

Ordinance on Electronic Signatures¹

unofficial working translation

for the official version see

the Federal Law Gazette

(Bundesgesetzblatt - BGBl.) p. I 3074

(German language)

¹ The notification requirements pursuant to Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ EC No. L 204 p. 37 of 21 July 1998), last amended by Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 (OJ EC No. L 217 p. 18 of 5 August 1998) have been duly observed.

**Ordinance on Electronic Signatures (Signatures Ordinance – SigV)
of November 16th, 2001**

On the basis of Section 24 of the Signatures Act of 16 May 2001 (Federal Law Gazette I. p. 876) in conjunction with the Second Section of the Administrative Costs Act of 23 June 1970 (Federal Law Gazette I p. 821), the Federal Government decrees as follows:

Contents

- Section 1 Form, content and change of notification
- Section 2 Content of the security concept
- Section 3 Identification verification and attribute proof
- Section 4 Maintenance of a register of certificates
- Section 5 Individual security precautions taken by certification service providers
- Section 6 Provision of information
- Section 7 Revocation of qualified certificates
- Section 8 Scope of the documentation
- Section 9 Details of the financial provision
- Section 10 Cessation of operations
- Section 11 Voluntary accreditation
- Section 12 Stipulation and levying of costs
- Section 13 Stipulation and levying of contributions
- Section 14 Content and validity periods of qualified certificates
- Section 15 Requirements pertaining to products for qualified electronic signatures
- Section 16 Procedures for the recognition and the operation of evaluation and certification bodies
- Section 17 Period and procedure for long-term data security
- Section 18 Procedure for the assessment of equivalent security of foreign electronic signatures and products
- Section 19 Entry into force/expiry
- Annex 1** (ad Section 11 (3) and ad Section 15 (5))
Provisions on the evaluation of products for qualified electronic signatures
- Annex 2** (ad Section 12)
Costs

Section 1 Form, content and change of notification

(1) A notification pursuant to Section 4 (3) of the Signatures Act shall be submitted to the competent authority in written form or furnished with a qualified electronic signature pursuant to the Signatures Act.

(2) The notification must contain the following details and documentation:

1. the name and address of the certification service provider,
2. the names of the legal representatives,
3. current certificates of good conduct pursuant to Section 30 (5) of the Federal Central Register Act for the certification service provider and his legal representatives,
4. a current extract from the commercial register or a comparable document,
5. documents to prove the necessary technical, administrative and legal specialised knowledge pursuant to Section 4 (2) sentence 3 of the Signatures Act,
6. a security concept with a precise explanation of how this is implemented, including the delegation of functions to third parties pursuant to Section 4 (5) of the Signatures Act, and
7. proof of financial cover pursuant to Section 12 of the Signatures Act.

If there is a change in the circumstances pursuant to sentence 1 no. 1 or no. 2 or security-relevant circumstances pursuant to sentence 1 no. 6, the competent authority must be informed in writing or by means of an electronic document furnished with a qualified electronic signature pursuant to the Signatures Act. This shall be without prejudice to Section 2.

(3) If parts of the certification service are rendered in a country pursuant to Section 23 (1) sentence 1 of the Signatures Act or in a third country under the conditions of Section 23 (1) sentence 2 no. 3 of the Signatures Act, additional documents shall be submitted to prove that the operation is subject to equivalent supervision. The operation of parts of the certification service in a country not covered by sentence 1 shall be permitted only within the framework of a voluntary accreditation if it is documented that the supervision is ensured.

Section 2 Content of the security concept

The security concept pursuant to Section 4 (2) sentence 4 of the Signatures Act shall contain the following:

...

1. a description of all necessary technical, structural and organisational security measures and their appropriateness,
2. a list of the products used for qualified electronic signatures with manufacturer declarations pursuant to Section 17 (4) sentence 2 or certifications pursuant to Section 17 (4) sentence 1 or Section 15 (7) sentence 1 of the Signatures Act,
3. an overview of the organisation of the establishment and operations and of the certification activities,
4. the precautions and measures to secure and maintain operations, especially in case of emergencies,
5. the procedures to assess and secure the reliability of the personnel, and
6. an assessment and evaluation of the remaining security risks.

