



EMPLOYMENT IN GERMANY



The German Labour Laws governs the relationship between employees and employers of all types.

Germany has strict worker protections including what benefits to offer, recruiting and compliance for example.

People who work in Germany can rely upon a minimum set of employment rights.

Below is some key information about employment in Germany, intended to provide a brief overview of employment law in Germany. It is not intended as a substitute for professional legal advice and counsel.



WORKING TIME AND OVERTIME

The average working week in Germany is between 36 and 40 hours. Most full time jobs in Germany are 7 to 8 hours per day, 5 days per week. Some companies may operate a longer working week but compensate their employees with a higher salary or additional annual holiday leave. Employees working more than 6 hours are entitled to a 30 minute break. Employees must be given at least 11 hours of resting time between two working days. Under the German Act on Working Time (Arbeitszeitgesetz), an employee's working time is limited to a maximum of eight hours per working day and 48-hours per week. Daily hours can be increased to a maximum of 10. However, throughout a period of 6 months, the average daily working hours must be 8 hours.

ANNUAL LEAVE

Full-time employees in Germany are entitled to a statutory minimum of 20 days of paid holiday per year, based on a five-day working week, or 25 based on a six-day working week. Public holidays can vary depending on the region in Germany. There are 9 public holidays observed in all German states. Working on statutory holidays is generally not permitted, but this does depend on the industry. Annual leave is calculated on a pro rata basis for part-time employees.

TRIAL PERIOD

A probation period is typically between 2 to 6 months but may not pass 6 months.

RESIGNATION AND DISMISSAL

The employee may unilaterally terminate the employment contract by giving the employer a notice in writing. Notice period is 4 weeks outside of a probation period within 4 years of employment. The notice period is 2 months with 5 - 7 years of employment and 3 months with 8 to 9 years of employment. During a probation period both employee and employer can terminate providing 2 weeks' notice without needing to provide a specific reason. After a probation period ends employees will be protected by the Termination Protection act an employee may only be terminated if one of the following reasons by the German Terminations Protection Act exists. Personal e.g long term sickness, gross misconduct e.g theft, violence, business requirements e.g restructure and redundancy. The dismissed employee does have the option to challenge the dismissal in court and claim continued employment, if he or she believes the dismissal to be unfair.



CONTRACT OF EMPLOYMENT

It is customary to provide a written contract of employment (Arbeitsvertrag) in Germany. An employer is required to provide as a basic the following terms for employees, start date, role description, location, duration, probation period, working days/hours, salary, annual leave entitlement, pension details, bonuses, benefits, conditions of termination.

MATERNITY AND PATERNITY LEAVE

Expectant mothers in Germany are entitled to 14 weeks of maternity leave (Mutterschutz). Of these, 6 weeks must be taken before the due date and 8 weeks after giving birth. In some work places the expectant mother is not allowed to work at all in order to protect the unborn baby. Mothers are entitled to maternity benefit (Mutterschaftsgeld). The amount a mother may be entitled to depends on her earnings before maternity leave (last 3 months) and health insurance cover. The health insurance pays €13 per day during the period and the employer will contribute the difference to the amount of the average net salary based on the previous three months. The employer can then be reimbursed for the contribution by the health insurance provider. However, the amount the mother receives can vary depending on their health insurance cover.

Fathers may apply for parental leave (Elternzeit). The allowance will not be received from the employer, the employee will need to apply for this from the government.

SICKNESS AND LEAVE

If an employee is unable to work due to illness, they are required to provide their employer with a sick note from a health professional such as a doctor. The employer will pay the salary until the employee reaches the end of the 6th week of absence for the same illness within a 6 month period. After this the employee will need to apply for financial support from their health insurance.

SOCIAL SECURITY

The social security system (Sozialversicherungssystem) in Germany is funded through compulsory contributions paid by employers and employees. Germany has a reputable social security system that ensures its citizens are able to live comfortably even if they're sick, disabled, unemployed or retired.

HEALTHCARE AND INSURANCE

Germany's healthcare system is recognised to be one of the best in the world. The majority of German citizens and residents are enrolled under the state run public health insurance scheme, which is funded by the taxpayers national contributions. This means that everyone has access to a high quality, affordable healthcare, regardless of income. Some also choose to take out private healthcare insurance, in particular those in higher paid positions. Under German law, everyone who is a legal resident in Germany must have health insurance coverage. Germany's health insurance system is divided into statutory health insurance (Gesetzliche Krankenversicherung) and private health insurance (Private Krankenversicherung). The type of health insurance an employee is entitled to depends on salary.

