

Übersetzung durch Ute Reusch.

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## **Act on Out-of-Court Legal Services (Rechtsdienstleistungsgesetz – RDG)**

Legal Services Act of 12 December 2007 (Federal Law Gazette I, p. 2840), as last amended by Article 3 of the Act of 10 August 2021 (Federal Law Gazette I, p. 3415)

The Act was adopted by the Bundestag as Article 1 of the Act of 12 December 2007 (Federal Law Gazette I, p. 2840). Pursuant to Article 20 sentence 3 it enters into force on 1 July 2008. Section 10 (1) sentence 2, section 12 (5), section 13 (4), section 16 (3) sentence 3, section 17 (2), section 18 (3) and section 19 enter into force on 18 December 2007.

### **Part 1 General provisions**

#### **Section 1 Scope**

(1) This Act regulates the authorisation to provide out-of-court legal services in the Federal Republic of Germany. It serves to protect the consumers of legal services, legal relations and the legal system against unqualified legal services.

(2) Where a legal service is provided exclusively from another state, this Act only applies where its subject matter is German law.

(3) Regulations in other laws relating to the authorisation to provide legal services remain unaffected.

#### **Section 2 Definition of legal service**

(1) 'Legal service' means any activity related to the concrete affairs of others as soon as it requires a legal assessment of the individual case.

(2) Regardless of whether the conditions of subsection (1) are met, the collection of third-party claims or claims assigned for the purpose of collection for the account of a third party is a legal service if the debt collection is conducted as a stand-alone business, including the legal assessment and advice relating to such collection (collection service). Assigned claims are not regarded as third-party claims of the previous obligee.

(3) The following do not constitute a legal service:

1. the rendering of scientific opinions,
2. the activities of conciliation and arbitration boards and of arbitrators,
3. the discussion of legal issues affecting employees with those elected to represent their interests, insofar as this is related to the tasks of those representatives,

4. mediation and any comparable form of alternative dispute resolution, unless the activity involves proposing legal arrangements which encroach upon the discussions between those concerned,
5. the presentation and discussion of legal issues and legal cases in the media which are intended for the general public,
6. the handling of legal affairs within affiliated enterprises (section 15 of the Stock Corporation Act (*Aktiengesetz*)).

### **Section 3**

#### **Authorisation to provide out-of-court legal services**

The independent provision of out-of-court legal services is permissible only to the extent provided for under this Act or by or pursuant to other laws.

### **Section 4**

#### **Incompatibility with another obligation to perform**

Legal services which might have a direct influence on the fulfilment of another obligation to perform may not be provided if this jeopardises the due provision of the legal service. Such jeopardisation is not already to be presumed to exist on account of reporting obligations to a litigation funder existing on the basis of a contract with that litigation funder.

### **Section 5**

#### **Legal services provided in connection with another activity**

(1) Legal services may be provided in connection with another activity if they represent a service which is ancillary to a profession or activity. Whether a service is ancillary is to be assessed on the basis of its content, scope and material connection to the main activity, having regard to the legal knowledge required to perform the main activity. 'Another activity' within the meaning of sentence 1 may also be another legal service.

(2) Legal services are regarded as permissible ancillary services if they are provided in connection with one of the following activities:

1. the execution of a will,
2. property and housing management,
3. funding consultancy.

## **Part 2**

### **Legal services provided by non-registered persons**

#### **Section 6**

##### **Free legal services**

(1) The provision of legal services which are not related to any paid activity is permissible (free legal services).

(2) Anyone who provides free legal services outside of family, neighbourly or similarly close personal relationships must ensure that the legal service is provided by a person who is permitted to provide legal services against payment, by a person who is qualified to hold judicial office or under the instruction of such a person. Instruction requires induction and training which is oriented to the scope and content of the legal services to be provided as well as involvement in the provision of the legal service insofar as this is necessary in the individual case.

#### **Section 7**

##### **Professional associations, interest groups, cooperatives**

(1) Legal services may be provided by

1. professional or other associations established to safeguard common interests and alliances of such associations,
2. cooperatives, cooperative auditing associations and their central organisations, as well as cooperative trusts and similar cooperative organisations

within the context of their statutory field of activity to their members or the members of associations or facilities affiliated to them insofar as they are not of overriding importance compared to their other statutory tasks. Legal services may be provided by a legal person in the sole beneficial ownership of the associations or alliances referred to in sentence 1.

(2) Whoever provides legal services in accordance with subsection (1) must have the personal, material and financial resources required to properly provide those legal services and must ensure that the legal service is provided by a person who is permitted to provide that legal service against payment, by a person who is qualified to hold judicial office or under the instruction of such a person. Section 6 (2) sentence 2 applies accordingly.