Section 3 Identification verification and attribute proof

- (1) The certification service provider shall identify the applicant pursuant to Section 5 (1) of the Signatures Act by means of the national identity card or a passport issued for a person with citizenship of a member state of the European Union or a state of the European Economic Area, or by means of documents offering an equivalent level of security. If an application for a qualified certificate is submitted by means of an electronic document furnished with a qualified electronic signature pursuant to the Signatures Act, the certification service provider may dispense with further identification. The identification shall take place before the issuance of a qualified certificate and before inclusion in the register of certificates pursuant to the provisions of Section 4 (1).
- (2) If a qualified certificate is to contain attributes pursuant to Section 5 (2) of the Signatures Act, the approval or certification required pursuant to Section 5 (2) sentence 2 or 4 or subsection (3) sentence 2 of the Signatures Act must be submitted by means of an electronic document furnished with a qualified electronic signature pursuant to the Signatures Act or in writing. The third party or the office responsible for the professional or other data relating to the person shall be informed by means of an electronic document furnished with a qualified electronic signature pursuant to the Signatures Act or in writing about the contents of the qualified certificate and about the possibility of revocation.

Section 4 Maintenance of a register of certificates

- (1) The certification service provider shall keep the qualified certificates issued by it in a register pursuant to the provisions of Section 5 (1) sentence 2 of the Signatures Act, unless the time is later pursuant to Section 5 (2) sentence 2, from the time of their issuance for the validity period named in the relevant certificate and at least for another five years from the end of the year in which the validity of the certificate terminates.
- (2) An accredited certification service provider shall keep the qualified certificates issued by it in a register pursuant to the provisions of Section 5 (1) sentence 2 of the Signatures Act, unless the time is later pursuant to Section 5 (2) sentence 2, from the time of their issuance for the validity period named in the relevant certificate and for at least another 30 years from the end of the year in which the validity of the certificate terminates.
- (3) In the case of a takeover of qualified certificates pursuant to Section 13 (1) sentence 2 of the Signatures Act, paragraphs 1 and 2 shall apply accordingly.

Section 5 Individual security precautions taken by certification service providers

- (1) The certification service provider shall ensure by means of appropriate measures that signature keys are produced only on the relevant secure signature creation device or by him or another certification service provider by using technical components pursuant to Section 17 (3) no. 1 of the Signatures Act and transferred to secure signature creation devices. If he also makes available knowledge data on the identification of the signature key holder in relation to a secure signature creation device or technical components to handle biometrical characteristics and to transfer reference data to the secure signature creation device, he shall also take precautions to guarantee the secrecy of the identification data and to exclude their being stored outside the relevant secure signature creation device after inclusion in this device.
- (2) The certification service provider shall personally hand over to the signature key holder the signature keys and identification data provided by him on the secure signature creation device and shall obtain confirmation of the handover from him in writing or as an electronic document furnished with a qualified electronic signature pursuant to the Signatures Act, unless a different handover is arranged in writing or by means of an electronic document

furnished with a qualified electronic signature pursuant to the Signatures Act. The relevant qualified certificate must not be verifiable and, if so agreed, available for retrieval pursuant to Section 5 (1) sentences 2 and 3 of the Signatures Act, until after the signature key holder has confirmed the receipt of the secure signature creation device to the certification service provider.

- (3) In order to fulfil the preconditions pursuant to Section 5 (5) of the Signatures Act, the certification service provider must convince himself in an appropriate manner of the reliability of persons involved in the certification procedure. To this end, he can in particular require the presentation of a certificate of good conduct pursuant to Section 30 (1) of the Federal Central Register Act. Unreliable persons must be excluded from the certification procedure. The certification service provider must also convince himself, using the manufacturer's data or in another appropriate manner, of the appropriateness of the products used by him for qualified electronic signatures and must take precautions in order to protect these against unauthorised access.

Section 6 Provision of information

Information pursuant to Section 6 (1) of the Signatures Act shall be provided to the applicant in a generally understandable language and shall contain at least the following:

1. the storage and usage of the secure signature creation device and appropriate measures in case of loss or suspicion of misuse,
2. the confidentiality of personal identification numbers or other data to identify the signature key holder in relation to the secure signature creation device,
3. the necessary security measures regarding the creation and verification of a qualified electronic signature,
4. the possibility of limitations in qualified certificates pursuant to Section 7 (1) no. 7 of the Signatures Act,
5. the need to sign data with a qualified electronic signature once again if the security value of the signature is reduced by the passage of time,
6. the existence of a voluntary accreditation system,
7. the complaint and dispute-settlement procedures available to the applicant and the details of how to use such procedures, and
8. the procedure for revocation pursuant to Section 7.

