

Federal Act to reform social protection for professionals in the agricultural and forestry sectors

(ASRG 1995) of 29 July 1994

Article 10

Amendment of the Act pertaining to Health Insurance for Farmers (8252-1)

In § 27 paragraph 2 of the Act on Health Insurance for Farmers of 10 August 1972 (Official Gazette I, p. 1433), which was last amended by Article 3 of the Act of 21 December 1993 (Official Gazette I, p. 2374), the phrase "The ... mentioned in §2, paragraph 1, subsections 3 to 5, § 6 and § 23 of the Second Act on Health Insurance for Farmers" shall be replaced by the phrase "the other [...] in the health insurance scheme for farmers".

Article 11

Amendment of the Second Act on Health Insurance for Farmers (8252-3)

The Second Act on Health Insurance for Farmers (Article 8 of the Act of 20 December 1988, Official Gazette I, pp. 2477, 2557), which was last amended by Article 13 of the Act of 26 May 1994 (Official Gazette I, p. 1014), shall be amended as follows:

1. § 2 shall be amended as follows:

a) paragraph 1 shall be amended as follows:

aa) subsection 1 shall read as follows:

"1. economic operators in the agricultural and forestry sectors including viticulture and horticulture as well as aquaculture and fish farming (agricultural operators), whose enterprises, irrespective of individual operators, are based on land management and attain the minimum surface area; § 1, paragraph 5, of the Act on Old-Age Pension Insurance for Farmers shall apply,".

bb) subsection 2 shall read as follows:

"2. persons who work as agricultural operators but whose enterprises do not attain the minimum surface area within the meaning of subsection 1, if

a) their agricultural enterprise falls short of the minimum surface area laid down in § 1, paragraph 5, of the Act on Old-Age Pension Insurance for Farmers by no more than half and

b) the earnings and the earned income which they have in addition to the income from their agricultural enterprise and the early retirement pension mentioned in § 5, paragraph 3, of Book V of the Social Security Code does not exceed half of the amount of annual remuneration pursuant to § 18 of Book IV of the Social Security Code,".

cc) Subsection 4 shall read as follows:

"4. persons who are eligible for a pension pursuant to the Act on Old-Age Pension Insurance for Farmers and have applied for such a pension,".

b) The first sentence of paragraph 2 shall read as follows:

"Operators engaging in freshwater fishing, apiculture and migratory herding whose enterprises attain the minimum surface area, irrespective of individual operators, shall be regarded as agricultural operators pursuant to paragraph 1, subsection 1; sentences 2 to 4 of § 1, paragraph 5, of the Act on Old-Age Pension Insurance for Farmers shall apply for determining the minimum surface area."

c) The first two sentences of paragraph 3 shall read as follows:

"An operator is a person who carries out his occupational activity in a private capacity. Members of a private commercial company who have limited liability or members of a corporate body shall be considered to be operators if their activity in the enterprise is their main activity and they are not covered by law by the statutory pension insurance scheme because of that activity."

d) The following sentence shall be added to paragraph 4:

"The spouse of an agricultural operator who fulfills the conditions laid down in § 5, paragraph 1, subsection 1, of Book V of the Social Security Code by virtue of employment in the agricultural enterprise of the other spouse shall also be considered to be a family worker."

e) the following paragraph shall be added after paragraph 4:

"(4a) persons whose main activity is carried out in a private capacity in a sector other than the agricultural and forestry sectors shall not be liable to mandatory insurance coverage pursuant to paragraph 1."

f) The following paragraph shall be added after paragraph 6:

"(7) Persons who become liable to mandatory insurance coverage and who are insured by a private health insurance company can terminate the insurance policy with effect from the date on which insurance becomes mandatory. This shall also apply if the insurance coverage occurs pursuant to § 7."

2. § 3 shall be amended as follows:

a) Paragraph 1, subsection 3, shall be deleted.

b) Paragraph 2 shall be amended as follows:

aa) Subsection 1 shall be worded as follows:

"1. The employees mentioned in § 5, paragraph 1, subsection 1, of Book V of the Social Security Code, if they take up that employment for an expected maximum period of 26 weeks and are insured as operators liable to mandatory insurance coverage,".

bb) The following subsections shall be added after subsection 1:

"1a. the employees mentioned in § 5, paragraph 1, subsection 1, of Book V of the Social Security Code, if they are liable to mandatory insurance coverage pursuant to § 2, paragraph 1, subsection 3,".

cc) In subsection 2, the word "benefits" shall be replaced by the word "pensions".

