MATERNITY PROTECTION ACT 1979

Maternity Protection Act (Mutterschutzgesetz, MSchG) 1979, Federal Law Gazette no. 221/1979, as amended by

- FLG no. 409/1980
- FLG no. 577/1980
- FLG no. 213/1984
- FLG no. 563/1986
- FLG no. 651/1989
- FLG no. 408/1990
- FLG I no. 123/1998
- FLG I no. 103/2001
- FLG I no. 64/2004
- FLG I no. 58/2010

Status as of 1 August 2010

Maternity Protection Act (Mutterschutzgesetz, MSchG) 1979

Chapter 1
Scope

Section 1. (1) This Federal Act shall apply to female:
1. employees/workers,
2. homeworkers.

(2) This Federal Act shall not apply to female:
1. employees whose employment relationship is governed by the Agricultural Labour Act (Landarbeitsgesetz, LAG) 1984, Federal Law Gazette no. 287;
2. employees who have an employment relationship with an Austrian state (Land), a municipality (Gemeinde) or a local authorities association (Gemeindeverband), unless they work in businesses.

(3) Notwithstanding Para. 2 no. 2, this Federal Act shall apply to female employees whose civil-service employment relationship has to be specified by the Federal Government pursuant to Art. 14 Para. 2 or Art. 14a Para. 3 lit. b of the Austrian Federal Constitutional Law (Bundes-Verfassungsgesetz, B-VG).

(4) The regulations for employees stipulated in this Federal Act shall also apply to female apprentices; the regulations stipulated for employers shall also apply to clients as defined in the Homeworking Act (Heimarbeitsgesetz, HAG) 1960, Federal Law Gazette no. 105/1961.

Section 2. Chapters 2 to 7 of this Federal Act shall apply to:
1. employees who are employed in the framework of one of the employment relationships listed in Section 18, with the deviations stated in Chapter 8;
2. employees working in private households, with the deviations stated in Chapter 9;
3. homeworkers, with the deviations stated in Chapter 10.

Chapter 2
Evaluation

Identification, assessment and prevention of hazards, employer’s duties

Section 2a. (1) When employing female employees, the employer has to go beyond the duties stipulated in the Workers Protection Act (ArbeitnehmerInnenschutzgesetz, ASchG), Federal Law Gazette no. 450/1994, and determine and assess the risks to the safety and health of pregnant employees and
employees who are breastfeeding related to women’s workplaces and the effect of these risks on the pregnancy and breastfeeding.

(2) When identifying and assessing these risks, the nature, degree and duration of exposure of and burden to pregnant employees and breastfeeding employees by:

1. shocks, vibration or movement;
2. handling of loads entailing risks, particularly of a dorsolumbar nature;
3. noise;
4. ionising and non-ionising radiation;
5. extremes of cold or heat;
6. movements and postures, mental and physical fatigue and other physical burdens connected with the activity of the employee;
7. biological agents as defined in Section 40 Para. 4 nos. 2 to 4 ASchG, in so far as it is known that these agents or the therapeutic measures necessitated by such agents endanger the health of the pregnant employee and the unborn child;
8. agents dangerous to health;
9. the following processes:
   a) manufacture of auramine;
   b) work involving exposure to polycyclic aromatic hydrocarbons present in coal soot, coal tar, coal pitch, coal smoke or coal dust;
   c) work involving exposure to dusts, fumes and sprays produced during the roasting and electro-refining of cupro-nickel mattes;
   d) strong acid processes in the manufacture of isopropyl alcohol;
10. underground mining work;
11. work in a high-pressure atmosphere (air with a hyperbaric atmosphere of more than 0.1 bar), particularly pressurised enclosures and underwater diving

have to be particularly taken into account.

(3) The identification and assessment of the risks have to be adapted to any changing circumstances. A review and, if necessary, an adaptation has to take place

1. upon introduction of new work equipment, agents or working processes,
2. in the case of new findings on the state of the art and in the field of work structuring, or
3. upon a justified request of the Labour Inspectorate (Arbeitsinspektorat) in particular.