The information shall also be made available to third parties upon request.

Section 7 Revocation of qualified certificates

- (1) The certification service provider shall, pursuant to Section 8 of the Signatures Act, inform the parties authorised to revoke qualified certificates of a telephone number under which they can cause such certificates to be revoked without delay.
- (2) Prior to the revocation, the certification service provider must ensure himself in an appropriate manner of the identity of the person authorised to revoke the certificate. The revocation of qualified certificates must be clearly recorded in the register of certificates pursuant to Section 4, including the date and the official time pertaining at this time.

Section 8 Scope of the documentation

- (1) The documentation pursuant to Section 10 of the Signatures Act shall comprise the security concept, including any amendments, the documents regarding the specialised knowledge of the persons working in the company and the contractual arrangements with the applicants.
- (2) At least the following data and documents shall be retained with regard to the relevant applicant:
 1. a photocopy of the submitted identity card or other proof of identity,
 2. any pseudonym issued,
 3. proof of the provision of information to the applicant pursuant to Section 6 of the Signatures Act,
 4. proof of the approval of the authorised persons pursuant to Section 5 (2) sentences 2 and 4 and subsection (3) sentence 2 of the Signatures Act,
 5. the certifications by the bodies responsible pursuant to Section 5 (2) sentence 2 of the Signatures Act,
 6. the qualified certificates issued, including the relevant times of issuance and handover as well as the time of inclusion in the register of certificates,
 7. the revocation of qualified certificates,
 8. information pursuant to Section 14 (2) sentence 2 of the Signatures Act, and

9. the handover confirmations for signature keys and identification data pursuant to Section 5 (2) sentence 1 or the declaration by the signature key holder if he has requested a different handover, and any other proof, if appropriate.

- (3) Subject to sentence 3, the documentation shall be kept at least for the period pursuant to Section 4 (1) and in the case of accredited certification service providers at least for the period pursuant to Section 4 (2). In the case of proceedings in court in which the proof of the certification is relevant, the documentation shall be kept, notwithstanding sentence 1, at least until the final conclusion of the proceedings. The documentation of information pursuant to Section 14 (2) sentence 2 of the Signatures Act shall be kept for twelve months.

Section 9 Details of the financial provision

- (1) The financial provision pursuant to Section 12 of the Signatures Act can be supplied
 1. by a liability insurance policy with an insurance company authorised to operate in the area covered by this Act or
 2. by an indemnification or guarantee commitment by a bank authorised to operate in the area covered by this Act if it ensured that it offers security comparable to a liability insurance policy.

- (2) Where the provision is supplied by means of an insurance policy pursuant to subsection (1) no. 1, the following provisions apply:
 1. Section 158b (2) and Sections 158c to 158k of the Insurance Contract Act shall apply to this insurance policy. The competent authority pursuant to Section 158c (2) of the Insurance Contract Act shall be the authority pursuant to Section 66 of the Telecommunications Act.
 2. The minimum sum insured must be 2.5 million euro for each insured event. An insured event shall be each occurrence causing liability related to the individual event pursuant to Section 12 (1) of the Signatures Act, irrespective of the number of resulting cases of damage. Any arrangement according to which an error which affects several certificates, time stamps or the information pursuant to Section 5 (1) sentence 2 of the Signatures Act is regarded as one insured event shall not be permissible. If a maximum annual amount for all damages caused in one year of cover is agreed upon, this amount shall total at least four times the minimum sum insured.

3. The geographical coverage of the insurance can be restricted to the area of validity of Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures (OJ EC 2000 No. L 13 p. 2).
4. The insurance policy may exclude payment of benefits only in case of claims for damages resulting from intentional breaches of duty committed by the certification service provider or by the persons for which he is answerable.
5. The agreement of a deductible of up to 1 per cent of the minimum sum insured is permissible.

Section 10 Cessation of operations

- (1) The certification service provider should inform the competent authority pursuant to Section 13 (1) sentence 1 of the Signatures Act at the latest two months prior to the cessation of operations.
- (2) The certification service provider should inform the signature key holders pursuant to Section 13 (1) sentence 3 of the Signatures Act at least two months prior to the cessation of operations. He must inform the signature key holders whether another certification service provider is taking over the certificates and must name this provider.

