

# **ELECTION PROCEDURE GERMAN SEVERELY HANDICAPPED PERSONS ACT**

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**FIRST PART  
ELECTION OF THE REPRESENTATIVE OF SEVERELY HANDICAPPED EMPLOYEES IN  
AGENCIES**

**CHAPTER ONE  
PREPARATION OF THE ELECTION**

**Section 1  
Appointment of the Election Committee**

(1) The severely handicapped employee (SHE) representative will appoint an election committee at least 8 weeks before the expiration of the SHE representative's term in office. The election committee will consist of three employees of the agency who are of full legal age. One of committee members will be appointed to chair the committee.

(2) If there is no SHE representative in the agency, the election committee and the chair of the committee will be elected by an assembly of the SHEs and assimilated employees (employees entitled to vote). Three employees who are entitled to vote or the works council can convene this assembly. The right of the Main Welfare Office to convene such an assembly is not affected by this provision (Sec 24, para 6, sentence 3 of the Severely Handicapped Persons Act).

**Section 2  
Responsibilities of the Election Committee**

(1) The election committee will prepare and conduct the election. It may appoint employees of the agency of full legal age as election helpers to assist in casting and counting votes.

(2) Decisions of the election committee will be rendered by simple majority vote of its members. For each meeting of the election committee, a protocol will be prepared that will, as a minimum, include the wording of the decisions that have been rendered. The chair and another member of the election committee will sign the protocol.

(3) The election committee will initiate the election without delay. It should be held within 6 weeks; however, at the latest, 1 week before the day on which the SHE representative's term of office expires.

(4) After a discussion with the SHE representative, the works council, and the employer, the election committee will decide how many deputies of the SHE representative are to be elected in the agency.

(5) The election committee will take care that foreign national employees are informed in a timely and appropriate manner about the election procedure, the establishment of the list of voters, the submission of slates, voting procedures, and the casting of votes.

(6) The employer will assist the election committee in the performance of its functions. In particular, it will provide the required information for the establishment of the list of voters and make available the necessary documentation.

**Section 3  
List of Voters**

(1) The election committee will compile a list of employees entitled to vote. Voters will be listed in alphabetical order by family name, first name, date of birth, and, if necessary, the name of the

agency where they work.

(2) Immediately after the initiation of the election and until the completion of the voting, the list of voters or a copy will be displayed at an appropriate place.

#### **Section 4 Objection Against the List of Voters**

(1) Any person entitled to vote, as well as any employee who can substantiate a justified interest in the orderly conduct of the election, may object in writing as to the correctness of the list of voters within 2 weeks after its publication.

(2) The election committee will decide immediately on the objections according to paragraph (1). If the objection is deemed justified, the list of voters will be corrected. The decision will be communicated to the employee who has filed the objection without delay, but at the latest 1 day before the beginning of the casting of votes.

(3) On expiration of the time limit for filing objections, the election committee will again check the completeness of the list of voters. After expiration of the time limit for raising objections until the day before the beginning of the casting of votes, the list of voters can only be corrected in connection with writing errors, an obvious incorrectness, or in connection with the appointment or separation of an employee entitled to vote.

#### **Section 5 Writ for the Election**

(1) At least 6 weeks before the day of voting, the election committee will issue the writ for the election, which must be signed by the chairman and at least another member of the election committee. It will include--

1. The date of its release.
2. The names of the members of the election committee.
3. The prerequisites for election as SHE representative.
4. Information as to when and where the list of voters and this ordinance will be displayed.
5. Notification to the effect that only employees who are entered on the list of voters may vote, and that objections to the list of voters may be filed in writing to the election committee only within 2 weeks after it has been displayed, on which states the last day of this time limit.
6. The number of deputies to be elected.
7. Notification to the effect that the SHE representative and deputies will be elected in two separate ballots, and that the slates will have to show who is being nominated for SHE representative and which member for deputy.
8. Information that employees entitled to vote may sign one slate each for the election of the SHE representative and the deputy, and that a candidate can be nominated for SHE representative as well as for deputy.
9. The request to submit slates to the election committee within 2 weeks after the date of release

of the writ, stating the last day of this time limit.

