting in accordance with sections 71 to 79 is not practical, shall keep their accounts in accordance with the rules of commercial double-entry accounting.

(2) With the agreement of the Federal Ministry of Finance and the Federal Court of Auditors, the responsible federal ministry may order that a system of internal accounting be set up additionally in federal enterprises where this is practical for business management purposes.

(3) The financial year shall be the fiscal year. The responsible federal ministry may permit exceptions to this with the agreement of the Federal Ministry of Finance.

#### **Section 75 – Obligation to keep supporting documents**

All entries in accounts shall be supported by documents.

#### **Section 76 – Closing of the accounts**

(1) The accounts shall be closed on an annual basis. The Federal Ministry of Finance shall determine the date for closing accounts.

(2) Once the accounts have been closed, revenues and expenditures may no longer be entered for the period elapsed.

#### **Section 77 – Security of payments**

Anyone issuing or involved, in a position of responsibility, in issuing orders within the meaning of section 70 may not be involved in payments or entries in accounts. The Federal Ministry of Finance may permit the security of payments to be assured in another manner.

#### **Section 78 – Ad-hoc audits**

Agencies responsible for payments or entries in accounts shall be subjected to an ad-hoc audit at least once every year, and agencies responsible for the administration of supplies at least once every two years. The Federal Ministry of Finance may permit exceptions.

#### **Section 79 – Federal cash offices, administrative regulations**

(1) The tasks of the cash offices in receiving and effecting payments for the Federation shall be discharged for all agencies belonging to and not belonging to the federal administration by the federal cash offices, unless this concerns the collection of taxes administered by the revenue authorities of the *Länder*.

(2) The central cash office shall be at the Federal Ministry of Finance. The Federal Ministry of Finance may determine that the central cash office is to be set up at a federal authority within its area of jurisdiction.

(3) The federal cash offices shall be located at the Central Customs Authority.

(4) The Federal Ministry of Finance shall regulate the details

1. concerning the setting-up, area of responsibility and administrative procedure of the federal agencies responsible for payments and entries in accounts, in consultation with the responsible federal ministry,
2. concerning the arrangement of accounts and supporting documents, with the agreement of the Federal Court of Auditors.

(5) With the agreement of the Federal Court of Auditors, the Federal Ministry of Finance may order general measures to simplify accounting and the documentary support of entries. With the agreement of the responsible federal ministry, the Federal Court of Auditors may permit simplifications in individual cases.

#### **Section 80 – Rendering of accounts**

(1) The responsible agencies shall render accounts for each fiscal year on the basis of the closed accounts. With the agreement of the Federal Court of Auditors, the Federal Ministry of Finance may determine that accounts are to be rendered for a different period.

(2) (repealed)

(3) On the basis of the closed accounts, the Federal Ministry of Finance shall prepare the budget account and the account of assets and liabilities for each fiscal year.

#### **Section 81 – Composition of the budget account**

(1) In the budget account, revenues and expenditures shall be listed alongside the budget appropriations in accordance with the procedure designated in section 71, taking outstanding budgetary balances and advance expenditures into consideration.

(2) The following shall be indicated separately in respect of each title and accordingly in respect of each sum total:

1. under revenues:
  - a) the actual revenues,
  - b) the outstanding in-payments to be carried over,

- c) the total of actual revenues and outstanding in-payments to be carried over,
- d) the capital-building or capital-depleting amounts of actual revenue, insofar as assets and liabilities are subject to accounting,
- e) the budgeted revenues,
- f) the outstanding in-payments carried over from the previous year,
- g) the total of the budgeted revenues and outstanding in-payments carried over,
- h) the positive or negative balance between the total of letter c) and the total of letter g) above;

2. under expenditures:

- a) the actual expenditures,
- b) the unexpended balances to be carried over or advance expenditures,
- c) the total of the actual expenditures and the unexpended balances to be carried over or advance expenditures,
- d) the capital-forming or capital-depleting amounts of actual expenditure, insofar assets and liabilities are subject to accounting,
- e) the budgeted expenditures,
- f) the unexpended balances carried over from the previous year or the advance expenditures,
- g) the total of the budgeted expenditures and the unexpended balances carried over or the advance expenditures,
- h) the positive or negative balance between the total of letter c) and the total of letter g) above,
- i) the amount of excess or extrabudgetary expenditures and of advance expenditures.

