Welcome!

Working in Austria
Your Legal Rights
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What must I know?

What needs to be agreed upon between employer and employee when starting a new job?

• Job description
• Salary
• Working hours
• Workplace
• Notice periods
• Certain benefits like the 13th. and 14th. remuneration
How do I know my rights and obligations when I start working?

1. My own working contract (number 1 source!)
2. Collective Bargaining Agreement
3. General Labour Law such as Allgemeines Bürgerliches Gesetzbuch, Angestelltengesetz
4. Special laws (Holiday Law Act, Continuation of Remuneration Act, Working Time Law Act, etc.)
Criteria of a Working Contract

• Personal and economical dependence on employer
• Employee owes time and duty to work, not results
• Continuing obligation
• Personal work performance (no substitute person)
• Use of employer‘s equipment
• Integration into company/firm/business
• Salary

Artists, teachers in public schools, public officers, etc. etc. are not employees (not members of the AK)
Service Note (Dienstzettel)
§ 2 AVRAG

• Written notification about the oral agreement (=is not a working contract)
• Only for employment longer than 2 months and in lack of written working contract

Important
The Name + Address of Employer must be correct and valid!
Check the telephone number, email, and fax!
All data must be correct and in accordance with the oral agreement
Always a matter of negotiation!
It should always be clear how much money shall be paid for what time at work!
We have minimum standards!

Monthly Salary
→ Agreement in gross salary (Brutto!)
→ net salary shall be transferred onto your bank account (or cash) each month (Netto!)

You can find payment regulations in:
• contract
• collective agreements
• Dienstzettel
Supplementary Grants - Remuneration

- 13th. + 14th. remuneration
  = „Holiday Payment“ and „Christmas Payment“
  = Urlaubsgeld & Weihnachtsgeld = Sonderzahlungen

- Should be agreed upon in contract if there is not a collective agreement applicable
- Monthly factoring at beginning and end of employment
- No payout of supplementary remuneration in case of sudden end of working contract (justified discharge, unjustified early release/contract out)
Working Time

= work is counted from starting work until finishing work. Breaks are excluded from working time

• Information source: working contract, collective agreement, Labour Time Act (= Arbeitszeitgesetz)

• normal working time in Austria → 40 hours/week

• Different working hours for different jobs:
  – Specific regulation in the collective agreement
  – Working contract
  – Company regulations

• Part Time up until 40 hours/week
• Over 40 Hours → Overtime

Don’t forget to keep a record of your working hours in a calendar!
Rest Periods and Holidays

- Weekend rest → 36 hours, including Sunday
- Weekly rest → 36 hours, including one full day
- Rest compensation → if both not possible
- Rest for holidays → no work on holidays from 0 until 24 o'clock


- Holiday compensation → If you work on holidays → 100% extra
Your rights to paid vacation

- EVERY employee has **5 weeks per year** paid leave of absence (vacation)
- 25 working days (Mo-Fr) or
- 30 working days (Mo-Sa) = always total 5 weeks
- Monthly factoring in first 6 months, after that full entitlement
- **ALWAYS SUBJECT TO AGREEMENT!**
- No vacation during sick leave
- No replacement with money!

Remember: Unused vacation days have to be paid out in money at the end of the contract (= financial Compensation for Vacation Days)
What if you get sick?

Your employer continues to pay your salary in case of
- **illness and private accidents**
- **accident at work**

**What to do?**
1. inform your employer immediately that you are sick (tel, fax, mail)
2. then go to the doctor and get a doctor's confirmation (Krankenstandsbestätigung)
3. send the doctor's confirmation to your boss
4. Your employer pays a remuneration for sick days
Continued Remuneration in case of sick leave (Krankenentgeld)

How long does my company have to pay if I get sick?

Ilness or private accidents:
- first year of your employment → 6 weeks 100% + 4 weeks 50% of your salary
- 2 - 15 years → 8 weeks 100% + 4 weeks 50%
- over 16 years → 10 weeks 100% + 4 weeks 50%

Accident at work or Illnesses caused by work:
- 0-15 years of employment → 8 weeks 100%
- from 16 years → 10 weeks 100%
Nursing Leave (Pflegefreistellung)

- Nursing leave in case of sickness of the following people:
  - Close relatives in same household are sick
  - Biological and adopted children (and foster children)
  - Patchwork-Families $\rightarrow$ same household
  - Only in need of urgent care at home
  - Support for children unter 10 in hospital
  - Babysitter is not available and childcare necessary

