

GERMAN WORKS COUNCIL ELECTION ORDINANCE

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**FIRST PART
ELECTION OF THE LOCAL WORKS COUNCIL**

**CHAPTER ONE
GENERAL PROVISIONS ON PREPARATION AND CONDUCT OF THE ELECTION**

**Section 1
Election Committee and Election Helpers**

- (1) The election committee will carry out the election of the works council. It may appoint employees of its agency who are entitled to vote as helpers to assist in the voting and conduct of the count of votes. Section 24, paragraph 2, sentences 2 and 3 of the Federal Personnel Representation Law (FPRL) will also apply to election helpers.
- (2) The agency will assist the election committee in performing its functions and, in particular, will make available the necessary records (which will be supplemented, if necessary) and it will provide the required information. The agency will supply the necessary space, supplies, and clerical personnel for the preparation and conduct of the election.
- (3) Immediately after its appointment, election, or nomination, the election committee will post the names of its members and alternate members, if any, in the agency until completion of the voting.
- (4) The election committee will make decisions by simple majority vote of its members.
- (5) The election committee will ensure that foreign national employees are informed in a timely and appropriate manner, if necessary in their native language, about the election procedure, establishment of the list of voters, submission of slates, voting procedures, and casting votes.

**Section 2
Determination of Number of Employees and List of Voters**

- (1) The election committee will determine the number of employees who are employed regularly by the agency and the breakdown into the respective employee groups. If this number does not exceed 50, the election committee will also determine the number of employees entitled to vote pursuant to Section 13 of the FPRL.
- (2) The election committee will determine separately for the individual groups of salaried employees and wage earners a roster of employees entitled to vote (list of voters). Within the groups, the genders of the employees will be established proportionately.
- (3) Immediately after initiation of the election and until completion of the casting of votes, the list of voters or a copy of the list will be made available for information at an appropriate place.

**Section 3
Objections Against the List of Voters**

- (1) Within 6 workdays after the publication of the list of voters (Section 2, paragraph (3)), any employee may object in writing to its correctness.
- (2) The election committee will decide immediately on objections. The decision will be provided in writing to the employee who raised the objections without delay, but not later than 1 workday before commencement of the casting of votes. If the objections are justified, the election

committee will correct the list of voters.

(3) On expiration of the time limit for raising objections, the election committee will again check the completeness of the list of voters. After the expiration of the time limit and until completion of the casting of votes, the list of voters will only be amended or supplemented to correct writing errors, obvious errors, timely submitted objections, employee appointment or separation, and changes in the group membership.

Section 4 Preliminary Election Actions

(1) The election committee will consider preliminary election actions on voting procedures concerning any one of the subjects in 1 through 3 below only if the election committee receives a request for consideration within 6 workdays after the posting of the announcement according to Section 1, paragraph (3). The request must be the result of separate voting by the affected employee groups in relation to the subjects in sentences 1 and 2 below. This separate voting must be done under the supervision of a voting committee consisting of at least three employees who are entitled to vote. The election committee must have proof that the request was the result of voting obtained by secret ballot. The voting committee must consist of one member of each employee group represented in the agency or, for sentence 3 below, in the branch office or part of the agency.

1. The distribution of council members among employee groups in deviation from Section 17 or Section 18, paragraph 1 of the FPRL.
2. The conduct of a joint election (Section 19, paragraph 2 of the FPRL).
3. The recognition of branch offices or parts of an agency as an independent agency (Section 6, paragraph 3 of the FPRL).

(2) In the announcement required by Section 1, paragraph (3), the election committee will refer to the time limit mentioned in paragraph (1).

Section 5 Determination of Number of Council Members To Be Elected and Distribution of Seats Among the Groups

(1) The election committee will determine the number of council members to be elected (Sections 16 and 17, paragraph 4 of the FPRL). Unless a distribution of council members among the groups deviating from Section 17 of the FPRL has been decided (Section 18, paragraph 1 of the FPRL), the election committee will compute the distribution of council seats among the groups (Section 17, paragraphs 1 through 5 of the FPRL) in accordance with the maximum figure procedure in (2) and (3), below.

(2) The numbers of salaried employees and wage earners (Section 2, paragraph (1)) employed at the agency will be posted side by side on one line and be divided successively (for example 1, 2, 3). One seat each will be assigned, in numerical sequence, at as many of the highest quotients resulting from this division as there are council members to be elected (Sections 16 and 17, paragraph 4 of the FPRL). Each group will be allocated as many seats as its prorated share of highest quotients. If the highest quotients are identical for each group and if there is only one seat left for distribution, the group that gets the seat will be decided by lot.

