

Übersetzung durch Eileen Flügel

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Stand: Die vorliegende Übersetzung berücksichtigt die Änderung(en) des Gesetzes durch Artikel 1 des Gesetzes vom 12. Juli 2021 (BGBl. I S. 3108).

Version information: The English translation includes the amendment(s) to the Act by Article 1 of the Act of 12 July 2021 (Federal Law Gazette I, p. 3108).

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## **Road Traffic Act**

### **(Straßenverkehrsgesetz)**

#### **(Section 7-20)**

Road Traffic Act amended by the publication of 5 March 2003 (Federal Law Gazette I, pp. 310, 919), last amended by Article 1 of the Act of 12 July 2021 (Federal Law Gazette I, p. 3108)

#### **II. Liability**

##### **Section 7**

##### **Liability of vehicle holder (Fahrzeughalter), unauthorised use of a vehicle**

(1) If, during the operation of a motor vehicle, a person suffers death, the body or health of a person is injured or an item of property is damaged, the vehicle holder is liable to make compensation to the injured person for the resulting damage.

(2) This liability to pay damages is excluded if the accident was caused by force majeure.

(3) If anyone uses the motor vehicle without the knowledge and permission of the vehicle holder, he or she is liable to make compensation for the damage instead of the vehicle holder; in addition, if the use of the motor vehicle was possible due to the fault of the vehicle holder, the motor vehicle holder is liable to make compensation for the damage. Sentence 1 does not apply if the vehicle user is employed by the holder for the operation of the motor vehicle or if the motor vehicle was made available to him or her by the holder.

##### **Section 8**

##### **Exceptions**

The provisions of section 7 do not apply

1. if the accident was caused by a motor vehicle that cannot drive on a level surface at a speed of more than 20 kilometres per hour, unless it is a motor vehicle with autonomous driving function within the meaning of section 1d (1) and (2) during autonomous operation,
2. if the injured party was active in the operation of the motor vehicle or
3. if damage is caused to an item of property that was being transported by the motor vehicle, unless a transported person was wearing or carrying the item.

##### **Section 8a**

##### **Transportation of passengers for payment, prohibition of exclusion of liability**

In the case of the commercial transportation of passengers for payment, the holder's liability to pay damages under section 7 if passengers are killed or injured may not be excluded or

limited. The commercial nature of passenger transport is not excluded by the fact that the transport is operated by a corporation or institution under public law.

### **Section 9 Contributory negligence**

If the fault on the part of the injured person contributes to the occurrence of the damage, the provisions of section 254 of the German Civil Code (*Bürgerliches Gesetzbuch*) apply with the proviso that, in the case of damage to an item of property, the fault of the person who has actual control over the item is deemed to be equal to the fault of the injured person.

### **Section 10 Extent of liability to pay damages in case of death**

(1) In the case of death, compensation is to be made by reimbursing the costs of an attempted cure as well as the costs incurred by the pecuniary prejudice sustained by the deceased party as a result of the suspension or reduction of his or her earning capacity or the resultant increase in his or her needs for the duration of the illness. The party liable to pay damages is to furthermore reimburse the funeral costs to the party who is responsible for defraying these expenses.

(2) If at the time of the injury, the deceased party maintained a relationship with a third party by virtue of which he or she was or was liable to come under the legal obligation to support this third party and if the third party was deprived of the right to maintenance as a result of the death, the party liable to pay damages is to indemnify the third party, guaranteeing maintenance to the extent to which the deceased party would have been liable for the length of lifespan he or she would probably have had. Liability to pay damages also occurs if, at the time of injury, the third party had been conceived but not yet born.

(3) The party liable to pay damages is to make appropriate financial compensation to the bereaved person who at the time of the injury was in a particularly close personal relationship with the deceased party for the emotional distress caused to the bereaved person. A particularly close personal relationship is to be assumed when the bereaved person was the spouse, the life partner, a parent or a child of the deceased party.

### **Section 11 Extent of liability to pay damages in case of bodily injury**

In the case of injury to a person's body or damage to his or her health, compensation is to be made by reimbursing the costs of the cure as well as the costs incurred by the pecuniary prejudice sustained by the injured party as a result of the temporary or permanent suspension or reduction of his or her earning capacity or the resultant increase in his or her needs. Reasonable financial compensation may also be claimed when the damage is not of a pecuniary nature.