(4) When identifying and assessing the risks and specifying the measures to be taken, occupational health and safety officers as well as occupational physicians have to be consulted, if necessary. They may also be commissioned to identify and assess the risks.

(5) The employer shall be obliged to put down in writing the results of the identification and assessment of the risks as well as the measures to be taken pursuant to Section 2b (safety and health documents) and communicate the results and measures to all employees or the works council and the safety representatives.

**Measures in the case of risks**

Section 2b. (1) If the assessment shows any risks to the safety and health of pregnant employees or employees who are breastfeeding or any possible adverse effect on the pregnancy or breastfeeding, the employer has to eliminate these risks and the effects by adjusting the working conditions.

(2) If the adjustment of the working conditions is not objectively feasible, or cannot be required from the employer or employee, the employee shall be employed in a different job. If no suitable job exists, the employee shall be released from work.

**Chapter 3**

**Prohibition of employment**

**Prohibition of employment of pregnant women**

Section 3. (1) Pregnant women must not work during the last eight weeks immediately prior to the presumed date of confinement (eight-week period).
(2) The eight-week period (Para. 1) has to be calculated on the basis of a medical certificate. When the date of confinement occurs earlier or later than stated in the certificate, the period shall be shortened or extended accordingly.

(3) Furthermore, a pregnant employee must not be employed outside the eight-week-period (Para. 1), if she produces a certificate issued by a physician of the Labour Inspectorate or a medical health officer (Arbeitskrankenamt, employed by the public health authorities) stating that the life and health of the mother or child would be endangered if she continued to work.

(4) Pregnant employees shall notify their employers of their pregnancy, as soon as they have learned about it, and shall at the same time specify the presumed date of confinement. Moreover, they shall be obliged to notify the employer of the commencement of the eight-week period (Para. 1) in the fourth week prior to it. At the employer’s request, pregnant employees shall produce a medical certificate confirming the pregnancy and specifying the presumed date of confinement. The employer shall be informed about a premature termination of the pregnancy.

(5) Any costs incurred for providing additional proof of the pregnancy and the presumed date of confinement requested by the employer shall be borne by the employer.

(6) The employer shall be obliged to inform the competent Labour Inspectorate in writing immediately after having been notified of the pregnancy of an employee (homeworker) or, if the employer has requested a medical certificate of pregnancy (Para. 4), immediately after having received said certificate. The information provided has to include the name, age, activity and workplace of the pregnant employee as well as the presumed date of confinement. If the business is not in the sphere of responsibility of the Labour Inspectorate, the employer shall address the notification indicating an employee’s pregnancy to the competent authority pursuant to Section 35 Para. 1. The employer shall provide the employee (homeworker) with a copy of the notification of the Labour Inspectorate or any other competent authority. If the business offers medical attendance by its own occupational physician, the employer shall also inform the head of the company medical office about the employee’s pregnancy.

(7) In addition, employers pursuant to Section 3 Para. 2 of the Temporary Agency Work Act (Arbeitskräftüberlassungsgesetz, AÜG), Federal Law Gazette no. 196/1988, are obliged to notify the competent Labour Inspectorate about any change in a pregnant employee’s user undertaking or the fact that there are frequent, short-term changes.

(8) If the pregnant employee is prevented from work due to necessary pregnancy-related ante-natal examinations, in particular those covered by the Mother-Child-Booklet Ordinance (Mutter-Kind-Pass-Verordnung, MuKiPassV), Federal Law Gazette II no. 470/2001, which she cannot attend or cannot reasonably be expected to attend outside the working hours, she shall be entitled to continued remuneration.

Section 4. (1) Under no circumstances must pregnant employees perform heavy physical work or any work or working processes which are harmful to their organism or that of the unborn child due to the kind of the work process or the agents or work equipment used.

