

**PENSION FUND (“VERSORGUNGSWERK”) OF THE CHAMBER OF ARCHITECTS  
BADEN-WÜRTTEMBERG  
A PUBLIC-LAW ENTITY**

Danneckerstraße 52, 70182 Stuttgart  
Telephone: +49 711 / 2 38 74-0, Fax: +49 711 / 2 38 74-30, Internet: [www.vwda.de](http://www.vwda.de)

## Statutes

### Table of Contents

Correct as of: 01.01.2023

#### Section I

##### Structure of the pension fund (“Versorgungswerk”)

- § 1 Establishment and purpose of the Versorgungswerk
- § 2 Bodies of the Versorgungswerk
- § 3 Supervision
- § 4 Statutes
- § 5 The Assembly of Representatives
- § 6 Course of business of the Assembly of Representatives
- § 7 Duties of the Assembly of Representatives
- § 8 The Board of Directors
- § 9 Duties of the Board of Directors, Delegation of duties
- § 9a Duties of the administrative office
- § 10 Raising and allocation of funds, Asset investment
- §10a Budget, Accounting

##### Section II Participants

- § 11 Participation by law
- § 12 Exemption from participation by law
- § 13 Acquisition of legal effects of participation by law
- § 14 End of participation by law
- § 15 Voluntary participation

##### Section III Contributions

- § 16 Contribution for self-employed participants
- § 17 Contribution for employed architects and engineers
- § 18 Contribution for civil service architects and engineers
- § 19 Suspension of compulsory contributions
- § 20 Voluntary additional payments, Maximum payment limit
- § 21 Start and end of contribution obligation
- § 22 Contribution decision, Due date, Late payment surcharge

- § 23 Transfer of contributions, Retrospective insurance

##### Section IV Benefits

- § 24 Entitlement to benefits
- § 25 Scope of benefits
- § 26 Entitlement to benefit due to inability to work
- § 27 Entitlement to retirement benefit
- § 28 Entitlement to child allowance
- § 29 Entitlement to widow's or widower's pension and orphan's allowance
- § 29 a Benefit exclusions
- § 30 Amount of disability pension and retirement benefit
- § 31 Amount of child allowance
- § 32 Amount of widow's or widower's pension and orphan's allowance
- § 33 One-off benefit payments
- § 34 Voluntary benefit payments
- § 35 Changes in benefit claims
- § 36 Assignment and pledging of benefit payments, Offsetting
- § 36a Pension rights adjustment
- § 37 Limitation period Section

##### V Administrative proceedings

- § 38 Decisions on benefit payments
- § 39 Appeal procedure
- § 40 Payment of benefits
- § 41 Interest on arrears and reminder costs
- § 42 Enforcement
- § 43 Participants' duty of cooperation

##### Section VI Notifications

- § 44

##### Section VII Transition provisions and entry into force

- § 45 Transition provisions for integration of members of the Chamber of Architects of Hamburg and of the engineer members of the Chamber of Architects and Engineers of Schleswig-Holstein as of 01.01.1985
- § 46 Transition rule for city planners on the grounds of the Architects' Act of 20.06.1994.
- § 47 Transition rule for city planners on the grounds of the Chamber of Architects and Engineers Act of Schleswig-Holstein of 12.07.1995.
- § 48 Transition rule for architects/developers\*, interior architects, garden and landscape architects and city planners on the grounds of the second law to amend the Hamburg Architects' Act of 23 April 1996.

\* [translator's note:] an architect with his own architectural practise who also acts as a developer and is subject to trade tax.

## Section I

### Structure of the pension fund ("Versorgungswerk")

#### § 1 Establishment and purpose of the Versorgungswerk

(1) The Versorgungswerk is established at the Chamber of Architects of Baden-Württemberg and is the professional pension scheme of the architects of Baden-Württemberg, and also the members of the Chamber of Architects and Engineers of Schleswig-Holstein and the Chamber of Architects of Hamburg.

(2) The sphere of activity of the Versorgungswerk encompasses the states of Baden-Württemberg, Schleswig-Holstein and Hamburg. The sphere of activity may be extended.

(3) The assets of the Versorgungswerk are managed separately from the assets of the Chamber.

(4) The Versorgungswerk is headquartered in Stuttgart.

(5) The Versorgungswerk grants participants and their family members benefits as defined in these Statutes.

#### § 2 Bodies of the Versorgungswerk

(1) Bodies of the Versorgungswerk are

1. the Assembly of Representatives,
2. the Board of Directors.

(2) The Assembly of Representatives is the highest decision-making body of the Versorgungswerk. The Board of Directors is responsible for administration of the Versorgungswerk. The Chairman of the Board of Directors is responsible for legal representation of the Versorgungswerk. If he is unable to act, he is represented by his deputy.

(3) Those who are appointed to the organs of the Versorgungswerk are obligated to accept and discharge their duties.

(4) The members of the bodies act on a voluntary basis. They are entitled to reimbursement of expenses and loss of time in an amount to be fixed by the Assembly of Representatives.

#### § 3 Supervision

The Versorgungswerk is subject to supervision by the competent Ministry in accordance with federal state regulations.

#### § 4 Statutes

The Versorgungswerk shall manage its own affairs in accordance with the Statutes.

#### § 5 The Assembly of Representatives

(1) The Assembly of Representatives consists of 19 members drawn from amongst the participants of the Versorgungswerk. The Chamber of Architects of Baden-Württemberg has 13 members, the Chamber of Architects and Engineers of Schleswig-Holstein has 3, and the Chamber of Architects of Hamburg also has 3, who shall be appointed as follows:

1. 7 representatives for Baden-Württemberg, 2 for Schleswig-Holstein and 2 for Hamburg to be chosen by elections to be held separately for Baden Württemberg, Schleswig-Holstein and Hamburg. Details are set out in the election regulations.
2. 6 representatives to be appointed by the state Board of the Chamber of Architects of Baden-Württemberg, 1 by the Board of the Chamber of Architects and Engineers of Schleswig-Holstein and 1 by the Board of the Chamber of Architects of Hamburg.

An equal number of deputies shall be elected or appointed in similar fashion. All representatives shall take care of the interests of all participants in the Versorgungswerk and shall not be bound by orders or instructions.