Section 11 Voluntary accreditation

- (1) Applications for accreditation pursuant to Section 15 (1) of the Signatures Act shall be made in writing or by means of an electronic document furnished with a qualified electronic signature pursuant to the Signatures Act. Applications for voluntary accreditation shall be regarded as notification pursuant to Section 1 if the requirements contained in that section are fulfilled.
- (2) Proof pursuant to Section 15 (1) sentence 2, subsection (2) sentence 2 and subsection (7) of the Signatures Act shall be provided by submitting the results of the evaluation and certification body in writing or by means of an electronic document furnished with a qualified electronic signature pursuant to the Signatures Act. The regular evaluations pursuant to Section 15 (2) sentence 2 of the Signatures Act shall take place every three years. The evaluation report and the certification that the requirements of the Signatures Act and of

this Ordinance continue to be fully met shall be submitted unsolicited to the competent authority.

- (3) The evaluation and certification of the security of products for qualified electronic signatures pursuant to Section 15 (7) sentence 1 of the Signatures Act shall be carried out in accordance with the provisions of Section 1 of Annex 1 to this Ordinance.

Section 12 Stipulation and levying of costs

- (1) The official acts, the performance of which is subject to fees pursuant to Section 22 of the Signatures Act, are listed in Annex 2 to this Ordinance. Expenses shall be charged pursuant to Section 10 of the Administrative Costs Act. For the cancellation, withdrawal or rejection of an application or an administrative act, fees shall be levied in accordance with Section 15 of the Administrative Costs Act.
- (2) For the hourly rates pursuant to no. 2 of Annex 2 to this Ordinance, a quarter of the hourly rate shall be calculated for each quarter hour begun. If public services are provided by members of the competent authority outside that authority, fees shall also be calculated which are within normal working hours or which are especially settled by the competent authority, as well as for waiting periods caused by the person liable to pay the costs.

Section 13 Stipulation and levying of contributions

- (1) The contributions pursuant to Section 22 (2) sentence 1 of the Signatures Act are calculated on the basis of the spending on staff and materials by the competent authority which is necessary for this, including the expenditure on investment. The contribution rate is 0.48 euro for each qualified certificate issued by the person liable to pay the contributions. The share of the costs accounted for by the general public interest has been taken into account and has resulted in a reduction of the costs. The proportions of the remaining expenditure will be allocated to the persons liable to pay the contributions in line with the number of qualified certificates issued by them, which must be listed in the register of certificates pursuant to Section 4 (1). The persons liable to pay the contributions must inform the competent authority of the number of certificates pursuant to sentence 2 annually, at the latest on 31 January of the following year. If a person liable to pay contributions fails to fulfil

his obligation pursuant to sentence 5, the competent authority can estimate the number of qualified certificates issued by a person liable to pay contributions.

- (2) The costs of the expenditure on investment are stipulated in line with the respective tax rules on the depreciation of capital goods in force at the time.
- (3) For the contributions pursuant to Section 22 (2) sentence 2 of the Signatures Act, the rules of subsections (1) and (2), with the exception of subsection (1) sentence 4, shall apply accordingly. The proportions of the remaining expenditure pursuant to subsection (1) sentence 1 shall be allocated to the persons liable to pay contributions in line with the number of qualified certificates issued by them, which must be listed in the register of certificates pursuant to Section 4 (2).
- (4) The requirement to pay contributions pursuant to Section 22 (2) sentence 1 of the Signatures Act shall commence from the month of notification pursuant to Section 4 (3) of the Signatures Act, and the requirement to pay contributions pursuant to Section 22 (2) sentence 2 of the Signatures Act shall commence from the month of accreditation. The requirement to pay contributions shall end at the end of the month of cessation of operations pursuant to Section 13 (1) of the Signatures Act and, in the case of voluntary accreditation, at the end of the month of the cancellation or withdrawal of an accreditation pursuant to Section 15 (5) of the Signatures Act. The contribution shall be levied annually. The basis shall be the calendar year. If the requirement to pay contributions does not exist for the entire calendar year, the contribution shall be calculated on a pro-rata basis; sentences 1 and 2 shall apply accordingly. The contributions shall be levied pursuant to the provisions of the Administrative Enforcement Act.