(2) Work as defined in Para. 1 shall in particular include:
1. work entailing the regular manual lifting of loads with a weight of more than 5 kg or the occasional lifting of loads with a weight of more than 10 kg without any mechanical tools or the regular manual handling or moving of loads with a weight of more than 8 kg or the occasional manual handling or moving of loads with a weight of more than 15 kg without any mechanical tools; if bigger loads are lifted, handled or moved with the help of mechanical tools, the physical burdens must not be higher than in the case of the aforementioned activities;
2. work performed by pregnant employees mainly in a standing position as well as work that entails corresponding static strain, unless there are seats for the employee to have a short rest; after the expiry of the 20th week of pregnancy all such work, if it is performed for more than four hours, even if there is a seat for the employee to have a short rest;
3. work entailing the risk of an occupational disease as defined in the relevant provisions of the General Social Insurance Act (Allgemeines Sozialversicherungsgesetz, ASVG), Federal Law Gazette no. 189/1955;
4. work where pregnant employees are exposed to the effects of harmful agents, no matter whether they are in a solid, fluid, dusty, gaseous or vaporous state, harmful radiation or the harmful effects of heat, cold or humidity, where damage cannot be ruled out;
5. the operation of equipment and machines of all kinds, if it entails heavy strain on the feet;
6. the operation of foot-operated equipment and machines, if it entails heavy strain on the feet;
7. working in or on means of transport;
8. peeling wood with hand knives;
9. piece-work, work similar to piece-work, assembly line work with a required work speed, performance-related work and other work where a higher pay can be achieved by an increased work speed, for example, work that is paid based on job evaluation (personality assessment) procedures, statistical procedures, data collection procedures, systems of predetermined times or similar pay determination methods, if the associated average output is beyond the pregnant employee’s strength. After the expiry of the 20th week of pregnancy, piece-work, work similar to piece-work, performance-related work and assembly line work with a fixed work speed are prohibited in any case; work that is paid based on job evaluation (personality assessment) procedures, statistical procedures, data collection procedures, systems of predetermined times or similar pay determination methods may be forbidden by the competent Labour Inspectorate on a case-by-case basis;
10. work which is performed by pregnant employees in a sitting position, unless they are given the opportunity of short breaks during their work;
11. work with biological agents as defined in Section 40 Para. 4 nos. 2 to 4 AschG, in so far as it is known that these agents or the therapeutic measures necessitated by such agents endanger the health of the pregnant woman and the unborn child;
12. underground mining work;
13. work in a high-pressure atmosphere (air with a hyperbaric atmosphere of more than 0.1 bar), particularly pressurised enclosures and underwater diving.

(3) Pregnant employees must not perform any work where they are exposed to special risks of accident considering their pregnancy.

(4) In case of doubt, the Labour Inspectorate shall decide whether a job is subject to prohibition as defined in Paras. 1 to 3.

(5) Pregnant employees must not perform any work
1. where they often have to excessively stretch or bend or where they often have to crouch or maintain a bent position; and
2. where the body is exposed to excessive vibrations or
3. where the employee is exposed to especially annoying malodours or particular psychological stress,
if the Labour Inspectorate, at the employee’s request or on the authorities’ own initiative, decides that this work is harmful to the organism of the pregnant employee or to the unborn child, and if this is also confirmed by an expert opinion of a physician of the Labour Inspectorate or a medical health officer of the public health authorities in the case of Para. 3.

(6) Pregnant employees who do not smoke must not work in places where they are exposed to tobacco smoke, provided that this is feasible in the type of business. If no spatial separation is possible, the employer shall take appropriate measures to ensure that other employees working in the same room as the pregnant employee do not expose her to tobacco smoke.

Prohibition of employment of employees who are breastfeeding

Section 4a. (1) When returning to work, employees who are breastfeeding have to inform the employer that they are breastfeeding and have to produce a corresponding certificate issued by a physician or a parent-child centre (Mutterberatungsstelle) at the employer’s request.

(2) Employees who are breastfeeding must in no case perform work or work processes pursuant to Section 4 Para. 2 nos. 1, 3, 4, 9, 12 and 13.

(3) In case of doubt, the Labour Inspectorate shall decide whether a job is subject to prohibition as defined in Para. 2.

