

Employment Germany

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Short-time work, Short-time pay and Subsidies to Short-time Pay

Due to delivery bottlenecks, travel restrictions and state prevention measures such as temporary business closures, companies can see themselves forced to temporarily considerably reduce the normal working hours for all or certain groups of employees, i.e. to introduce short-time work. Even a complete cancellation of working hours, so-called "short-time work zero", can be necessary. Such measures can already be considerably economically alleviated by receipt of short-time pay. Due to the corona virus crisis, the "Act on limited crisis-induced improvement of short-time work" came into force on March 15, 2020, which enables the Federal Government by decree to reduce the prerequisites for receipt of short-time pay and to completely reimburse employers the social security contributions for the cancelled hours of work. The corresponding decree is not expected until the beginning of April 2020, but the alleviation shall, however, come into force retroactively on March 1, 2020. Companies can therefore now already apply for short-time work under eased conditions and can correspondingly apply for short-time pay.

The prerequisites for short-time work and short-time pay are as follows:

Introduction of Short-time work

- Short-time work cannot be unilaterally introduced by the employer. If there is no works council in the company and if the employer has not contractually reserved the right to introduce short-time work, the introduction of short-time work requires individual contractual agreements with all affected employees.
- If a works council exists, a collective bargaining agreement on introduction and form of short-time work has to be concluded with them. The agreement of the employees is then no longer necessary.
- If in an applicable collective bargaining agreement, the introduction of short-time work has been conclusively regulated, the employer can introduce short-time work without the involvement of the works council and without the agreement of the employees (who are bound by the collective agreement).

Short-time pay

Short-time pay is a substitute for salary payments which is paid by the Federal Employment Agency for the duration of the short-time work. The following is necessary

- a considerable, temporary and unavoidable shortfall of work based on economic reasons or inevitable circumstances/force majeure and
- in the period of short-time work at least 10% of the employees employed in the business are each affected by a loss of remuneration of more than 10%

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of their monthly gross remuneration (under the previously applicable regulations, at least one third of the employees employed in a business had to be affected - this threshold has now been reduced to 10%).

It can be assumed that decreases in production due to delivery bottlenecks and sales difficulties, lack of customer visits by sales and customer services employees due to travel restrictions or restrictions on customer visits, lack of guests in the hotel and catering industry, lack of customers in retail stores or temporary store closures, etc., caused by the corona virus, will constitute a considerable, temporary and unavoidable shortfall of work in the above-described sense. This also corresponds to the opinion of the Federal Government and the Federal Employment Agency.

It is paramount, however, to check whether and to which extent

- Employees can work from their Home Office,
- Overtime can be reduced or a negative balance of hours can be built up - however in accordance with the change in the law, building up a negative balance of hours can be partly or completely forgone, and /or
- Amount of untaken vacation days can be reduced.

Registering Short-time work and applying for short-time pay

Firstly, the responsible employment agency has to be notified about the short-time work. The notification must include the time-period and extent of the planned reduction in working time, the background for introducing the short-time work in the business and the above-mentioned details regarding the shortage of work. The employment agency then decides in a ruling whether the prerequisites for short-time work pay exist.

In a second step, the application for granting of short-time pay is to be made. The simultaneous notification of shortage of work and the application for granting of short-time pay is not permissible.

Amount of Short-time pay and subsidy to short-time pay

The short-time pay amounts to 60% of the cancelled net remuneration, resp. 67% when there is at least one dependent child. The short-time pay is calculated by the employer, is paid by the employer to the employee and reimbursed to the employer by the employment agency.

Short-time Pay means a significant loss of net remuneration for the employee. Therefore, collective bargaining agreements or works agreements often provide for a subsidy of the employer to the short-time pay, or such is granted by the employer due to an agreement with the employee. This subsidy is not viewed as income which is subject to contributions, if together with the short-time pay, 80% of the difference between the target remuneration (gross remuneration of the employee without stoppage of work, reduced by overtime pay) and the actual remuneration (gross remuneration attained by the employee due to short-time work) is not exceeded.

Short-time work and social security contributions

For the actually attained remuneration during short-time work (the so-called short-time remuneration), employer and employee carry the contributions as for regular remuneration (i.e. in principle each carries half). This will also not change in the future.

The social security contributions incurred on short-time pay were previously carried by the employers (assessed on the basis of 80% of the gross remuneration difference). In accordance with the new law, the Federal Government can provide for a complete or part reimbursement of these contributions by the Federal Employment Agency. The Federal Ministry of Labour and Social Affairs assumes the reimbursement will be for the full amount.

What can you (and we) do at the moment?

It is possible to register the shortage of work with the employment agency immediately. Thereby, the procedure for the application for short-time pay can already be set in motion. We therefore recommend to swiftly check which steps for the introduction of short-time work are necessary in your company, i.e. whether short-time work can be unilaterally introduced on the basis of a collective bargaining agreement, or agreement with the works council, resp. the individual employee is necessary. Furthermore, it should be checked whether, until the effective introduction of short-time work, overtime or at least untaken vacation days from the previous calendar year can be reduced and company holidays can be introduced. Further, it would be expedient to firstly talk to the responsible person at the employment agency in order to wind up the application on the basis of the current situation and expected capacity problems as smoothly as possible.

We would be glad to support you with the corresponding considerations, planning and measures.

Further forms / information

- [Notification on stoppage of work](#)
- [Application for short-time pay](#)
- [Table for the calculation of short-time work](#)

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