### **Section 8**

#### **Public and officially recognised bodies**

(1) Legal services may be provided by

1. court-appointed or officially appointed persons,
2. authorities and legal persons under public law, including enterprises and associations established to fulfil their public tasks,
3. persons recognised as suitable under *Land* law or agencies within the meaning of section 305 (1) no. 1 of the Insolvency Code (*Insolvenzordnung*),
4. consumer associations and other publicly funded consumer organisations,
5. non-state welfare organisations within the meaning of section 5 of Book Twelve of the Social Code (*Sozialgesetzbuch XII*), recognised youth welfare organisations within the meaning of section 75 of Book Eight of the Social Code (*Sozialgesetzbuch VIII*) and recognised organisations promoting the interests of people with disabilities within the meaning of section 15 (3) of the Act on Equal Opportunities for People with Disabilities (*Behindertengleichstellungsgesetz*)

within the context of their field of activity and area of responsibility.

(2) Section 7 (2) applies accordingly to those agencies referred to in subsection (1) no. 4 and no. 5.

### **Section 9**

#### **Ban on providing legal services**

(1) The authority responsible for a person's place of residence or an association's seat may ban the persons and organisations referred to in section 6, section 7 (1) and section 8 (1) no. 4 and no. 5 from continuing to provide legal services for a maximum of five years where well-founded facts justify the assumption that unqualified legal services are being provided on a permanent basis to the detriment of the consumers of legal services or legal relations. This is, in particular, the case where there have been significant breaches of the obligations referred to in section 6 (2), section 7 (2) or section 8 (2).

(2) The final ban is to be registered with the competent authority and made public in the Legal Services Register in accordance with section 16. Section 15b applies accordingly in the case of a final ban.

(3) The authorisation to provide free legal services within family, neighbourly or similarly close personal relationships remains unaffected by the ban.

### **Part 3**

#### **Legal services provided by registered persons**

## **Section 10**

### **Legal services on basis of special expertise**

(1) Natural and legal persons and companies without legal personality registered with the competent authority (registered persons) may provide legal services in the following fields on the basis of special expertise:

1. collection services (section 2 (2) sentence 1),
2. pension consultancy services relating to statutory pension and accident insurance, social compensation law, other social insurance and disability law relating to a statutory pension scheme, as well as occupational and professional pension provision,
3. legal services under foreign law; if the foreign law is the law of a Member State of the European Union, of another Contracting Party of the Agreement on the European Economic Area or Switzerland, advisory services may also be provided in regard to the law of the European Union and of the European Economic Area.

Registration may be limited to a sub-field within one of the fields referred to in sentence 1 if that sub-field can be kept distinct from the other activities falling within that field and no overriding reasons relating to the public interest preclude registration for that sub-field.

(2) Registration is made upon application. Where the registration in accordance with subsection (1) sentence 2 is to be made for a sub-field, that sub-field is to be designated in the application for registration.

(3) Where required to protect the consumers of legal services or legal relations, registration may be predicated on conditions or subject to the fulfilment of requirements. Requirements may be imposed or amended at any time. Where registration is limited to a sub-field, the extent of the professional activity must be clearly indicated to the consumers of legal services.

## **Section 11**

### **Special expertise, professional titles**

(1) Those providing collection services must have special expertise in the fields of law which are important for the collection activity for which an application is being made, in particular in civil law, commercial, securities and company law, the law of civil procedure, including debt recovery and insolvency law, as well as cost law.

(2) Those providing pension consultancy services must have special expertise in the law of statutory pension and accident insurance and in the other sub-fields referred to in section 10 (1) sentence 1 no. 2 for which an application for registration is being made, knowledge of the structure, organisation and structural principles of social security, as well as knowledge of those legal principles which are applicable to all fields of social insurance, including administrative procedure under social security law and proceedings before the social courts.

(3) Those providing legal services relating to a foreign law must have special expertise in that foreign law or in the sub-fields of that foreign law for which an application for registration is being made.

(4) Professional titles which include the term '*Inkasso*' (collection) as well as the professional title '*Rentenberaterin*' or '*Rentenberater*' (pension consultant) or confusingly similar titles may only be used by persons registered accordingly.

(5) Persons who possess a professional qualification within the meaning of section 12 (3) sentence 4 and are registered only for one sub-field pursuant to section 10 (1) sentence 2 must pursue their professional activity using a German translation of the professional title used in their country of origin.

## **Section 12**

### **Registration requirements**

(1) The requirements for registration are as follows:

1. personal suitability and reliability; this is generally lacking where

- a) a person is, for health reasons, unable not merely on a temporary basis to properly perform the activity for which the application is being made,
- b) a person performs an activity which is not compatible with the activity for which the application is being made, in particular because there are likely to be conflicting obligations beyond the individual case,
- c) a person's finances are in disorder,
- d) one of the reasons referred to in section 7 sentence 1 no. 1, no. 2 or no. 6 of the Federal Code for Lawyers (*Bundesrechtsanwaltsordnung*) exists or
- e) a person has, over the course of the last three years prior to submitting the application,
  - aa) been issued with a final sentence for a serious criminal offence (*Verbrechen*) or for a less serious criminal offence (*Vergehen*) pertaining to the exercise of their profession or
  - bb) been disbarred as a lawyer (*Rechtsanwalt*) or patent attorney (*Patentanwalt*) or excluded from one of the professions regulated under the Tax Advisory Act (*Steuerberatungsgesetz*) or under the Professional Code for Certified Accountants (*Wirtschaftsprüferordnung*), been removed, in disciplinary proceedings, from notarial office or from office in the administration of justice or been dismissed in proceedings concerning the impeachment of a judge, or pre-empted such a measure by means of waiver,

2. theoretical and practical expertise in that field or in those sub-fields referred to in section 10 (1) in which the legal services are to be provided,

3. professional indemnity insurance with a minimum insurance cover of 250,000 euros for each insured event.