(2) The Assembly of Representatives shall be chaired by the Chairman of the Board of Directors or his deputy.

(3) The term of office of the members of the Assembly of Representatives and their deputies is four years. It shall run from the start of a financial year to the end of the 4<sup>th</sup> financial year. If the members and deputies of the new Assembly of Representatives have not yet been appointed at this time, the members and deputies of the previous Assembly of Representatives shall continue to conduct business affairs. In this case, the members and deputies of the new Assembly of Representatives shall be appointed for the remainder of the term of office.

(4) If a member resigns prematurely, a new member shall be appointed if the number of deputies has been exhausted; in this case, the new appointment shall be effective for the remainder of the term of office.

#### § 6 Course of business of the Assembly of Representatives

(1) The Assembly of Representatives shall meet at least once a year to receive the year-end accounts and an annual report. The Assembly of Representatives shall also be convened if requested to do so in writing by at least 7 members with statement of reasons and agenda items for the attention of the Chairman of the Board of Directors.

(2) The Chairman of the Board of Directors issues invitations to attend meetings of the Assembly of Representatives and acts as chairperson.

(3) The Assembly of Representatives has a quorum if at least two-thirds of those entitled to vote are present. During votes, a simple majority suffices; abstentions are counted as objections; in the event of a tie, the motion is objected. The agreement of at least two-thirds of the representatives in attendance is required for amendments to the Statutes and for any decisions specifically subject to this requirement as set out in the Statutes. For granting discharge to the Board of Directors pursuant to § 7 para. 1, item 9, members of the Assembly of Representatives who are not otherwise members of the Board of Directors are entitled to vote. Regarding matters of a simple nature, the Chairman of the Board of Directors may conduct a vote in writing by means of a survey. In this case, a motion is considered accepted if not more than one quarter of the members of the Assembly of Representatives object in writing within a period of 14 days after notification. The survey instructions must specifically mention this deadline and the consequences of non-compliance.

(4) The Chairman of the Board of Directors or their deputy may decide that the Assembly of Representatives shall not convene in person. This shall apply only if the discussion and the passing of resolutions can be conducted using simultaneous image and sound transmission via the appropriate technology, particularly in the form of video conferences. This procedure may be implemented where the subject under discussion is straightforward. In all other

cases, this it shall only be chosen when, for serious reasons, the meeting could not otherwise be properly conducted. Serious reasons include natural disasters, measures to prevent and combat the spread of epidemic or pandemic diseases, other extraordinary emergency situations or if it would be unreasonable to convene in person for other reasons.

## **§ 7 Duties of the Assembly of Representatives**

(1) The Assembly of Representatives is responsible for decisions about

1. the Statutes and the election regulations,
2. Guidelines for asset investment,
3. Acceptance of members from other Chambers of Architects,
4. Bridging agreements with other professional pension funds,
5. Action to be taken on the grounds of actuarial calculations,
6. Budget, year-end accounts, annual report,
7. Appointment of sub-committees for special missions and members thereof,
8. Fixing of costs paid to members of the Assembly of Representatives, the Board of Directors and any committees,
9. Granting of discharge to the Board of Directors.

(2) The Assembly of Representatives shall elect the members of the Board of Directors and their deputies from amongst the members of the Assembly of Representatives. Each member of the Assembly of Representatives has one right of proposal. The resultant election list will then be the object of a vote to be held in writing. The proposals which attract the most votes shall be deemed elected.

## **§ 8 The Board of Directors**

(1) The Board of Directors comprises 11 members, of whom 7 are from the circle of participants from Baden-Württemberg, 2 from the circle of participants from Schleswig-Holstein and 2 from the circle of participants from Hamburg. If they are unable to act, their deputies shall take their place.

(2) The state Board of the Chamber of Architects of Baden-Württemberg shall appoint from the circle of members appointed to the Assembly of Representatives according to § 5 para. 1 sentence 2 item 2 one member to sit on the Board of Directors for a period of 4 years. The other members of the Board of Directors and their deputies shall be elected by the Assembly of Representatives for a period of 4 years. Their term of office shall run from the start of a financial year to the end of the 4<sup>th</sup> financial year. The members of the Board of Directors and their deputies shall conduct business operations until new members for the subsequent period of office have been elected. The members of the next Assembly of Representatives may elect the members of the next Board of Directors and their deputies ahead of the next period of office with effect from the beginning thereof.

(3) The members of the Board of Directors shall elect a Chairman and a deputy from among their number. In the case outlined in paragraph 2, sentence 4, this may take place ahead of the new period of office with effect from the beginning thereof.

(4) The Board of Directors has a quorum in the presence of 5 members, including the Chairman or his deputy.

(5) A simple majority suffices for decisions by the Board of Directors. In the event of a tie, the deciding vote shall be cast by the Chairman or, in his absence, by his deputy. In matters of a simple nature relating to decisions on objections, the Chairman of the Board of Directors may conduct a vote in writing by means of a survey. In this case, a motion is considered accepted if not more than three of the members of the Board of Directors object in writing within a period of 14 days after notification. The survey instructions must specifically mention this deadline and the consequences of non-compliance.

(5a) The Chairman of the Board of Directors or their deputy may decide that the Board of Directors shall not convene in person. This shall apply only if the discussion and the passing of resolutions can be conducted using simultaneous image and sound transmission via the appropriate technology, particularly in the form of video conferences.

The amendments to the Statutes shall take effect on the day following their announcement.

(6) The Board of Directors shall be convened whenever required for the discharge of its duties. It shall be convened if requested to do so in writing by 3 members with a statement of items for discussion.

(7) Specialist consultants may be invited to attend meetings of the Board of Directors.

## **§ 9 Duties of the Board of Directors, Delegation of duties**

(1) The Board of Directors is responsible for

1. Monitoring the work of the management,
2. Decision-making with regard to asset investment by the Versorgungswerk, in particular with regard to long-term financial investments, debt acquisition, as well as the acquisition, sale and development of property,
3. Decisions on objections,
4. Appointment of consultants and their fees,
5. Selection an appointment of the auditor or the auditing firm,
6. Preparation of resolutions by the Assembly of Representatives and resolutions on year-end accounts, annual report and budgeting.
7. Decision-making with regard to all affairs for which the Assembly of Representatives is not responsible,
8. Appointment of the election committee for the elections to the Assembly of Representatives and the Board of Directors.

