The Law on the Contergan Foundation for Disabled People
(Contergan Foundation Act – ContStifG)
as revised by the Third Amendments Act 2013

Section 1

General Provisions

§ 1
Name of the foundation

§ 2
Purpose of the foundation
The purpose of the foundation is to help disabled people whose deformities can be linked to their mothers taking medicinal products during pregnancy which contain thalidomide from the Grünenthal GmbH, Aachen (previously Chemie Grünenthal GmbH in Stolberg)

1. Providing benefits
2. Providing assistance by promoting or conducting research and trial projects in order to support their participation in community life and to alleviate the long term impacts of incurred impairments.

§ 3
Tax Concessions
The foundation exclusively and immediately pursues any tax deductible objectives in accordance with §§ 51 to 68 of the German Fiscal Code.
§ 4

Assets within the foundation

(1) The assets within the foundation consist of:

1. Funds made available to the federation by the federal government in order to cover financial compensation and Contergan pensions pursuant to § 13 sec. 1 as well as essential administrative expenses;

2. Funds amounting up to 30 million Euros annually which the federal government uses for benefits in order to cover specific needs;

3. A financial donation amounting to 50 million Euros granted by the Grünenthal GmbH which must be paid by 15th July 2009;

4. Funds amounting to 51,129,000 Euro which the federal government allocated pursuant to § 4 sec. 1 no. 1 of the Establishment Act;

5. The contributions specified in section 2 and the capital generated from them.

(2) The foundation is entitled to accept donations from third parties. The foundation strives to acquire additional donations from third parties.

§ 5

Bodies within the foundation

Bodies within the foundation include:

1. The foundation board

2. The foundation’s Management Board

§ 6

Foundation board

(1) The foundation board consists of a minimum of five and a maximum of seven members. Representation is admissible. Three members are appointed by the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth in agreement with the Federal Ministry of Finance and the Federal Ministry of Labour and Social Affairs. Another two members are appointed by the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth on the basis of a proposal from individuals outlined in § 2. The Federal Ministry of Family Affairs, Senior Citizens, Women and Youth can appoint another two members from the academic sector. Sentences 3 to 5 also apply to the representatives.
(2) The foundation board elects the chairman and the deputy chairman from the members designated by the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth, acting by simple majority. Repeated election is admissible.

(3) The term of office of the foundation board members and their representatives is five years. If a member or his/her deputy resigns before the end of his/her tenure, a replacement is appointed for the remaining term of office. Repeated appointment is allowed.

(4) The members of the foundation board are honorary members; they are entitled to be compensated for their necessary expenses.

(5) The foundation board operates on the basis of its by-laws. Amendments are determined by way of a simple majority vote. Meetings and proceedings within the foundation board are public. Negotiations are only made private if this is required to serve the greater public good or legitimate interests of individuals; negotiations regarding topics which fulfil these requirements, must also be held in private sessions. Decisions made in private meetings in accordance with sentence 3 must be announced after to the public or if this is unsuitable, in the next public meeting; provided that this does not conflict with public interest or the legitimate interests of an individual.

(6) The foundation board makes decisions regarding all fundamental issues which belong to the foundation’s field of responsibility. It oversees the activities of the foundation's board of management. The by-laws specify further details.
(7) The foundation board compiles guidelines for the appropriation of funds so long as appropriate expenditure has not already been stipulated by this act; these guidelines require approval by the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth.

(8) The foundation board constitutes a quorum for elections according to section 2 and resolutions according to section 5 if half of the members are present. Further provisions regarding required majorities and quorums are determined by the by-laws.

§ 7
The foundation’s Management Board

(1) The foundation’s Management Board consists of the chairman and a maximum of two additional members. A member of the foundation’s Management Board must be entitled to benefits in accordance with this law.

(2) The members of the foundation’s Management Board are appointed by the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth in agreement with the Federal Ministry of Finance and the Federal Ministry of Labour and Social Affairs upon approval by the foundation board.

(3) The term of office for the foundation’s Management Board is five years. If a member resigns before the end of his/her tenure, a replacement is appointed for the remaining term of office. Repeated appointment is admissible.

(4) The members of the foundation’s Management Board are honorary members; they are entitled to be compensated for their necessary expenses.

(5) The foundation’s Management Board carries out any decisions made by the foundation board and conducts the foundation’s business. In particular, these business transactions include allocating the foundation’s funds and overseeing the appropriate and economic processes within the foundation. It represents the foundation both judicially and extra-judicially.

(6) For support in fulfilling its tasks, the board of management can employ two full-time managing directors in agreement with the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth and the Federal Ministry of Finance.
(7) The by-laws shall specify further details.

§ 8
By-laws
The foundation board can amend the by-laws with the approval of the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth in agreement with the Federal Ministry of Finance.

§ 9
Appropriation of funds
The foundation’s funds may only be used for the foundation’s purposes.

§ 10
Supervision, budgeting, auditing of accounts
(1) The foundation is under the supervision of the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth.

