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Terms and conditions of employment, including for posted workers, as stipulated by law or statutory instrument (including information on working hours, paid leave, holiday entitlements, rights and obligations regarding overtime work, health checks, termination of contracts, dismissal and redundancies)

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Modul	Sachverhalt
Leistungsschlüssel	99154011000000
Leistungsbezeichnung I	Terms and conditions of employment, including for posted workers, as stipulated by law or statutory instrument (including information on working hours,

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	paid leave, holiday entitlements, rights and obligations regarding overtime work, health checks, termination of contracts, dismissal and redundancies)
Leistungsbezeichnung II	Terms and conditions of employment
Typisierung	11 - SDG: Allgemeine Rechte und Pflichten
Quellredaktion	Bund
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt
Leistungsgruppierung	SDG allgemeine Rechte und Pflichten (154)
Verrichtungskennung	
SDG-Informationsbereich	Gesetzlich oder durch Rechtsverordnung geregelte Beschäftigungsbedingungen — auch für entsandte Arbeitnehmer — (einschließlich Informationen über Arbeitsstunden, bezahlten Urlaub, Urlaubsansprüche, Rechte und Pflichten bei Überstunden, Gesundheitskontrollen, Beendigung von Verträgen, Kündigung oder Entlassungen)
Lagen Portalverbund	Jobsuche und Arbeitslosigkeit (1040300)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	18.11.2022
Fachlich freigegeben durch	Federal Ministry of Labour and Social Affairs
Handlungsgrundlage	
Teaser	If you are employed as a worker in Germany, you have certain rights and obligations. Here you can find information on the legal conditions, e.g. statutory working time or unemployment benefits.
Volltext	Remuneration

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Workers are entitled to payment of the legal minimum wage in line with the Act Regulating a General Minimum Wage (Mindestlohngesetz). The legal minimum wage is adjusted at regular intervals by means of a federal government regulation based on a proposal from the Minimum Wage Commission.

Information on the current amount and calculation of the legal minimum wage is available on the website of the Federal Ministry of Labour and Social Affairs and on the website of the customs administration. The customs administration is responsible for monitoring compliance with the provisions of the Act Regulating a General Minimum Wage.

In addition, workers may be entitled to collectively agreed remuneration conditions if the worker and their employer are bound by collective agreements or a collective agreement is deemed to be binding by a general declaration in accordance with the Collective Agreement Act (Tarifvertragsgesetz) or a regulation in accordance with the Posted Workers Act (Arbeitnehmer-Entsendegesetz).

In the care sector and in the supply of staff sector, minimum wages may be specified by means of a regulation. In the case of collective agreements that are generally binding nationally or regulations in the supply of staff or care sector, the customs administration authorities monitor compliance with minimum wage requirements. The customs administration authorities provide information on the minimum wages that they monitor on their website.

Working time

Within the framework laid down by the Working Time Act (Arbeitszeitgesetz), weekly working time may be divided across the individual working days by means of a collective agreement or an individual contract. The start and end of daily working time, as well as breaks, can also be specified. In this case, the employer must take account of the extensive co-determination right of the works council as defined in Section 87(1)(2) of the Works Constitution Act (Betriebsverfassungsgesetz).

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Severely disabled persons are entitled to adequately structured working time in consideration of their requirements (Section 164(4)(4) of the Ninth Book of the Social Code (Sozialgesetzbuch IX).

Maximum working times

The amount of time to be worked and when this work is to be provided essentially depends on the collective, works or employment agreement on which the respective employment relationship is based.

The maximum permissible working time is primarily defined by the Working Time Act (Arbeitszeitgesetz) as well as by other special working time protection provisions, e.g. by the Protection of Young People at Work Act (Jugendarbeitsschutzgesetz).

The basic daily maximum working time is 8 hours per working day. Working days are Monday to Saturday.

The working time per working day may be extended to up to 10 hours if the working time is balanced out so that an average of 8 hours per working day is not exceeded over a period of 6 months.

On-call service and standby duty are also considered working time when calculating the maximum permissible working time.

If workers are employed by multiple employers, the total working times must not exceed the maximum working times.

Breaks

In the event of a working time of more than 6 hours, a break of at least 30 minutes must be provided and, for a working time of more than 9 hours, a break of at least 45 minutes is required.

This minimum break time can also be divided into several breaks however. In this case, each individual break must always be at least 15 minutes. No worker

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may work for longer than 6 hours without a break.