(4) The employee has to notify the employer when she has stopped breastfeeding.

Prohibitions of employment after childbirth

Section 5. (1) Employees must not be employed during a period of eight weeks following childbirth. In the case of premature births, multiple births or Caesarian section births, this period shall be at least twelve weeks. If the portion of the eight-week period (Section 3 Para. 1) prior to childbirth was shorter, the missing time shall be added to the maternity leave period (Schutzfrist) after childbirth, which must, however, not exceed 16 weeks.
(2) After childbirth, employees must not be admitted to work after the periods stipulated under Para. 1 as long as they are incapable of work. The employee shall be obliged to notify her employer about her incapacity for work without delay and shall produce a medical certificate on the expected duration of the incapacity for work at the employer’s request. If an employee fails to meet these obligations, she will not be entitled to remuneration for the duration of the delay.

(3) Employees must not perform work listed under Section 4 Para. 2 nos. 1, 2, 3, 4, 8, 9, 12 and 13 during a period of twelve weeks after childbirth.

(4) In addition to the provisions set out in Paras. 1 to 3, the competent administrative authority pursuant to Section 36 may instruct the employer to take the necessary measures to protect the health of an employee who, according to a certificate issued by a physician of the Labour Inspectorate or a medical health officer of the public health authorities, is not fully capable of work during the first months following childbirth.

**Prohibition of night work**

**Section 6.** (1) Apart from the exemptions permitted pursuant to Paras. 2 and 3, pregnant employees and employees who are breastfeeding must not work between 8 p.m. and 6 a.m.

(2) Pregnant employees and breastfeeding employees who work in transportation, for music performances, theatre performances, public shows, amusements, festivities, film recordings and in cinemas or who work as nurses in hospitals, convalescent and nursing homes or welfare institutions or in multiple-shift businesses may work until 10 p.m. provided that they are granted an uninterrupted rest period of at least eleven hours after night work.

(3) At the employer’s request, the Labour Inspectorate may, in individual cases, grant permission to employ pregnant employees and employees who are breastfeeding in the hotel and restaurant industry until 10 p.m. and in music performances, theatre performances, public shows, amusements, festivities and in cinemas until 11 p.m., if this is necessary for operational reasons and provided that the employee’s health allows for it. This permission may only be given if the employee is guaranteed and granted an uninterrupted rest period of at least eleven hours after night work.

(4) The exemptions pursuant to Paras. 2 and 3 shall only apply if night work for female employees is not prohibited for other reasons.

**Prohibition of work on Sundays or public holidays**

**Section 7.** (1) Apart from the exemptions permitted pursuant to Paras. 2 and 3, pregnant employees and employees who are breastfeeding must not work on Sundays and public holidays.

(2) The prohibition pursuant to Para. 1 shall not apply to:

1. employment in music performances, theatre performances, public shows, amusements, festivities, film recordings, in the hotel and restaurant industry and in businesses with uninterrupted rotating shifts, within the scope of the otherwise permissible work on Sundays and public holidays;
2. employment in businesses where work on Sundays and public holidays is permitted, provided that the weekly rest period for the entire staff falls on a certain working day;
3. employment in businesses where work on Sundays and public holidays is permitted, if the business does not regularly employ more than five employees and if - apart from the pregnant employee or the employee who is breastfeeding – only one employee is employed who can perform a job of the same kind.

(3) At the employer’s request, the Labour Inspectorate may approve of additional exemptions in individual cases, if this is essential for operational reasons.

(4) The employee shall be entitled to an uninterrupted rest period of at least 36 hours (weekly rest) in the calendar week following work on Sunday, and to an uninterrupted rest period of at least 24 hours after a night rest in the week following work on a public holiday. The rest period shall include a whole weekday. During this rest period the employee must not work.

(5) The exemptions pursuant to Paras. 2 and 3 shall only apply if work on Sundays and public holidays for female employees is not prohibited for other reasons.