(3) If by distribution in accordance with (2) above, one group receives less seats than the minimum to which it is entitled under Section 17, paragraph 3 of the FPRL, it will be assigned the number of seats prescribed in Section 17, paragraph 3 of the FPRL. The number of seats of the other group will be reduced accordingly. By this method, the seats that were assigned last will be

withdrawn first. If the highest quotients are identical and if there is only one seat left to be withdrawn, the group that loses the seat will be decided by lot. Seats to which a group is entitled as a minimum according to the provisions of the FPRL cannot be withdrawn.

(4) If in a given agency the two employee groups are equal in number, computation of seats in accordance with the maximum figure procedure is not required; in these cases, the group receiving the higher number of seats will be decided by lot.

Section 6

Writ for the Election (Election Announcement)

(1) On expiration of the time limit set forth in Section 4, and not later than 6 weeks before the last day of voting, the election committee will issue the writ for the election. The writ must be signed by all members of the election committee.

(2) The writ must include--

1. The place and date it was issued.
2. The number of works council members to be elected partitioned into salaried employees and wage earners.
 - 2a. Information on the proportion of genders represented in the agency partitioned into salaried employees and wage earners.
3. Information as to whether salaried employees and wage earners will elect their representatives by separate ballot (group election) or a joint election has been agreed on before the issue of the writ for election.
4. Information as to when and where the list of voters and this election ordinance is open to inspection.
5. The notification that only employees who are on the list of voters may vote.
 - 5a. The notification that the gender of the employees should be represented in the works council in accordance with their numerical proportion.
6. The notification that objections to the list of voters must be submitted in writing to the election committee within 6 workdays after it is published (the last day of this time period must be stated).
7. The minimum number of signatures from employees entitled to vote that a slate must have and notification that, for election of the works council, an employee can be nominated on only one slate.
 - 7a. The notification that the slate of a union represented in the agency must be signed by two representatives (Section 19, paragraph 9 of the FPRL).
8. The notice to submit slates to the election committee within 18 calendar days after the date of issue of the election writ (the last day of the time period for the submission must be stated).
9. The notification that only timely submitted slates will be considered and that only those nominated on such slates can be elected.
10. The place where slates will be announced.
11. The place and time of the casting of votes.
12. The notification that the use of absentee ballots may be possible and, if appropriate, notification that the decision for absentee ballot is made according to Section 17.
13. The place and time of the counting of votes and of the meeting of the election committee in which the election result will finally be determined.
14. The place where objections, slates, and other statements addressed to the election committee must be turned in.

(3) From the day of its release until completion of the voting, the election committee will post a copy of the writ at one or several suitable places that are easily accessible to employees. The

election committee will maintain a copy of the writ in legible condition.

(4) Obvious mistakes in the writ for election may be corrected by the election committee at any time.

(5) The election has been initiated when the writ for election is released.

Section 7 Slates and Time Limit for Submission

(1) For the election of the works council, employees entitled to vote and trade unions represented in the agency may submit slates.

(2) The slates must be submitted to the election committee within 18 calendar days after the date of issue of the writ for election. In connection with group election, separate slates must be submitted for the individual groups.

Section 8 Contents of Slates

(1) Each slate should list at least twice as many candidates as are to be elected:

1. Group representatives in group elections.
2. Works council members in joint elections.

(2) On the slates, the names of the candidates will be listed one beneath the other and be numbered consecutively. In addition to the family name, the first name, the date of birth, the job title, the group membership, and (unless its being listed creates a security risk) the employing organization will be indicated. In connection with a joint election, the candidates will be classed by the respective groups. The slate may not include changes. If changes are necessary, a new slate will be produced and signed.

(3) According to Section 19, paragraphs 4, 5, and 6 of the FPRL, each slate must be signed--

1. In group elections by at least one-twentieth of the number of groups of employees entitled to vote, but no less than three employees entitled to vote.
2. In joint elections by at least one-twentieth of the employees entitled to vote, but no less than three employees entitled to vote.
3. In joint elections by at least one-tenth of the voting-eligible employees of the group for which they have been nominated if employees of the other group are being nominated as candidates. Fractions of one-tenth or one-twentieth will be brought to a round tenth or twentieth. Any slate will be accepted when it has the signatures of 50 group members entitled to vote in a group election and the signatures of 50 employees entitled to vote in a joint election. If a trade union represented in the agency submits a slate, the slate must be signed by two representatives employed by the agency who belong to the trade union. If the election committee doubts that the representation has been authorized by a trade union represented in the agency, the committee may request the trade union to confirm the representation. This confirmation must be in writing. The election committee may make the same request to confirm that a representative is a member of a trade union represented in the agency.