Rest periods

At the end of the working time, the worker must be given an uninterrupted rest period of at least 11 hours.

The 11-hour rest period can be reduced by up to 1 hour in hospitals and similar establishments as well as in certain operations if the reduction in the rest period is balanced out. For example, this also applies to restaurants, catering and accommodation facilities, transport services or agriculture.

Employment on Sundays and public holidays

In Germany the weekly rest day is generally Sunday. In principle, the employment of workers on Sundays and public holidays is prohibited. There are exceptions, however, such as jobs in hospitals, emergency and rescue services, transport services or restaurants. If, under exceptional circumstances, certain work does also need to be carried out on Sundays and public holidays, workers must be given a replacement rest day soon afterwards. In addition, at least 15 Sundays a year must be kept work-free.

The parties to the collective agreement and works council partners may agree on certain deviations from the aforementioned rules on working time.

Health checks and health examinations

Workers who work nights, i.e. who work primarily between 11 pm and 6 am, are entitled to undergo an occupational health examination before the start of employment and then at regular intervals thereafter. After the age of 50, workers who work nights are entitled to this at yearly intervals. The employer is required to cover the costs of the examinations.

Young people are also entitled to medical examinations if the corresponding requirements are met. For example, this includes the right to an initial examination, the first follow-up check and an annual

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follow-up check. The employer must inform the young person of this option in good time.

Holiday

The minimum amount of holiday under the Federal Leave Act (Bundesurlaubsgesetz) is 24 days a year based on a 6-day week. There may be further holiday entitlements based on special legal (e.g. Section 208 of the Ninth Book of the Social Code) or other regulations, such as collective agreements or employment contracts.

Fixed-term employment contracts

Fixed-term contracts may only be entered into if this is expressly permitted by law. The Part-Time and Fixed-Term Employment Act (Teilzeit- und Befristungsgesetz) contains general rules on fixed-term employment contracts.

A fixed-term employment contract is only valid if it has been agreed in writing. A fixed-term employment contract generally ends without notice of termination being given. It can only be terminated by way of ordinary termination, i.e. with notice, if this is agreed between the parties to the employment contract or in a collective agreement.

There must always be an objective reason for a fixed-term employment contract. The Part-Time and Fixed-Term Employment Act contains a non-exhaustive list of possible objective reasons. This includes employment to cover for someone else, for example.

Fixed terms without an objective reason of up to 2 years are also permitted and may be extended three times. This is subject to the condition that there has not previously been a fixed-term or permanent employment relationship with the same employer (what is known as an Anschlussverbot, i.e. a ban on the misuse of such contracts). A collective agreement may contain rules concerning the maximum fixed term and the number of extensions of fixed-term contracts without an objective reason that differ from the law.

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In addition, the Part-Time and Fixed-Term Employment Act contains special rules for fixed terms without an objective reason in newly established undertakings and with workers over 52 years of age. In addition to the Part-Time and Fixed-Term Employment Act, there are special legal regulations on fixed-term employment contracts for certain groups of people, particularly in the Act on Fixed-Term Contracts in Science (Wissenschaftszeitvertragsgesetz).

The unlawful establishment of a fixed-term employment contract leads to a permanent employment relationship. A worker seeking a judicial review of a fixed-term contract can initiate legal proceedings within 3 weeks of the expiry of the fixed-term contract.

Part-time work

In general, an employer must consider a workers request to amend the duration and location of their current contractual working time.

Workers whose employment contract has been in place for more than 6 months can request a reduction in their contractually agreed working hours. They must notify their employer of their request to work part time in text form, e.g. by email, 3 months before they would like it to start.

A legal entitlement to permanent part-time employment is subject to the condition that the employer regularly employs more than 15 workers.

In the case of employers who regularly employ more than 45 workers, there is also a legal entitlement to temporary part-time work (Brückenteilzeit). In this case, the worker automatically returns to the originally agreed working time once the reduction in working time that was agreed for a fixed period, i.e. between 1 and 5 years, comes to an end.

The employer may reject the workers request to work part time for operational reasons. In the case of

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temporary part-time work, a certain reasonable limit also applies to employers that regularly employ between 46 and 200 workers.

The employer can adjust the distribution of the working time if business interests significantly outweigh the interests of the worker and the employer announces the adjustment no later than 1 month prior.