- Fully paid, 1 week per year (plus 1 extra week for children under 12 years old)
- Entitlement starts with 1st working day
- If all nursing leave is used up $\rightarrow$ „nursing vacation“ (= vacation days without employer‘s approval)
**Ending the Working Contract**

**Termination/ending:** (= not a notice (no Kündigung)!)  
- Termination/ending during probation period  
- Lapse of time  
- Consensual/mutual resolution

**Notice (Kündigung):**  
- one-sided, declared by employee, declared by employer

**Extraordinary Termination:**  
- Dismissal/early release (fristlose Entlassung)  
- Resignation (contract out, = Austritt)
Consensual Termination

= Einvernehmliche Lösung

• you and your boss end the contract in mutual consent
• no notice deadlines (can be effective immediately)
• resolution contract (signature cannot be reversed!)
• no formal requirements (oral, written, e-mail, fax, WhatsApp, etc)
• formal protection for:
  – Women on maternity leave
  – Pregnant women
  – Community service
  – Trainees

Please be sure to read and understand the einvernehmliche Lösung before you sign it!
Kündigung = the termination is a unilateral declaration of intent which has to be received and is legally operative and by means of which the employment relationship is to be terminated at a time in the future.

- Without any formal requirement
- no reasons necessary
- no consent necessary
- can be declared at any time
- Also possible to receive or declare during sick leave, holiday, etc
Notice of Termination - Kündigung

- **Notice period** (starts the day after notice declaration, duration depends on job and contract)
- **Notice date** (=last day of work)

How do I know my notice period and my notice date?

- check your contract
- ask employer or works council
- check your collective agreement
- ask the Arbeiterkammer
- check the Labour Law Act

Incorrect notice or termination entitles to damage compensation!
Extraordinary Termination

- dismissal/release ends the contract immediately!
- requires reason given in Labour Law Act (therefore it is justified or unjustified)

Extraordinary Termination:
- → unjustified dismissal = Entlassung
- → unjustified early release = Austritt
  - Employee: entitled to compensation
  - Employer: entitled to damage compensation, supplementary grants, in some case vacation compensation
Severence Pay - Abfertigung

- Employer pays 1.53% of monthly gross income to an account of certain investment companies (Mitarbeitervorsorge-Abfertigungskassa)
- Employee is entitled to money only after the working contract ended
- Minimum of 3 years of contribution payments

**Hot do I get the money that was saved for me?**
Your working contract ends with: regular notice declared by employer, mutual resolution or justified early release + fill out the application form
Rights After Termination of Employment

• Working Papers:
  – Certificate of Employment (Arbeitsbescheinigung)
  – Deregistration at the Social Health Insurance (Abmeldung)
  – Salary Statement/ Salary Slip (Endabrechnung)
  – Recommendation Letter (Dienstzeugnis)

• Final Salary Statement:
  1. Last salary
  2. Supplementary remuneration proportional (Sonderzahlung)
  3. Compensation for unused vacation days
  4. (+ compensation for fault notice)
Statutory of Limitations

- According to the general law: 3 years
- Compensation for fault notice: 6 months
- Very important: limitations of claims agreed in contract → 3 months!

Be aware!
Public Employment Service (AMS)

Benefits
• Financial payments (55% of income)
• Help with finding employment
• Courses and education

Requirements:
✓ unemployment
✓ Ability to work
✓ Availability and willingness to work
Public Health Insurance

= all in one insurance:
  • Health insurance
  • Accident insurance
  • Pension contribution
  • Unemployment insurance

Ordinary employment = automatically all insured
Unemployed receiving unemployment payments =
Health insurance, accident insurance and pension insurance
People in pension = health insurance and accident insurance
Low income (2020 under € 460,66) = only accident insurance!
Working in Times of Corona

What do I need to know?