10. The minimum number of employees entitled to vote by whom a slate must be signed (Sec 6, para (2), sentence 1).

11. Notification to the effect that the casting of votes is tied to the slates and that only those slates may be considered that have been submitted within the time limit (para (1), sentence 9).

12. Determination of the place where the slates will be displayed or made available for information in some other appropriate way until the completion of the casting of votes.

13. The place, day, and time of the casting of votes.

14. Notification of possible absentee ballot (Sec 11, para (1)) provided the election committee has not decided on absentee ballot (Sec 11, para (2)).

15. The place and time of the counting of votes and of the meeting of the election committee in which the election result is finally determined.

16. The place where objections, slates, or other statements are to be handed to the election committee (address of election committee).

(2) From the day of its release until the day of election, the election committee will display a copy of the election writ at one or several suitable places accessible to the persons entitled to vote, and maintain it in legible condition.

## **Section 6 Slates**

(1) Employees entitled to vote may submit slates in writing to the election committee within 2 weeks after the date of release of the writ for election. One candidate can be nominated for SHE representative and one candidate for deputy. If the election committee has decided the election of several deputies, a corresponding number of candidates can be nominated. A candidate can be nominated for SHE representative as well as for deputy.

(2) Each slate must be signed by one-twentieth but at least by three of the persons entitled to vote. The family name, first name, date of birth, type of employment, and, if required, the employing agency of the candidates will be stated. The candidates' written consent will be attached to the slate.

(3) A candidate can only be nominated on one slate unless nominated on one slate for SHE representative and on the other for deputy. A candidate who has given written consent and has been nominated for the same office on several slates will be required by the election committee to declare within 3 workdays on which slate to continue listing the candidate. If the candidate fails to make this declaration within this time limit, the person's name will be deleted from all slates.

(4) The signature of a person entitled to vote is valid on only one slate. The election committee will request in writing against receipt a person entitled to vote who has signed several slates to declare within 3 workdays from the receipt of the request which signature to uphold. If the employee fails to submit this declaration within the time limit, the signature will not count on any slate.

**Section 7**  
**Extension of Time Limit for Submission of Slates**

(1) If on expiration of the time limit set forth in Section 6, paragraph (1), no valid slate has been submitted for the election of the SHE representative, the election committee will immediately announce this in the same way as the writ for election and grant an additional 1 week for the submission of slates. The announcement will draw attention to the fact that the election can only be held if at least one valid slate is submitted within the additional time period.

(2) If no valid slates for the election of the SHE representative are received within the additional time period, the election committee will announce immediately that the election will not be held.

(3) Paragraph (1), sentence 1 applies if no valid slate is received for the election of the deputy or if the number of valid candidates nominated for this office does not correspond to the number of deputies decided by the election committee.

**Section 8**  
**Publication of the Names of Candidates**

At the latest 1 week before the beginning of the casting of votes until the voting is completed, the election committee will release, from the slates recognized as being valid, in alphabetical order, the names of the candidates separately for the SHE representative and the deputy in the same manner as the writ for the election (Sec 5, para (2)).

**CHAPTER TWO**  
**CONDUCT OF THE ELECTION**

**Section 9**  
**Voting**

(1) The voter may only cast a ballot for a candidate whose nomination is legally effective.

(2) The voting right will be exercised by casting a ballot and enclosing that in an election envelope. On the ballot the candidates will be listed separately for SHE representative and the deputy, in alphabetical order, stating their family name, first name, date of birth, and type of employment. Ballots must all be identical in size, color, quality, and inscription. The same applies to the envelopes.

(3) If several deputies are to be elected, the ballot will indicate the maximum number of candidates that may be marked.