(2) For the performance of specific duties, the Board of Directors may form committees from amongst its number to act in place of the Board as a whole.

(3) The Board of Directors may delegate decision-making on asset investment (para. 1 no. 2) for forms of investment to be determined in advance and within a budget also to be determined in advance.

### **§ 9a Duties of the administrative office**

The administrative office of the

Versorgungswerk shall take care of day-to-day operations including preparation of year-end accounts and the annual report.

#### **§ 10 Raising and allocation of funds, Asset investment**

(1) The funds of the Versorgungswerk are raised through contributions by the members, through earnings from investments and through other revenues.

(2) The funds may only be used to settle payments made in accordance with the Statutes, to cover necessary administrative costs and other outgoings to establish the prescribed provisions and reserves as required to achieve the purpose of the Versorgungswerk.

(3) In so far as not required to pay day-to-day expenses, the assets of the Versorgungswerk are to be invested, in similar fashion as the security assets, in accordance with § 27 of the Baden-Württemberg Architects' Act and § 3 Baden-Württemberg Ordinance on the Supervision of Pension Funds (VersWerkAufsVO BW) as well as the relevant guidelines of the insurance supervision authority. The Versorgungswerk shall report on all asset investments, split into new and existing investments, in the forms and within the periods fixed by the insurance supervisory authority.

#### **§ 10a Budget, Accounting**

(1) The financial year is the calendar year.

(2) The budget prepared by the Board of Directors shall be submitted to the supervisory authorities no later than two months before the date of its adoption by the Assembly of Representatives. The budget adopted by the Assembly of Representatives shall be submitted to the supervisory authorities immediately after its adoption.

(3) After the end of the financial year the management shall prepare, without delay, a set of year-end accounts plus annual report using the prescribed forms and with documentary evidence, in accordance with the relevant guidelines issued by the insurance supervisory authority and shall present them, together with the annual report, to the supervisory authorities. The actuarial reserve to be reported in the year-end accounts shall be calculated by an actuarial expert every three years or at shorter intervals at the request of the insurance supervisory authority as part of an expert report. In the years in which an expert report is not

prepared, an actuarially reasoned estimate of the actuarial reserve as of 31<sup>st</sup> December of the year in question shall be included with the year-end accounts. The actuarial expertise or actuarially reasoned estimate of the actuarial reserve shall be submitted to the insurance supervisory authority no later than 31<sup>st</sup> July.

(4) Any excess shall be used, when not required to cover a deficit, to improve entitlements and benefit payments, and to form a reserve for fluctuating demand

(5) The year-end accounts, the accounting records and the annual report are to be audited by a certified accountant or auditing company. A copy of each audit report is to be sent to the supervisory authorities.

### **II Participants**

#### **§ 11 Participation by law**

(1) In accordance with the respective transition provisions, all members of the Chamber of Architects of Baden-Württemberg, the Chamber of Architects and Engineers of Schleswig-Holstein and the Chamber of Architects of Hamburg are compulsory participants of the Versorgungswerk unless

1. they are entitled of their own right to a pension under public sector regulations,
  2. they have reached the standard age limit (§ 27 para. 1 and 1a) by the time their compulsory participation in the Versorgungswerk were to begin or
  3. they are unfit to work at that time.
- (3) Exemption from compulsory participation shall remain in effect as long as the relevant criteria exist.

#### **§ 12 Exemption from participation by law**

(1) On written application, the following shall be exempted from participation

1. members of the chambers mentioned in § 11 para. 1 who are registered as employees provided they pay compulsory contributions to the statutory pension insurance scheme or to a life insurance and are exempted from compulsory insurance in the statutory pension insurance scheme on this basis,

2. Members of the chambers mentioned § 11 para. 1 who, at the time at which membership comes into being, already belong to another professional pension scheme imposed by law and who continue this membership, providing the Statutes of said pension scheme contain a corresponding provision for the participants of the Versorgungswerk.

(2) An application for exemption may not have retroactive effect beyond 6 months.

(3) The exemption shall end with the discontinuation of the relevant criteria. The person subject to compulsory insurance must notify the Versorgungswerk of the discontinuation of criteria for exemption within one month. The Versorgungswerk shall establish the date of compulsory participation on the basis of this notification. In the event of non-notification, all claims to pension benefits are waived.

#### **§ 13 Acquisition of legal effects of participation by law**

(1) The legal effects of compulsory participation in the Versorgungswerk start upon the beginning of membership of the Chamber of Architects of Baden-Württemberg, the Chamber of Architects and Engineers of Schleswig-Holstein or the Chamber of Architects of Hamburg.

(2) If the criteria for exemption no longer exist, the legal effects are revived on the first of the month in which the criteria for compulsory participation take effect.

(3) The participant will receive written notification of the acquisition of the legal effects of compulsory participation and the discontinuation of the criteria for exemption.

#### **§ 14 End of participation by law**

Participation shall end

1. on expiry of the month in which membership of the Chamber of Architects of Baden-Württemberg, the Chamber of Architects and Engineers of Schleswig-Holstein or the Chamber of Architects of Hamburg ends,
2. on expiry of the month in which the participant acquires an entitlement to a public sector pension in accordance with § 11 para. 1 no. 1 or

3 through exemption as per § 12.

The Versorgungswerk shall issue a written notification of the end of participation by law.

### **§ 15 Voluntary participation**

(1) Participation by law which is terminated in accordance with § 14 no. 1 or 2 may be extended with the same rights and obligations by means of voluntary participation without time interruption. This requires an application in writing, to be submitted within 2 months of receipt of the notification of termination of participation by law.

(2) Voluntary participation shall end

1. at the end of the day on which the criteria for compulsory participation by law come back into effect,
2. at the end of the month in which the participant's written termination is received,
3. upon termination in writing by the Versorgungswerk upon presentation of the letter of termination.
4. upon the death of the participant.

(3) Termination by the Versorgungswerk may occur if the participant is in arrears with at least two monthly contributions, has been warned accordingly and has not met his payment obligation within a period of 2 months. The warning must point out the legal consequences of late payment.