(2) A person's finances are generally in disorder if insolvency proceedings have been opened against that person's assets or that person has been entered in the register kept by the enforcement court (section 26 (2) of the Insolvency Code, section 882b of the Code of Civil Procedure (*Zivilprozeßordnung*)). A person's finances are not in disorder if, after insolvency proceedings have been opened, the meeting of creditors consents to the enterprise continuing on the basis of an insolvency plan and the court has approved the plan, or if the financial interests of the consumers of legal services are not specifically jeopardised for other reasons.

(3) Proof of theoretical expertise is to be furnished to the competent authority by means of certificates. Practical expertise generally presupposes at least two years of professional activity under instruction or practical professional training. As a general rule, in the case set out in section 10 (1) sentence 1 no. 1 the professional activity or training must have been pursued in Germany for at least 12 months, in the case set out in section 10 (1) sentence 1 no. 2 for at least 18 months. If the person is authorised to pursue one of the professions referred to in section 10 (1) sentence 1 no. 1 or no. 2 or a comparable profession in another Member State of the European Union, in another Contracting Party of the Agreement on the European Economic Area or in Switzerland and if the conditions set out in section 1 (2) and (3) of the Act on the Activities of European Patent Attorneys in Germany (*Gesetz über die Tätigkeit europäischer Patentanwälte in Deutschland*) are analogously met, then proof of the expertise may also be furnished, taking account of the existing professional qualification, by means of an at least six-month adaptation course. The Professional Qualifications Assessment Act (*Berufsqualifikationsfeststellungsgesetz*) does not apply.

(4) Legal persons and companies without legal personality must designate at least one natural person who fulfils all the conditions as required by subsection (1) no. 1 and no. 2 (qualified person). Qualified persons must be in the permanent employ of the company, must

be capable of acting independently and issuing instructions on all matters concerning the company's legal services and must be authorised to represent the company externally. Registered individuals may designate qualified persons.

(5) The Federal Ministry of Justice and Consumer Protection is authorised to regulate, by statutory instrument requiring the approval of the Bundesrat, details concerning the registration requirements set out in sections 11 and 12, in particular the requirements relating to expertise and the provision of proof thereof, including recognition and certification of private operators of training courses for the acquisition of expertise, as to recognition of foreign professional qualifications and the adaptation course, as well as the content and form of the professional indemnity insurance, even if these deviate from the provisions of the Insurance Contract Act (*Versicherungsvertragsgesetz*) concerning compulsory insurance.

### **Section 13 Registration procedure**

(1) The application for registration must be submitted to the authority competent as regards the person's main office in Germany. Where a person has no place of business in Germany, the application may be submitted to any authority competent for implementation of this Act on the basis of section 19. The registration procedure may also be handled by a single entity under the provisions of the Administrative Procedure Act (*Verwaltungsverfahrensgesetz*). In addition to the application, which must encompass all the information to be included in the Legal Services Register in accordance with section 16 (2) sentence 1 no. 1 letters a) to d), the following is to be produced to enable verification of the requirements set out in section 12 (1) no. 1 and no. 2 and (4):

1. a summary of the applicant's course of professional training and previous professional practice,
2. a certificate of good conduct as referred to in section 30 (5) of the Federal Central Criminal Register Act (*Bundeszentralregistergesetz*),
3. information as required by section 150 (5) of the Trade Regulation Code (*Gewerbeordnung*) in the case of an application for registration in the field of collection services,
4. a declaration as to whether insolvency proceedings are pending or whether an entry has been made in the list of debtors within the last three years before submitting the application (section 882b of the Code of Civil Procedure),
5. documents providing proof of theoretical and practical expertise.

In the cases referred to in section 12 (4), the documents referred to in sentence 4 and documents providing proof of fulfilment of the requirements referred to in section 12 (4) sentence 2 must be produced separately for each qualified person.

(2) To permit an examination of the requirements under section 10 (1) sentence 1 no. 1, section 12 (1) no. 2 and section 5 (1), applications for the registration of a collection service must include a description of the content of the planned activities. The description must, in particular, stipulate the following:

1. which fields of law the activities are to be performed in and
2. which other activities, if any, are to be performed as ancillary services.

(3) A decision is to be taken on applications within three months; section 42a (2) sentences 2 to 4 of the Administrative Procedure Act applies accordingly. Section 15 of the Federal Code for Lawyers applies accordingly to decisions regarding the ground for denial referred to in section 12 (1) no. 1 letter a). Where the registration requirements in section 12 (1) no. 1 and no. 2 and subsection (4) are met, the competent authority requires the applicant to provide proof of the professional indemnity insurance and of the fulfilment of any conditions (section

10 (3) sentence 1) before the expiry of the period referred to in sentence 1. As soon as this proof has been furnished it registers the applicant and arranges for public announcement in the Legal Services Register. If the competent authority deems an ancillary service regarding which information has been provided in accordance with subsection (2) sentence 2 no. 2 to be inadmissible, it is to inform the applicant thereof at the latest upon the registration of the collection service.

