

Information leaflet "Labour law for mini-jobbers"

■ General information

In this leaflet, we inform you of your rights as a mini-jobber. You can call the service hotline of the Federal Ministry of Labour and Social Affairs with any questions you may have about the subject of labour law. The hotline is there for you from Monday to Tuesday from 8.00 a.m. to 5.00 p.m. and on Friday from 8.00 a.m. to 12.00 p.m. at 030 221 911 004.

■ Principle of equal treatment

As a mini-jobber, you may not be treated any worse than comparable full-time employees. In the employment relationship, this applies 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 leave 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 an appropriately higher leave entitlement. Exceptions are possible if there are objective reasons for unequal treatment. These may include, without limitation, 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 or she is obliged to provide you with written and signed proof of the general working conditions. This must include, among other things, 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 type of work, 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 generally entitled to the statutory minimum wage, which has been 12.41 euro per hour since 1 January 2024. For a few groups of persons (e.g. minors who have not completed vocational training), there is no obligation to pay the minimum wage. In addition, it must be noted that collective agreements may also result in higher minimum wages becoming mandatory.

■ Recreational holidays

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

■ 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 contracted through no fault of your own, or of 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.

In addition, 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 pay subsidy. Further, mini-jobbers are also entitled to regular maternity benefits from the health insurance company or the Federal Office for Social Security (*Bundesamt für Soziale Sicherheit*).

■ 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 making good for the lost working time on an otherwise non-working day.

■ Special payments/Bonuses

Attachment
to the letter dated

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

■ Dismissal protection/Notice periods

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

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

The statutory basic notice period, which both parties must comply with, is four weeks by the fifteenth or by the end of a calendar month. In the case of a temporary job, 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 the purposes of termination by the employee than for the purposes of 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 end of the notice period or until the end of a fixed-term employment contract (sections 622 and 626 of the German Civil Code, BGB).

■ Particularities of the employment of the severely disabled

Employers are required to fulfil special care obligations towards severely disabled persons. These include the optimum support of the severely disabled in their employment, preferential treatment in in-house training measures, and the provision of workplaces suitable for the disabled. (Section 164(4) of the Social Security Code (*Sozialgesetzbuch*) – Ninth Volume –, SGB IX). In addition, employers are forbidden to discriminate against severely disabled people with regard to healthy employees. This refers to their recruitment, their career advancement, and to their dismissal. Non-compliance means that 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 (section 208 SGB IX). Apart from that, they enjoy special protection against dismissal. Thus, employers must request the agreement of the Integration Office before an effective termination notice can be issued (section 168 SGB IX). In addition, severely handicapped employees must be released, if they so demand, from overtime work (section 207 SGB IX). In principle, this also applies to employees with equivalent status to severely handicapped employees. The only difference is that such employees have no entitlement to additional leave (section 151 subsec. 3 SGB IX).

■ Ways to enforce your labour rights

As an employee, you can take your legitimate claims arising from an employment relationship before the labour courts. As a rule, the labour court in the legal district of which 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, judgement proceedings will ensue. In the first instance, there is no statutory requirement to be represented by a lawyer, so that you can basically exercise your rights yourself. However, it is advisable to seek advice early in the event of a legal dispute with the employer, as limitation and preclusion periods must be observed, among other things.