

Changes to German Employment Law in 2019

The year 2019 started with numerous new laws that came into force in January 2019 in Germany. In the following, important changes will be explained:

1

Rising minimum wage

As of 1 January 2019, the statutory minimum wage rises from EUR 8.84 gross to EUR 9.19 gross per hour of work and, with effect from 1 January 2020, it will rise further to EUR 9.35 gross per hour of work. The deviating regulations in the area of employee leasing already mentioned in Section 1 (3) of the Minimum Wage Act (“MiLoG”) must not fall below this minimum limit.

2

Introduction of bridge part-time work

By amending the Part-Time and Fixed-Term Work Act (“TzBfG”), in particular by introducing Section 9a TzBfG, a general statutory entitlement to temporary part-time work as so-called “*bridge part-time work*” was newly introduced, in addition to the previously existing entitlement to part-time work not limited in time. This allows employees to specify a period (one to five years) in which they can reduce their working hours but afterwards continue to work under the old conditions. The employee must apply for the reduction and the period of the reduction at least three months prior to commencement of the part-time-period.

To protect smaller businesses, the entitlement does not apply to employers with up to 45 employees whereas employers with 46 up to 200 employees can reject the entitlement if a certain percentage of employees fixed in the standard has already reduced the working time. If “*operational reasons*” prevent the application, any employer can reject the reduction, but the requirements to such reasons are very strict.

3

Third sex

The amendment to the Civil Status Act (“PStG”) entered into force on 22 December 2018. The legislator now recognises a third sex, which is referred to as “*divers*”. The background was that in October 2017, the Federal Constitutional Court of Germany (“BVerfG”) ruled (1-BvR 2019/16) that individuals who cannot be permanently identified as male or female are violated in their constitutional right according to Article 3 subsec. 3 sent. 1 Constitutional Law (“GG”) and their general right of personality, based on Article 2 subsec. 1 in conjunction with Article 1 subsec. 1 GG, when the civil status law requires the gender to be registered but does not allow any other positive entry than “*male*” or “*female*”. The Court stated that the general right of personality also protects the gender identity of a person as a key characteristic of the social perception and personal identity.

Employers should take the third sex into account with regard to the General Equal Treatment Act (“AGG”) and any claims for damages in the event of infringements. Especially in the case of job advertisements, these should be extended to the third sex (“*w/m/d*”). In view of future changes, the employer should observe case law and legislation even more accurate than usual.



4 Qualification Opportunities Act promotes continuing education and training

The digital age and demographic change are also changing the demands on the labour market. The Qualification Opportunities Act (“*QuaChaG*”) is therefore intended to support employees in further training. According to the new Section 82 of the third Social Security Book (“*SGB III*”), training courses are financially supported by the Federal Employment Agency if the employer also contributes “*appropriately*”. Section 82 (2) sentence 2 SGB III defines what is “*appropriate*” as an amount dependent on a percentage of the number of employees.

5 Employer’s obligation to pay a subsidy for company pension schemes

Section 1a of the Company Pension Law (“*BetrAVG*”) was newly introduced with the Company Pension Strengthening Law (“*BRSG*”). According to this law, the employer is obliged to subsidise the company pension scheme of its employee with 15%. By this deferred compensation the employer saves social security contributions of the employee, therefore it has to pass the lump sum 15% of the deferred compensation on to the pension institution. According to Section 26a BetrAVG, the subsidy obligation initially only applies to deferred compensation agreements concluded as of 1 January 2019; as of the year 2022 it also applies to older agreements.

6 Tax benefits for environmentally friendly employee mobility

Environmentally friendly mobility will be rewarded according to the German Income Tax Act (“*EStG*”). From 2019 onwards, the additional wage granted by the employer for the use of public transport is tax-free in accordance with Section 3 no. 15 S.1 and 2 EStG; taxi rides and flights are excluded. These tax-exempt services, however, reduce the deductible income-related expenses (“*Werbungskosten*”) within the meaning of Section 9 (1) sentence 3 no. 4 sentence 2 EStG pursuant to Section 3 no. 15 sentence 3 EStG.

Company bicycles may also be provided tax-free to employees and used privately by employees in accordance with Section 3 no. 37 EStG. This also includes electric bicycles if they are not classified as motor vehicles, e.g. because they move faster than 25 km/h.

When purchasing a hybrid electric company car, which the employee also uses privately, he now only has to pay tax on this private use at 0.5 percent of the domestic list price per calendar year in accordance with Section 6 (1) no. 4 EStG.

Your Expert



Dr. Christian Maron
Salary Partner
Specialist Lawyer for Employment Law

Tel +49 (0)89 2 10 38 164
c.maron@taylorwessing.com