(4) The slate of the employees should indicate which employee is authorized to represent the slate to the election committee and entitled to receive statements and decisions of the election committee (slate representative). If there is no such indication, the first undersigned will be deemed to have this authority. In the cases of paragraph (3), sentence 4, the trade union may

appoint one of the representatives it has authorized to submit a slate or it may authorize another employee of the agency who is a member of the trade union to serve as slate representative.

(5) The slate will be identified by a keyword.

Section 9 Other Requirements

(1) For election to the works council, each candidate may be nominated on one slate only.

(2) The written consent of each candidate nominated to the slate will be attached to the slate; the consent may not be withdrawn.

(3) The signature of each employee entitled to make nominations for the election to the works council (Section 8, paragraph (3)) is legally effective for only one slate. Each trade union that is entitled to make nominations may authorize its representatives to sign only one slate for each group.

(4) A combination of several slates into one slate is not authorized.

Section 10 Processing of Slates by Election Committee and Invalid Slates

(1) The election committee will indicate on each slate the date and time of receipt. In connection with paragraph (5) below, the time of receipt of the corrected slate will also be indicated.

(2) The election committee will return invalid slates immediately after receipt and will give the reason for the invalidity. A slate may be invalid for any one of the reasons in 1 through 4 below. An invalid slate--

1. Has the order of the candidates listed incorrectly.
2. Does not have the required number of signatures at the time of submission.
3. Was not been submitted in due time.
4. Includes changes (Section 8, paragraph 2, sentence 4).

The withdrawal of signatures after the submission of the slate will have no effect on its validity; nothing will affect the requirements of (4) below.

(3) The election committee will direct a candidate who has been nominated on several slates with his or her written consent to declare within 3 workdays on which slate he or she wishes to continue his or her nomination. If the candidate fails to make this declaration within the time limit, he or she will be eliminated from all slates.

(4) If an employee who is entitled to make nominations (Section 8, paragraph (3)) has signed several slates, the election committee will require that the employee declare which slate is to keep his or her signature. The election committee will send this requirement in writing to the employee, who must sign a receipt for it. This notification may be sent to the employee by registered mail if necessary. The employee has 3 workdays after the receipt of the request to make his or her declaration. If the employee fails to make this declaration within the 3-workday time limit, his or her signature will not be valid on any slate. This similarly applies to nominations of trade unions that are not in agreement with Section 9, paragraph (3), sentence 2.

(5) The election committee will return the slates that--

1. Do not meet the requirements of Section 8, paragraph (2).
2. Have been submitted without the written consent of the candidates.

3. No longer have the required number of signatures because of deletions in accordance with paragraph (4). Slates will be returned by the election committee with the request to correct the deficiencies within 3 workdays after the receipt of the request. The election committee will require a receipt from the recipient before the invalid slates are released. If the deficiencies are not corrected within the 3-workday time limit, these slates will be invalid.

Section 11

Additional Time Limit for the Submission of Slates

(1) If, on expiration of the time limits set forth in Section 7, paragraph (2), and Section 10, paragraph (5), sentence 1, numbers 1 and 2, a valid slate has not been submitted for each group in connection with a group election, or no valid slate has been submitted at all in connection with a joint election, an announcement will be made immediately by the election committee. This announcement will be in the form of posters at the same places where the writ for election is posted. At the same time, the committee will demand the submission of slates within an additional time limit of 6 workdays.

(2) In connection with a group election, the election committee will point out in the announcement that an employee group cannot elect representatives to the works council if no valid slate is received within the additional time limit. In connection with a joint election, the election committee will point out that a works council cannot be elected if no valid slate is received within the additional time limit.

(3) If no valid slates are received within the additional time limit, the election committee will immediately announce--

1. For a group election, which groups will not be able to elect representatives.
2. For a joint election, that the election cannot take place.

Section 12

Designation of Slates

(1) On expiration of the time limits pursuant to Section 7, paragraph (2); Section 10, paragraph (5); and Section 11, paragraph (1), the election committee will determine by lot the consecutive order of the slates on the ballot. If works council elections take place simultaneously at several levels, the determination by lot made at the highest level will apply to slates with the same keyword for the elections at all levels. For slates that were not involved in the determination by lot at the highest level, subsequent places on the ballot will be chosen by lot. Slate representatives (Section 8, paragraph (4)) will be invited to the drawing of lots.

(2) The election committee will denote the slates with the family and first names of the candidates listed first and second on the slate respectively; in connection with a joint election, with the family and first names of the candidates on the top of the lists for each group. If slates are identified by a keyword, the keyword will be stated, too.

