

99006045129000

Dismissal during maternity leave, parental leave and care leave - applying for a declaration of admissibility

Heruntergeladen am 09.06.2025

<https://fimportal.de/xzufi-services/6005251/L100009>

Modul	Sachverhalt
Leistungsschlüssel	99006045129000
Leistungsbezeichnung I	Dismissal during maternity leave, parental leave and care leave - applying for a declaration of admissibility
Leistungsbezeichnung II	Dismissal during maternity leave, parental leave and care leave - applying for a declaration of admissibility
Typisierung	3 - Bundesaufsichtsverwaltung: Regelung
Quellredaktion	Sachsen
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	
Leistungsgruppierung	

Modul	Sachverhalt
Verrichtungskennung	
SDG-Informationsbereich	
Lagen Portalverbund	
Einheitlicher Ansprechpartner	
Fachlich freigegeben am	
Fachlich freigegeben durch	
Handlungsgrundlage	• § 17 [Gesetz zum Schutz von Müttern bei der Arbeit, in der Ausbildung und im Studium (Mutterschutzgesetz – MuSchG)](https://www.gesetze-im-internet.de/muschg_2018/) – Kündigungsschutz • § 18 [Bundeselterngeld- und Elternzeitgesetz (BEEG)](http://www.gesetze-im-internet.de/beeg/_18.html)– Kündigungsschutz • § 5 [Pflegezeitgesetz (PflegeZG)](http://www.gesetze-im-internet.de/pflegezg/)– Kündigungsschutz • § 2 Absatz 3 [Familienpflegezeitgesetz (FamilienpflegeZG)](https://www.gesetze-im-internet.de/fpfzg/)– Familienpflegezeit • [Sächsisches Verwaltungskostengesetz (SächsVwKG)](https://www.revosax.sachsen.de/vorschrift/18086--SaechsVwKG) • [Sächsisches Kostenverzeichnis (SächsKVZ)](https://www.revosax.sachsen.de/vorschrift/19330-Zehntes-Saechsische-Kostenverzeichnis), lfd. Nr. 69, Tarifstelle 1 – Mutterschutz und Elternzeit • [Allgemeine Verwaltungsvorschrift zum Kündigungsschutz bei Elternzeit](https://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_03012007_204292603000.htm)
Teaser	If you wish to dismiss employees who are subject to special protection against dismissal, you must apply for a declaration of admissibility prior to the dismissal.
Volltext	If you wish to dismiss employees who are subject to

Modul

Sachverhalt

special protection against dismissal, you must apply for a declaration of admissibility prior to the dismissal.

The following groups of people are subject to special protection against dismissal:

- Women
 - during pregnancy
 - 4 months after a miscarriage after the 12th week of pregnancy,
 - until the end of the protection period after the birth,
- Parents on parental leave,
- Persons caring for a relative in need of care.

Please note the special features of the different dismissal protection rules for these groups of people:

- For carers, protection against dismissal applies not only during the period of leave for caring, but also as soon as you are notified that you will be unable to work. The protection applies for a maximum of 12 weeks before the announced start date. The protection against dismissal also applies not only when care is provided, but also when care is organised. Under certain conditions, employees can be released from work for up to 10 days for this purpose.
- Protection against dismissal for parents on parental leave begins as soon as the application is submitted.
- There is a special ban on dismissal for parents
 - 8 weeks before the start of parental leave if the child is under 3 years old.
 - 14 weeks before the start of parental leave if the child is between 3 and 8 years old.

The highest state authority responsible for occupational health and safety or the body designated by it will only grant you approval if a verifiable reason for cancellation can be proven. The competent authority in the Free State of Saxony is the State Directorate of Saxony.

Modul

Sachverhalt

****Note:**** For companies that are subject to mining supervision, the Sächsische Oberbergamt is generally the supervisory authority responsible for protection against dismissal.

False information in your application can lead to criminal prosecution.

Erforderliche Unterlagen

- Written application with reasons
 - Address of the person to be dismissed
 - Contract of employment
 - If your livelihood is at risk: Proof that your economic existence is jeopardised (e.g. expert opinion of a sworn balance sheet expert, under certain circumstances: Balance sheets and profit and loss accounts)
 - In the event of business closure, if available:
 - Shareholder resolution on the closure of the business
 - business deregistration
 - Copy of the cancellation of the lease agreements for the business premises and similar documents

If the declaration of admissibility of the cancellation is requested for reasons other than those mentioned, please explain these and provide suitable evidence.

The competent authority may request further information and documents if necessary.

Voraussetzungen

- There is a valid reason for dismissal, such as insolvency, partial closure of the business or a particularly serious breach of duty by the employee.
 - You employ staff from one of the three groups of people who are subject to a special prohibition on dismissal.
 - You have not yet dismissed the employee.

Kosten

EUR 55.00 to 1,400 (depending on cost and importance)

Verfahrensablauf

Dismissal Despite Protection Against Dismissal

Modul

Sachverhalt

- As an employer or (in the case of insolvent companies) as an insolvency administrator, you submit an informal written application to the Arbeitsschutzbehörde ("competent authority"). Special reasons for dismissal must be given.
- The person to be dismissed will be given the opportunity by the Arbeitsschutzbehörde to comment on the grounds for dismissal presented.
- The parties involved will each receive a decision. Both can appeal against this decision.
- Once you have received the official declaration of admissibility, you may give notice of termination. The contractual or statutory notice period must be observed.

The costs of the administrative proceedings are borne by you as the applicant.

Legal Action in the Event of Termination without a Declaration of Admissibility

If the employee is dismissed without the required declaration of admissibility from the labour protection authority, the person concerned should file a complaint with the competent labour court so that it can declare the dismissal invalid. It is advisable to file the complaint within three weeks of receiving the notice of termination in order to avoid disputes.

Bearbeitungsdauer

Frist You must submit the application before the cancellation is issued.

weiterführende Informationen

Hinweise

Rechtsbehelf Appeal (details about the procedure in the official notification)

Kurztext

Modul	Sachverhalt
Ansprechpunkt	
Zuständige Stelle	
Formulare	
Ursprungsportal	