(3) The amount of the commitments entered into and monetary claims within the meaning of section 71 subsection (1), second sentence, shall be indicated separately in respect of each title and accordingly in respect of each sum total.

(4) In the cases falling under section 25 subsection (2), the reduction of the borrowing requirement shall be shown together with the relevant surplus.

### **Section 82 – Final cash account**

The following shall be shown in the final cash account:

1.
  - a) total actual revenues,
  - b) total actual expenditures,
  - c) the balance between letter a) and letter b) above (yearly cash result),
  - d) any yearly cash results of previous years not yet finally accounted for in the budget,
  - e) the total cash result made up of letter c) and letter d) above;
2.
  - a) total actual revenues with the exception of revenues from borrowing on the credit market, withdrawals from reserves, revenues from cash surpluses and revenues from coin,
  - b) total actual expenditures with the exception of expenditures on the repayment of debts incurred on the credit market, allocations to reserves and expenditures to cover a cash shortfall,
  - c) the financial balance between letter a) and letter b) above.

### **Section 83 – Final budget account**

The following shall be shown in the final budget account:

1.
  - a) the yearly cash result under section 82 number 1 letter c),
  - b) the total cash result under section 82 number 1 letter e);
2.
  - a) the outstanding in-payments and unexpended balances carried over from the previous year,
  - b) the outstanding in-payments and unexpended balances to be carried over to the following fiscal year,
  - c) the difference between letter a) and letter b) above,
  - d) the accounting result for the year, made up of number 1 letter a) and number 2 letter c) above,
  - e) the total accounting result, made up of number 1 letter b) and number 2 letter b) above;
3. the amount of the commitments entered into and monetary claims within the meaning of section 71 subsection (1), second sentence.

#### **Section 84 – Final report**

The final cash account and the final budget account shall be explained in a report.

#### **Section 85 – Summaries relating to the budget account**

Summaries on the following shall be attached to the budget account:

1. the excess and extrabudgetary expenditures, including the advance expenditures and the substantiation thereof,
2. the revenues and expenditures, and the position of special funds and reserves,
3. the annual financial statements of federal enterprises,
4. the total amounts of claims remitted under section 59, by area of jurisdiction,
5. the revenues not budgeted for from the sale of assets.

### **Section 86 – Account of assets and liabilities**

The position of assets and debts at the start of the fiscal year, the changes during the fiscal year and the position at the end of the fiscal year shall be shown in the account of assets and liabilities.

### **Section 87 – Rendering of accounts by federal enterprises**

(1) Federal enterprises which keep their accounts according to the rules of commercial double-entry accounting shall prepare annual financial statements and a management report in analogous application of the regulation stated in section 264 subsection (1), first sentence, of the Commercial Code. With the agreement of the Federal Ministry of Finance, the responsible federal ministry may waive the obligation to prepare a management report. Sections 80 to 85 should be applied insofar as they are compatible with the rules of commercial double-entry accounting.

(2) Where a system of internal accounting has been set up, the operating statement shall be sent to the Federal Ministry of Finance and to the Federal Court of Auditors.

## **Part V**

### **Auditing of accounts**

#### **Section 88 – Tasks of the Federal Court of Auditors**

The Federal Court of Auditors shall audit the Federation's entire budgetary and financial management, including its special funds and enterprises, in accordance with the provisions set out below.

(2) The Federal Court of Auditors may give advice to the Bundestag, the Bundesrat, the Federal Government and individual federal ministries on the strength of audit findings. Insofar as the Federal Court of Auditors gives advice to the Bundestag or the Bundesrat, it shall at the same time inform the Federal Government.

#### **Section 89 – Auditing**

(1) The Federal Court of Auditors shall audit

1. the revenues, expenditures, commitments to effect expenditures, assets and debts,
2. measures that may have financial consequences,
3. provisional entries and advances,
4. the use of funds allotted for independent management.

(2) The Federal Court of Auditors may at its discretion limit the scope of the audit and refrain from auditing specific accounts.

### **Section 90 – Subject of the audit**

The audit shall cover whether the regulations and principles applicable to budgetary and financial management have been observed, and in particular whether

1. the provisions of the Budget Act and the budget have been observed,
2. the revenues and expenditures are substantiated and supported by documents, and whether the budget account and the account of assets and liabilities have been prepared in an orderly manner,
3. funds have been administered efficiently and economically,
4. the task can be accomplished at less expense in terms of personnel or materials, or otherwise more effectively.