Section 13

Publication of Slates

(1) Immediately after the expiration of the time limits according to Section 7, paragraph (2); Section 10, paragraph (5); and Section 11, paragraph (1); but not later than 5 workdays before the commencement of the casting of votes, the election committee will publish the slates recognized as valid by posting them at the same place as the writ for the election until the

casting of votes is completed. By this time, the ballots should be available.

(2) The names of the signatories of the slates will not be published.

Section 14 **Minutes of Meetings**

The election committee will prepare minutes that will include as a minimum the wording of the decision for each meeting in which it had rendered a decision. It will be signed by all members of the election committee.

Section 15 **Voting, Ballots, and Void Ballots**

(1) Only employees on the list of voters may vote.

(2) The voting right will be exercised by casting a ballot in an envelope. In a group election, the ballots for each group; and in a joint election, all ballots must be equal in size, color, quality, and inscription. The same applies to the envelopes. If foreign employees belong to an agency, sample ballots along with a translation in the native language of the employees must be posted and be plainly visible in the election room.

(3) If voting is by the principles of proportionate election (Section 25, paragraph (1)), the vote can be cast only for the entire slate (slate of nominees). If voting is by the principles of majority election (Section 28, paragraph (1), or Section 30, paragraph (1)), the vote will be cast for the individual candidates to be elected.

(4) Ballots are void if they--

1. Have not been put in an envelope.
2. Do not meet the requirements of paragraph (2), sentence 2.
3. Do not, beyond any doubt, show the will of the voter.
4. Bear a specific feature, an addendum, or a proviso.

(5) Several identical ballots for the same election in one envelope will be counted as one vote.

(6) If a voter made an error in marking a ballot, or if a voter inadvertently made the ballot or envelope unusable, a new ballot and, if necessary, a new envelope must be issued to him or her on request and against the return of the unusable election documents. The election committee must destroy returned documents immediately in the presence of the voter.

Section 16 **Voting Procedures**

(1) The election committee will make arrangements to ensure that the voter can mark the ballot and put it in the envelope in the election room without the marking being observed. For receipt of ballots, ballot boxes will be used. Before the beginning of the casting of votes, the ballot boxes will be locked by the election committee. Boxes must be constructed in such a manner that envelopes that have been deposited cannot be taken out before the ballot boxes have been opened. In a group election, the casting of votes can be done separately for each group; however, separate ballot boxes will be used in every circumstance.

(2) A voter who is prevented from casting votes due to a physical handicap will designate a confidant for casting his or her ballot and will notify the election committee accordingly. The

assistance will be limited to the fulfillment of the voter's wishes for casting the vote. The confidant may enter the voting booth with the voter when this is necessary for the assistance. The confidant is bound to secrecy about the knowledge of another person's voting when it is gained through this assistance. Candidates, members of the election committee, and election helpers cannot be enlisted for such assistance.

(3) As long as the election room is open for the casting of votes, at least two members of the election committee must be present in the room. If election helpers have been appointed (Section 1, paragraph (1)), the presence of one member of the election committee and an election helper is sufficient.

(4) Before an envelope is dropped in the ballot box, it needs to be determined whether or not the voter is on the list of voters. If this is the case, the voter will hand the envelope to the member of the election committee who is entrusted to receive election envelopes and who will put it in the box unopened in the presence of the voter. The voter may also put the envelope in the ballot box if the member of the election committee who is entrusted to receive election envelopes permits this. The casting of the vote will be annotated on the list of voters.

(5) If the voting process is interrupted, or if the result of the election is not determined immediately after the completion of the casting of votes, the election committee will lock and keep the ballot box during the interim period in such a manner that ballots can neither be inserted nor taken out without damage to the lock. When voting is resumed or when the ballots are removed for counting, the election committee must ascertain that the ballot box is still locked and the lock is unbroken.

Section 17

Absentee Ballot

(1) On request, the election committee will give or mail to an employee who is entitled to vote and who is prevented from voting in person at the time of voting--

1. The slates.
2. The ballot with an election envelope.
3. A blank statement to be signed by the voter in which the voter assures the election committee that the ballot was marked personally or, if necessary, in accordance with the provisions of Section 16, paragraph (2), that it was marked by a confidant.
4. A stamped envelope that is large enough to enclose the election envelope and statement addressed to the election committee. The envelope will show as the return address the name and address of the voter. The envelope will be marked "*Schriftliche Stimmabgabe*" (Absentee Ballot). The election committee should give or mail to the voter a pamphlet explaining the procedure of the absentee ballot (paragraph (2)). On request, a copy of the writ for the election will be given or mailed to the voter.

(2) The voter will cast a vote by--

1. Marking the ballot personally unobserved and putting it in the envelope.
2. Signing the blank statement, adding place and date.
3. Putting the smaller election envelope containing the ballot and the signed statement (paragraph (1), third sentence) in the stamped envelope and mailing or handing it to the election committee in time to ensure it is received before the casting of votes is completed. The voter may have a confidant perform the functions in sentences 1 through 3 when necessary under the conditions of Section 16, paragraph (2).