(4) Registered persons or their legal successors must immediately notify the competent authority in text form of all changes which will have repercussions as regards the registration or the content of the Legal Services Register. The competent authority arranges for the necessary registrations and their public announcement in the Legal Services Register. If relocation of the main office has repercussions as regards competence in accordance with subsection (1) sentence 1, the authority passes the matter on to that authority which is competent for the new main office. The latter notifies the registered person of its being competent, registers the change and arranges for its public announcement in the Legal Services Register.

(5) Collection service providers who wish to perform activities in fields of law other than those previously notified are to notify these activities immediately to the competent authority in text form. Sentence 1 applies accordingly if ancillary services other than those previously notified are to be performed. If the competent authority deems an ancillary service notified in accordance with sentence 2 to be inadmissible, it is to notify the collection service provider thereof within two months.

(6) The Federal Ministry of Justice and Consumer Protection is authorised to regulate, by statutory instrument requiring the approval of the Bundesrat, details concerning the registration procedure and the reporting procedure pursuant to section 15. In particular, retention and deletion periods are to be provided for.

### **Section 13a**

#### **Disclosure and information requirements in regard to collection services relating to private individuals**

(1) When first asserting a claim against a private individual, registered persons providing collection services (collection service providers) must communicate the following information in a clear and comprehensible manner in text form:

1. the name of their client or the name of that client's company, as well as that client's address, unless it has been demonstrated that stating the address would interfere with the client's overriding interests worth protecting,
2. the basis of the claim, where contracts have been concluded including a precise description of the subject matter of the contract and the date on which the contract was concluded, in the case of unlawful acts stating the nature and date of commission of the act,
3. if interest is being claimed, a calculation of the interest together with the claim on which interest is to be paid, the rate of interest and the period for which interest is being calculated,
4. if a rate of interest is being claimed over and above the statutory rate of default interest, special reference to that fact and information regarding the circumstances on the basis of which the higher rate of interest is being claimed,
5. if costs for collection are being asserted, information regarding the type, amount and their basis,
6. if value added tax amounts are being asserted together with the costs for collection, a declaration to the effect that the client cannot deduct these amounts as input tax.

7. if the private individual's address was not provided by the obligee but was otherwise ascertained, reference to that fact and to how any errors which may have occurred can be asserted,

8. the designation, address and electronic mail address of the supervisory authority responsible for them.

(2) At the request of a private individual, a collection service provider is required immediately to provide the following additional information in text form:

1. the name or the name of the company of the person for whom the claim arose,

2. if a contract was concluded, the essential circumstances relating to the conclusion of the contract.

(3) If a collection service provider intends to reach an agreement with a private individual concerning deferment of payment or payment in instalments, the provider must first supply that individual with information, in text form, about the resulting costs.

(4) If a collection service provider requests a private individual to provide an acknowledgement of debt, then when making the request as per sentence 2 the provider must notify that individual, in text form, of the fact that the acknowledgement of debt generally means that he or she will no longer be able to assert those defences and objections against the acknowledged debt which were established at the point in time at which the acknowledgement of debt was provided. The notice must

1. state clearly which parts of the claim are covered by the acknowledgement of debt and

2. name typical examples of defences and objections which can no longer be asserted, such as the non-existence, settlement or limitation of the acknowledged debt.

(5) 'Private individual' within the meaning of this provision means any natural person against whom a claim is being made which is not linked to his or her commercial or self-employed professional activity.

### **Section 13b**

#### **Disclosure and information requirements in regard to collection services for consumers**

(1) Collection service providers acting for a consumer must communicate to that consumer the following information in a clear and comprehensible manner before submitting their contractual declaration regarding the collection service:

1. where a contingency fee (section 49b (2) sentence 1 of the Federal Code for Lawyers) is to be agreed, reference to which other means of asserting a claim are available, in particular if, in the event of being successful, these would enable the consumer to realise his or her claim in the full amount,

2. if cost risks are to be insured through a litigation funder, reference to that fact and to any agreements reached with the litigation funder as regards the conduct of the case,

3. if the collection service provider is to be authorised to reach a settlement with the obligor, reference to that fact and, in particular, explanations as to

a) whether the settlement requires the consumer's prior consent or whether and under what conditions the consumer can revoke it,

b) what repercussions the consumer's rejection or revocation of a settlement has as regards the collection service provider's remuneration and on further procedure,

- c) what repercussions a settlement has as regards the collection service provider's remuneration,
- d) where the claims of several persons are to be made the subject matter of a settlement, provided that is intended, what repercussions this might have as regards a settlement and

4. the designation, address and electronic mail address of the supervisory authority responsible for the collection service provider.

(2) Collection service providers acting for a consumer must notify, in text form, consumers for whom they do not wish to act in an individual case the key reasons for their refusing to act for them. The notification must include reference to whether the claim was legally assessed and whether this was done fully or partly automatically. The notification must also include reference to the fact that refusing to act is without prejudice to other means of asserting the claim.

