

Working time in Germany

A high level outline of the working time obligations that apply in Germany.

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Introduction

Working time in Germany is mainly regulated by the Working Time Act (*Arbeitszeitgesetz*). It covers blue and white collar workers and apprentices. A worker is an individual who is obliged under a civil law contract to perform "dependent" work for an employer which means that the employer has the right to issue directives (*Weisungsrecht*) concerning place, time and details of work duties. Working time is the time from the beginning to the end of work not including any breaks.

Minimum and maximum working time

There is no statutorily stipulated minimum working time. However, individual agreements, works agreements or collective bargaining agreements may stipulate a mandatory weekly working time which is at the same time considered to be the minimum working time.

The maximum daily amount of working time must not exceed ten hours. However, the law stipulates that the working hours on business days (Monday until Saturday) must not exceed an average of eight working hours per day, ie 48 hours per week, over a period of six months or 24 weeks.

Sectoral or company collective agreements may include certain derogatory provisions. In emergencies the maximum daily working time may also be exceeded.

Night work

Night worker is defined as when an employee works for at least two hours during the night (between 23:00 and 06:00) and is allowed for men and women. When implementing night work the employer has to take into consideration current scientific knowledge on the humane organisation of health effects of working hours. Night workers are not allowed to work more than eight ten hours a day, provided that over a period of one calendar month or four weeks, the average daily hours per business day (Monday until Saturday) do not exceed ten hours. Furthermore, night workers have the right to an "appropriate" number of days off and/or "appropriate" bonuses where these are not the subject of collective agreements.

Unless business requirements do not permit this, a night worker has the right to transfer to suitable day work, if he/she is responsible for dependants in need of intensive care and children below the age of 12 (who cannot be cared for by

another person), or if he/she proves that night work could be detrimental to their health.

Daily and weekly rest periods

Workers must have a minimum daily rest period of 11 consecutive hours after the end of their daily working time. This can be reduced by one hour in some industries, such as in hospitals, catering and transport, provided that compensatory rest is given within one month or four weeks by extending another rest period to at least 12 hours. Workers must furthermore be granted a 24 hour rest period on Sundays, although some Sunday working is permitted. In the event that an employee is employed to work on Sundays or public holidays another free day must be granted during a two-week period after the work on Sunday and an eight week period after the work on a public holiday.

Rest breaks

A worker must not work for more than six hours without a break. An individual who works between six and nine hours is entitled to a minimum rest break of 30 minutes. A 45 minute rest break must be given if an employee works for more than nine hours. The breaks can be split into breaks of at least 15 minutes. In the case of shift work the breaks may be divided up into intervals of less than 15 minutes by collective bargaining agreements or works agreements.

Special cases and exemptions

On the one hand, the government may restrict working time for certain kinds of work or certain groups of employees where there are special risks to the health of the employees. On the other hand, derogations from several working time provisions (for instance from the rule regarding maximum working hours) can be made in cases of emergency or certain unusual cases (for example, where food would rot or where disproportionate damage could occur). In less urgent circumstances (for example for work on construction sites) the relevant authorities may grant approval to extend working hours.

In addition to these exemptions, it is possible to derogate from the provisions relating to length of night and shift work, daily rest and weekly rest in the case that workers work in areas where continuity of service or production is needed, if otherwise the work results would be in danger or could cause an unreasonable damage; It is also possible to derogate from these provisions on certain days (but not in general) in the case of workers carrying out treatment, care and supervision activities for persons or animals; and in the case of workers in research and development activities. If one of these exemptions applies, the working time must not exceed 48 hours per week on average during a six calendar month period or 24 week period respectively.

Agreements which can modify the law

Collective bargaining and works agreements can modify provisions of the law in cases where it permits deviations from its provisions.

Compensatory rest

Workers are entitled to an equivalent period of compensatory rest if they are excluded from rest periods or rest breaks because they are “special cases” or because a provision has been modified or excluded by a collective or works agreement and the worker has been required by his/her employer to work during a period which would otherwise be a rest period or rest break.

Records

Working time records must be kept for two years. The governmental authorities for the supervision of enterprises (*Gewerbeaufsichtsamt*) have the right to inspect the records.

Failure to comply with the law

If an employer breaches its obligations, the supervising authorities can impose fines up to €15,000 on them. Directors and senior managers can also be held personally liable for breaches of the law. Some breaches, for example failure to provide minimum breaks, are also a criminal offence liable to fine or imprisonment if the employer, senior executive or director endangers the health of an employee or persistently breaches the regulation.

A worker can refuse to work if the employer is in breach of the law and claim damages for injury to health resulting from overtime work.

Restrictions on contracting out

The Working Time Act is compulsory for all employment relationships in Germany, regardless of the nationality of employer or worker. Hence, there is no option to exclude the application of the working time legislation by agreement, unless it falls within one of the exemptions mentioned above that allow deviations on the basis of collective bargaining or works agreements.

Further information on working time in Germany is available from our International Employment Issues microsite [here](#).

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