### **Section 91 – Auditing of agencies not belonging to the federal administration**

(1) Subject to other provisions of law, the Federal Court of Auditors shall be entitled to audit agencies not belonging to the federal administration, where such agencies

1. execute parts of the federal budget, or receive reimbursement of expenses from the Federation,
2. administer federal funds or assets of the Federation,
3. receive allocations from the Federation,

4. are private-law entities in which the Federation including its special funds directly or indirectly has a majority holding, are not engaged in competition, perform exclusively or predominantly public tasks as provided or serve this purpose, and receive budget resources or guarantees to this end from the Federation or one of its special funds, or
5. manage financial resources that the Federation has allocated to the *Länder* for the purpose of fulfilling specific *Länder* tasks.

Where these agencies pass on the resources to third parties, the Federal Court of Auditors may also audit the latter.

(2) The audit shall cover whether funds have been administered and used economically and for the intended purpose. In the case of allocations, the audit may also cover other budgetary and financial management by the recipient insofar as the Federal Court of Auditors deems this necessary for the purposes of its audit.

Where the Federation has granted loans from budget resources or assumed surety obligations, guarantees or other warranties, the Federal Court of Auditors may audit the beneficiaries to ascertain whether they have made sufficient provision to prevent detrimental consequences for the Federation, or whether the conditions for recourse to the Federation have been met.

(4) In the case of legal entities within the meaning of subsection (1), first sentence, number 4 above, the audit shall cover the entire budgetary and financial management. If the private-law entity within the meaning of subsection (1), first sentence, number 4 above is an enterprise, the audit shall give due consideration to commercial principles.

### **Section 92 – Auditing of government participation in private-law enterprises**

(1) The Federal Court of Auditors shall audit the participation of the Federation in private-law enterprises in which it has a direct or indirect holding, giving due consideration to commercial principles.

(2) Subsection (1) above shall apply accordingly to cooperatives of which the Federation is a member.

### **Section 93 – Joint auditing**

(1) A joint audit should be carried out where both the Federal Court of Auditors and a *Land* court of auditors are responsible for auditing. Unless the first sentence of paragraph (2) of Article 114 of the Basic Law stipulates auditing by the Federal Court of Auditors, the Federal

Court of Auditors may agree to transfer auditing tasks to the *Land* courts of auditors. By way of agreement, the Federal Court of Auditors may also assume auditing tasks of the *Land* courts of auditors.

(1a) In the cases specified under section 91 subsection (2), first sentence, number 5 above, the Federal Court of Auditors shall conduct its audits in consultation with the responsible *Land* court of auditors.

(2) By way of agreement with foreign, supranational or international auditing authorities, the Federal Court of Auditors may assign or assume the conduct of individual audits or assume auditing tasks for supranational or international organisations, provided it is authorised to do so by international treaties, administrative agreements or by the Federal Government.

#### **Section 94 – Time and nature of the audit**

(1) The Federal Court of Auditors shall determine the time and nature of the audit and shall cause the required investigations to be carried out on the premises by authorised representatives.

(2) The Federal Court of Auditors may call in experts.

(3)

#### **Section 95 – Obligation to supply information**

(1) Documents which the Federal Court of Auditors deems it requires for accomplishing its tasks shall on demand be sent to it within a specific period or presented to its authorised representatives.

(2) The Federal Court of Auditors and its authorised representatives shall be supplied with any information requested.

#### **Section 95a – Audit orders and lack of suspensive effect**

If the Federal Court of Auditors issues orders for the purpose of enforcing its rights under section 94 subsection (1) and section 95, any objections lodged against such orders shall not have a suspensive effect.

#### **Section 96 – Result of the audit**

(1) The Federal Court of Auditors shall notify the responsible agencies of the result of the audit, for comment within a period to be determined by the Federal Court of Auditors. It may

also notify other agencies and the Budget Committee of the German Bundestag of the result of the audit, insofar as it has special reasons to regard this as necessary.

(2) The Federal Court of Auditors shall notify the Federal Ministry of Finance of audit results of fundamental or considerable financial importance.

(3) Where the administration intends to refrain from pursuing claims of the Federation which are dealt with in the notification of audit results, the Federal Court of Auditors shall be consulted. The Federal Court of Auditors may waive the right to be consulted.