Section 18
Absentee Ballot Handling

(1) In a public meeting, immediately before the completion of the casting of votes, the election committee will open the stamped envelopes received by that time and remove the ballot envelopes and blank statements (Section 17, paragraph (1), sentence 3). If the voting by absentee ballot has been carried out properly (Section 17, paragraph (2)), the election committee will drop the ballot envelope unopened in the ballot box after annotating the vote casting on the list of voters.

(2) The election committee will annotate the time of receipt on envelopes arriving too late and file them unopened with the election records. Unopened envelopes will be destroyed 1 month after the announcement of the election results if the election has not been challenged.

Section 19
Voting in Branch Offices and Parts of an Agency

For employees of agencies in 1 and 2 below, the election committee may arrange for voting at these locations, or may direct voting by absentee ballot. If voting by absentee ballot is directed, the election committee will mail the documents referred to in Section 17, paragraph (1) to employees who are entitled to vote.

1. Lower authorities of an agency that are not independent according to Section 6, paragraph (2), sentence 1 (second clause of the law).
2. Branch offices or parts of an agency that are at a great geographic distance and are not considered independent agencies pursuant to Section 6, paragraph 3 of the FPRL.

Section 20
Determination of Election Results

(1) Immediately after the completion of voting, the election committee will publicly count the votes and determine the result of the election.

(2) On opening the ballot box, the election committee will take the ballots out of the envelopes and check their validity.

(3) The election committee will count--

1. For a proportionate election, the number of valid votes for each slate.
2. For a majority election, the number of valid votes for each candidate.

(4) If the election committee decides that the validity of some ballots are doubtful, these ballots will be given consecutive numbers and kept separately from the other ballots with the election records.

Section 21
Election Protocol

(1) The election committee will prepare a protocol on the result of the election. The protocol will be signed by all members of the election committee. The protocol will include--

1. For a group election, the number of votes cast by each group; for a joint election, the number of all votes cast.
2. For a group election, the number of valid votes cast by each group; for a joint election, the number of all valid votes cast.
3. For a group election, the number of invalid ballots cast for each group; for a joint election, the number of all invalid ballots cast.

4. The justifying reasons for the determination that doubtful ballots are either valid or invalid.
5. For a proportionate election, the number of valid votes for each slate as well as the computation of highest quotients and their distribution on each of the slates; for a majority election, the number of valid votes for each candidate.
6. The names of the elected candidates.

(2) Special incidents during the voting or determination of the election result will be noted in the protocol.

Section 22 Notification of Candidates Elected

Without delay, the election committee will notify the candidates of their election as works council members in writing. The elected candidate will acknowledge the notification by signing a receipt. Notifications may be sent by registered mail if necessary. If an elected candidate does not declare that he or she declines the election, the election will be accepted. If an elected candidate decides to decline the election, the declaration must be made in writing and sent to the election committee within 3 workdays after receipt of the notification.

Section 23 Announcement of the Election Results

The election committee will publish the election result and the names of the candidates elected as works council members by posting them for 2 weeks at the same places where the writ for election had been posted.

Section 24 Filing of Election Records

Election records (for example, protocols, announcements, ballots, stamped envelopes for absentee ballots) will be kept on file by the works council at least until the next works council election takes place.

CHAPTER TWO SPECIAL PROVISIONS FOR THE ELECTION OF SEVERAL WORKS COUNCIL MEMBERS OR GROUP REPRESENTATIVES

FIRST SUBCHAPTER ELECTION PROCEDURES WHEN SEVERAL SLATES EXIST (PROPORTIONATE ELECTION)

Section 25 Prerequisites for Proportionate Elections, Ballots, and Voting

(1) Voting in accordance with the principles of proportionate election (election by slates) will take place if--

1. For a group election, several valid slates have been proposed for the respective group.
2. For a joint election, several valid slates have been proposed. In these cases, the voter may cast a vote only for the entire slate (list of candidates).

(2) On the ballots, the slates will be listed in numerical order determined according to Section 12, paragraph (1), stating the last name, first name, job title, and group membership of the

candidates named in first and second place. For a joint election, the listing will be by candidates named first for each group. For slates identified by a keyword, this keyword also will be shown.

(3) On the ballot the voter will mark the slate for which he or she wants to vote.