(2) The foundation must prepare in good time a budget before the beginning of each fiscal year. The budget and the annual financial statement require the approval of the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth. The by-laws shall specify further details.

(3) The auditing authority is The German Federal Court of Auditors.
Section 2
Contergan Benefit Claims

§ 11
Allocation of the foundation’s funds
Actions outlined in this section must be paid from the foundation’s assets. The following must apply:

1. For the annual special payments awarded to individuals eligible for benefits pursuant to §§ 12 and 13
   a. The funds specified in § 4 sec. 1 no. 3 and the earnings generated from these assets as well as
   b. The funds specified in § 4 sec. 1 no. 4 amounting to 50 million Euros and the earnings generated from these assets since 1st January, 2009;
2. For the benefits to cover specific needs the funds specified in § 4 section 1 number 2, unless in an individual case these benefits are not undertaken by another benefactor;
3. For the remaining benefits specified in this section, the funds in accordance with § 4 sec. 1 no. 1; excluding the funds for the essential administrative expenses.

§ 12
Beneficiaries
(1) Benefits for those with deformities can be linked to mothers taking medicinal products during pregnancy which contain thalidomide from the Grünenthal GmbH, Aachen and are granted the status of a disabled person if they were alive at the time when the Establishment Act of the Federation came into force and according to § 13 sec. 5 sentence 2 to their legal heirs.

(2) If benefits were not asserted according to § 13 of the Establishment Act within the provided period of time, the Contergan pensions and a financial compensation can be applied for the period as of 1st July 2009.
§ 13

Type and the range of benefits available to disabled people

(1) The persons stated in § 12 are subject to benefits for financial compensation, benefits to cover specific needs and subject to section 2 sentence 3 regarding the lifelong Contergan pension as well as an annual special payment which is granted for the first time for the year 2009. Benefits covering specific needs and special annual payments are only made as long as funds according to § 11 sentence 2 number 1 and 2 are available in the foundation’s assets.

(2) The amount of financial compensation, the Contergan pension and the annual special payment are determined by the severity of the bodily injuries and the bodily function disorders that have developed as a result of these injuries. Financial compensation amounts to a minimum of 1,278 Euros and a maximum of 12,782 Euros and as from 1st January 2013, the monthly Contergan pension amounts to a minimum of 612 Euros and a maximum of 6,912 Euros. In mild cases, the benefits must be limited to financial compensation. The amount of the Contergan pension is changed by the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth in accordance with the way the pensions within statutory pension insurance are altered. This alteration specified in sentence 4 is respectively carried out at the same time as when the pensions within the statutory pension insurance are adjusted.

(3) The Contergan pension must be capitalised upon application as long as the amount is used for the acquisition or for the economic strengthening of one’s own property for residential purposes. §§ 72, 73, 74 sec. 3 sentence 1, §§ 75, 76 and 77 sec. 1 sentence 3 and sec. 3 of the Federal War Victim’s Relief Act apply accordingly. § 75 sec. 1 sentence 2 of the Federal War Victim’s Relief Act applies on the condition that the sale and charge of the leasehold, the condominium or the building lease acquired or economically strengthened with the financial settlement are only permissible with the approval of the foundation within the period when the Contergan pension was capitalised. The beneficiary must bear the cost of registering a restraint and this is specified in § 75 sec. 1 sentence 2 to 4 of the Federal War Victim’s Relief Act which is stated in the land register. Furthermore, the Contergan pension must be capitalised upon application if this is in the legitimate economic interest of the disabled person. In addition, the
Contergan pension can be partially capitalised upon application if this is in the interest of the disabled person. The capitalisation is limited to a period of a maximum of ten years for the Contergan pension. Eligibility for the Contergan pension, which is replaced by the financial settlement, expires for the duration of the period where the financial settlement is then granted, with the expiration of the month, which follows the month of settlement payment.

(4) Contergan pension payments begin during the month of application at the earliest. If the application is filed within three months after the Establishment Act comes into effect, the Contergan pension is granted as of the period in time of coming into effect. Annual special payments begin in accordance with section 1 sentence 1 in the year in which the application for Contergan pension was filed.

(5) A right to the benefits stated in section 1 cannot be delegated, pledged or seized. Rights to financial compensation, to the Contergan pension and to the annual special payments are only feasible on the basis of hereditary circumstances which should be payable to the beneficiary right up to the point of death and only given to a third person on the condition that they are their spouse, life partner, children or parents.

(6) Further details are outlined in the by-laws and policies. In particular, the by-laws make provisions regarding the requirements and the extent of the capitalisation of the Contergan pension according to section 3 sentence 5 and 6 as well as regarding the calculation mode of the capital sum. In particular, the guidelines must lay down the criteria for judging on what basis the benefits are allocated and be in accordance with the section based on the amount of available funds and the ways in which methods for granting special need benefits should be further developed; these guidelines are issued by the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth.