Part-time workers who wish to extend their working time and notify the employer of this in text form must be given preference when recruiting for a corresponding vacant position. Exceptions only apply if this is not possible because of urgent operational reasons or working time requests made by other workers, if the vacant position is not appropriate or if the worker is not as well-suited to the vacant position as another applicant. The employer is required to provide evidence of such exceptions.

On-call work

For on-call work, a specific working time budget is agreed for a future period. The employer then calls on workers to work as the work arises.

In the case of on-call work, only the distribution of the previously agreed working time budget is variable. By contrast, the weekly working time must be stipulated by contract; if it is not, 20 hours is automatically deemed to have been agreed. The daily duration of the working time must also be stipulated by contract; if this does occur, the individual period of on-call work must last at least 3 hours. There must be at least 4 days between being called on to work and the work starting.

Under certain circumstances, collective agreements may contain deviations.

Protection against dismissal

Certain rules apply to terminating the employment relationship. The Protection Against Dismissal Act (Kündigungsschutzgesetz) applies in undertakings with

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more than 10 workers. In this case, the employer may only terminate the employment relationship if there are grounds for dismissal.

Grounds for dismissal permitted by the Protection Against Dismissal Act include reasons relating to the worker personally or their conduct as well as operational reasons.

Both the employer and the worker must comply with the statutory or agreed notice periods.

Termination without notice is only permissible if there is good cause.

Notice of termination must be given in writing.

In addition to the general protection against dismissal, there is special protection against dismissal for certain categories of persons requiring special protection. This applies, for example, to pregnant women or severely disabled persons.

A worker seeking a judicial review of the validity of their dismissal can initiate legal proceedings concerning protection against dismissal within 3 weeks of receiving written notice of termination.

Posted workers

Posted workers are entitled to certain conditions of employment, which are laid down in laws or in certain generally applicable collective agreements. The specific conditions of employment that apply to posted workers are regulated by the Posted Workers Act. In particular, the applicable conditions of employment include:

- remuneration;
- minimum paid annual holiday;
- maximum working times and minimum rest periods;
- conditions for supplying workers;
- safety, health protection and hygiene in the workplace, including housing requirements;
- protective measures concerning working and

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employment conditions for pregnant women and workers who have recently given birth, children and young people;

- equal treatment and anti-discrimination provisions;
- under certain conditions: allowances and reimbursements of expenses for travel, food and accommodation on business trips.

A detailed description of the applicable working conditions can be found on the website of the customs authority (Generalzolldirektion).

Help for the unemployed

Unemployment benefit is an insured benefit. It is financed by contributions from workers and their employers who are required to pay social insurance contributions. Any individual who has been insured for the legally prescribed minimum period is legally entitled to the benefit upon occurrence of the insured event.

Individuals who are unemployed, have personally registered as unemployed with the Federal Employment Agency (Agentur für Arbeit) and have fulfilled the eligibility period are entitled to unemployment benefit.

The right to unemployment benefit is regulated in the Third Book of the Social Code (Sozialgesetzbuch III).

The responsible benefit provider is the Federal Employment Agency or the responsible local employment agency.

Basic support for jobseekers (unemployment benefit II, ALG II for short)

Eligible persons who are fit for work but who cannot cover their living costs independently (through earnings or assets) are entitled to benefits to cover their living costs (unemployment benefit II) if all other requirements are met.

This basic support for jobseekers provides a minimum

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source of livelihood. The benefits are not dependent on contributions and, in principle, are available to all eligible persons who are fit for work.

Job centres are responsible for ALG II.

The right to basic support for jobseekers is regulated in the Third Book of the Social Code.

https://zoll.de/DE/Unternehmen/Arbeit/Arbeitgeber-mit-Sitz-ausserhalb-Deutschlands/arbeitgeber-mit-sitz-ausserhalb-deutschlands_node.html

<https://www.bmas.de/DE/Arbeit/Arbeitsrecht/Mindestlohn/mindestlohn.html>

<https://bmas.de/EN/Home/home.html>

<https://www.gesetze-im-internet.de/jarbschg/index.html>

https://zoll.de/EN/Home/home_node.html

<https://jobcenter-ge.de/>

<https://jobcenter-ge.de/>

<https://www.gesetze-im-internet.de/kschg/index.html>

https://www.gesetze-im-internet.de/tzbfgr/_12.html

https://zoll.de/DE/Fachthemen/Arbeit/Mindestarbeitsbedingungen/Mindestlohn-Mindestlohnengesetz/mindestlohn-mindestlohnengesetz_node.html

https://www.gesetze-im-internet.de/englisch_milog/index.html

<https://www.gesetze-im-internet.de/milog/>

https://zoll.de/EN/Home/home_node.html

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<https://www.gesetze-im-internet.de/jarbschg/index.html>