(4) The voter indicates the candidate she or he wants to elect for SHE representative and for deputy by marking the respective place provided for this purpose on the ballot. If several deputies are to be elected, a corresponding number of candidates may be marked.

(5) Ballots are void if more candidates than permissible have been marked, if they have been annotated with a special notation, or if, without a doubt, they do not show the intent of the voter.

**Section 10**  
**Election Proceedings**

(1) The election committee will make appropriate arrangements to ensure that in the election

room the ballot can be marked in privacy and that one or several ballot boxes are available. The ballot box will be locked by the election committee and constructed in such a manner that the envelopes cannot be taken out unless the ballot box is unlocked and opened.

(2) During the election, at least two members of the election committee must be present in the election room at all times. If election helpers are appointed (Sec 2, paragraph (1), sentence 2), the presence of a committee member and a helper is sufficient.

(3) The voter will give his or her name and the envelope that contains the ballot to the member of the election committee who is entrusted with receiving the envelopes. The envelope must be dropped in the box in the presence of the voter after the casting of the vote has been annotated on the list of voters.

(4) A voter who is prevented from voting due to a physical handicap designates a confidant to assist in casting a ballot and informs the election committee accordingly. Candidates for the election, members of the election committee, and election helpers may not be enlisted for such assistance. The assistance in voting will be limited to the fulfillment of the voter's wishes for casting a ballot; the confidant may enter the voting booth with the voter. The confidant is bound to secrecy concerning the knowledge of another person's voting, which was gained through this assistance. For illiterate voters, sentences 1 through 4 apply.

(5) On completion of voting, the ballot box must be sealed if the tallying of votes is not conducted immediately after the completion of voting.

## **Section 11**

### **Absentee Ballot**

(1) The election committee will hand or mail to an employee entitled to vote who is prevented from casting his or her vote personally on his or her request--

1. The writ for the election.

2. The ballot with the election envelope.

3. A blank statement to be signed by the voter that assures the election committee that the ballot was marked personally or under the prerequisites of Section 10, paragraph (4) by a confidant.

4. A larger stamped envelope addressed to the election committee that shows as the return address the name and address of the voter. This envelope will be marked "*Schriftliche Stimmabgabe*" (Absentee Ballot). The election committee should hand or send to the voter a pamphlet explaining the procedure of the absentee ballot. The election committee will annotate on the list of voters whether the voting records were given in person or mailed to the voter.

(2) The election committee may decide voting by absentee ballot. In this case, the election records referred to in paragraph (1) will be provided to the persons entitled to vote without their solicitation.

(3) 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 election envelope and the signed blank statement in the stamped envelope, and closing and mailing or handing it to a member of the election committee in time to ensure its receipt before the voting is completed.

(4) According to the provisions of Section 10, paragraph (4), the voter may ask a confidant to perform the tasks listed in 1 through 3 above.

## **Section 12 Handling of Absentee Ballots**

(1) At the end of the time allowed for voting, in a public meeting, the election committee will open the stamped envelopes received by that time and remove the ballot envelopes and blank statements. If the voting by absentee ballot has been carried out properly (Sec 11), the election committee will drop the ballot envelopes unopened into the ballot box after annotating the vote casting on the list of voters.

(2) The election committee will annotate the time of receipt on stamped envelopes that arrived late and file them unopened with the election records. One month after the announcement of the election results, these unopened envelopes will be destroyed unless the election is challenged.

## **Section 13 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) The candidate for whom in each case the most votes have been cast is elected SHE representative or deputy. In the case of equality of votes, the decision will be by lot.

(3) If several deputies are elected, that candidate is elected as second deputy who has the next highest number of votes. This applies similarly to the election of further deputies. Paragraph (2) applies similarly to the election and the consecutive order of the deputies.

(4) The election committee will prepare a protocol on the result of the election which will be signed by the chairman and at least one other member of the election committee. The protocol will include the number of valid and void ballots cast, the number of votes cast for each candidate, and the names of the elected candidates.