(4) The Federal Court of Auditors may give third parties access to the audit results by providing information, by granting the right to inspect records or by other means, once such results have been conclusively determined. The same shall apply to reports, once parliamentary deliberations on such reports have been concluded. In order to protect the auditing and deliberation process, access shall not be granted to records documenting auditing or deliberation activities. The third sentence also applies to relevant records at audited agencies.

#### **Section 97 – Comments**

(1) The Federal Court of Auditors shall collate each year in the form of comments for the Bundestag and the Bundesrat the results of its audit, insofar as they may be of importance for the discharge of the Federal Government with regard to the budget account and the account of assets and liabilities, and shall submit such comments to the Bundestag, the Bundesrat and the Federal Government.

(2) The comments shall state in particular

1. whether the amounts shown in the budgetary account and the account of assets and liabilities tally with those shown in the primary accounts, and whether the revenues and expenditures as audited are supported by documents in an orderly manner,

2. in which important cases the regulations and principles applicable to budgetary and financial management have not been observed,

3. which major objections have arisen from the auditing of government participation in enterprises having legal personality in their own right,

4. which measures are recommended for the future.

(3) The comments may include statements relating to subsequent or previous fiscal years.

(4) Comments on matters that are to be kept secret shall be submitted to the presidents of the Bundestag and the Bundesrat, to the Federal Chancellor and to the Federal Ministry of Finance.

(5) After submitting its comments, the Federal Court of Auditors shall publish them online without delay, except for those comments covered under subsection (4).

#### **Section 98 – Instruction to claim damages**

Where, in the opinion of the Federal Court of Auditors, damages are to be claimed, it shall notify the responsible agency without delay.

#### **Section 99 – Matters of special importance**

The Federal Court of Auditors may at any time inform the Bundestag, the Bundesrat and the Federal Government about matters of special importance. Where the Federal Court of Auditors reports to the Bundestag and the Bundesrat, it shall at the same time inform the Federal Government. After submitting its reports on matters of special importance, the Federal Court of Auditors shall publish such reports online without delay.

#### **Section 100 – Regional audit offices**

For the purposes of preparing, supporting and complementing its audit activities, the Federal Court of Auditors may have auditing tasks performed by regional audit offices which are under its administrative and technical supervision. These audit offices shall carry out the auditing tasks in analogous application of the provisions applicable to the Federal Court of Auditors and in accordance with the instructions of the Federal Court of Auditors.

#### **Section 101 – Statement of account of the Federal Court of Auditors**

The statement of account of the Federal Court of Auditors shall be examined by the Bundestag and the Bundesrat, who shall also grant discharge.

#### **Section 102 – Provision of information to the Federal Court of Auditors**

(1) The Federal Court of Auditors shall be informed without delay whenever

1. supreme federal authorities issue or explain general regulations relating to the management of the Federation's budget resources or influencing the Federation's revenues or expenditures,
2. administrative bodies or federal enterprises affecting the federal budget are

established, substantially altered or dissolved,

3. direct federal holdings or indirect holdings within the meaning of section 65 subsection (3) in enterprises are established, substantially altered or discontinued,
4. agreements are concluded between the Federation and an agency not belonging to the federal administration or between supreme federal authorities relating to the management of the Federation's budget resources,
5. supreme federal authorities adopt organisational or other measures having a considerable financial impact.

(2) The Federal Court of Auditors shall also be notified on request of any regulations or explanations of the type designated in subsection (1) number 1 above that are issued by other agencies of the Federation.

(3) The Federal Court of Auditors may comment at any time on the measures designated in subsections (1) and (2) above.

### **Section 103 – Consultation of the Federal Court of Auditors**

(1) The Federal Court of Auditors shall be consulted before administrative regulations on the implementation of the Federal Budget Code are issued.

(2) Administrative regulations within the meaning of subsection (1) above shall include general instructions relating to the administration of cash offices and payment offices, to the keeping of accounts and to records of assets.

(3) The responsible federal ministry should consult the Federal Court of Auditors before a decision is taken on issuing or amending regulations concerning budgetary matters, including the auditing of accounts relating to supranational or international organisations of which the Federal Republic of Germany is a member.

### **Section 104 – Auditing of private-law entities**

(1) The Federal Court of Auditors shall audit the budgetary and financial management of private-law entities, where

1. such entities receive subsidies from the Federation on the basis of a law, or where the Federation is obliged by law to grant guarantees, or

2. such entities are administered solely or principally by the Federation or by a person appointed by the Federation, or
3. it has been agreed with the Federal Court of Auditors that an audit should be carried out by that authority, or
4. such entities are not enterprises and provide in their articles of association with the consent of the Federal Court of Auditors for an audit to be carried out by that authority.

