

J) Law on Military and Alternative Service

1. Act on Compulsory Military Service (Wehrpflichtgesetz)

of 21 July 1956 (Federal law Gazette [BGBl.] Part I p. 651), in the version of the proclamation of 20 February 2002 (BGBl. Part I p. 954)

Part 1: Compulsory Military Service

Section 11 Exemption from Military Service

(1) The following shall be exempt from military service

1. ordained clerics of the Protestant confession,
2. clerics of the Roman Catholic confession who have been ordained to the diaconship,
3. full-time clerics of other confessions whose office corresponds to that of an ordained cleric of the Protestant or of a cleric of the Roman Catholic confession who has been ordained to the diaconship,

(...)

Section 12 Deferment of Military Service

(...)

(2) On request, conscripts shall be postponed from military service who are preparing for spiritual office (section 11).

Section 13 Indispensability

(1) To compensate for the need for staff for the tasks of the Federal Armed Forces and other tasks, a conscript may be regarded as indispensable for military service in the public interest if and as long as the work he/she carries out cannot be foregone. (...)

(2) The replacement military authority shall decide on indispensability at the suggestion of the competent administrative authority. The churches and religious communities shall also have the right of proposal for their employees if they are corporations under public law. (...)

(...)

2. Act on Refusal to render Military Service involving the Use of Arms on Grounds of Conscience (Gesetz über die Verweigerung des Kriegsdienstes mit der Waffe aus Gewissensgründen - Kriegsdienstverweigerungsgesetz — KDVG)

of 28 February 1983 (Federal Law Gazette [BGBl.] Part I p. 203), last amended by Act of 6 December 2001 (BGBl. Part I p. 1676)

Section 11 [Representation of the Applicant Before Committees]

(...)

(2) Persons appointed by the churches and religious communities which are corporations under public law shall also be admitted to represent the applicant free of charge before the committee.

3. Act on Civilian Service for Conscientious Objectors (Gesetz über den Zivildienst der Kriegsdienstverweigerer - Zivildienstgesetz - ZDG)

of 13 January 1960 (Federal Law Gazette [BGBl.] Part I p. 10) in the version of the proclamation of 28 September 1994 (BGBl. Part I p. 2811), last amended by Act of 20 December 2001 (BGBl. Part I p. 4013)

Section 2a Advisory Council for the Civilian Service

(1) An advisory council for the civilian service shall be formed at the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. The advisory council shall advise the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth in matters concerned with civilian service, including the question of what tasks the civilian service conscripts (persons liable for civilian service) are to be allocated outside the social field.

(2) The advisory council shall consist of

(...)

3. one representative each of the Protestant and Catholic Churches,

(...)

Section 10 Exemption from Civilian Service

(1) The following shall be exempt from civilian service

1. ordained clerics of the Protestant confession,

2. clerics of the Roman Catholic confession who have been ordained to the diaconship,

3. full-time clerics of other confessions whose office corresponds to that of an ordained cleric of the Protestant or of a cleric of the Roman Catholic confession who has been ordained to the diaconship,

(...)

Section 11 Deferment of Civilian Service

(...)

(2) Recognised conscientious objectors preparing for the spiritual office shall be deferred from civilian service on application.

Section 12 Applications for Exemption and Deferment

(1) Applications in accordance with section 10 subsection (2) and section 11 subsections (2) and (4) shall be made in writing or placed on the record of the Federal agency. They shall be reasoned.

(2) (...) The following shall be submitted with applications in accordance with section 11 subsection (2)

1. proof of ordinary theological studies or of ordinary theological training, and
2. a declaration by the competent Land Church office, the Episcopal authority, the superior of the religious order or the corresponding higher authority of another religious community, that the conscientious objector is preparing for the spiritual office.

(...)

Section 16 Indispensability

(1) To compensate for the public interest in calling to civilian service and in covering the staffing needed outside the civilian service, a person liable for civilian service may be regarded as indispensable for civilian service in the public interest if the latter public interest outweighs so long as he/she cannot be done without for the activity carried out by him/her outside civilian service. (...)

(2) The competent administrative authority shall decide on indispensability at the suggestion of the competent administrative authority. The churches and religious communities shall also have a right of proposal for their employees if they are corporations under public law. (...)

(...)

Section 38 Cure of Souls

The conscript shall have a right to undisturbed religious exercise. Participation in religious services shall be voluntary.

4. Act on the Legal Position of Soldiers - Soldiers Act (Gesetz über die Rechtsstellung der Soldaten - Soldatengesetz)

of 19 March 1956 (Federal Law Gazette [BGBl.] Part I p. 114), in the version of the proclamation of 15 December 1995 (BGBl. Part I p. 1737), last amended by Act of 20 December 2001 (BGBl. Part I p. 4013)

Section 36 Cure of Souls

The soldier shall have a right to undisturbed practice of religion. Participation in religious services shall be voluntary.

5. *Act on Military Chaplaincy (Gesetz über die Militärseelsorge)*⁴⁹
of 26 July 1957 (Federal Law Gazette [BGBl.] Part II p. 701)

Article 1

(1) The agreement between the Federal Republic of Germany and the Protestant Church in Germany governing Protestant military chaplaincy signed in Bonn on 22 February 1957 is approved.

(...)

Article 2

The public service law provisions of the agreement named in article 1 shall be applied analogously to the Catholic military clerics.

⁴⁹ One of the State Church Treaties for the field of military chaplaincy can be found in the third part at No. 6.