

Information about protection attachment accounts (P-Konto) General information on the new Act on the Attachment of Bank Accounts

On July 1, 2010 new legislation protecting debtors against the attachment of bank accounts comes into force. One of the new measures is the introduction of a protection attachment account (P-account).

You are now entitled to demand that an existing current account be converted into a P-account. In order to do this, you must make a personal application to your bank. Banks must convert the accounts within 3 working days at the latest. However, this does not mean that you now have a statutory entitlement to open a new account (including P-account).

You may only have **one** P-account. It is forbidden to have more than one P-account and anyone doing so is liable to prosecution. P-accounts may only be operated as single accounts. Joints accounts (e.g. held jointly by a married couple) cannot be operated as P-accounts but must be converted into two single accounts and then operated as two P-accounts.

You can apply for your current account to be converted into a P-account, even if it has already been attached. If the account is converted into a P-account within 4 weeks from date the attachment was served, then the P-account applies retrospectively from the date the attachment was served.

If you have a P-account, protection against attachment applies **to this account only**.

The bank is obliged to inform SCHUFA if an account is converted into a P-account, or if a P-account is closed or revoked. Banks may also request information from SCHUFA about whether the account holder already has a P-account (with another bank). This exchange of information is intended to prevent abuse. It has **no** effect on SCHUFA credit information about the account holder.

How much is protected? From the basic allowance to the increased allowance

The basic allowance

If the P-account is attached, the debtor receives an **automatic protection** against attachment **amounting to the basic allowance of EUR 1,028.89 per calendar month**. You may only take this amount out, however, if the credit balance of the account shows at least this amount. Basically, it only makes sense to have a P-account with a credit balance (in the black).

You may access the basic allowance even after an attachment has been served, i.e. transfers and direct debits can be carried out. The type of income (wages, social benefits, tax refund etc.) and the date of receipt of payment is irrelevant.

Obligation to pay out social benefits if the account is in the red

Even if your account is "in the red" you may access child benefit and social bene-

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fits in the full amount within 14 days from the date they are credited to your account (clearing protection). However, your bank is always allowed to debit the account charges from your P-account.

Important: No clearing protection exists for other types of credit payment (especially wages) if the account is in the red!

Higher allowance subject to confirmation:

The automatic basic allowance can be increased if you present the appropriate confirmation. If you are obliged by law to pay maintenance for one or several persons or if you receive social benefits for a third party (for your partner or step-child, for example), higher allowances apply:

- EUR 1,416.11 if you support one person
- EUR 1,631.84 if you support two people
- EUR 1,847.57 if you support three people
- EUR 2,063.30 if you support four people
- EUR 2,279.03 if you support five or more people.

Child benefit which is paid into the attached P-account is also protected against attachment, as well as any one-off social benefits (e.g. costs for a school trip, start-up equipment) - but only in the month in which the one-off benefits are paid.

Who can issue this confirmation? Local addresses and support centres

Lawyers, social services providers, family welfare offices, employers and officially registered debt counselling agencies may issue a confirmation about the higher allowance.

Note: Many banks accept a payment notification as proof of the number of persons for whom you receive benefits in your household. Your salary statement should be accepted as a confirmation if your salary is attached. Statements should suffice as proof of additional child benefit.

Note:

Many debt counselling offices no longer issue confirmations since they have too much other work and insufficient financing. It is advisable to phone beforehand to see whether the office responsible for you does issue confirmations. If not you will be told where you can obtain one.

If your bank does not accept the documents you submit or if you cannot find anyone locally who will issue a confirmation, then you should apply to the Local Court (Vollstreckungsgericht) in your area or - in the case of a public creditor - to the Vollstreckungsgericht in the area of the creditor.

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What do I need in order to apply for a confirmation/decision to unblock account?

The following documents are required in order to prove your eligibility for a one-off or permanently higher allowance:

- Proof of maintenance payments actually made (e.g. receipts, bank statements, confirmations etc,)
- Notifications of payment of regular social benefits (e.g. unemployment benefit (ALG I or ALG II), basic social assistance in accordance with the German Social Code Vol XII)
- Notifications of payment of one-off social benefits (e.g. costs for a school trip, start-up equipment etc.)
- Proof of receipt of child benefit (e.g. bank statement)

You can find a specimen confirmation under

www.f-sb.de/service_ratgeber/pkonto/P-Konto_Bescheinigung_2011.pdf

Individual unblocking of accounts based on the table of attachable amounts

If wages, pensions, sickness benefit, unemployment benefit or income from self-employed work are paid into your attached account in excess of the automatically protected basic allowance of EUR 1028.89 or the higher allowance to take into account maintenance obligations, you must apply to your local court (Vollstreckungsgericht) or the local court in the town or city where the public creditor is based in order to apply for the account to be unblocked individually in line with the table of attachable amounts.

You should also do this if you have extra costs for health or occupational (e.g. high commuting expenses) reasons.

Transfer to the following month

If the credit balance protected against attachment has not been used up by the end of the month, the remaining balance is transferred to the next month and may be disposed of in addition to the credit balance protected for that month. In the following month you must spend at least the amount carried forward.

Remember:

More detailed information about P-accounts can be found in the joint declaration of the German Association of Debt Advisors and the ZKA (German Central Credit Committee) under:

<http://schuldnerberatung-hessen.de/tagung-kontopfaendung/P-Konto-Information%20fuer%20Betroffene.pdf>

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