Section 14 Content and validity periods of qualified certificates

- (1) The data pursuant to Section 7 (1) of the Signatures Act in a qualified certificate must be unambiguous.
- (2) A qualified attribute certificate pursuant to Section 7 (2) of the Signatures Act must contain, apart from an unambiguous reference to the underlying qualified certificate, at least the

following data and must bear a qualified electronic signature of the certification service provider:

1. the designation of the algorithms with which the signature verification key of the certification service provider can be used,
 2. the number of the attribute certificate,
 3. the name of the certification service provider and the state in which he is established,
 4. information that this is a qualified certificate and
 5. one or several attributes pursuant to Section 5 (2) of the Signatures Act.
- (3) The validity period of a qualified certificate shall be no longer than five years and shall not exceed the period during which the applied algorithms and related parameters remain suitable. The validity of a qualified attribute certificate terminates at the latest with the validity of the qualified certificate to which it refers.

Section 15 Requirements pertaining to products for qualified electronic signatures

- (1) Secure signature creation devices pursuant to Section 17 (1) sentence 1 of the Signatures Act must guarantee that the signature key cannot be used until after the identification of the holder through possession and knowledge or through possession and one or several biometrical characteristics. The signature key must not be disclosed. If biometrical characteristics are used, it must be adequately ensured that unauthorised use of the signature key is not possible and that the level of security is equivalent to the knowledge-based procedure. The technical components required for the production and transfer of signature keys pursuant to Section 17 (1) sentence 2 or subsection (3) no. 1 of the Signatures Act must guarantee that the signature key cannot be derived from the relevant signature verification key or signature and that it is not possible to duplicate the signature keys.
- (2) Signature application components pursuant to Section 17 (2) of the Signatures Act must ensure that
1. when producing a qualified electronic signature
 - a) the identification data are not disclosed and are stored only on the relevant secure signature creation device,
 - b) a signature is provided only at the initiation of the authorised signing person,
 - c) the production of a signature is clearly indicated in advance, and

...

2. when verifying a qualified electronic signature
 - a) the correctness of a signature is reliably verified and appropriately displayed and
 - b) it can be clearly determined whether the verified qualified certificates were present in the relevant register of certificates at the given time and were not revoked.

 - (3) Technical components pursuant to Section 17 (3) of the Signatures Act must ensure that the revocation of a qualified certificate cannot be rescinded without this being noticed and that the information can be checked for genuineness. The information pursuant to sentence 1 must include whether the verified qualified certificates were present in the register of qualified certificates at the given time and were not revoked. Only verifiably held qualified certificates must not be publicly available for retrieval. In the case of Section 17 (3) no. 3 of the Signatures Act it must be ensured that the official time valid at the time of production of the qualified time stamp shall be included in that time stamp without falsification.

 - (4) Security-relevant changes in technical components pursuant to subsections (1) to (3) must be apparent for the user.

 - (5) A manufacturer declaration pursuant to Section 17 (4) of the Signatures Act must
 1. precisely identify the issuer and the product and
 2. contain precise information about which individual requirements of the Signatures Act and of this Ordinance have been fulfilled.
- When evaluating and certifying the security of products pursuant to Section 17 (1) and (3) no. 1 of the Signatures Act, the provisions of Section II of Annex 1 to this Ordinance shall be observed.
- (6) If reference numbers of generally recognised standards for products for qualified electronic signatures are established within the framework of the procedure pursuant to Article 3 (5) and Article 9 of Directive 1999/93/EC in the current version and are published in the Official Journal of the European Communities, they shall also apply notwithstanding subsections 1 to 5 except for the products pursuant to Section 15 (7) of the Signatures Act. The competent authority shall publish the current requirements in the Federal Gazette on the basis of the stipulations pursuant to sentence 1.

Section 16 Procedures for the recognition and the operation

...

of evaluation and certification bodies

- (1) An application by an evaluation and certification body pursuant to Section 18 (1) of the Signatures Act must include the following:
 1. name and address of the applicant and of his legal representative,
 2. current certificates of good conduct pursuant to Section 30 (5) of the Federal Central Register Act for the applicant pursuant to no. 1 and for his legal representatives,
 3. a current extract from the commercial register or a comparable document,
 4. documents to prove financial independence, especially proof of minimum capital and comparable collateral,
 5. documents to prove the necessary technical, administrative and legal specialised knowledge pursuant to Section 18 (1) sentence 1 of the Signatures Act, and
 6. a declaration as to which statutory operations of the Signatures Act the application refers.