## **Section III**

### **Contributions**

#### **§ 16 Contribution for self-employed participants**

(1) From the 1st January 2023, the regular contribution shall be based on the rate of contribution according to the provisions of the statutory pension insurance scheme and the contribution assessment ceiling as laid down in §§ 157 and 159 SGB VI.

(2) From the 1st January 2023, self-employed participants whose annual professional income is less than the relevant contribution assessment ceiling according to §§ 157 and 159 SGB VI shall pay, on application, a reduced

contribution in the amount of the respective regular contribution from their net annual professional income according to the provisions applicable to the statutory pension insurance scheme, but not less than 25 % of the regular contribution.

(3) During the first five years of self-employment, a participant may apply to have his contributions reduced by up to half, but not less than an amount equivalent to 25 % of the regular contribution.

(4) Self-employed participants who also pay compulsory contributions to the statutory pension scheme may apply to have the contribution established according to paragraphs 1 and 2 reduced by the compulsory contribution paid to the statutory pension scheme.

(5) Self-employed participants who were subject to compulsory insurance in accordance with Section 4 para. 2 SGB VI (Section 2 para. 1 no. 11, Administrative Procedures Act, AVG) and were exempted from this in accordance with Section 6, para. 1, no. 1 SGB VI (Section 7, para. 2, Administrative Procedures Act, AVG), shall pay contributions as per paragraphs 1 and 2, but not less than the contribution which would be due to the statutory pension scheme without this exemption.

#### **§ 17 Contribution for employed architects and engineers**

(1) Employees who are exempt from employee insurance in accordance with Section 6 para. 1 no. 1 SGB VI shall pay the contribution which would be due to the employee insurance scheme without this exemption.

(2) Employees who are subject to compulsory employee insurance and have not applied for exemption from the benefits plan, pay 1/4 of the regular contribution. On application, the contribution can be fixed at an amount up to the regular contribution.

#### **§ 18 Contribution for civil service architects and engineers**

§ 17 para. 2 applies as appropriate for civil servants who are voluntary participants according to § 15.

#### **§ 19 Suspension of compulsory contributions**

For as long as the total annual net income arising out of professional work of

whatever kind, before deduction of tax-related allowances, is less than 1/5 of the income fixed for the regular contribution, self-employed participants shall be exempted from compulsory contributions for this period upon application. The participant must provide evidence to this effect on request.

#### **§ 20 Voluntary additional payments Maximum payment limit**

The compulsory contribution may be topped up with voluntary additional payments up to the amount of the regular contribution for the current calendar year.

#### **§ 21 Start and end of contribution obligation**

(1) The contribution obligation starts with the acquisition of legal effects due to participation.

(2) The contribution obligation ends

1. at the end of the calendar month in which participation ends,
2. on the first of the month in which payment of retirement benefits starts,
3. on the first of the month from which benefits are paid due to inability to work. Following discontinuation of benefits due to inability to work, the contribution obligation revives at the start of the following month.

(3) The right to pay voluntary contributions is withdrawn for the period during which benefits are paid.

#### **§ 22 Contribution decision, Due date, Late payment surcharge**

(1) Contributions are due at the end of each calendar month. Compulsory contributions may only be collected and paid with respect to the current calendar

year and the two previous calendar years. Unpaid contributions shall be regarded as a failure to pay contributions as defined in § 30 para. 7, unless contributions were paid without interruption in accordance with § 16 in the last five calendar years before the occurrence of the insurance event. In this case, time-barred contributions will also be counted (§ 36 para. 2).

(2) Contributions will be collected by direct debit. A surcharge to be fixed

yearly by the Board of Directors may be applied on all other forms of payment.

(3) If contributions are not paid in good time the Versorgungswerk administration may apply a late payment charge of 1% on the unpaid amount of each calendar month with effect from the due date.

### **§ 23 Transfer of contributions, Retrospective insurance**

(1) The Versorgungswerk may enter into transfer agreements with other professional pension schemes. Transfers are not allowed if membership of the other pension scheme is longer than 24 months.

(2) If participation ends and the previous participant takes up his professional activity in the sphere of competence of another professional pension scheme with which the Versorgungswerk of Baden-Württemberg has concluded a transfer agreement, the contributions paid to the Versorgungswerk shall be transferred to the new pension scheme upon request and in accordance with the provisions of the respective transfer agreement.

(3) If participation ends without the contributions being transferred in accordance with para. 2, the previous participant shall acquire a contribution-free entitlement to benefits according to § 24 para. 2.

(4) If the Versorgungswerk receives retrospective insurance contributions in accordance with § 186 SGB VI in favour of a participant, then the retrospectively insured period of work counts as time as a participant. The annual pension arising out of retrospective insurance contributions shall be calculated using the percentage fixed in § 30 para. 4 applicable to the calendar year in which the application for retrospective insurance is made.

## **Section IV**

### **Benefits**

#### **§ 24 Entitlement to benefits**

(1) Participants and their survivors are entitled to claim benefits from the Versorgungswerk in accordance with the following provisions.

(2) If participation ends without occurrence of an insurance claim, an entitlement to retirement benefit exists, or to benefit due to inability to work, and also to a widow's or widower's pension, but not to child allowance.

(3) Recipients of retirement benefit whose participation ends according to § 14 retain their claims with regard to the Versorgungswerk.

(4) No right to benefit exists

1. if the legal effects of participation have not yet come into force as per § 13,
2. in the event of failure to notify discontinuation of criteria for exemption as per § 12 Abs. 3.

(5) Benefit payments will be made upon written application.

#### **§ 25 Scope of benefits**

(1) Obligatory payments to participants include

1. benefit due to inability to work,
2. retirement benefit
3. child allowance.

(2) Obligatory payments to survivors include

1. widow's pension,
2. widower's pension,
3. orphan's allowance,
4. compensation in the form of a one-time payment (§ 33).

(3) Voluntary payments (§ 34).

#### **§ 26 Entitlement to benefit due to inability to work**

(1) Participants not already drawing retirement benefit are entitled to claim benefit due to inability to work. Benefit will be granted from the start of the month in which the application is made. Persons who joined after the age of 60 may only claim benefit if they have belonged to the Versorgungswerk for at least five years.