3. The following paragraph shall be added after § 3

"§ 3a

Exemption from mandatory insurance

The following persons shall be exempted from mandatory insurance:

1. persons who fulfil the conditions laid down in § 6, paragraph 1, subsection 1, 2 or 4 to 8 of Book V of the Social Security Code; § 6, paragraph 4, of Book V of the Social Security Code shall apply, or
2. persons who are members of the German Federal Parliament or of a State Parliament or who are receiving a pension pursuant to the laws pertaining to members of the Federal or State Parliaments."

4. § 4 shall be amended as follows:

a) Paragraph 1 shall be amended as follows:

aa) Subsection 1 shall read as follows:

"1. through his activity as an agricultural operator, if the income pursuant to § 40, paragraph 4, exceeds the annual earnings ceiling laid down in § 6, paragraph 1, subsection 1 of Book V of the Social Security Code, or".

bb) In subsection 2, the word "benefits" shall be replaced in each case by the word "pensions".

b) The following sentence shall be added in paragraph 3:

"Entitlement shall lapse inasmuch as entitlement to the grant pursuant to § 257 of Book V of

the Social Security Code exists."

5. § 5 shall be worded as follows

"§5

Restricted exemption from mandatory insurance

Operators engaged in freshwater fishing, apiculture and migratory herding, who are liable to insurance coverage only by virtue of § 2, paragraph 2, shall be exempted from mandatory insurance pursuant to § 2, paragraph 1, subsection 1, provided that they have taken out voluntary insurance with another health insurance fund with entitlement to sickness benefit. This exemption shall take effect from the commencement of mandatory insurance if the application is filed within one month. Where the application is filed at a later date by the exemption shall take effect from the first day of the calendar month following the filing of the application."

6. § 10, paragraph 2, shall read as follows:

"(2) § 38 of Book V of the Social Security Code shall apply to the other persons in the health insurance scheme for farmers who have their own household."

7. § 12 shall be amended as follows:

a) In the heading, the words "family workers" shall be replaced with the word "persons".

b) The following sentences shall be added:

The first sentence shall also apply to persons who are insured pursuant to § 3, paragraph 2, subsection 1, throughout their employment; only the earned income shall be taken as the basis for calculating the sickness benefit. The payment of sickness benefit pursuant to the second sentence shall not preclude benefits pursuant to § 9. "

8. In § 13, paragraph 4, the words "§ 47, paragraph 1, 4th and 5th sentences" shall be inserted after the words "§ 46, 1st sentence".

9. In § 15, the words "and Fifth" shall be inserted after "Fourth".

10. § 17, paragraph 3, shall be deleted

11. The following sentence shall be inserted in § 18, paragraph 2:

"Third persons may thereby be called in to attend to current administrative tasks provided that this is expedient for the fulfilment of those tasks; § 88, paragraph 3, and § 90 of Book X of the Social Security Code shall apply accordingly. "

12. § 22, paragraph 1, subsection 4, shall read as follows:

"4. for persons liable to mandatory insurance mentioned in § 2, paragraph 1, subsection 4 from the date on which the application for pension under the Act on Old-Age Pension Insurance for Farmers is filed,".

13. § 23 shall be amended as follows:

a) The heading shall be worded as follows:

"Membership of applicants".

b) In paragraph 1, the phrase "Act on Old-Age Assistance for Farmers" shall be replaced in each case with the phrase "Act on Old-Age Pension Insurance for farmers".

c) In paragraph 3, the words "exempted from mandatory insurance pursuant to § 2, paragraph 4a, § 3a or" shall be inserted after the word "the".

14. § 24, paragraph 1, shall be amended as follows

a) Subsection 3 shall be worded as follows:

"3. at the end of the calendar year in which the agricultural operator whose enterprise does not attain the minimum surface area within the meaning of § 2, paragraph 1, falls short of the minimum surface area mentioned in § 2, paragraph 1, subsection 2, point a) by more than half, or who has earnings and current income exceeding the amount laid down in § 2, paragraph 1, subsection 2, point b),".

b) Subsection 5 shall read as follows

"5. at the end of the month in which the decision on the cessation of entitlement to a pension under the Act on Old-Age Pension Insurance for Farmers becomes final, but not before the end of the month for which any of these benefits is payable for the last time,".

c) Subsection 6 shall read as follows:

"6. at the end of the month in which the decision on the granting of a pension under the Act on Old-Age Pension Insurance for Farmers becomes final for previous periods,".