### **Section 12 Maximum amounts of compensation**

(1) The party liable to pay damages is liable

1. only up to a maximum total amount of five million euro in the case of the death or injury of one or several persons as a result of the same event; only up to a maximum total amount of ten million euro in the case of the damage being caused on account of the use of a highly or fully automated driving function in accordance with section 1a or during operation of an autonomous driving function in accordance with section 1e; in the case of the commercial transportation of passengers for payment, the liability of the holder of the transporting motor vehicle to pay damages increases when more than eight passengers were killed or injured by 600,000 euro for each additional passenger who was killed or injured;

2. only up to a maximum total amount of one million euro in the case of damage to property, even when several items of property were damaged by the same event; in the

case of the damage being caused on account of the use of a highly or fully automated driving function in accordance with section 1a, or during operation of an autonomous driving function in accordance with section 1e, only up to a maximum total amount of two million euro.

The maximum amounts specified in sentence 1 no. 1 also apply to the capital value of an annuity to be paid as damages.

(2) Should the combined indemnification to be paid to several injured parties on account of the same event exceed the maximum amounts specified in subsection (1), the individual compensation is reduced pro-rata to the maximum total given.

### **Section 12a**

#### **Maximum amounts in the case of the carriage of dangerous goods**

(1) In such case as dangerous goods are transported, the party liable to pay damages is liable

1. in the case of the death or injury of one or several persons by the same event only up to a total amount of ten million euro,

2. in the case of damage to immovable property, even if a number of items of property are damaged by the same event, only up to a total amount of ten million euro,

insofar as the damage is caused by qualities resulting from the dangerous nature of the goods carried. In all other respects, section 12 (1) remains unaffected.

(2) Dangerous goods within the meaning of this Act are substances and articles the road carriage of which is prohibited or authorised only under certain conditions prescribed under annexes A and B of the European Agreement concerning the International Carriage of Dangerous Goods by Road, concluded at Geneva on 30 September 1957 (ADR) (Federal Law Gazette 1969 II p. 1489), as amended.

(3) Subsection (1) does not apply to the exempted carriage of dangerous goods or the carriage of limited quantities below the limits designated in section 1.1.3.6. of the Agreement specified in subsection (2).

(4) Subsection (1) is not applicable if the damage took place during carriage within a plant in which dangerous goods are manufactured, treated, processed, stored, used or destroyed, insofar as the carriage takes place on confined premises.

(5) Section 12 (2) applies accordingly.

### **Section 12b**

#### **Non-applicability of maximum amounts**

Sections 12 and 12a are not applicable if damage is caused during the operation of an armoured track vehicle.

### **Section 13**

#### **Compensation in the form of annuities**

(1) The compensation on account of the suspension or reduction of earning capacity and on account of increased need on the part of the injured party, as well as the compensation to be afforded a third party under section 10 (2) is to be paid in the future by means of an annuity.

(2) The provisions of section 843 (2) to (4) of the German Civil Code apply accordingly.

(3) If no requirement for posting security was imposed at the time the party liable was found liable for the payment of an annuity, the person entitled to the compensation may nevertheless demand the posting of security if the financial circumstances of the party liable have considerably worsened; under the same circumstances, he or she may demand an increase of the security established in the judgment.

### **Section 14**

#### **Limitation**

The limitation provisions of the German Civil Code applying to torts apply to limitation accordingly.

### **Section 15 Forfeiture of claims**

A person entitled to damages loses the rights to which he or she is entitled on the basis of the provisions of this Act if he or she does not notify the person liable to pay damages of the accident within two months of becoming aware of the damage and the identity of the person liable to pay damages. A loss of rights does not occur if the notification is not made on account of a circumstance for which the person entitled to damages is not responsible or the person liable to pay damages became aware of the accident in another way within the designated period.

### **Section 16 Other laws**

The Federal provisions according to which the vehicle holder is liable for the damage caused by the vehicle to a greater extent than under the provisions of this Act or according to which another party is responsible remain unaffected.

### **Section 17 Damage caused by a number of motor vehicles**

(1) If damage is caused by a number of motor vehicles and the vehicle holders involved are liable by law to make compensation to a third party for the damage, the liability to make compensation and the extent of the compensation to be made depend on the circumstances in the relationship of the vehicle holders to each other, particularly on the extent to which the damage was caused mainly by one or another of the parties.

(2) If the damage is sustained by one of the vehicle holders involved, subsection (1) also applies to the vehicle holders' liability towards one another.

(3) The liability to make compensation under subsections (1) and (2) is excluded if the accident is caused by an unavoidable event that is neither due to a defect in the condition of the motor vehicle nor to a malfunction of its equipment. An event is only deemed to be unavoidable if both the holder and the driver of the motor vehicle have observed all due diligence according to the circumstances of the case. The exclusion also applies to the obligation to pay damages to the owner of a motor vehicle who is not the vehicle holder.