(2) A participant who is unable to work is a participant who, due to illness or other infirmity or loss of physical or mental capacity is no longer able, for an unforeseeable period of time, to pursue a professional activity as an architect or engineer with a certain regularity, or cannot earn more than only very little income from such activity.

(3) If there is a reasonable prospect of such inability to work being remedied within a foreseeable period, benefits on

the grounds of inability to work shall be paid from the start of the 27<sup>th</sup> week, but on a temporary basis only and not for longer than two years from date of approval.

(4) The member shall confirm the inability to work by means of medical certificates, diagnostic findings, expert reports. The Versorgungswerk may address questions to the issuing doctors. The Versorgungswerk shall seek additional expert reports at its own cost where such evidence does not appear to be sufficient.

Documents submitted by the member may be forwarded for inspection by the medical assessor appointed by the Versorgungswerk; this also applies to the expert reports requested by the Versorgungswerk to the extent that additional expert reports are required in the ongoing administration procedure. The member is obligated to submit to any assessment considered necessary by the Versorgungswerk against reimbursement of reasonable travel costs. In making an

application for benefit on the grounds of inability to work, the member shall release the assessors from their duty of medical secrecy with respect to the Versorgungswerk.

(5) Benefit on the grounds of inability to work shall be paid until the end of the month in which the inability to work ceases, the participant dies or in place of retirement benefit if the latter were less than the benefit previously received.

#### **§ 27 Entitlement to retirement benefit**

(1) Retirement benefit will be paid from the end of the month in which the age of 67 is reached (standard age limit). There is no requirement to cease professional activity; § 26 para. 1 sentence 3 applies accordingly. Retirement benefit may also be paid earlier, but not before the age of 60, and not before the age of 62 for all new memberships with effect from 01.01.2012.

(1a) For participants born before 1951, entitlement to retirement benefit (standard age limit) is acquired at age 65. Entitlement is acquired, for those born in

- 1951, at 65 and 2 months
- 1952, at 65 and 4 months
- 1953, at 65 and 6 months
- 1954, at 65 and 8 months
- 1955, at 65 and 10 months
- 1956, at age 66
- 1957, at 66 and 2 months

1958, at 66 and 4 months  
1959, at 66 and 6 months  
1960, at 66 and 8 months  
1961, at 66 and 10 months  
from 1962, at age 67

(2) On request, the participant may postpone the start of benefit payment beyond the age limit. In case of postponement, the benefit determined according to § 30 para.4 increases by 0.5% for each month after attainment of the age limit as per paragraph 1 or 1a.

(3) The entitlement to retirement benefit ends upon the end of the month of death.

### § 28 Entitlement to child allowance

(1) Recipients of retirement benefit and benefit for inability to work are entitled to child allowance for each legitimate, natural or adopted child. As per § 24 para. 2., former participants are not entitled to claim child allowance. Regarding natural children of male participants, a criterion for entitlement is that the paternity is

acknowledged or established by a court decision; regarding adopted children, that the adoption agreement was concluded before occurrence of permanent inability to work and before the age of 65.

(2) Entitlement to child allowance ceases with the end of the month in which the child turns 18. Beyond that date, child allowance will be paid until, at most, age 27 for a child attending school or vocational training, or who, due to physical or mental infirmity, is not capable of supporting himself or herself for the duration of this condition, but in this case, too, no longer than the child's 27<sup>th</sup> birthday.

(3) If education/training is interrupted or delayed to allow the child to complete compulsory military or civilian service, entitlement to child benefit exists beyond the child's 27<sup>th</sup> birthday for a period corresponding to the duration of such service, but not for longer than completion of education/training.

### § 29 Entitlement to a widow's or widower's pension and orphan's allowance

(1) The surviving spouse of a participant is entitled to a widow's or widower's pension if the marriage endured until death. The children of a deceased participant are entitled to orphan's allowance subject to the same conditions as for the payment of child allowance. There is no parallel entitlement to child allowance.

(2) Entitlement to a widow's or widower's pension and orphan's allowance starts on the day after the date of death of the participant or, if the latter was already drawing benefits for inability to work or retirement benefit at the time of death, on the first day of the following month, and for orphans born after the death of the participant on the day after birth.

(3) Entitlement to a widow's or widower's pension and orphan's allowance shall cease

1. for each beneficiary, at the end of the month in which he marries or dies,

2. for orphans, upon reaching age 18 or, if attending school or vocational training at that time, upon completion thereof, but no later than upon reaching age 27; § 28 para. 2 and 3 apply accordingly.

(4) If the marriage was contracted after the start of pension payments or after occurrence of inability to work and the participant dies within 3 years of marriage, entitlement extends to 50 % of the widow's or widower's pension as determined according to § 32.

(5) Widow's and widower's pensions which lapse due to remarriage in accordance with para. 3 no.1, are revived subject to the other provisions if the new marriage is dissolved or annulled. Benefit entitlements, maintenance payments and other claims arising out of dissolved or annulled marriages, as well as benefits based on pension rights adjustments, will be offset against these widow's and widower's pensions. If a settlement has been granted in accordance with § 33 of the Statutes, the pension shall be suspended in the first 3 years after remarriage.

(6) Concerning civil partnerships under the Civil Partnership Act, for the purpose of assessing entitlement to a widow's or widower's pension, entering

into a civil partnership counts as getting married, a civil partnership counts as a marriage, a surviving civil partner as a widow or widower, and a civil partner as a spouse.

### § 29 a Benefit exclusions

Participants who deliberately render themselves unfit to work shall not be entitled to a disability pension. Widows/widowers/orphans shall not be

entitled to a widow's/widower's pension or to orphan's allowance if they deliberately caused the participant's death.

### § 30 Amount of disability pension and retirement benefit

(1) The annual pension is calculated as a percentage of the contributions paid and owed up to the occurrence of the insurance claim.

(2) The percentages are based on the participant's age at the time the contribution was paid and on the calendar year in which the contribution was paid (para. 4 and para. 6, sentence 1).

(3) The age at the time of payment is the difference between the calendar year of the contribution payment and the year of birth of the participant.