15. § 29 shall be amended as follows:

a) In the heading, the phrase "Act on Old-Age Assistance for Farmers" shall be replaced in each case with the phrase "Act on Old-Age Pension Insurance for Farmers".

b) In paragraphs 1 and 4, the word "benefits" shall be replaced with the word "pensions".

16. In § 31 the phrase "benefits under the Act on Old-Age Assistance for Farmers" shall be replaced with "a pension under the Act on Old-Age Pension Insurance for Farmers".

17. The following paragraph shall be added to § 39:

"(4) The farmers' health insurance fund shall levy contributions on the basis on the employment relationship of the agricultural operator referred to in § 3, paragraph 2, subsection 1, which is subject to mandatory insurance; half of the average general contribution rate of health insurance funds laid down by the Federal Ministry of Health on 1 January each year shall be taken as a basis for calculating the contributions (§ 245, paragraph 1, 1st sentence, of Book V of the Social Security Code) in each case from 1 July of the current calendar year to 30 June of the following calendar year. "

18. § 40 shall be amended as follows:

a) Paragraph 1 shall be amended as follows:

aa) The heading shall read as follows:

"Calculation of contributions in the case of
income from agriculture and forestry"

bb) In the 1st sentence, the words "in the rules" shall be inserted after the word "contribution categories".

cc) The 2nd and 3rd sentences shall be deleted.

dd) The 4th and 5th sentences shall be replaced with the following 3 sentences:

"The rules must make provision for 20 contribution categories. The contribution in the highest category must be at least six times the lowest contribution for a person insured under § 2, paragraph 1, subsection 1, and must not fall short of the comparison contribution ensuing from paragraph 2 by more than 10 percent; the comparison contribution, which is established each time on 1st July, shall apply for the following calendar year. Persons insured under § 2, paragraph 1, must not be classed in the lowest contribution category."

b) Paragraph 2 shall read as follows:

"(2) The comparison contribution shall be calculated as thirty times the sum mentioned in § 223, paragraph 3, of Book V of the Social Security Code plus the average contribution rate of the local health insurance funds. The average contribution rate shall be calculated from the percentage rate applying to members liable to compulsory insurance coverage who, in the event of illness, are entitled to continued payment of their earned income for at least six weeks and the number of local health insurance funds whose headquarters are located within the district covered by the agricultural health insurance fund."

c) Paragraphs 3 to 7 shall be deleted, and the following paragraphs shall be added:

"(3) Where earnings from agriculture and forestry are calculated according to § 4, paragraph 1 or 3, of the Income Tax Act, the conclusive earned income shall be the income from agriculture and forestry which results from the income tax assessment referring to the most recent assessment year as taken as the tax base. In all other cases, or where no assessment on income has been made for any of the last four calendar years, the income from agriculture and forestry earned in the last calendar year but one shall be decisive.

(4) The earned income under paragraph 3, 2nd sentence, shall be calculated on the basis of relative values resulting from the economic value and the 5-year average of earnings of the test agricultural enterprises evaluated for the agricultural report of the Federal Government; the earning power per Deutsche Mark of economic value, which changes as the economic value increases, must thereby be taken into account; the legal regulation pursuant to § 35, paragraph 2, of the Act on Old-Age Pension Insurance for Farmers shall apply accordingly. In the case of enterprises with an economic value of up to 25 000 Deutsche Mark the relative value calculated for that economic value shall apply. The circumstances prevailing in the enterprise on 1 July of the previous calendar year shall prevail for the economic value to be taken as a basis; where the insurance commences after 1 July of the respective previous year, the circumstances in the enterprise at the commencement of the insurance shall prevail. Where an insured person runs several agricultural enterprises, these shall be considered to be one enterprise. The earned income calculated from the economic value of the agricultural enterprise shall be attributed to partners according to their share of profits. In the cases referred to in the 3rd and 4th sentences of § 2, paragraph 3, the contribution shall be calculated on the basis of the total share of both spouses in the agricultural enterprise. The resulting amount of income shall be rounded down to the nearest Deutsche Mark.