### **Section 13c**

#### **Remuneration agreements for collection services and legal services under foreign law**

(1) An agreement regarding remuneration for a collection service, insofar as the activity is not limited to the provision of oral or written advice or information, must be made in text form. The agreement must

- 1. be designated as a remuneration agreement or given a comparable designation,
- 2. significantly differ from other agreements, with the exception of a retainment agreement,
- 3. be separate from the power of attorney and
- 4. contain a reference to the legal consequence of section 13e (1).

(2) Where, taking account of all the facts and circumstances, agreed remuneration is inappropriately high, it may be reduced to an appropriate amount in the course of the legal proceedings.

(3) An agreement regarding a contingency fee must include the following:

- 1. information regarding the amount of the remuneration to be paid upon which conditions being met,
- 2. information regarding what influence, if any, the agreement is to have on any court fees or administrative fees which the consumer may have to pay and the other parties' costs to be reimbursed by the consumer,
- 3. the essential reasons which are decisive when fixing the contingency fee, in particular as regards the legal action's prospects of success, the collection service provider's effort and the possibility of having the costs for the collection service reimbursed by the obligor and
- 4. information regarding whether remuneration is payable in the event of early contract termination.

(4) It is not permissible to agree a contingency fee insofar as the collection service refers to a claim which is not subject to attachment.

(5) Subsection (1) sentence 1 and sentence 2 nos. 1 to 3 and subsections (2) to (4) apply accordingly to legal services provided under a foreign law.

### **Section 13d**

#### **Pension consultants' remuneration**

(1) The Lawyers' Remuneration Act (*Rechtsanwaltsvergütungsgesetz*) applies accordingly to pension consultants' remuneration. If the remuneration is dependent on the value of the matter, the pension consultant is required to draw the client's attention to that fact prior to retention.

(2) Pension consultants are prohibited from agreeing or demanding lower fees and expenses as are provided for under the Lawyers' Remuneration Act, unless otherwise provided for therein. The agreement of a contingency fee (section 49b (2) sentence 1 of the Federal Code for Lawyers) is not permissible, unless otherwise provided for in the Lawyers' Remuneration Act; obligations to bear the court fees, administrative fees or the costs of other parties are not permissible. In an individual case, account may be taken, after the case has been concluded, of the client's particular personal circumstances, especially his or her lack of means, by way of a rebate or the waiving of fees or expenses.

(3) The provisions of codes of procedure regarding the reimbursement of a lawyer's remuneration apply accordingly to the reimbursement of pension consultants' remuneration.

### **Section 13e**

#### **Reimbursability of collection service providers' costs**

(1) Obligees may demand to have those costs which a collection service provider has charged them for his or her activities compensated by their obligor only up to the amount of the remuneration to which a lawyer would be entitled under the provisions of the Lawyers' Remuneration Act.

(2) The reimbursement of a collection service providers' remuneration for representation in compulsory enforcement proceedings is governed by section 788 of the Code of Civil Procedure.

### **Section 13f**

#### **Retention of lawyers and collection service providers**

If the obligee of a claim retains both a collection service provider and a lawyer in relation to its collection, the obligor may demand to have the costs arising as a result compensated only up to that amount which would have arisen if only a lawyer has been retained. This applies to all out-of-court and court mandates. Sentences 1 and 2 do not apply if the obligor only contested the claim after a collection service provider was retained and that contestation was the reason for a lawyer being retained.

### **Section 13g**

#### **Handling of third-party monies**

Collection service providers are required immediately to pass on third-party monies to the person authorised to receive them or to pay them onto a separate account.

### **Section 13h**

#### **Supervisory measures**

(1) The competent authority is responsible for overseeing compliance with this Act. Such oversight also encompasses compliance with other statutes insofar as they impose requirements in relation to the professional activity of registered persons.

(2) The competent authority is responsible for taking measures against persons providing legal services to ensure compliance with the statutes referred to in subsection (1). In particular, it may order that a person refrain from specific conduct. Such an order is in particular regarded as a means for clarifying a legal issue of fundamental significance or in the case of a substantial or repeated violation of statutory provisions.

(3) If controlling compliance with requirements within the meaning of subsection (1) sentence 2 primarily falls to another authority or if other proceedings are pending in respect of such requirements, then the authority competent under this Act is generally required to await the outcome of the review by the other authority or of the other proceedings and only then to decide whether any other measures under this Act need be taken.

(4) The competent authority may impose a full or partial temporary ban on persons providing legal services where well-founded facts justify the assumption that

1. a registration requirement under section 12 has ceased to apply or
2. significant or permanent breaches of duty are being committed.

(5) Insofar as it is necessary for the fulfilment of the tasks assigned to the competent authority in its capacity as supervisory authority, persons providing legal services must permit the competent authority and those persons acting on its behalf to enter their business premises during normal operating hours, upon request to present the relevant books, records, receipts, papers and other documents in an appropriate form for inspection, including those which are kept electronically, to provide information and the necessary assistance. Persons obliged to provide information may refuse to do so if, by doing so, they would put themselves or one of their relatives referred to in section 383 (1) nos. 1 to 3 of the Code of Civil Procedure at risk of prosecution for a criminal offence or proceedings under the Act on Regulatory Offences (*Ordnungswidrigkeitengesetz*). They are to be informed of this right.