(4) The annual pension amounts to:

a) for contributions paid up to 31 December 2005

23.0% of the contributions paid up to 30 years of age,

20.0% of the contributions paid from 31–35 years of age,

17.0% of contributions paid from 36–40 years of age,

15.0% of contributions paid from 41–45 years of age,

13.0% of contributions paid from 46–50 years of age,

11.0% of contributions paid from 51–55 years of age,

10.0% of contributions paid from 56–65 years of age,

8.0% of contributions paid from age 66 onward.

b) for contributions paid up to 1 December 2017

19.0% of the contributions paid up to 30 years of age,

16.5% of the contributions paid from 31–35 years of age,

14.0% of the contributions paid from 36–40 years of age,

12.0% of the contributions paid from 41–45 years of age,

10.0% of the contributions paid from 46–50 years of age,

8.5% of the contributions paid from 51–55 years of age,

7.5% of the contributions paid from 56–60 years of age,

6.5% of the contributions paid from 61–65 years of age,

6.0% of the contributions paid from age 66 onward.

c) for contributions paid up to 31 December 2020

15.5% of the contributions paid up to 30 years of age,

13.5% of the contributions paid from 31–35 years of age,

12.0% of the contributions paid from 36–40 years of age,

10.5% of the contributions paid from 41–45 years of age,

9.0% of the contributions paid from 46–50 years of age,

7.5% of the contributions paid from 51–55 years of age,

7.0% of the contributions paid from 56–60 years of age,

6.0% of the contributions paid from 61–65 years of age,

5.5% of the contributions paid from age 66 onward.

d) for contributions paid from 1 January 2021, the following annuity rates apply:

11.0% of the contributions paid up to 30 years of age,

9.5% of the contributions paid from 31–35 years of age,

8.5% of the contributions paid from 36–40 years of age,

7.5% of the contributions paid from 41–45 years of age,

6.5% of the contributions paid from 46–50 years of age,

6.0% of the contributions paid from 51–55 years of age,

5.5% of the contributions paid from 56–60 years of age,

5.0% of the contributions paid from 61–65 years of age,

4.5% of the contributions paid from age 66 onward.

If the December contribution is paid by 10 January of the following year, the annuity rates of the previous year are applied to it.

In the event that old age pension is drawn early, it will be reduced by 0.45% for every month earlier than the normal age of retirement (§ 27 Para. 1a). The reduction applies to the entire time that benefits are drawn.

(5) At the proposal of the Board of Directors, the Assembly of Representatives shall decide on benefit improvements, to the extent that these may be granted on the basis of an actuarial appraisal or an actuarially reasoned estimate in accordance with § 10a para. 3 sentences 2 and 3, no later than 31<sup>st</sup> October of each year. When calculating benefit improvements, the amounts determined according to paragraph 4 are to be increased by factors which depend on the year of the contribution payment. The decision requires approval by the insurance supervisory authority. The benefit improvements shall be notified to participants in writing.

(6) If inability to work occurs before the age of 55, the pension shall be made up of

a) the amount of the pension according to paragraphs 4 and 5 and

b) an additional payment equal to the amount which would accrue if the average assessed compulsory contributions owing by the participant in the last five calendar years before the occurrence of the insurance event had been paid until age 55 and annuitised according to para. 4; where there are children in care, the additional payment is calculated on the basis of the compulsory contributions paid in the last 5 calendar years before the start of the period of care if this results in a higher pension. The period of care is the time between birth and the child's 10<sup>th</sup> birthday. If the duration of participation is less than five calendar years, the average of all compulsory contributions paid up to the occurrence of the insurance event is calculated. Contributions paid by a voluntary participant according to § 15 are equivalent to the contributions paid by a compulsory participant.

c) If, after withdrawal of a pension, a disability pension or retirement benefit or a widow's pension become due for payment once again, the time between the start of the previous pension up to its withdrawal, but no longer than up to age 55, is counted as a contribution period, with the

contributions which are used to calculate the additional payment in accordance with para. 6, letter b) being taken into account.

### § 31 Amount of child allowance

(1) In case of entitlement to child allowance, the amount is € 420.00 per year.

(2) not applicable

### § 32 Amount of widow's or widower's pension and orphan's allowance

(1) The widow's or widower's pension is 60 % of the entitlement to a disability pension or retirement benefit, the half-orphan's allowance is 20 % and the full orphan's allowance 30 %.

(2) If the surviving spouse was over 20 years younger than the deceased participant, the widow's or widower's pension shall be reduced by 5% for each year commenced beyond 20 years of age difference, but by no more than 50% at most. After five years of marriage, 5% of the widow's or widower's pension will be added to the reduced amount for each further year of marriage commenced until reaching the full amount again. These provisions do not apply if the marriage produced a child.

(3) The widow's or widower's pension and the orphan's allowance may not, together, exceed the amount of benefit paid due to inability to work or the retirement benefit plus any child allowance; if that is the case, payments shall be reduced proportionately.

### § 33 One-off benefit payments

Upon application, the benefit-entitled spouse of a participant shall receive, in the event of remarriage, a one-off payment equivalent to three times the amount of the annual widow's or widower's pension. The term 'spouse' within the meaning of sentence 1 also includes civil partners under the Civil Partnership Act; the term 'marriage' within the meaning of sentence 1 also includes the establishing of a civil partnership under the Civil Partnership Act.

### § 34 Voluntary benefit payments

Subsidies may be granted for measures for the preservation, improvement or recovery of the ability to work (rehabilitation measures). The respective guidelines shall be passed by the Assembly of Representatives.

### § 35 Changes in benefit claims

Amendments to the Statutes affecting the amount paid out under benefit claims shall also apply to beneficiaries currently receiving benefit payments and to the entitlements acquired before the amendment to the Statutes unless otherwise agreed.

### § 36 Assignment and pledging of benefit payments, Offsetting

(1) Claims arising out of the benefit relationship may neither be assigned nor pledged.

(2) The Versorgungswerk may offset its claims against benefit claims.

### § 36a Pension rights adjustment

(1) If a participant is subject to an obligation of adjustment in pension adjustment proceedings, the internal division will be performed on the basis of the German Pension Rights Adjustment Act (VersAusglG).

