

Labor Regulations in Austria – A Short Overview

Employment contract

The employment contract specifies the rights and obligations on the part of employees and employers, inasmuch as these are not stipulated under prevailing legal regulations or collective bargaining agreements. The drawing up and signing of an employment contract is normally not bound to any formal procedural requirements.

An employment contract is not only concluded in written form, but may be agreed upon orally or on the basis of a “convincing or conclusive action”, for example that one party provides services or carries out work on behalf of another and in turn, the other party accepts these services.

If there is no written employment contract, the employer has to give the employee a “notice of employment” which basically contains the main rights and duties arising from the employment contract. Individual contractual arrangements may only be changed when mutually agreed upon by both contractual partners.

Working hours

Normal statutory working hours equal regular working hours excluding overtime. Depending on the collective agreement, working time amounts to 38.5 or 40 hours per week. If normal daily or weekly working hours are exceeded, this situation is considered to comprise overtime, which, in turn, is subject to extra pay.

In the case of an uninterrupted working time of six hours, the employee is entitled to take a break of 30 minutes.

Extension of normal working time:

The Austrian Working Time Act allows for various flexible working time models. Within this context, it is possible to extend daily working hours to a maximum of twelve hours per day and weekly working time to 60 hours.

Extended weekend or holiday work:

If there is a temporary need for additional work, it is possible to reach an agreement with an employee to work for up to four weekends or holidays per year via an in-house works agreement or within the contract of the employment contract. However, an exception to weekend or holiday rest periods may not be made to allow for working on four successive weekends or holidays (except for sales work as stipulated in the Opening Hours Act).

Trial period

At the beginning of an employment relationship, an employer and employee can agree on a trial period. Frequently this trial period is defined in the collective bargaining agreement which will apply. The legally stipulated trial period is limited to one month. During this time both contractual partners can terminate the employment relationship without the necessity to adhere to time limits or deadlines or provide reasons for the decision.

Vacation

Every employee is entitled to five weeks of paid vacation per working year. This amounts to 30 working days in the case of a six-day working week or 25 working days in the case of a five-day working week. Starting with the 26th year of service on behalf of the same employer, the vacation time to which the employee is entitled increases to six weeks.

The entitlement to paid vacation begins in the first six months of the first year of work in proportion to the length of service. After six months the employee can claim his full vacation entitlement on a pro rata basis. Starting with the second year of work, the entitlement to paid vacation shall apply in full.

Holidays

On holidays employees are legally entitled to an uninterrupted rest period of at least 24 hours. In the case of a temporary need for labor, work may be allowed on holidays (refer to the section on working hours).

Public holidays in Austria:

January 01 (New Year's Day)

January 06 (Epiphany)

Easter Monday

May 01 (Labor Day)

Ascension Day

Whit Monday

Corpus Christi Day

August 15 (Assumption Day)

October 26 (National Holiday)

November 01 (All Saints' Day)

December 08 (Immaculate Conception)

December 25 (Christmas Day)

December 26 (St. Stephen's Day)

December 24 and December 31 are not considered to be holidays within the meaning of the Holiday Rest Act. If a public holiday falls on a Sunday, employees do not have off from work on the following Monday.

Termination of employment

Employment can be terminated on the basis of:

- Expiration of limited-term employment
- Termination of employment during the trial period
- Consensual termination of the employment contract
- Premature resignation on the part of the employee
- Dismissal of the employee by the employer
- Termination of employment by the employer
- Termination of employment by the employee

- Consensual termination of the employment contract

In case an amicable solution is reached, the employer and employee agree to terminate the employee's services on behalf of the company at a specified point in time. In this case, it is not required to adhere to time limits or deadlines. There are no formal procedural requirements to comply with. The consensual termination of employment can take place orally or in written form.

- Premature resignation on the part of the employee

The immediate termination of employment by the employee can only occur for good cause. Important reasons justifying such a premature termination include invalidity, health hazards, or the employer's withholding the employee's remuneration. The employee can immediately end his work on behalf of the employer without adhering to any notice periods. In this case, the employee is only entitled to severance payments if the employer is to blame for the premature end to employment.

- Dismissal by the employer

The employer has the possibility to terminate employment with immediate effect if there are justified grounds for dismissal. These reasons can include breach of trust or embezzlement, refusal to perform the assigned work or theft. In such cases there are no formal procedural requirements relating to dismissing the employee.

- Termination of employment by the employer

On the basis of the termination of the employment contract by the employer, a permanent contract of employment is cancelled by adhering to a specified notice period. The employer can terminate the employment relationship without giving the reasons for the decision. There are no formal procedure requirements, and it can take place orally or in written form.

The duration of the notice period is regulated in different ways for wage earners and salaried employees.

Periods of notice for salaried (white collar) staff:

The periods of notice for salaried staff are stipulated in the Salaried Employees Act, provided that this is not covered by the respective collective bargaining agreement. The period of notice to be observed by the employer is extended in accordance with the employee's length of service.

Years of service	Notice period
1 - 2 years	6 weeks
3 - 5 years	2 months
6 - 15 years	3 months
16 - 25 years	4 months
26+ years	5 months

Generally speaking, the legally stipulated termination date is the end of the respective quarterly period unless specified otherwise in the collective bargaining agreement or in the employment contract.

Periods of notice for wage earners (blue collar staff):

The periods of notice for workers is generally regulated in the individual collective bargaining agreements and are staggered according to the employee's years of service. In sectors where no collective bargaining agreements apply, the notice periods depend on the provisions contained in the employment contract.

- Termination of employment by the employee

As a result of the notice given by the employee, the employee terminates the permanent contract of employment. The law does not stipulate any particular methods or forms of giving notice. Salaried employees can terminate employment at the end of the month unless specified elsewhere. Depending on the duration of the working relationship, the employees generally has to give one month notice. By agreement this period can be extended to up to six months.

Severance payments

- Old severance pay system ("Abfertigung Alt")

The former severance payment system only applies to employment relationships which were concluded before January 1, 2003. It involves a legally stipulated severance payment in the event employment is terminated by the employer.

The employee is not entitled to severance pay if the employee prematurely terminates employment himself without good cause or if the employee bears responsibility for being dismissed without notice.

- New severance payment system ("Abfertigung Neu")

According to the new severance pay system, all employees whose employment commenced after January 1, 2003 are legally entitled to severance pay. This also applies if the employee prematurely terminates employment himself.

Starting in the second month of an employment relationship, employers in Austria are required to pay 1.53 percent of the employee's gross salary including bonus payments each month into a severance payment fund ("Abfertigungskasse"). This fund manages a severance pay account for each employee.

If the employment relationship is terminated, the employee has several possibilities in addition to (after three years of employment) receiving the accrued severance pay contributions. For example, the employee can decide to reinvest in the same pension insurance fund, or transfer the sum to which he or she is entitled to the pension insurance fund of the new employer.

It is possible for an employee whose employment contract was concluded before January 1, 2003 and who are thus subject to the provisions of the old system to transfer to the new severance payment system. This can be done on the basis of a voluntary individual written agreement between the employer and the employee.