(2) Subsection (1) above shall be applied to the assets administered by the Federation as trustee.

(3) Where the Federation is entitled to receive more than a quarter of the profit of an enterprise in which it does not have a holding, the Federal Court of Auditors shall audit the financial statements and the management to ascertain whether the interests of the Federation have been protected in accordance with the existing provisions.

## **Part VI**

### **Public-law entities established and controlled directly under federal law**

#### **Section 105 – Principle**

The provisions of

1. sections 106 to 110 shall apply, and
  2. sections 1 to 87, shall apply accordingly,
- to public-law entities established and controlled directly under federal law, unless other arrangements are provided by a law or on the basis of a law.

(2) With the agreement of the Federal Ministry of Finance and the Federal Court of Auditors, the responsible federal ministry may permit exceptions to the regulations designated in subsection (1) above in respect of the public-law entities established and controlled directly under federal law, unless a considerable financial interest of the Federation is involved.

### **Section 106 – Budget**

(1) The body charged with the management of a public-law entity established and controlled directly under federal law shall adopt a budget before the start of each fiscal year. The budget must include all revenues to be expected in the course of the fiscal year, the expenditures expected to be effected and any commitment appropriations expected to be required, and must balance revenue with expenditure. Only such expenditures and commitment appropriations as are necessary for the accomplishment of the tasks of the legal entity in question may be taken up in the budget.

(2) Where the entity has in addition to the body charged with its management a special decision-taking body that is charged with deciding on or consenting to important administrative matters or supervising the management of the entity, the budget shall be adopted by this decision-taking body. The body charged with the management shall submit the draft to the decision-taking body.

### **Section 107 – Charges, contributions**

Where a public-law entity established and controlled directly under federal law is entitled to collect charges or contributions from its members, the amount of such charges or contributions for the new fiscal year shall be set at the same time as the adoption of the budget.

### **Section 108 – Approval of the budget**

The budget of public-law entities established and controlled directly under federal law and the charges or contributions set by them shall require the approval of the responsible federal ministry. The setting of the charges or contributions shall additionally require the approval of the Federal Ministry of Finance. The budget and the decision setting the charges or contributions shall be submitted to the responsible federal ministry not later than one month before the start of the fiscal year. The budget and the decision may enter into force only at the same time.

### **Section 109 – Rendering of accounts, auditing, discharge**

(1) At the end of the fiscal year, the body charged with the management of a public-law entity established and controlled directly under federal law shall prepare accounts.

Without prejudice to any audit by the Federal Court of Auditors under section 111, the accounts and the budgetary and financial management of the public-law entity established and controlled directly under federal law shall be audited by agencies determined by a law or in the articles of association. The regulation in the articles of association concerning the carrying out of the audit shall require the consent of the responsible federal ministry with the agreement of the Federal Ministry of Finance and the Federal Court of Auditors. The results of the audit shall be presented to the Federal Court of Auditors. It may permit the audit to be limited.

(3) Discharge shall be granted by the responsible federal ministry with the agreement of the Federal Ministry of Finance. Where a special decision-taking body exists, it shall be incumbent upon such body to grant discharge; the discharge shall then require the approval of the responsible federal ministry and the Federal Ministry of Finance.

#### **Section 110 – Operating budget**

Public-law entities established and controlled directly under federal law shall prepare operating budgets if it is not practical for them to be run on the basis of the revenues and expenditures of the budget. If they keep their accounts according to the rules of commercial double-entry accounting, they shall prepare annual financial statements and a management report in analogous application of the regulation stated in section 264 subsection (1), first sentence, of the Commercial Code.

#### **Section 111 – Auditing by the Federal Court of Auditors**

(1) The Federal Court of Auditors shall audit the budgetary and financial management of public-law entities established and controlled directly under federal law. Sections 89 to 100, 102 and 103 shall be applied accordingly.

(2) With the agreement of the Federal Ministry of Finance and the Federal Court of Auditors, the responsible federal ministry may permit exceptions to subsection (1) above in respect of public-law entities established and controlled directly under federal law, unless a considerable financial interest of the Federation is involved. The exceptions permitted under existing law shall remain unaffected.