(6) In complaints procedures, the supervisory authority notifies the complainant of its decision as soon as the procedure before it has been concluded. The notification is to briefly set out the essential reasons for the decision. The notification is incontestable.

#### **Section 14 Revocation of registration**

The competent authority revokes registration, notwithstanding section 49 of the Administrative Procedure Act or corresponding provisions under *Land* law,

1. where well-founded facts justify the assumption that the registered person or a qualified person no longer possesses the requisite personal suitability or reliability; this is generally the case where one of the grounds referred to in section 12 (1) no. 1 subsequently arises or the registered person persistently fails to notify those changes referred to in section 13 (4) sentence 1 or to make those notifications referred to in section 13 (5) sentence 1 or sentence 2,
2. where the registered person no longer maintains professional indemnity insurance as required by section 12 (1) no. 3,
3. where well-founded facts justify the assumption that unqualified legal services are being provided on a permanent basis to the detriment of the consumers of legal services or of legal relations; this is generally the case where a registered person is providing a substantial volume of legal services over and above their registered authorisation or a registered person persistently fails to comply with requirements imposed or disclosure and information requirements as laid down in section 13a or section 13b or with obligations as laid down in section 13g,
4. where a legal person or company without legal personality which has not designated another qualified person does not designate a qualified person within six months of a qualified person's departure.

Section 15 of the Federal Code for Lawyers applies accordingly to the decision on revocation in accordance with sentence 1 no. 1 in conjunction with section 12 (1) no. 1 letter a).

#### **Section 14a Appointment of liquidator for pension consultants**

(1) Where a person registered as a pension consultant (section 10 (1) sentence 1 no. 2) dies or their registration is withdrawn or revoked, the authority responsible for the registration may appoint a liquidator to wind up their practice. The liquidator must be a lawyer or a person

registered to work in the same field as the registered person whose practice is to be wound up.

(2) Section 53 (4) sentence 3, section 54 (1) sentences 2 and 3, (3) and (4) sentences 1 to 3 and section 55 (1) sentences 4 and 5, (2) sentences 1 and 4, and (3) sentences 2 and (4) of the Federal Code for Lawyers apply accordingly, with the proviso that the authority which appointed the liquidator takes the place of the executive board of the bar association.

### **Section 15 Temporary legal services**

(1) Natural and legal persons and companies without legal personality legally established in another Member State of the European Union, in another Contracting Party of the Agreement on the European Economic Area or in Switzerland to pursue one of the professions referred to in section 10 (1) sentence 1 no. 1 or no. 2 or a comparable profession may temporarily and occasionally pursue this profession in the Federal Republic of Germany with the same rights and obligations as a person registered in accordance with section 10 (1) sentence 1 no. 1 or no. 2 (temporary legal services). If neither the profession nor the training for this profession is regulated in the country of establishment, this only applies where the person or company has pursued the profession in the states referred to in sentence 1 for at least one year over the course of the previous 10 years. Whether legal services are being provided temporarily and occasionally is in particular to be assessed on the basis of their duration, frequency, regularity and continuity.

(2) Temporary legal services may be provided only where, before first providing services in Germany, a person or company makes a report in text form to an authority competent under section 19 and that report contains the information referred to in sentence 3. The reporting procedure may also be handled by a single entity as defined in sections 71a to 71e of the Administrative Procedure Act. In addition to the information to be made public in the Legal Services Register in accordance with section 16 (2) sentence 1 no. 1 letters a) to c), the report must include

1. certification that the person or company is legally established in a Member State of the European Union, in another Contracting Party of the Agreement on the European Economic Area or in Switzerland to pursue one of the professions referred to in section 10 (1) sentence 1 no. 1 or no. 2 or a comparable profession and that, at the time of presenting the certification, the person or company has not been banned, even temporarily, from pursuing this activity,

2. proof that the person or company has legally pursued the profession in the states referred to in no. 1 for at least one year over the course of the previous 10 years if the profession is not regulated in that state,

3. proof, where the profession is pursued in the territory of the Federal Republic of Germany, of having taken out professional indemnity insurance as required by subsection (5) or information regarding why conclusion of such insurance is impossible or unreasonable; otherwise, a declaration stating that the profession is exclusively pursued from the country of establishment,

4. the professional title under which the activity is to be pursued in Germany and

5. consent to publication of the person's telephone number and electronic mail address in the Legal Services Register, insofar as such consent has been given.

Section 13 (4) sentences 1 and 2 applies accordingly. The report must be made annually if the person or company intends to once again provide temporary legal services in Germany after the expiry of one year. In this case the proof or the declaration referred to in sentence 3 no. 3 must be included.

(3) As soon as the report referred to in subsection (2) has been made in full, the competent authority effects temporary registration or its extension by one year and arranges for publication in the Legal Services Register. The procedure is free of charge.