(5) Changes in insurance group classifications which take place on the basis of the presentation of income tax notices shall take effect from 1 January of the year following presentation; income tax notices shall be presented for at least the four following years.

(6) Where a person liable to pay contributions fails to present the necessary information for determining the economic value despite incitement by the agricultural health insurance fund, or where he fails to present the full information or to present the information within the appointed time, the contribution can be estimated and determined according to the standard which the health insurance fund takes as a basis until the information is presented in due

form. The rates determined shall be corrected from the first day of the month in which due notification takes place.

(7) The health insurance fund for the horticultural sector may lay down a different appropriate standard in its rules for assessing contributions. Paragraph 6 shall apply accordingly.

(8) The contributions from the types of income mentioned in § 39, paragraph 1, 1st sentence, subsections 3 and 4, when added to the contributions to be paid pursuant to paragraph 1, must not exceed the contribution of the highest contribution category. In the calculation of contributions the types of income mentioned in § 39, paragraph 1, 1st sentence, shall be taken into account in the following order: income from agriculture and forestry, pensions, and earned income from non-agricultural and non-forestry activities. The amount of benefit payable from the statutory pension scheme shall be taken into account separate from the other types of income up to the contribution assessment ceiling laid down in § 223, paragraph 3, of Book V of the Social Security Code. § 231 of Book V of the Social Security Code shall apply accordingly."

19. § 44 shall be amended as follows:

a) The heading shall read as follows:

"Calculation of contributions for applicants"

b) Paragraph 2 shall be amended as follows:

aa) In subsection 1 the phrase "from the old-age pension or early retirement pension" shall be replaced with the phrase "from a pension pursuant to the Act on Old-Age Pension Insurance for Farmers".

bb) In subsection 3 the words "old-age pension, early retirement pension or survivor's pension" shall be replaced with the words "a pension under the Act on Old-Age Pension Insurance for Farmers".

cc) The following sentences shall be added:

"The 1st sentence shall not apply if the applicant is receiving earned income or a pension. § 39, paragraph 2, shall apply."

20. The following paragraph shall be added to § 48:

"(5) The employer shall pay the contribution pursuant to § 39, paragraph 4."

21. § 63 shall read as follows:

"§ 63
Transitional provision

(1) Persons whose obligation to pay contributions lapses by virtue of the present Act of 1 January 1995 may join the insurance scheme. Their membership must be announced in writing not later than 31 March 1995; membership shall commence on 1 January 1995. The 1st and 2nd sentences apply to persons who fulfil the conditions laid down in § 6, paragraph 1, subsection 1, of Book V of the Social Security Code, with the proviso that § 257, paragraph 1, of Book V of the Social Security Code and § 12, 2nd sentence, shall apply.

(2) Persons who are liable to insurance coverage on 31 December 1994 pursuant to § 2, paragraph 1, subsection 4, or who are considered to be members pursuant to § 23, paragraph 1, and who are exempted from insurance as of 1 January 1995 pursuant to § 2, paragraph 4a or § 3a shall remain liable to insurance coverage throughout the period in which they draw a pension under the Act on Old-Age Pension Insurance for Farmers or until the date on which their application is withdrawn or the refusal of their application becomes final. Persons who are liable to insurance coverage pursuant to the 1st sentence can apply for exemption from insurance liability by 31 March 1995. Exemption shall take effect from 1 April 1995 and cannot be revoked."

Article 13
Amendment to the Act on Social Insurance for Artists
(8253-1)

§ 4 of the Act on Social Insurance for Artists of 27 July 1981 (Official Gazette I, p. 705), which was last amended by Article 8 of the Act of 13 July 1994 (Official Gazette I, p. 1229), shall be amended as follows:

1. In subsection 4 the phrase "agricultural operator within the meaning of § 1 of the Act on Old-Age Assistance for Farmers" shall be replaced with the phrase "farmer within the meaning of § 1 of the Act on Old-Age Pension Insurance for Farmers".

2. In subsection 6 the phrase "an old-age pension as a former agricultural operator or a set-aside pension at the age of 60 years pursuant to the Act on Old-Age Assistance for Farmers" shall be replaced by the phrase "an old-age pension as a former farmer or a set-aside pension at the age of 60 years pursuant to the Act on Old-Age Pension Insurance for Farmers".