(2) If the family court has legally established the entitlement or claim to a pension, the pension claims shall be determined by the Versorgungswerk on the basis of the contributions to be taken into account, including benefits improvements up to the end of the marriage in accordance with § 30 para. 5, payments to the spouse subject to an adjustment obligation will be reduced and allocated to the spouse with a claim to adjustment. The reduction or allocation shall be made as of the day after the date of the end of the marriage. In the case of the adjustment-obligated member, the reduction can be wholly or partially averted up to the occurrence of the insurance event by making a supplementary payment. The amount of the supplementary payment shall be calculated on the basis of the reduced pension claims, divided by the percentage that applied to contributions paid at the time that the supplementary payment was made, as specified in § 30 para. 4. In order to avert the reduction entirely, the reduced annual pensions during the period of the marriage are added up. With regard to full calendar years, the reduction can be partially averted on the basis of the respective reduced annual pension. If both spouses are Versorgungswerk participants and if their entitlements are divided internally, an offsetting arrangement will take place. Internal division shall not give rise to a membership for an adjustment-entitled person who is not a member of the architects' pension scheme.

(3) In internal division, any claim by the adjustment-entitled spouse to a pension in

accordance with § 27 shall be limited; the claim shall be increased by the following percentages depending on the age of the adjustment-entitled spouse at the end of the marriage:

<u>Age</u>	<u>Percentage increase</u>
Up to	
35	10.5
36 - 40	10.0
41 - 45	9.5
46 - 50	9.0
51 - 55	8.0
56 - 60	6.5
from 61	5.0

§ 27 para. 2 applies accordingly for an entitlement established by internal division; the same applies with regard to § 28 for children born of marriage with the participant. If both spouses are Versorgungswerk participants there is no limitation on retirement benefit and hence no increase.

(4) § 20 para. 1 of the Civil Partnership Act applies accordingly.

(5) § 36a applies in the version applicable up to 31<sup>st</sup> August 2009 if the adjustment settlement is performed on the basis of the German Act regarding the Settlement of Hardship in Pension Adjustments (VAHRG).

### § 37 Limitation period

Claims to benefit payments shall become time-barred after four years. The limitation period shall start with the end of the calendar year in which benefit may be claimed for the first time. Section V Administrative procedures

### § 38 Decisions on benefit payments

The Versorgungswerk shall decide on applications for benefits and issue a written decision in this respect with details of the type and amount of benefit payments, commencement and calculation on which payments are based. The administration can ask for provision of evidence before and during the drawing of benefit payments and may make own enquiries to the extent that they appear necessary.

### § 39 Appeal procedure

Appeals against decisions by the Versorgungswerk are permitted. The provisions of §§ 68 - 73 of the Code of Administrative Procedures shall apply. The

Board of Directors shall issue a decision on the appeal.

### § 40 Payment of benefits

Benefits will be paid monthly in advance to the beneficiary's account; The beneficiary shall bear all risks and costs of making payment outside Germany.

### § 41 Interest on arrears and reminder costs

The Versorgungswerk may levy interest on arrears and reminder costs.

### § 42 Enforcement

Unpaid contributions and other claims arising out of the benefit relationship, interest on arrears, late payment surcharges and costs of collection and issuing reminders shall be collected in accordance with the provisions on enforcement of public-law money claims.

### § 43 Participants' duty of cooperation

(1) Versorgungswerk participants and other beneficiaries shall provide the Versorgungswerk with the information required to meet the purpose of the Versorgungswerk and to provide the requested evidence, e.g. life certificates, income tax returns, by the deadline set by the Versorgungswerk. The Versorgungswerk may also make own enquiries for the purpose of checking this information.

(2) Beneficiaries undertake to notify the Versorgungswerk in writing, without delay and unrequested, of any changes affecting the grounds or amount of Versorgungswerk payments within one month of the occurrence of such change.

(3) Information shall be treated confidentially.

(4) The Versorgungswerk may withhold benefit payments until the beneficiary complies with the above obligations.

(5) The Versorgungswerk may demand that anyone who applies for or receives benefit on the grounds of inability to work, shall undergo treatment, further training or other qualifying measures if there is an expectation that said measure will remedy the inability to work or avert the threat of inability to work and is reasonable for the participant. If the participant fails to comply with this obligation, the Versorgungswerk

may deny or withdraw the disability pension wholly or in part providing the consequences of such failure have been pointed out in writing in advance with specification of a reasonable deadline for compliance.

(6) If inability to work or death of a participant are caused by a third party, the participant or the widow/widower/orphans undertake to assign to the Versorgungswerk any claim for compensation against the third party to the extent that the Versorgungswerk is required to make payments based on the prejudicial event. The assignment shall not impair claims by the participant or widow/widower/orphans. The right to a benefit payment cannot be asserted until the claim for compensation has been assigned. If the participant, widow/widower/orphans gives up a claim for compensation or a right serving as security for such a claim without the agreement of the Versorgungswerk, the Versorgungswerk shall be released from any obligation to make payment to the extent that it could have demanded compensation on the grounds of such a claim for compensation or right.

(7) The Pension Fund shall be authorised to collect personal data transferred by Deutsche Post AG under § 101a SGB X for the fulfilment of their obligations, and to conclude contracts under private law with Deutsche Post AG for this purpose. The amendments to the Statutes shall take effect on the day following their announcement.

## Section VI

### Notifications

#### § 44

The Statutes and any amendments to the Statutes shall be published in the Baden-Württemberg, Schleswig-Holstein and Hamburg issues of the German Architects' Gazette (Deutsches Architektenblatt). The date of coming into effect shall be notified at the same time. If a specific date is not given, amendments shall come into effect on the day after notification.

## Section VII

### Transition provisions and entry into force

#### § 45 Transition provisions for integration of members of the Chamber of Architects of

#### Hamburg and of the engineer members of the Chamber of Architects and Engineers of Schleswig-Holstein as of 01.01.1985

##### 1. Application for exemption from compulsory participation

(1) A chamber member who becomes obliged to participate with the entry into force of the joining Statutes may, upon application, be exempted from compulsory participation if he can show that he was insured as of 31.12.1984 by the following means:

a) by a life insurance policy concluded until age 65 or earlier birthday for a contractual amount of at least DM 120,000.00, if exemption is sought for disability contributions and an annual pension of at least 10% of the insured sum has been agreed, or DM 150,000.00 if no additional disability insurance has been agreed,

b) by statutory pension insurance if compulsory separate-proposal insurance exists in accordance with § 2 para. 1, no. 11 AVG or § 1227, para. 1 no. 9 RVO or if the last three calendar years were entirely covered by voluntary contributions equivalent to the contributions mentioned in § 16 of the Statutes where compulsory contributions were not already made for this period or

c) through ownership of property or land the unit value of which is at least DM 60,000.00 under the Valuation Act.