## **Section 112 – Special arrangements**

(1) Only section 111 shall be applied to institutions established and controlled directly under federal law which are responsible for statutory health insurance, statutory long-term care insurance, statutory accident insurance and statutory pensions insurance, including pensions insurance for farmers, and only where such institutions receive subsidies from the Federation on the basis of a federal law, or where the Federation is obliged by law to grant guarantees. Section 111 shall be applied to associations and joint agencies of the social security institutions designated in the first sentence above, whatever their legal form, where members of such associations and joint agencies are subject to auditing by the Federal Court of Auditors. The regulations of this Code shall not be applicable to other associations in the area of social security.

(2) Section 65 subsection (1) numbers 3 and 4 and subsections (2), (3) and (4), section 68 subsection (1) and section 69 shall be applied accordingly, and section 111 unchanged, to enterprises in the legal form of a public-law entity established and controlled directly under federal law, irrespective of the amount of the Federation's holding. Sections 53 and 54 of the Budgetary Principles Act and sections 65 to 69 of this Code shall apply accordingly to enterprises in the legal form of a private-law entity and in which the enterprises designated in the first sentence above have a direct or indirect majority holding.

## **Part VII**

### **Special funds**

#### **Section 113 – Principle**

Parts I to IV, VIII and IX of this Code shall be applied accordingly to special funds of the Federation, unless other arrangements are provided by a law or on the basis of a law. The Federal Court of Auditors shall audit the budgetary and financial management of the special funds; Part V of this Code shall be applied accordingly.

## **Part VIII**

### **Discharge**

### **Section 114 – Discharge**

(1) For the purpose of discharging the Federal Government, the Federal Ministry of Finance shall, in the course of the next financial year, render accounts to the Bundestag and the Bundesrat of all revenues and expenditures, as well as of assets and debts (paragraph (1) of Article 114 of the Basic Law). The Federal Court of Auditors shall report directly to the Bundestag, the Bundesrat and the Federal Government.

(2) The Bundestag shall determine the major issues, taking into consideration the comments of the Bundesrat, and shall decide on any measures that are to be initiated.

(3) Individual issues may be referred back to the Federal Court of Auditors for further clarification.

(4) The Bundestag shall determine a date on which the Federal Government shall report to the Bundestag and the Bundesrat on the measures that have been initiated. Insofar as measures have failed to produce the desired results, the Bundestag or the Bundesrat may take up the issues again.

(5) The Bundestag or the Bundesrat may expressly disapprove of specific issues.

## **Part IX**

### **Transitional and final provisions**

#### **Section 115 – Public servants**

Regulations of this Code governing tenured civil servants shall be applied accordingly to other employment relationships of public servants or officials. Section 48 shall not apply in the case of the appointment to the position of judge at a supreme federal court.

#### **Section 116 – Final decision**

(1) The Federal Ministry of Finance shall have the final decision in the cases falling under section 37 subsection (1). Insofar as this Code gives the Federal Ministry of Finance powers in other cases, the responsible federal minister may obtain a decision by the Federal Government on the measure of the Federal Ministry of Finance; the Federal Government shall then have the final decision instead of the Federal Ministry of Finance. Where the Federal Government takes such decision with the Federal Minister of Finance dissenting or

abstaining, the latter shall have the right to lodge an objection. The details shall be regulated by the rules of procedure of the Federal Government.

(2) Exceptionally, the prior consent of the Federal Ministry of Finance shall not be required where immediate action is required to avert an imminent danger threatening the Federation, where the action taken does not exceed that appropriate to the emergency, and where consent cannot be obtained in time. The approval of the Federal Ministry of Finance for the measures adopted must be obtained without delay.

### **Section 117 – Berlin clause**

In accordance with section 13 subsection (1) of the Third Transition Act<sup>15</sup> of 4 January 1952 (Federal Law Gazette I, p. 1), this Code shall also apply in the *Land* of Berlin.

### **Section 118**

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### **Section 119 – Entry into force**

(1) This Code shall enter into force on 1 January 1970.

(2) ... *The regulations of other laws that are incompatible with the provisions of this Code shall also become invalid.*

(3) *Insofar as reference is made in other laws to the regulations invalidated under subsection (2) above, the corresponding regulations of this Code shall take their place.*

(4)

(5)

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<sup>15</sup> *Drittes Überleitungsgesetz*