

Leaflet "Labour law for mini-jobbers"

■ General information

In this leaflet, we inform you of your rights as a mini-jobber. If you should have any further questions on the subject of labour laws, you can contact the service hotline of the Federal Ministry of Labour and Social Affairs. You can reach them from Monday to Thursday from 8 a.m. to 8 p.m. by calling 030 221 911 004.

■ Principle of equal treatment

As a mini-jobber, you may not be treated any worse than comparable full-time employees. This applies in the employment relationship to all measures and agreements made between you and your employer. If, for example, your employer grants full-time employees special payments or a higher holiday entitlement than required by law, you must not be disadvantaged with regard to these. You will thus also be entitled to special payment (adjusted to your working hours) or a correspondingly higher holiday entitlement. Exceptions are possible if there are objective reasons for unequal treatment. These can include, for example, work performance, qualifications, work experience and different job requirements.

■ Certificate of working conditions

If your employer has not provided you with a written employment contract, he is obliged to provide you with written and signed proof of the essential working conditions. This must include, amongst others, the names and addresses of the contracting parties, the commencement (and, in the case of fixed-term employment, the end or expected duration) of the employment relationship, the place of work, the nature of the activity, working hours and resting times, the duration of the annual leave, the dismissal procedure to be followed, on-call duty conditions, the duration of the probationary period (if agreed), references to applicable collective agreements, company or service agreements, the composition of the remuneration and its amount and due date.

■ Minimum wage

Mini-jobbers are fundamentally entitled to the statutory minimum wage. The minimum wage is 12 euro per hour since 1 October 2022. For a few groups of persons (e.g. minors who have not completed vocational training), the minimum wage does not have to be paid. In addition, it must be noted that collective agreements may also result in higher minimum wages becoming mandatory.

■ Holidays

As a mini-jobber you are entitled to a paid holiday. The statutory holiday entitlement is at least four weeks or 24 working days per year for a six-day week. If you work fewer days a week, the holiday is to be calculated pro rata.

■ Continued payment of remuneration in the event of illness, pregnancy and maternity

The entitlement to continued payment of remuneration only exists after four weeks of employment. If you are unable to work as a result of illness through no fault of your own, or a medical prevention or rehabilitation measure, you are entitled to continued payment of your regular earnings by your employer for up to six weeks. Your employer will continue to pay you for the days on which you would have worked if you had been capable of working.

Aside from that, under the provisions of the Maternity Protection Act (Mutterschutzgesetz - MuSchG), the employer is obliged to pay mini-jobbers a subsidy towards maternity pay during maternity protection periods and to continue to pay their wages during the period when employment is prohibited. A woman who earns more than EUR 390 is entitled to maternity allowance subsidy. In addition, mini-jobbers are also entitled to regular maternity benefits from the health insurance company or the Federal Office for Social Security (Bundesamt für Soziale Sicherung).

■ Continued payment of remuneration in the event of absence from work on public holidays

An entitlement to continued payment of remuneration for public holidays exists if work is stopped as a result of a public holiday on a day on which you would otherwise be obliged to perform work in the regular course of your duties. Your employer must pay you the remuneration that you would have received had you not been absent. The continued payment of remuneration for public holidays may not be circumvented by compensatory working the lost working time on an otherwise non-working day.

■ Special payments/gratifications

You are not legally entitled to a special payment or gratifications, such as a Christmas bonus or holiday pay. Even without a legal basis, you can be entitled to special payments if they have been agreed in a collective agreement, a company regulation, or an employment contract.

■ Protection against dismissal/notice periods

As a mini-jobber, you enjoy the same protection against dismissal as full-time employees. This applies to general protection against dismissal in accordance with the Protection Against Dismissal Law (Kündigungsschutzgesetz - KSchG) and special protection against dismissal in accordance with the MuSchG, among others.

According to the Protection Against Dismissal Act, dismissal in companies with more than ten employees is only legally effective if it is socially justified. This means that the dismissal must be conditional on reasons relating to the person or behaviour of the employee or due to compelling company requirements that prevent the employee from continuing to work.

The statutory basic notice period, which both parties must comply with, is four weeks to the fifteenth or to the end of a calendar month. In the case of a temporary helper, a shorter period may be agreed upon in the individual contract for the first three months. If the employment relationship lasts more than two years, the employer must comply with longer notice periods.

In collective agreements, notice periods (longer or shorter) that deviate from the law may be agreed upon. They may not be longer for termination by the employee than for termination by the employer. The employment relationship may be terminated without notice if one of the parties has an important reason for doing so which makes it unreasonable to continue the employment relationship until the expiry of the notice period or until the expiry of a fixed-term employment contract (§§ 622 and 626 of the German Civil Code, BGB).

■ Particularities of the employment of the severely disabled

Employers have to fulfill special care obligations towards severely disabled persons. These include the optimum promotion of the severely disabled in their employment, preferential treatment for in-house training measures and the provision of workplaces suitable for the disabled. (Section 164(4) of the Social Security Code (Sozialgesetzbuch) - Ninth Book -, SGB IX). In addition, employers are forbidden to discriminate against severely disabled people as compared to healthy employees. This refers both to the attitude, the vocational advancement and to the dismissal. In the case of noncompliance, the severely handicapped person can demand payment of compensation.

Employees with severe disabilities are entitled to five working days additional leave per year for five working days per week (§ 208 SGB IX). Apart from that, special protection against dismissal applies to them. Thus employers must request the agreement of the Integration Office before an effective termination notice is issued (§ 168 SGB IX). In addition, severely handicapped employees are to be released on their demand from overtime work (§ 207 SGB IX). For the severely handicapped employees, these principles apply equally in principle. They only have no claim to an additional number of holidays (§ 151 Para. 3 SGB IX).

■ Ways to enforce your labour rights

As an employee, you can sue for your legal claims arising from an employment relationship before the labour courts. As a rule, the labour court, in whose district the place of work is located has jurisdiction. If no compromise can be reached between the parties before the labour court in the preliminary conciliation hearing, the subsequent judgement proceedings will take place. In the first instance, there is no obligation for a lawyer, so that you can basically exercise your rights yourself. However, it is advisable to seek early advice in the event of a legal dispute with the employer, as limitation and preclusion periods must be observed, among other things.