An employee that earns less than €64,350 per annum can only enrol in the statutory insurance scheme. However, freelance workers who earn under €64,350 per annum can opt out of statutory insurance and get a private insurance plan instead. Employees that earn over €64,350 can either stay on statutory insurance or opt for private insurance.



EMPLOYMENT OF FOREIGN NATIONALS

Most non-EEA nationals must have an employment permit to work in Germany. Below are the three most common work permits for Germany. The process of applying and requirements can vary depending on nationality.

1. GENERAL WORK PERMIT

People can apply for this permit if they have found a job in Germany which could have not been filled by an EU national. Applicants do not need to have extraordinary skills so long as they are qualified for the job. The permit is usually granted for 1 year but can be extended.

2. HIGHLY SKILLED WORK PERMIT

This visa is for highly skilled workers or people that earn more than €84,600. This can be granted for several years.

3. EU BLUE CARD

The EU Blue Card is a Residence Visa offered to highly qualified professionals from non-EU countries planning to work in the European Union. Applicants must hold a university degree or other equivalent qualification. The salary earned must be €56,800 per annum or €44,304 per annum if it is for a shortage occupation. The blue card is valid for between 1 to 4 years based on the duration of the work contract of the applicant. The cardholder can apply for renewal.





SALARY AND SALARY TAXES

MINIMUM WAGE

The minimum wage in Germany from January 2022 is €9.82 per hour. This is due to increase again in July 2022 to €10.45 per hour.

INCOME TAX

The German tax year runs from January to December. It is the employers responsibility to ensure taxes are deducted from an employees salary ahead of payment. Below is a list of tax thresholds for employees. This can vary depending on an individuals circumstances & what tax class they may fall into, of which there are 6 classes. Employees can check their tax class on their payslip under StKI (Steuerklasse).



Salary per annum	€0 - €9,984	€9,985 - €58,596	€58,597 - €277,825	€277,826+
Tax %	0%	14% - 42%	42%	45%

Additionally, some employees who meet a certain income tax obligation must also pay a 5.5% solidarity surcharge.

SALARY PAYMENTS

Employees in Germany must be paid at least monthly, usually this takes place around the 25th of the month. Some employers may pay a 13th monthly salary which is usually transferred in December or one half in July and one half in December.



SOCIAL SECURITY CONTRIBUTIONS & RATES

Social security contributions in Germany are the responsibility of the employer to deduct from an employee's salary before payment. Contributions are levied as a percentage of gross salary and are split equally between employee and employer. As of 2021 the below rates were applied to contributions.

- Pension Insurance - 18.6% up to an income of €7,050 per month. €6,750 per month in the Eastern states. A contribution of 9.3% each by both the employer and the employee.
- Unemployment Insurance - 2.4% up to an income of €7,050 per month. €6,750 per month in the Eastern states. A contribution of 1.2% each by both the employer and the employee.
- Public Health Insurance - 15.8% up to an income of €4,837.50 per month. A contribution of 7.9% each by both the employer and the employee.
- Care Insurance - 3.05% up to an income of €4,837.50 per month. A contribution of 1.525% by both the employer and the employee (an additional 0.25% is to be payable by childless employees).
- Maternity Leave - payable by the employer at a rate of 0.55% up to an income of €7,050 per month. €6,750 per month in the Eastern states.
- Insolvency Contribution - payable by the employer at a rate of 0.09% up to an income of €7,050 per month. €6,750 per month in the Eastern states.
- Accident Insurance - payable by the employer at a rate of 0.6% of an employee's income. This can vary depending on the industry and risk.
- Severely Handicapped Fund - payable by the employer at a rate of €17.50.

18 MONTH EMPLOYMENT RULE

Global Employment Outsourcing or Employer of Record Services fall under the legislation of the German law on employee deployment, known as Arbeitnehmerüberlassungsgesetz–AÜG.

In an attempt to strengthen the position of employees that are working in three-party scenarios (Emerald as employer of record –employee –client as ultimate employer), the law was changed from April 2017. The most significant change is that the maximum duration of these employment scenarios is now limited to 18 consecutive months.

The employee by law is considered to switch to the German payroll of the client. For the outsourced employment scenario in which the client has no German entity, there are no precedential cases, but the fact remains that the employee cannot be deployed with the client anymore. A break of three consecutive months is required before a new deployment to the same client is allowed.

Other options are to deploy the employee to a new client or move the employee to the client's own non-resident payroll if they have no presence in Germany. Failure to comply with the 18-month rule can lead to fines of up to €300,000 and loss of the employer of records AÜG licence.



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