(4) If the damage is caused by a motor vehicle and an animal or by a motor vehicle and a train, the provisions of subsections (1) to (3) apply accordingly.

### **Section 18 Extent of the vehicle driver's liability to pay damages**

(1) In the cases provided for in section 7 (1), the driver of the motor vehicle is also liable to make compensation for the damage under the provisions of sections 8 to 15. The liability to make compensation is excluded if the damage was not caused by a fault on the part of the driver.

(2) The provision of section 16 applies accordingly.

(3) If in the cases provided for in section 17, the driver of the motor vehicle is also liable to make compensation for the damage, the provisions of section 17 apply accordingly to this liability in his or her relationship to the vehicle holders and drivers of the other motor vehicles involved, to the animal owner or to the railway company.

### **Section 19 Liability of vehicle holder in case of accidents with trailers and combination vehicles**

(1) If, during the operation of a trailer intended to be towed by a motor vehicle (traction vehicle), a person suffers death, the body or health of a person is injured or an item of property is damaged, the trailer holder is liable to make compensation to the injured person for the resulting damage. The provisions on the liability of a motor vehicle holder in accordance with section 7 (2) and (3), section 8 nos. 2 and 3 and sections 8a to 16 apply accordingly. Sentences 1 and 2 do not apply if the accident was caused by a trailer attached to a motor vehicle at the time of the accident that cannot drive on a level surface at a speed

of more than 20 kilometres per hour, unless it is a motor vehicle with autonomous driving function within the meaning of section 1d (1) and (2) during autonomous operations.

(2) If damage is caused to another person by a traction vehicle with a trailer (combination vehicle), the holder of each of these vehicles is liable to the other as joint and several debtors for the operation risk of the whole combination vehicle. The liability of the holder liable to pay compensation as a joint and several debtor is limited to the maximum amounts specified in sections 12 and 12a.

(3) If damage is caused by a trailer and another motor vehicle and the vehicle holders involved are liable by law to make compensation to a third party for the damage, or if the damage is sustained by one of the vehicle holders involved, section 17 (1) to (3) applies accordingly to the liability to pay damages in the relationship of the holders of the traction vehicle and the trailer to the holder of the other motor vehicle involved in the accident.

(4) If in the cases provided for in subsections (2) and (3), the holder of the traction vehicle or trailer is liable to make compensation for the damage, he or she may demand adjustment of advancements from the holder of the other vehicle attached to the combination vehicle in accordance with section 426 of the German Civil Code. In the relationship of these holders to one another, only the holder of the traction vehicle is liable. Sentence 2 does not apply insofar as a greater danger was posed by the trailer than by the traction vehicle alone; in such a case, the obligation to adjust advancements depends on the extent to which the damage was caused primarily by the traction vehicle or by the trailer. As a rule, merely towing the trailer does not pose a higher risk. Compensation for damage to be made by the holders of the traction vehicle and the trailer is based on the general provisions of law in their relationship to one another.

(5) Subsections (3) and (4) apply accordingly if the damage is caused by a combination vehicle and an animal or by a combination vehicle and a train.

(6) If damage is caused to a third party or an involved motor vehicle holder by a trailer that was not attached to a traction vehicle at the time of the accident or if the damage was sustained by such a trailer, section 17 applies accordingly.

### **Section 19a**

#### **The liability of the driver of trailers and combination vehicles to pay damages**

(1) The driver of a combination vehicle is liable in the same way as the driver of a motor vehicle. Section 18 (1) and (2) applies accordingly.

(2) If in the cases provided for in section 19 (3) and (5) the driver of a combination vehicle is also liable to make compensation for the damage, section 17 applies accordingly to his or her relationship to the holders and drivers of the other motor vehicles involved, the animal owner or the railway company. If the driver of the combination vehicle in the cases provided for in section 19 (2), (3) and (5) is liable to make compensation for the damage, he or she may demand adjustment of advancements from the holders of the traction vehicles and the trailer under section 426 of the German Civil Code. Compensation for damage to be made by the driver of the combination vehicle is based on the general provisions of law in relation to the holders of the traction vehicle and the trailer.

(3) In the case provided for in section 19 (6), the driver of a trailer is liable in the same way as the driver of a motor vehicle.

### **Section 20**

#### **Territorial jurisdiction**

The court in the district of which the damaging event took place also has jurisdiction for actions brought on the basis of this Act.