

New regulations for flexible working time

As per September 1, 2018, new regulations for flexible working time come into force in Austria. Here is a summary of the changes that are of particular importance for your business, including recommendations for further steps:

The **essence** of the new regulation is the extension of the maximum working time from ten to twelve hours per day and from 50 to 60 hours per week. However, for overtime hours exceeding a daily working time of ten hours or a weekly working time of 50 hours (“special overtime”), the following applies:

- **Voluntary nature:** Employees are not required to perform special overtime and may refuse such times without providing any reasons. If employees refuse to work special overtime, they may not be discriminated against or given notice due to their refusal.
- **Choice regarding compensation:** Employees may choose freely if they shall be monetarily remunerated for any special overtime performed or if they rather take time off instead.

Further changes worth noting:

- **New exceptions from working time provisions:** In future, not only “executive employees”, but also “employees with significant autonomous decision-making authority” will be fully exempted from the Austrian Working Time Act as well as the Austrian Rest Periods Act. Consequently, such employees will no longer be subject to maximum working time restraints, minimum rest periods and the ban on weekend work and work on public holidays.
- **Extended daily regular working time in case of flexi-time:** Based on flexi-time agreements, the normal daily working time may be extended to twelve hours (so far ten hours). However, such extension is only permissible if employees are entitled to consume their time credits in full days and if employees may also take full days off to extend their weekly rest period (e.g. to have a longer weekend).
- **New exception for work on weekends and public holidays:** If there is a temporary and special need for additional work, employees may perform work on four weekends or holidays per year. To make use of this exception, a plant agreement with the works council (if any) or written individual agreements with employees (if there is no works council) must be concluded.



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In companies without a works council, employees may refuse to perform work on weekends or public holidays on the basis of this new exception without having to provide any reasons. If employees make use of this right, they may not be discriminated against or given notice due to their refusal.

- **Entering-into-force:** The new provisions will become effective on September 1, 2018.
- **Need for action:** Do you want to make use of the new provisions regarding flexible working time in your company? Then the following steps are advisable:
 - Conclusion of new flexi-time agreements, or amendment thereof
 - Amendment of working time agreements regarding maximum working hours
 - Conclusion of plant agreements regarding work on weekends and public holidays
 - Amendment of employment contract templates regarding exceptions from working time laws
 - Check of existing all-in clauses

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