(7) Beneficiaries, whose Contergan pension was capitalised according to section 3, also experience increases in the Contergan pension.

(8) The provisions of the Federal Administrative Procedures Act apply accordingly for reclaiming unjustly paid benefits. § 118 sec. 3 and 4 of Book VI of the Social Code applies accordingly.
§ 14
Interest payment
As of application, interest amounting to 2 per cent above the base rate pursuant to § 247 of the German Civil Code must be paid annually on financial compensation according to § 13 section 2.

§ 15
Special provision for cases abroad
(1) If the beneficiary's or his/her legal representative's place of residence or permanent dwelling is situated outside of the territory to which this law applies, they shall only receive benefits according to the provisions of this act, if they declare beforehand in writing that they irrevocably renounce the right to assert possible claims against the Grünenthal GmbH, its shareholders, managing directors and employees which are reduced to taking medicinal products containing thalidomide.

(2) For benefits according to this law, payments which have already been made by other potentially responsible parties based on the consumption of medicinal products containing thalidomide are to be taken into account. Payments, which are made by others, in particular by foreign countries, based on the consumption of medicinal products containing thalidomide are offset against the financial compensation and the Contergan pension.
§ 16
Proceedings
(1) Benefits are granted upon application. The annual special payments are made to individuals who receive a Contergan pension without a separate application.

(2) A commission consisting of at least five members that must be established within the foundation’s Management Board, decides whether a claim exists according to this section and assesses the claim according to the guidelines.

(3) The chairman of the commission must be qualified to hold the position of a judge; furthermore, the commission consists of medical specialists from various fields of expertise. If necessary, several commissions can be established.

(4) The members of the commission are appointed by the foundation’s board of management.

(5) In cases of doubt in deciding upon whether or not there is a deformity in accordance with § 12, the commission must obtain an expert’s opinion.

(6) The foundation’s Management Bard grants the benefits based on the decision and the assessment of the commission according to section 2; with the exception of benefits for special needs, in accordance with the guidelines pursuant to § 13 section 6 by means of a written administrative decision. Benefits for special needs are granted by the foundation’s Management Board without a decision and assessment by the commission by means of a written administrative decision.

§ 17
The handling of benefits in accordance with this law when other laws are implemented
Benefits according to this section are free of income tax. Rights to such benefits do not pertain to other assets as defined by the Valuation Tax Act.
§ 18
Relation to other rights

(1) Benefits according to this act are left out of consideration when calculating or taking into account income, miscellaneous receipts and assets in accordance with other laws, in particular Book II, III, V and XII of the Social Code and the German Civil Code.

(2) Obligations of other parties, in particular those with the obligation to support and the institution for social welfare or other social benefits are not affected by this act. The transfer of the beneficiary’s claims for maintenance against the beneficiary’s spouse, life partner, children or parents in accordance with § 94 of Book XII of the Social Code represents an undue hardship according to § 94 section 3 sentence 1 number 2 of Book XII of the Social Code. For aid according to Chapter Five to Nine of Book XII of the Social Code, the beneficiary and the beneficiary’s spouse or life partner, from whom the beneficiary is not separated, cannot be expected to procure the financial means from the income in accordance with § 19 section 3, § 87 section 1 of Book XII of the Social Code. The application of assets belonging to the beneficiary and the beneficiary’s spouse or life partner, from whom the beneficiary is not separated, in accordance with § 19 section 3, § 90 section 3 sentence 1 of Book XII of the Social Code represents a hardship. Benefits from other positions of power based on legal provisions, for which there is no entitlement, may not be refused because benefits are provided for, according to this act.
Section 3
Project funding

§ 19
Financial funding
The following must be used as measures in accordance with this section:
1. The proceeds from the funding according to § 4 sec. 1 no. 3, which do not fall under § 11 sentence 2 no. 1;
2. Contributions according to § 4 sec. 2, unless otherwise stipulated by the benefactor(s).

§ 20
Funding measures
(1) The foundation can fund, conduct or implement individual scientific research projects, development and testing of specific treatment methods and other measures in order to achieve the aims outlined in § 2 no. 2.

(2) The funding measures granted before this act comes into effect must be followed through.

(3) There is no entitlement to aid from funds from the foundation.

§ 21
Spending plan
The foundation board prepares a spending plan for two fiscal years upon approval by the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth which defines the financial framework for the funding. The Management Board determines the execution of the plan for specific individual cases.
Section 4

Final and transitional measures

§ 22
Proceedings
Insofar as no specific procedural arrangements have been made according to this act, the Federal Administrative Procedure Act applies.

§ 23
Legal process
There is recourse to the administrative courts for disputes regarding claims according to this act.

§ 24
Transitional regulation
The term of the acting members of the foundation’s bodies in office coming into effect ends with the appointment of new members within the foundation.

§ 25
Report
The Federal Government submits a report to the German Federal Parliament on the effects of this act of these provisions every two years as well as on the possibility for important further development, if necessary. This report cannot comprise of any personal data.