1. Infection and quarantine
2. Job and Corona
3. Short-Time Work
4. Protection at Work
I am positive (infected)

• I think I have COVID-19 because I am sick and have the symptoms:
  1. First „normal“ sick leave → call your doctor
  2. Do the COVID-19 Test
  3. If test positive: you go into quarantine
  4. If test negative: stay on sick leave (normal sick leave)
  5. Request a quarantine notice from the Health Department Authority
  6. Send a copy of the quarantine notice to your boss
  7. After quarantine (10 days) and if healthy inform employer to return to work
I am positive (infected)

- I have COVID-19 because I am tested positive but I have no symptoms:
  - Inform your employer immediately
  - Release from duty for important reasons
  - Health Department Authority will issue a quarantine notice
  - Check your health status
• **My child is positive and in quarantine:**
  if child is symptomatic → nursing leave
  If child is asymptomatic → release from duty for important reasons

• **My child had contact with a positive tested person and has to go to quarantine:**
  → Release from duty for important reasons
  → Special care time „Sonderbetreuungszeit“
What is Corona Kurzarbeit (short-time work)
✓ Reduction of work time
✓ Reduction of salary (10%, 15%, 20%)
✓ Protection against dismissal
✓ Employer receives financial aid from government

3 Phases:
Phase 3: Kurzarbeit started from 1. October 2020
Phase 2: Kurzarbeit started in a period from 31. May until 30. of September 2020
Phase 1: Kurzarbeit started in a period of 1. March until 31. May 2020
How does Short-Time Work function?
You as employee reduce your work time and keep your job during this crisis. You receive between 80% and 90% of what you made before the short-time work. Your salary is paid by your employer. Your employer receives financial aid from the AMS to cover the lost working hours. Big benefit: your job is secured and employer signs waiver of right to termination.

How to „go on Kurzarbeit“?
The employer has to sign a written agreement either with each employee or with the works council, which represents the employees within a company.
How much salary do I get?

For all Phases: The salary is calculated of what you made before the Kurzarbeit:

- You make no more than: € 1,700,- brutto → 90% of your previous earnings.
- You make no more than: € 2,685,- brutto → 85% of your previous earnings.
- You make more € 2,686,- brutto → 80% of your previous earnings.
- For salaries over € 5,370,- brutto → no aid for employer
- Apprentices have no reduction, their salary remains 100% despite reduced work time
How much do I work?
Your work time during Kurzarbeit has to be between 10% and 90% of the regular working hours before Kurzarbeit. Within the Kurzarbeit-period it is possible to reduce the working time up to 0% if your average working time remains according to the Kurzarbeit Agreement.
The lost hours (Ausfallsstunden) remain freetime and can be used however you like.

Do I get more paid if I work more?
All of your working hours must be paid. If you work more than what your calculated Nettoersatzrate-salary, you are entitled to the hours that exceed the netto-rate.

The 13th and 14th remuneration: 100%
Vacation pay: 100% of your salary
Kurzarbeit has no effect on unemployment benefits (Arbeitslosengeld) or Kinderbetreuungsgeld
Protection against dismissal/notice during Kurzarbeit

- Social partners agreement
- No dismissal/notice during intact Kurzarbeit
- Retention period = 1 month
- Notice only for certain reasons (eg. operational reasons, personal reasons, approval from Labour Unions or AMS Regialbeirat)
I am really scared of Corona, do I have to go to work?

- Yes. The fear of Corona alone is not reason enough to justify a leave of absence. However, your employer must ensure all possible protection measures!

What protection measures must be implemented by my employer?

1. Personal protection measures:
   Minimum distance from 1-2 meters, masks, airing, hand sanitizer, etc.

2. Organizational measures:
   home office, reduced working hours, reduced presence of employees at work, shift system,

3. Technical measures:
   partition walls, ventilation systems, plexi glass fixtures

www.arbeitsinspektion.gv.at
Protection at Work

Risk groups (COVID-19 Risikogruppe)

- Risikogruppen-Verordnung
- „COVID-19 Risikoattest“
- Right to special protection measures at work or home office
- Right to fully paid leave of absence
Important Numbers and Websites

- [www.jobundcorona.at](http://www.jobundcorona.at)
- [www.wien.arbeiterkammer.at](http://www.wien.arbeiterkammer.at)
- [www.ams.at](http://www.ams.at)
- [www.gesundheitskasse.at](http://www.gesundheitskasse.at)
- [www.sozialministerium.at](http://www.sozialministerium.at)
- [www.arbeitsinspektion.at](http://www.arbeitsinspektion.at)
- [www.gpa.at](http://www.gpa.at)

- Arbeiterkammer Arbeitsrecht: 01 501 65 1201
- Gesundheitnummer: 1450
- Coronavirus-Hotline der AGES 0800 555 621
- Hotline for Risk groups ÖGK: 050 124 2020
Thank you for your attention!
Good luck!
All the best in 2020/2021!

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