

# Information leaflet on expense allowances for voluntary custodians pursuant to Sections 1877, 1878 German Civil Code (BGB)

Custodianship is an office that is usually performed without remuneration (voluntary activity). However, custodians may be reimbursed for expenses they incur while performing this office. The same applies correspondingly to guardians (Section 1808 (2) BGB) as well as caretakers (Section 1813 BGB).

## 1. Expense allowance flat rate pursuant to Section 1878 BGB

The expense allowance flat rate is EUR 425.00 *p.a.* If this amount is asserted, **no** documentation must be submitted to the court.

Reimbursement takes place annually, initially one year after appointment of the custodian. The claim for determining an expense allowance flat rate will lapse unless the corresponding application is submitted by 30 June of every following year. This time limit is a **cut-off period**; after it has lapsed, the claim can no longer be asserted.

Example: The custody year ends on 15 August 2023. The application must be submitted by 30 June 2024.

If more than one custodian has been appointed, each person so appointed may assert the expense allowance flat rate for themselves. Pursuant to Section 1878 (2) BGB, substitute custodians may assert the expense allowance flat rate only for the period during which they actually acted as custodian.

An application form will be provided upon request. However, applications can also be submitted informally.

If a claim for an expense allowance flat rate has been explicitly asserted in court once, submission of an annual report in subsequent years will be deemed as a new application, unless further assertion has **explicitly** been waived.

Asserting a claim vis-à-vis the court is also deemed as asserting such claim vis-à-vis the affected person. Assertion vis-à-vis the affected person in turn is deemed as an assertion vis-à-vis the state treasury (Sections 1878 (4) sentence 3, 1877 (4) BGB).

## 2. Expense allowance reimbursement pursuant to Section 1877 BGB

If the expenses incurred exceed the amount of EUR 425.00, they must be accounted for in detail (day of the visit, travelling costs, phone calls made, postage receipts indicating recipient, etc.) For journeys with an own car, EUR 0.42 per kilometre will be reimbursed.

Claims for reimbursement of individual expenses lapse if they have not been asserted vis-à-vis the affected person or the court within 15 months after they arose.

### 3. Right to choose

Either the expense allowance flat rate **or** a reimbursement of expenses can be applied for. Please choose the alternative that fits you best. The option you select will be binding in any one custody year.

### 4. Reimbursement process

- a) If the affected person is **without means**, i.e. if they do not have assets that exceed protected assets, expenses incurred will be reimbursed by the state treasury upon application. Protected assets usually amount to EUR 10,000.00.
- b) If the affected person has sufficient **assets**, expenses (cf. 2.) may be reimbursed out of the assets of the affected person without a separate application being required, subject to prior consultation with the court. If an expense allowance flat rate was chosen (cf. 1.), the amount may be taken out of the assets of the affected person after the custody year has ended. Auditing will then be performed within the scope of rendering account or reporting to the court.