(4) Temporary legal services are to be provided using the professional title used for the activity in the language of the country of establishment. Confusion with the professional titles listed in section 11 (4) must be ruled out.

(5) Temporarily registered persons or companies pursuing their profession in the territory of the Federal Republic of Germany are obliged to take out professional indemnity insurance to cover their liability risks for financial losses resulting from their professional activity in Germany, and the type and extent of the insurance must be appropriate to the risks arising from their professional activity. Where the person or company is unable to take out such insurance or this is unreasonable, the person or company must indicate that fact and the consequences thereof to clients in text form before being retained.

(6) The competent authority may ban a temporarily registered person or company from continuing to provide legal services if it is to be assumed on the basis of well-founded facts that that person or company will provide unqualified legal services on a permanent basis to the detriment of the consumers of legal services or legal relations or if that person or company has significantly violated any professional duties. The conditions under sentence 1 are generally met where the person or company

1. is no longer legally established in the country of establishment or has been banned from pursuing their activity,
2. is providing a substantial volume of legal services over and above their registered authorisation,
3. persistently violates disclosure and information requirements as laid down in section 13a,
4. does not have the German language skills needed to pursue the professional activity in Germany,
5. persistently uses an incorrect professional title contrary to subsection (4) or
6. persistently violates the requirements as laid down in subsection (5) on professional indemnity insurance.

(7) Natural and legal persons and companies without legal personality legally established in one of the states referred to in subsection (1) sentence 1 to provide legal services under a foreign law (section 10 (1) sentence 1 no. 3) may temporarily and occasionally provide those legal services in the Federal Republic of Germany with the same authorisations as a person registered in accordance with section 10 (1) sentence 1 no. 3 (temporary legal services). Subsection (1) sentences 2 and 3 and subsections (2) to (6) apply accordingly.

#### **Section 15a Statistics**

Federal statistics are to be kept regarding procedures in accordance with section 12 (3) sentence 4 and section 15. Section 17 of the Professional Qualifications Assessment Act applies.

#### **Section 15b Operating without registration**

Where legal services are provided without the required registration or without temporary registration, the competent authority may put a stop to the activities.

### **Part 4 Legal Services Register**

## **Section 16**

### **Content of Legal Services Register**

(1) The Legal Services Register provides information to the consumers of legal services, persons providing legal services, legal relations and public agencies. Everyone is entitled to inspect the Legal Services Register free of charge.

(2) Only the following is made public in the Legal Services Register, stating the authority competent in accordance with section 9 (1) sentence 1, section 13 (1) sentence 1 or sentence 2, or section 15 (2) sentence 1 and the date of the registration in question:

1. the registration of persons permitted to provide legal services in one or more of the fields or sub-fields referred to in section 10 (1), stating

- a) their family name and first name, their name or the name of their company, including its legal representatives and the court of registration and the registry number under which it has been entered in the register of companies, partnerships, cooperatives or associations,
- b) the year of establishment,
- c) their business address, including the addresses of all branch offices,
- d) the qualified persons designated in accordance with section 12 (4), stating their family name and first name,
- e) the content and scope of the authorisation to provide legal services, including any requirements imposed,
- f) the fact, where relevant, of its being a temporary registration in accordance with section 15 and which professional title is to be used in the provision of the legal services in Germany in accordance with section 15 (4),
- g) any current, immediately enforceable withdrawals and revocations of registration,

2. the registration of persons or associations banned by final order from providing legal services in accordance with section 9 (1), stating

- a) their family name and first name, their name or the name of their company, including its legal representatives and the court of registration and the registry number under which it has been entered in the register of companies, partnerships, cooperatives or associations,
- b) the year of establishment,
- c) their address,
- d) the length of the ban.

In the case of public announcement in accordance with sentence 1 no. 1, the business address is published together with the registered person's telephone number and electronic mail address if that person has consented in text form to publication of these data. Where a liquidator is appointed, this fact is also to be published, together with the liquidator's family name, first name and address.

(3) Public announcement is made by means of central and national publication on the Internet at [www.rechtsdienstleistungsregister.de](http://www.rechtsdienstleistungsregister.de). The authority competent in accordance with section 9 (1) sentence 1, section 13 (1) sentence 1 or sentence 2 or section 15 (2) sentence 1 has responsibility under data protection law for the data it makes public in the Legal Services Register, in particular for the lawfulness of their collection, the permissibility of their publication and their accuracy. The Federal Ministry of Justice and Consumer

Protection is authorised to regulate, by statutory instrument requiring the approval of the Bundesrat, details concerning public announcement on the Internet.

**Section 17**  
**Deletion of data made public**

- (1) The data made public in the Legal Services Register are to be deleted
1. upon a registered person waiving the registration,
  2. upon the death of a natural person,
  3. upon the termination of legal persons and companies without legal personality,
  4. upon the decision regarding persons whose registration was withdrawn or revoked becoming final,
  5. upon the expiry of the period for which persons or associations have been banned from providing legal services under section 9 (1),
  6. upon the expiry of one year after the temporary registration of persons or companies under section 15, or its last extension, in the case of a ban imposed in accordance with section 15 (6) upon the ban becoming final.