(2) Where the applicant has several co-existing securities as per para. 1 letters a) to c), they will be considered jointly.

(3) If the applicant meets the criteria of para. 1 letters a) to c) at least halfway, he may be exempted from compulsory participation by up to half the contribution as per § 16.

(4) The application for exemption must be received by the Versorgungswerk in Stuttgart by the end of the third month after entry into force of the joining Statutes.

##### 2. Participation in the Assembly of Representatives and on the Board of Directors

The members of the Chamber of Architects of Hamburg and engineer members of the Chamber of Architects and Engineers of Schleswig-Holstein who join with the Versorgungswerk shall each send, for as long as the current Assembly of Representatives is still in office, one non-voting representative to the Assembly of

Representatives and the Board of Directors. They shall be appointed by the respective Chamber Boards.

#### § 46 Transition rule for city planners who become first-time members of the Chamber of Architects on the grounds of the legislation to amend the Architects' Act of 20.06.1994 (Legal Gazette p. 317).

(1) A city planner who becomes obliged to participate for the first time on the grounds of the legislation to amend the Architects' Act of 20.06.1994 (Legal Gazette p. 317), may apply for exemption from compulsory participation if he can show that he was insured as of 31.12.1993 by the following means:

a) by a life insurance policy concluded until age 65 or earlier birthday for a contractual amount of at least DM 180,000.00, if exemption is sought for disability contributions and an annual pension of at least 10% of the insured sum has been agreed, or DM 225,000.00 if no additional disability insurance has been agreed,

b) by statutory pension insurance if compulsory separate-proposal insurance exists in accordance with § 4 para. 2 SGB VI (§ 2 para. 1 no. 11 AVG) or if the last three calendar years were entirely covered by voluntary contributions equivalent to the contributions mentioned in § 16 of the Statutes where compulsory contributions were not already made for this period or

c) through ownership of property or land, the unit value of which is at least DM 100,000.00 under the Valuation Act.

(2) Where the applicant has several co-existing securities as per para. 1 letters a) to c), they will be considered jointly.

(3) If the applicant meets the criteria of para. 1 letters a) to c) at least halfway, he may be exempted from compulsory participation by up to half the contribution as per § 16.

(4) The application for exemption must be received by the Versorgungswerk in Stuttgart within 6 months after expiry of the one-year period cited in Article 3 (Transition provision for city planners) of the legislation to amend the Architects' Act of 20.06.1994 (Legal Gazette p. 317).

#### § 47 Transition rule for city planners who become first-time members of the Chamber of Architects and Engineers of Schleswig-Holstein on the grounds of the legislation

**to amend the Chamber of Architects and Engineers Act of 2.07.1995 (GVOBl Schl. H. p. 213).**

(1) A city planner who becomes obliged to participate for the first time on the grounds of the legislation to amend the Chamber of Architects' and Engineers' Act of 12.07.1995 (GVOBl Schl. H. p. 213) may, upon application, be exempted from compulsory participation if he can show that he was insured as of 31.12.1994 by the following means:

a) by a life insurance policy concluded until age 65 or earlier birthday for a contractual amount of at least DM 180,000.00, if exemption is sought for disability contributions and an annual pension of at least 10% of the insured sum has been agreed, or DM 225,000.00 if no additional disability insurance has been agreed,

b) by statutory pension insurance if compulsory separate-proposal insurance exists in accordance with § 4 para. 2 SGB VI (§ 2 para. 1 no. 11 AVG) or if the last three calendar years were entirely covered by voluntary contributions equivalent to the contributions mentioned in § 16 of the Statutes where compulsory contributions were not already made for this period or

c) through ownership of property or land, the unit value of which is at least DM 100,000.00 under the Valuation Act.

(2) Where the applicant has several co-existing securities as per para. 1 letters a) to c), they will be considered jointly.

(3) If the applicant meets the criteria of para. 1 letters a) to c) at least halfway, he may be exempted from compulsory participation by up to half the contribution as per § 16.

(4) The application for exemption must be received by the Versorgungswerk in Stuttgart within 6 months after expiry of the one-year period cited in § 33 (Transition provision for city planners) of the new version of the Schleswig-Holstein Chamber of Architects' and Engineers' Act of 12.07.1995 (GVOBl Schl. H. p. 213).

(1) An architect, interior architect, garden and landscape architect or city planner who became obliged to participate for the first time on the grounds of the second law to amend the Hamburg Architects' Act of 23.04.1996 (Journal of Laws and Ordinances for Hamburg, page 60) may apply for exemption from compulsory participation if he can show that he was insured as of 22.04.1996 by the following means:

a) by a life insurance policy concluded until age 65 or earlier birthday for a contractual amount of at least DM 180,000.00, if exemption is sought for disability contributions and an annual pension of at least 10% of the insured sum has been agreed, or DM 225,000.00 if no additional disability insurance has been agreed,

b) by statutory pension insurance if compulsory separate-proposal insurance exists in accordance with § 4 para. 2 SGB VI (§ 2 para. 1 no. 11 AVG) or if the last three calendar years were entirely covered by voluntary contributions equivalent to the contributions mentioned in § 16 of the Statutes where compulsory contributions were not already made for this period or

c) through ownership of property or land, the unit value of which is at least DM 100,000.00 under the Valuation Act.

(2) Where the applicant has several co-existing securities as per para. 1 letters a) to c), they will be considered jointly.

(3) If the applicant meets the criteria of para. 1 letters a) to c) at least halfway, he may be exempted from compulsory participation by up to half the contribution as per § 16.

(4) The application for exemption must have been received by the Versorgungswerk in Stuttgart by 31.03.1997.

**§ 48 Transition rule for construction architects, interior architects, garden and landscape architects and city planners who become first-time members of the Hamburg Chamber of Architects on the grounds of the second law to amend the Hamburg Architects' Act of 23 April 1996 (Journal of Laws and Ordinances for Hamburg, page 60).**