Section 26

Determination of Elected Group Representatives in Group Elections

(1) In connection with a group election, the total numbers of votes cast for the individual slates of each group will be posted side by side on one line and be divided consecutively (for example, 1, 2, 3). One seat each will be assigned in numerical order to as many of the highest quotients resulting from this division as there are seats allotted to the respective group (Section 5). If two or three highest quotient numbers are alike and only one or two seats, respectively, are left to be assigned, assignment will be decided by lot.

(2) If one slate has fewer candidates than there are seats to be assigned according to highest quotient numbers, the remaining seats will be assigned to the other slates in the order of the next highest quotient numbers.

(3) Within each slate, the seats will be assigned to the candidates in the order of their nomination (Section 8, paragraph (2)).

Section 27

Determination of Elected Group Representatives in Joint Elections

(1) In connection with a joint election, the total number of votes cast for the individual slates will be posted side by side on one line and be divided consecutively (for example, 1, 2, 3). The seats allotted to each group will be determined separately but according to the same quotient figures. Section 28, paragraph (1), sentences 2 and 3, will apply in the same way.

(2) If a slate has fewer candidates of a group than there are seats to be assigned according to highest quotient numbers, the remaining seats will be assigned to the candidates of the same group listed on the other slates in the sequence of the next highest quotient numbers.

(3) Within the slates, the seats allotted to the individual groups will be assigned to the candidates of the respective group in the order of their nomination.

SECOND SUBCHAPTER

ELECTION PROCEDURES WITH RESPECT TO ONE SLATE (MAJORITY ELECTION)

Section 28

Prerequisites for Majority Election, Ballots, and Voting

(1) Election in accordance with the principles of majority vote will take place if--

1. For a group election, only one valid slate has been proposed for the respective group.
2. For a joint election, only one valid slate has been proposed. When this happens, the voter may vote only for candidates who are listed on the slate.

(2) Candidates will be listed on the ballots in the same numerical order as on the slate, stating their last name, first name, job title, and group membership. Voters must mark on the ballot the name of the candidate for whom they want to vote. The voter may not--

1. For a group election, mark more names than there are representatives to be elected

- for the respective group.
2. For a joint election, mark more names than there are council members to be elected.

Section 29
Determination of Elected Candidates

- (1) For a group election, candidates are elected in the numerical order of the highest number of votes cast for them.
- (2) For a joint election, the seats allotted to the individual groups will be filled by candidates of those groups in order of the highest number of votes cast for them.
- (3) If there is an equal number of votes, the decision will be by lot.

CHAPTER THREE
SPECIAL PROVISIONS FOR ELECTION OF ONE WORKS COUNCIL MEMBER OR OF A GROUP REPRESENTATIVE (MAJORITY ELECTION)

Section 30
Prerequisites for Majority Vote, Ballot, and Election Results

- (1) Voting in accordance with the principles of majority vote will take place if--
 1. For a group election, only one group representative is to be elected.
 2. For a joint election, only one council member is to be elected.
- (2) Candidates will be listed on the ballots in the same alphabetical order as on the slates: last name, first name, and job title.
- (3) The voter will mark on the ballot the name of the candidate for whom he or she wants to vote.
- (4) The candidate for whom the most votes have been cast is elected. In case of an equal number of votes, the decision will be by lot.

CHAPTER FOUR
ELECTION OF REPRESENTATIVES OF TEMPORARY EMPLOYEES

Section 31
Preparation and Conduct of the Election

- (1) For the preparation and management of the election of representatives of temporary employees, the provisions of Sections 1 through 30 will apply analogously, except that the number of representatives of temporary employees will be governed exclusively by Section 65, paragraph 1 of the FPRL; the representatives to which each group is entitled will be computed exclusively in accordance with the system of highest quotient numbers, and the provisions on minimum representation (Section 17, paragraphs 3 and 4 of the FPRL) will not apply. At least one member of the election committee must be an employee who is eligible for election in accordance with Section 14 of the FPRL.
- (2) If in a group election the distribution of seats between the groups, which is made according to highest quotient numbers, results in one group not being assigned any representatives, each employee of this group who is entitled to vote may join the other group. These employees may join the other group by stating this in writing to the election committee.

SECOND PART ELECTION OF THE DISTRICT WORKS COUNCIL

Section 32 Similar Application of the Provisions Concerning the Election of the Local Works Council

Except as otherwise provided in Sections 33 through 41, the provisions of Sections 1 through 30 apply to the election of the district works council.

Section 33 Committee in Charge of the Election

(1) The district election committee will be in charge of the election of the district works council. At the individual agencies, the election will be carried out by the local election committees on behalf of and based on instructions from the district election committee.

(2) The local election committee will announce the names of the members of the district election committee and of the alternate members, if any, as well as the office address of its chairperson, by posting them within the agency until the casting of votes is completed.