Where a liquidator is appointed in the case referred to in sentence 1 no. 2 or no. 4, the data are not deleted until liquidation has been completed.

(2) The Federal Ministry of Justice and Consumer Protection is authorised to regulate, by statutory instrument requiring the approval of the Bundesrat, details concerning the procedure for deletion.

**Part 5**  
**Data transmission and competence, provisions governing regulatory fines**

**Section 18**  
**Handling of personal data**

(1) The competent authorities may transmit to each other and to other authorities responsible for implementing this Act data relating to registrations made in accordance with section 9 (2), section 10 (1) and section 15 (3) insofar as knowledge of these data is necessary in the implementation of this Act. They may store the data to be made public in accordance with section 16 (2) for a maximum of three years following deletion of the public announcement in a central, national file system and may call up data in it in an automated procedure; section 16 (3) sentence 2 applies accordingly. Courts and authorities may transmit to the competent authority personal data insofar as knowledge of these data is necessary for the following purposes:

1. registration or withdrawal or revocation of registration,
2. a ban pursuant to section 9 (1) or section 15 (6),
3. a supervisory measure pursuant to section 13h,
4. a measure pursuant to section 15b or
5. European administrative cooperation pursuant to subsection (2).

Sentence 3 only applies insofar as the transmission of the data will not jeopardise the person's interests meriting protection or where the public interest overrides the person's interest in keeping them secret.

(2) Sections 8a to 8d of the Administrative Procedure Act apply accordingly to administrative cooperation with authorities in other Member States of the European Union, other Contracting Parties of the Agreement on the European Economic Area and Switzerland. The

competent authority uses the European Union's Internal Market Information System for the purposes of such administrative cooperation.

(2a) Where it is determined within the context of administrative court proceedings that a person making an application for recognition of their professional qualification under Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22; L 271, 16.10.2007, p. 18; L 93, 4.4.2008, p. 28; L 33, 3.2.2009, p. 49; L 305, 24.10.2014, p. 115), as last amended by Directive 2013/55/EU (OJ L 354, 28.12.2013, p. 132; L 268, 15.10.2015, p. 35; L 95, 9.4.2016, p. 20), as amended, has used forged proof of professional qualification, the competent authority is, within three days after the court decision becomes final, to notify the other Member States of the European Union, the other Contracting Parties of the Agreement on the European Economic Area and Switzerland, via the Internal Market Information System, of the identity of the person and of the fact that that person has used forged proof of professional qualification. Section 38 (2) of the Act on the Activities of European Lawyers in Germany (*Gesetz über die Tätigkeit europäischer Rechtsanwälte in Deutschland*) applies accordingly.

(3) The Federal Ministry of Justice and Consumer Protection is authorised to regulate, by statutory instrument requiring the approval of the Bundesrat, details concerning the treatment of personal data, in particular their publication in the Legal Services Register, inspection of the Register, data transmission, including automated data retrieval, and administrative assistance.

## Section 19

### Competence and delegation of powers

(1) The *Land* departments of justice, which are also the competent agencies within the meaning of section 117 (2) of the Insurance Contract Act, are responsible for implementing this Act. Several *Länder* may agree that one *Land* department of justice is to perform these tasks.

(2) The *Land* governments are authorised to delegate the tasks and powers accorded to the *Land* departments of justice under this Act by statutory instrument to authorities subordinate to these. The *Land* governments may delegate this authorisation by statutory instrument to the *Land* departments of justice.

## Section 20

### Provisions governing regulatory fines

(1) Whoever

1. contravenes an enforceable order under section 9 (1) sentence 1, section 13h (2) sentence 3 or section 15 (6) sentence 1, also in conjunction with subsection (7) sentence 2,
2. provides a legal service referred to in section 10 (1) without registration in accordance with that provision,
3. contravenes an enforceable order under section 10 (3) sentence 1,
4. uses a professional title or designation referred to in section 11 (4) contrary to that provision or
5. contrary to section 13g, does not pass third-party monies on or does not do so in good time and does not pay third-party monies in or does not do so in good time.

is deemed to have committed a regulatory offence.

(2) Whoever intentionally or negligently,

1. contrary to section 13 (4) sentence 1, also in conjunction with section 15 (2) sentence 4, also in conjunction with section 15 (7) sentence 2, contrary to section 13 (5)

sentence 1, also in conjunction with sentence 2, or contrary to section 13a (2), does not make a notification, does not do so correctly, in full or in good time,

2. contrary to section 13a (1), does not transmit a piece of information, does not do so correctly, in full or in good time,

3. contrary to section 13a (3) or (4) sentence 1, does not provide information, does not do so correctly, in full or in good time,

4. contrary to section 15 (2) sentence 1, also in conjunction with subsection (7) sentence 2, provides a temporary legal service or

5. contrary to section 15 (2) sentence 5, also in conjunction with subsection (7) sentence 2, does not resubmit the report referred to therein, does not do so correctly, in full or in good time

is deemed to have committed a regulatory offence.

(3) A fine of up to 50,000 euros may be imposed against the regulatory offence.