## **Section 14 Notification of Candidates Elected and Acceptance of the Election**

(1) The election committee will notify immediately in writing against receipt the elected SHE representative and deputies. If an elected person does not declare in writing to the election committee within 3 workdays after receipt of the notification that the elected person declines the election, the election will be accepted.

(2) If the person elected as SHE representative or deputy does not accept the election, that person will be replaced by the candidate for whom the next highest number of votes was cast. This also applies to the election of several deputies subject to the proviso that the candidate for whom the next higher number of votes was cast will fill the vacated deputy position.

**Section 15**  
**Announcement of Candidates Elected**

As soon as the name of the SHE representative and deputies have conclusively been determined, the election committee will announce them by posting the names for 2 weeks in the same manner as the writ for the election (Sec 5, para (2)) as well as release the names without delay to the employer and the works council.

**Section 16**  
**Filing of Election Records**

Election records, in particular protocols, announcements, and ballots, will be kept on file by the SHE representative at least until the completion of the term of office.

**Section 17**  
**Special Election of the Deputy**

If the only deputy resigns from office prematurely or if a deputy has not been elected yet, the SHE representative will appoint an election committee without delay. The election committee will immediately initiate the election of one or more deputies for the remainder of the SHE representative's term of office. For the remaining period, Sections 1 through 16 apply analogously.

**CHAPTER THREE**  
**SIMPLIFIED ELECTION PROCEDURE**

**Section 18**  
**Prerequisites**

If the agency is not comprised of parts which are located at a large geographic distance and if there are less than 50 employees who are entitled to vote, the SHE representative and the deputy will be elected by a simplified election procedure according to the provisions in Sections 19 through 21.

**Section 19**  
**Preparation of the Election**

(1) At 3 weeks immediately preceding the expiration of the term of office, by posting an announcement or by other appropriate means, the SHE representative invites employees entitled to vote to an election assembly.

(2) If there is no SHE representative in the agency, three persons entitled to vote, the works council, or the Main Welfare Office may convene the assembly.

**Section 20**  
**Conduct of the Election**

(1) The chair of the election assembly will be elected by simple majority vote. This chair will in charge of the election. If needed, the election assembly may appoint election helpers to support the chair.

(2) The election assembly will decide by simple majority vote how many deputies are to be elected. The SHE representative and one or more deputies will be elected in separate election

procedures. Each voter may nominate candidates for the election of the SHE representative and the deputies.

**Section 21**  
**Special Election of the Deputy**

If the only deputy resigns from office prematurely or if a deputy has not been elected, the SHE representative will immediately invite the persons entitled to vote to an election assembly for the election of one or more deputies for the remainder of the SHE representative's term of office. Sections 18 through 20 apply analogously.

**SECOND PART**  
**ELECTION OF THE JOINT, DISTRICT, AND HEAD REPRESENTATIVE IN AGENCIES**

**Section 22**  
**Election Procedure**

(1) The joint, district and head representative will be elected by absentee ballot (Secs 11 and 12). Section 1, paragraph (1), Sections 2 through 5, Sections 7 through 10, and Sections 13 through 17 apply analogously. Section 1, paragraph (2) applies analogously provided that the persons entitled to vote can also reach an agreement in an otherwise appropriate manner on the appointment of the election committee. Section 6 applies analogously under the proviso that the signature of one employee entitled to vote per slate is sufficient if there are fewer than five persons entitled to vote.

(2) If there are only two persons entitled to vote, they appoint the joint, district, or head representative by mutual agreement in deviation from paragraph (1). If no agreement can be reached, the decision will be by lot.

(3) If an assembly is convened pursuant to Section 24, paragraph 7 of the German Severely Handicapped Persons Act in time before the expiration of the term of office of the joint, district, or head representative, the election may be conducted at the occasion of this assembly in deviation from paragraph (1). Section 20 applies analogously.