Section 34 Determination of Number of Employees and List of Voters

(1) Local election committees will determine the number of employees who are regularly employed in the agency as well as the classification into the respective groups and will provide this data in writing immediately to the district election committee.

(2) The preparation of the lists of voters and the handling of objections are the responsibility of local election committees. They will inform the district election committee without delay in writing of the number of employees entitled to vote in the separate groups of salaried employees and wage earners. Within the groups, the proportionate share of the genders of the employees must be established.

Section 35 Determination of the Number of Members of the District Works Council To Be Elected and Assignment of Seats to the Groups

(1) The district election committee will determine the number of members to be elected to the district works council and the assignment of seats to the groups.

(2) If it has not been decided to deviate from the assignment of district council members to the respective employee groups and, as a result of the assignment of seats in accordance with Section 5, paragraph (2), one group receives less seats than it is minimally entitled to under Section 53, paragraph 5 of the FPRL, the group will be given the number of seats prescribed in Section 53, paragraph 5 of the FPRL.

Section 36 Simultaneous Election

If possible, the election of the district works council should take place at the same time as the election of local works councils in the same district.

Section 37
Writ for the Election

- (1) The district election committee will issue the writ for the election.
- (2) The local election committee will post the writ within the agency at one or several suitable places easily accessible to the employees entitled to vote, maintain it in legible condition, and keep it there until completion of the voting.
- (3) The writ for election must include--
 1. The place and date of issue.
 2. The number of members to be elected to the district works council (listed by salaried-employee and wage-earner categories).
 - 2a. Information on the proportionate share of the genders of employees in the area of responsibility (in salaried-employee and wage-earner categories)
 3. Information as to whether salaried employees and wage earners will elect their representatives by separate ballot (group election) or by a joint election and if this arrangement had been agreed on before the issue of the writ for election.
 4. Notification to the effect that only those employees who are on the list of voters may vote.
 - 4a. Notification to the effect that the genders of the employees should be represented in the district works council in accordance with their numerical proportion.
 5. The minimum number of employees entitled to vote by whom a slate must be signed, and notification to the effect that an employee may be nominated on one slate only.
 - 5a. Notification to the effect that the slate submitted by a trade union represented in the area of jurisdiction of an intermediate authority must be signed by two representatives (Section 53, paragraph (3), in conjunction with Section 19, paragraph 9 of the FPRL).
 6. The directive to submit slates to the district election committee within 18 calendar days after the date of issue of the writ for election, the last day of the time limit for the submission of slates will be stated.
 7. Notification to the effect that only timely submitted slates will be considered and that only candidates who have been nominated on such slates can be elected.
 8. The day or days of the casting of votes.
- (4) The local election committee will supplement the writ for election with the following information:
 1. Information as to when and where the list of voters established for the local agency and a copy of this election ordinance will be displayed.
 2. Notification to the effect that objections against the list of voters may only be filed in writing with the local election committee within 6 workdays after it is displayed. The last day of this time limit will be stated.
 3. The place where the slates will be published.
 4. The place and time of the casting of votes.
 5. Information on the possibility of voting by absentee ballot.
 6. The place and time of the counting of votes.
 7. The place where objections and other statements must be made to the election committee.
- (5) The local election committee will annotate on the writ for election the first and last day of posting.

(6) Obvious errors in the writ may be corrected at any time by the district election committee.

(7) On issue of the writ for election, the election has been initiated.

Section 38
Announcements of the District Election Committee

Announcements in accordance with Sections 11 and 13 will be posted within the agencies in the same manner as the writ for the election.

Section 39
Minutes of Meeting

(1) The district election committee will prepare minutes of each meeting in which it has rendered a decision. The minutes must be signed by all members of the district election committee.

(2) The minutes of meetings in which decisions have been rendered on objections against the list of voters will be prepared by the local election committee.

Section 40
Voting and Ballots

If the election of the district works council is held simultaneously with the election of local works councils, the same envelope may be used for the ballots for both elections. For the election of the district works council, ballots of a different color than for the election of the local works council will be used.

Section 41
Determination and Announcement of Election Result

(1) The local election committee will count the number of votes cast for the individual slates, or in connection with a majority election, the number of votes cast for each candidate. It will prepare an election protocol in accordance with Section 21.

(2) The protocol will be sent to the district election committee by registered mail or by electronic mail immediately after the election result has been determined. Documents that have been prepared for the election of the district works council (Sec 24) will be kept on file by the works council with a copy of the election protocol.

(3) Without delay, the district election committee will count the number of votes cast for each slate or, in connection with a majority vote, for each candidate, and determine the election result.

(4) As soon as the names of the candidates elected as members of the district works council have been determined, the district election committee will announce them to the local election committees. Local election committees will publish the names by giving public notice by posting them for 2 weeks in the same manner as the writ for the election.