<https://www.gesetze-im-internet.de/arbzg/index.html>

https://zoll.de/DE/Fachthemen/Arbeit/Mindestarbeitsbedingungen/Mindestlohn-AEntG-Lohnuntergrenze-AUEG/mindestlohn-aentg-lohnuntergrenze-aueg_node.html

<https://www.gesetze-im-internet.de/arbzg/index.html>

Erforderliche Unterlagen

Voraussetzungen

Kosten

Verfahrensablauf

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Bearbeitungsdauer
Frist
**weiterführende
Informationen**

- Labor law - employee rights through laws and regulations
 - Part-time work regulations
 - Termination regulations
 - Posted workers regulations
 - Information for maritime workers
 - Help for the unemployed
 - Minimum pay pursuant to the Minimum Wage Act
 - Working Time Act
 - Act on the Protection of Young People at Work
 - Maternity Protection Act (Mutterschutzgesetz)
 - Part-Time and Fixed-Term Employment Act
 - Protection Against Dismissal Act
 - Posted Workers Act
 - Maritime Labour Act (Seearbeitsgesetz)
 - Basic support for job seekers
- <https://www.gesetze-im-internet.de/kschg/index.html>
https://www.arbeitsagentur.de/datei/merkblatt-fuer-arbeitslose_ba015368.pdf
<https://www.gesetze-im-internet.de/tzbfgr/>
https://www.gesetze-im-internet.de/aentg_2009/
<https://www.gesetze-im-internet.de/seearbg/>
<https://www.gesetze-im-internet.de/jarbschg/>
<https://www.gesetze-im-internet.de/tzbfgr/>
https://www.gesetze-im-internet.de/muschg_2018/
https://zoll.de/DE/Unternehmen/Arbeit/Arbeitgeber-mit-Sitz-ausserhalb-Deutschlands/arbeitgeber-mit-sitz-ausserhalb-deutschlands_node.html
<https://deutsche-flagge.de/de>
<https://www.arbeitsagentur.de/en>
https://bmas.de/SharedDocs/Downloads/DE/Publikationen/a120-arbeitszeitgesetz.pdf?__blob=publicationFile&v=1
<https://www.gesetze-im-internet.de/arbzg/>
<https://www.gesetze-im-internet.de/arbzg/>
<https://www.arbeitsagentur.de/en>
https://zoll.de/EN/Businesses/Work/Foreign-domiciled-employers-posting/Minimum-conditions-of-employment/Minimum-pay-pursuant-Minimum-Wage-Act/minimum-pay-pursuant-minimum-wage-act_node.html
https://www.gesetze-im-internet.de/aentg_2009/

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https://www.gesetze-im-internet.de/muschg_2018/
<https://www.gesetze-im-internet.de/kschg/index.html>
https://zoll.de/DE/Fachthemen/Arbeit/Mindestarbeitsbedingungen/Mindestlohn-Mindestlohngesetz/mindestlohn-mindestlohngesetz_node.html
https://deutsche-flagge.de/en?set_language=en
https://bmas.de/SharedDocs/Downloads/DE/Publikationen/a707-klare-sache-jugendarbeitsschutz-und-kinderarbeitsschutzverordnung.pdf?__blob=publicationFile&v=1
<https://bmas.de/DE/Arbeit/Arbeitsrecht/arbeitsrecht.html>
<https://bmas.de/DE/Service/Publikationen/Broschuere/A163-kuendigungsschutz.html>
<https://www.gesetze-im-internet.de/milog/>
<https://bmas.de/EN/Labour/Labour-Law/labour-law-art.html>
<https://bmas.de/DE/Themen/Arbeitsrecht/Mindestlohn/mindestlohn.html>
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<https://bmas.de/EN/Labour/Labour-Law/labour-law-art.html>
https://www.gesetze-im-internet.de/englisch_seearbg/index.html
https://www.gesetze-im-internet.de/sgb_2/
<https://www.gesetze-im-internet.de/jarbschg/>
https://www.gesetze-im-internet.de/sgb_2/

Hinweise

Rechtsbehelf

Kurztext

Ansprechpunkt

Zuständige Stelle

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Formulare

Ursprungsportal

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