- (2) For recognition as certification body for operations pursuant to Section 15 (7) and Section 17 (4) sentence 1 of the Signatures Act the applicant must prove that he has sufficient experience in the application of the evaluation criteria pursuant to Annex 1 to this Ordinance. In addition, he must describe how he will guarantee adequate supervision of the evaluation.

- (3) The requirements concerning the operation as certification body or evaluation and certification body pursuant to Section 18 (1) of the Signatures Act and Commission decision 2000/709/EC of 6 November 2000 (OJ EC No. L 289 p. 42) on the minimum criteria pursuant to Article 3 (4) of Directive 1999/93/EC shall be met
 1. with regard to reliability by persons who due to their personal characteristics, their behaviour and their abilities are suitable for the proper fulfilment of the tasks that they have assumed,
 2. with regard to independence by persons who are not under any economic, financial or other pressure which may affect their judgement or endanger confidence in the impartial fulfilment of their tasks,
 3. with regard to specialised knowledge by persons who due to their education, vocational training and practical experience are suitable for the proper fulfilment of the tasks that they have assumed.

- (4) The operator of a certification body or an evaluation and certification body pursuant to Section 18 of the Signatures Act must satisfy himself in an appropriate manner of the

reliability and specialised knowledge of persons involved in the evaluation or certification. He may require these persons to present a certificate of good conduct pursuant to Section 30 (1) of the Federal Central Register Act.

- (5) The competent authority shall publish the details of the requirements pursuant to subsections (1) to (4) and the minimum criteria pursuant to Article 3 (1) of Directive 1999/93/EC in the Federal Gazette.

Section 17 Period and procedure for long-term data security

Pursuant to Section 6 (1) sentence 2 of the Signatures Act, data with a qualified electronic signature shall be re-signed if they are required in signed form for a period longer than that for which the algorithms and related parameters used to create and verify them are considered to be suitable. In this case the data shall be furnished with a new qualified electronic signature prior to the time at which the suitability of the algorithms and related parameters ends. This signature shall be furnished with suitable new algorithms or related parameters, include earlier signatures and bear a qualified time stamp.

Section 18 Procedure for the assessment of equivalent security of foreign electronic signatures and products

- (1) A certification service provider who, pursuant to Section 23 (1) sentence 2 no. 2 of the Signatures Act, guarantees qualified certificates with legal effect pursuant to Article 5 (1) of Directive 1999/93/EC of a certification service provider established outside the European Economic Area (third country) must notify this in writing or by means of an electronic document furnished with a qualified electronic signature pursuant to the Signatures Act to the competent authority at the latest at the time at which these certificates are intended to become effective in the area of application of the Signatures Act. He must ensure that the qualified certificates of the foreign certification service provider and the qualified electronic signatures that are based on them meet the requirements of the Signatures Act and of this Ordinance and must submit the documentation on the foreign certification service provider in accordance with Section 1 (2). Section 2 shall apply accordingly to the details about the foreign certification service provider. Pursuant to Section 19 (6) of the Signatures Act, the competent authority shall keep available for retrieval the name of the foreign certification service

provider, listing also the certification service provider guaranteeing his qualified certificates.

(2) The security of foreign electronic signatures shall be deemed equivalent pursuant to Section 23 (2) of the Signatures Act if the competent authority has established that

1. the security requirements for certification service providers and products for qualified electronic signatures,
2. the evaluation modalities for certification service providers and products for qualified electronic signatures as well as the requirements for the evaluation and certification bodies and
3. the accreditation and supervision systems

offer equivalent security. In order to establish equivalent security, the competent authority may agree with the competent foreign body on the recognition procedures unless otherwise provided in bilateral or multilateral agreements.

(3) Products shall be deemed equivalent pursuant to Section 23 (3) sentence 2 of the Signatures Act if the competent authority has established this after having applied the provisions pursuant to paragraph 2.

(4) The competent authority shall include in its register pursuant to Section 16 (2) of the Signatures Act the qualified certificates for signature verification keys of top-level foreign certification service providers which are recognised as equivalent pursuant to Section 23 (2) of the Signatures Act. It shall certify the recognition by means of a qualified electronic signature with provider accreditation pursuant to Section 15 of the Signatures Act.

Section 19 Entry into force/expiry

This Ordinance shall enter into force on the day following its promulgation; at the same time, the Signatures Ordinance of 27 October 1997 (Federal Law Gazette I p. 2498), amended by the Ordinance of 22 June 2000 (Federal Law Gazette I p. 981), shall expire.