**THIRD PART
ELECTION OF THE HEAD WORKS COUNCIL**

**Section 42
Similar Application of the Provisions Concerning the Election of the District Works Council**

Except as otherwise provided in Sections 43 and 44, the provisions of Sections 32 through 41 will apply to the election of the Head Works Council (HWC).

**Section 43
Committee in Charge of the Election**

The head election committee will be in charge of the election of the HWC.

**Section 44
Carrying out the Election by Districts**

(1) The HWC election committee may direct district election committees established at the intermediate-authority levels, or local election committees that have been established at the HWC election committee's request, to--

1. Compile the information prepared by local election committees in the area of the intermediate authority on the number of employees who are regularly employed and their subdivision into the groups.
2. Determine separately for the groups of salaried employees and wage earners the number of employees entitled to vote in the area of the intermediate authority, and the proportionate share of the genders of the employees within the groups.
3. Compile the election results determined at agencies in the area of the intermediate authority.
4. Provide the announcements of the HWC election committee to the other local election committees within the area of the intermediate authority. District election committees at the level of the intermediate authorities will inform local election committees within the area of the intermediate authority that the information listed under sentences 1 to 3 will be provided to them.

(2) District election committees at the level of the intermediate authorities will prepare minutes on the compilation of the election results (paragraph (1), sentence 1, number 3).

(3) Without delay, district election committees at the level of the intermediate authorities will provide the head election committee by registered mail or electronic mail the summarized information referred to paragraph (1), sentence 1, numbers 1 and 2, and the protocol on the compilations of the election results (paragraph (2)).

**FOURTH PART
ELECTION OF THE JOINT WORKS COUNCIL**

**Section 45
Similar Application of the Provisions on Election of the Works Council**

The provisions of Sections 32 through 41 will apply to the election of the joint works council.

**FIFTH PART
ELECTION OF YOUTH AND APPRENTICE REPRESENTATIVES**

**Section 46
Preparation and Management of the Election of Youth and Apprentice
Representatives**

(1) For the preparation and management of the election of youth and apprentice representatives, Sections 1 through 3, Sections 6 through 25, and Sections 30 and 31 (paragraph (1), sentence 2) will apply analogously, except that the number of youth and apprentice representatives to be elected will be governed exclusively by Section 59, paragraph (1) of the FPRL, and that the provisions for a group election (Section 19, paragraph (2) of the FPRL), minimum representation (Section 17, paragraphs (3) and (4) of the FPRL), and listing of candidates by groups on the slates (Section 8, paragraph (2), sentence 3) will not be applicable.

(2) If several youth and apprentice representatives must be elected and if the election has been conducted on the basis of several slates, the total numbers of votes for the individual slates will be posted side-by-side on one line and be divided consecutively (for example, 1, 2, 3). One seat will be assigned to as many of the highest quotient numbers resulting from this division as there are seats to be allotted (Section 59, paragraph 1 of the FPRL). Section 26, paragraph (1), sentence 3, and paragraphs (2) and (3), apply.

(3) If several youth and apprentice representatives must be elected and if the election has been conducted on the basis of one slate, elected candidates will be determined in the order of the highest numbers of votes cast for them; if the numbers of votes are alike, the election will be decided by lot.

**Section 47
Election of Youth and Apprentice Representatives Above the Local Level**

(1) For the election of youth and apprentice representatives above the local level in accordance with Section 64, paragraph 1 of the FPRL (district youth and apprentice representatives, head youth and apprentice representatives), Sections 33 through 41, 43, 44, and 46 apply. For juvenile employees and apprentices in subordinate agencies with less than five juveniles and apprentices who are regularly employed (Section 57 of the FPRL), the district or head election committee will conduct the election of youth and apprentice representatives above the local level. In the subordinate agencies mentioned above, election committees will not be established; the district or head election committee may direct the use of absentee ballots. In this case, the district or head election committee will provide juvenile employees and apprentices entitled to vote with the records mentioned in Section 17, paragraph (1).

(2) For the election of the joint youth and apprentice representatives in accordance with Section 64, paragraph 2 of the FPRL, paragraph (1) and Section 46 apply.

SIXTH PART

Sections 48 through 51

Not applicable to the U.S. Forces.

**SEVENTH PART
FINAL PROVISIONS**

**Section 52
Computation of Time Limits**

For computation of the time limits provided for in this ordinance, Sections 186 through 193 of the German Civil Code (*Bürgerliches Gesetzbuch*) apply. Workdays within the meaning of this election procedure are the weekdays Monday through Friday, except for statutory holidays.

Sections 53 and 54

Not applicable to the U.S. Forces.