Annex to the Ordinance on Electronic Signatures

Annex 1 (ad Section 11 (3), ad Section 15 (5) and ad section 16 (2))

Provisions on the evaluation of products for qualified electronic signatures

I. Ad Section 11 (3) of this Ordinance and pursuant to Section 15 (7) of the Signatures Act (voluntary accreditation)

1. Provisions on evaluation

1.1. Requirements on level of evaluation

The evaluation of products for qualified electronic signatures in line with Sections 15 (7) and 17 (4) of the Signatures Act shall occur on the basis of the Common Criteria for Information Technology Security Evaluation (Federal Gazette 1999 p. 1945 – ISO/IEC 15408) or the Information Technology Security Evaluation Criteria (ITSEC – Joint Ministerial Bulletin of 8 August 1992 p. 545) in the version currently in force.

The evaluation must

- a) cover at least evaluation level EAL 4 or E 3 for technical components pursuant to Section 2 no. 12 a) of the Signatures Act,
- b) cover at least evaluation level EAL 4 or E 3 for secure signature creation devices pursuant to Section 2 no. 10 of the Signatures Act,
- c) i) cover at least evaluation level “EAL 4” or “E 3” for technical components for certification services pursuant to Section 2 no. 12 b) and c) of the Signatures Act which are used outside a specially secured area (“trust centre”),

ii) cover at least evaluation level “EAL 3” or “E 2” for technical components for certification services pursuant to Section 2 no. 12 b) and c) of the Signatures Act which are used within a

specially secured area,

- d) cover at least evaluation level “EAL 3” or “E 2” for signature application components pursuant to Section 2 no. 11 of the Signatures Act.

1.2. Requirements on the assessment of weak points/strengths of mechanisms

In the case of evaluation levels “EAL 4” and in the case of “EAL 3” pursuant to Section I no.

1.1. a) – c) i) and d), in addition to the measures prescribed for this evaluation level, evaluations shall be conducted against a high attack potential and a full misuse analysis shall be carried out. The strength of the security mechanisms must be assessed as “high” in the case of all products pursuant to Section I no. 1.1. a) – d) in the “E 3” and “E 2” case.

In derogation from this, for the identification mechanism using biometrical characteristics, an assessment of the security mechanisms as “average” shall suffice if these are used for identification in addition to knowledge data.

1.3. Requirements regarding algorithms

The algorithms and related parameters must be assessed as suitable pursuant to Section I no. 1.2. of this Annex.

2. Algorithms – publication and redefinition of suitability

The competent authority shall publish in the Federal Bulletin an overview of the algorithms and related parameters which are deemed suitable for creating signature keys, for hashing data that are to be signed or for producing and verifying qualified electronic signatures as well as the time until which the suitability is valid. The time should be at least six years after the time of assessment and publication. The suitability must be determined again annually or as the need arises. Suitability shall be established if within the defined period the possibility of an undetectable forgery of qualified electronic signatures or falsification of signed data can be excluded with near certainty on the basis of state-of-the-art findings. Suitability shall be established by the German Information Security Agency, taking account of international standards. Experts from industry and science shall be involved.

3. Security certifications for signature products

The certification of the fulfilment of the requirements by products for qualified electronic signatures shall state

- a) to which requirements pursuant to Section 17 of the Signatures Act and pursuant to Section 15 of this Ordinance the certification refers and under which conditions of use,
- b) which algorithms and related parameters pursuant to Section I no. 2 are used and until which time they are at least suitable, and
- c) according to which standard the products were evaluated and which mechanism strength was reached.

Copies of the evaluation report, of the assessment by the certification body and of the certification shall be deposited with the competent authority. Upon request, all other evaluation documents shall also be submitted to this body. In case of indications of shortcomings regarding evaluations or certified products and on a random basis, the competent authority may obtain expert reports by independent third parties as to whether the products were evaluated pursuant to this Annex and whether they meet the requirements of the Signatures Act and the Signatures Ordinance. Manufacturers, distributors and evaluation offices concerned must provide the necessary support. If they fail to do so or if it becomes evident that certified products were not sufficiently evaluated or do not meet requirements, the competent authority may declare issued certifications invalid.

4. Publication of the security certification for products

The competent authority shall publish in the Federal Gazette products for qualified electronic signatures which have been certified pursuant to Section I no. 3 by a body that is recognised pursuant to Section 18 of the Signatures Act. It shall be stated until which time at least the certification is valid. If a certification is declared invalid, the competent authority shall also publish this in the Federal Gazette and shall name the time from which this measure applies.

II. Ad Section 15 (5) of this Ordinance and pursuant to Section 17 (1) and (3) no. 1 of the Signatures Act (certification service providers notified pursuant to Section 4 (3) of the Signatures Act without voluntary accreditation)

For the evaluation of products pursuant to Section 15 (5), the requirements of Section I apply accordingly.

In derogation from this,

- products can be used which correspond to the standards pursuant to Section 15 (6),

- products can be used pursuant to Section 17 (2) and (3) no. 2 and 3 of the Signatures Act (or pursuant to Section I no. 1.1. c) and d) for which, instead of the certification, a manufacturer declaration is provided pursuant to Section 17 (4) of the Signatures Act.

Annex 2 (ad Section 12) – Costs –

Costs for official acts pursuant to Section 22 (1) of the Signatures Act

1.1 Costs pursuant to Section 22 (1) no. 1 of the Signatures Act

Item no.	Official act	€
1	Evaluation and issuance of an accreditation pursuant to Section 15 (1) of the Signatures Act	Time-based fee
2	Rejection of an application for accreditation pursuant to Section 15 (4) of the Signatures Act or cancellation or withdrawal of an accreditation pursuant to Section 15 (5) of the Signatures Act	Time-based fee
3	Full or partial rejection of a challenge in the context of the procedure pursuant to Section 15 (1) – (6) of the Signatures Act	2500
4	Review of evaluation reports and certifications pursuant to Section 15 (2) of the Signatures Act	3500
5	Measures in the case of cancellation or withdrawal of an accreditation or in the case of cessation of operations by an accredited certification service provider pursuant to Section 15 (6) of the Signatures Act	Time-based fee
6	Investigations and other measures pursuant to Section 19 of the Signatures Act	Time-based fee

1.2 Costs pursuant to Section 22 (1) no. 2 of the Signatures Act

Item no.	Official act	€
7	Issuance of a qualified certificate and its revocation pursuant to Section 16 (1) of the Signatures Act	500
8	Issuance of an attestation pursuant to Section 16 (3) of the Signatures Act	500

1.3 Costs pursuant to Section 22 (1) no. 3 of the Signatures Act

Item no.	Official act	€
9	Issuance of recognition as a certification body or evaluation and certification body pursuant to Section 18 (1) of the Signatures Act, pursuant to Section 15 (2) of the Signatures Act,	2500
10	Section 15 (7) of the Signatures Act,	2500
11	Section 17 (3) of the Signatures Act.	1000
12	Rejection of an application for recognition or cancellation or withdrawal of a recognition for activities pursuant to Section 15 (2) of the Signatures Act,	2500
13	Section 15 (7) of the Signatures Act,	2500
14	Section 17 (4) of the Signatures Act	1000
15	Full or partial rejection of a challenge in the context of the procedure pursuant to Section 18 (1) of the Signatures Act	1000

1.4 Costs pursuant to Section 22 (1) no. 4 of Signature Act

Item no.	Official act	€
16	Processing of a notification pursuant to Section 4 (2) and (3) of the Signatures Act and first review of adherence to the Signatures Act and to this Ordinance pursuant to Section 19 of the Signatures Act	Time-based fee
17	Random checks in the context of supervision pursuant to Section 19 (1) of the Signatures Act, in the case of the discovery of a violation of the provisions of the Signatures Act or of this Ordinance which apply to the operation of a certification service	Time-based fee
18	Non-random checks and other measures pursuant to Section 19 (1) of the Signatures Act in the case of a violation of the provisions of the Signatures Act or of this Ordinance which apply to the operation of a certification service	Time-based fee

1.5 Costs pursuant to Section 23 (1) of the Signatures Act

...

Item no.	Official act	€
19	Processing of a notification pursuant to Section 18 (1) sentence 1 of this Ordinance including the inclusion in the register of certificates pursuant to Section 18 (1) sentence 4 of this Ordinance	Time-based fee

2 Hourly rates and kilometre allowances for use of vehicles

Item no.	Hourly rate/kilometre allowance	€
20	Officials of administrative level or comparable employees	125
21	Officials of executive level or comparable employees	95
22	Officials of secretarial level or comparable employees	69
23	Use of vehicle	0.70 €/km