**Prohibition of overtime work**

**Section 8.** Pregnant employees and employees who are breastfeeding must not work longer than the regular daily working hours as defined in a collective agreement or as stipulated by law. The daily working hours must in no case exceed nine hours, the weekly working hours in no case 40 hours.
Rest facilities

Section 8a. Pregnant employees and breastfeeding employees employed on the employer’s premises and on construction sites must be able to lie down to rest in appropriate conditions.

Breastfeeding

Section 9. (1) Upon request, employees who are breastfeeding shall be given the required time off to breastfeed their infants. This shall be 45 minutes on days when the employee works for more than four and a half hours; if the employee works for eight or more hours, the time off for breastfeeding shall be split into two breaks of 45 minutes each upon request or, if there is no breastfeeding facility in the vicinity of the place of work, a period of ninety minutes shall be granted for breastfeeding.

(2) The time off for breastfeeding must be granted without loss of pay. The time off for breastfeeding must neither be made up for by the employees who are breastfeeding nor must it be deducted from the other rest periods defined by law or collective agreement.

(3) The competent administrative authority pursuant to Section 36 may instruct the employer to split the time off for breastfeeding in a certain way in accordance with Paras. 1 and 2, if special circumstances demand so in individual cases.

(4) Furthermore, the competent administrative authority pursuant to Section 36 may order that breastfeeding facilities be established, if the circumstances demand so in individual cases.

Chapter 4

Protection against notice of termination of employment and dismissal, remuneration

Protection against notice of termination of employment

Section 10. (1) Employees may not be given notice of termination in a legally effective way during pregnancy and until the end of a period of four months after childbirth, unless the employer has not been informed about the pregnancy or childbirth.

(2) The termination shall also be legally ineffective if the employer is notified of the pregnancy or childbirth within five working days after the notice of termination was given, or, if the notice was given in writing, within five working days from its service. Written notification of the pregnancy or childbirth shall be deemed timely, if it is mailed within the five-day period. If the employee objects to the termination due to pregnancy or childbirth within the five-day period, she shall simultaneously provide proof of pregnancy or the presumed pregnancy by means of a physician’s certificate or produce the child’s birth certificate. If the employee cannot notify the employer of the pregnancy or childbirth during the period of five days for reasons outside her sphere of influence, the notification shall be deemed timely if it occurs immediately after the impediment to notification has disappeared.

(3) Notwithstanding Paras. 1 and 2, the notice of termination can be given in a legally effective way, if prior consent of the court has been obtained. When filing the action, the employer shall at the same time notify the works council thereof. The court shall approve of the termination by the employer only if the employer cannot continue the employment relationship without causing damage to the business because of downsizing or closing down operations or closing down individual departments of the business, or if the employee agrees to the termination of employment during the court hearing, after the parties have been instructed by the presiding judge on the protection against termination of employment under this Federal Act. The court’s consent to the termination is not required after a business has been closed down.

(4) If parental leave is taken in the child’s second year or – in the case of part-time employment – in the child’s second, third and fourth year, the court may also consent to the termination, if the action seeking consent to the termination of employment was filed after the child’s first birthday, provided that the employer furnishes evidence that the termination of employment is justified by circumstances caused by the employee that are detrimental to the interests of the business or caused by business requirements which are an obstacle to the continued employment of the employee, and if continuation of the employment is unacceptable to the employer.

(5) If an employee was given notice due to closing down the business (Para. 3) and if this business resumes its activity within a period of four months after the employee’s childbirth, the previous layoff shall have no legal effect if the employee lodges a corresponding request with the employer. Said request has to be submitted within two months after the business has resumed its activity. When lodging the request, the employee has to indicate to the employer her readiness to resume work. If, at the time of submission of the request, the employee is subject to a prohibition of employment pursuant to this Federal Act (Section 3 Paras. 1 to 3 and Section 5 Paras. 1 and 2) or if the employee has taken parental leave
(Section 15), she shall notify the employer thereof upon submission of the request and resume work after she is no longer prohibited from working and/or parental leave has ended.

(6) Any notice of termination given contrary to Paras. 1 to 4 shall not be legally effective.

(7) Any termination of an employment relationship by mutual agreement shall only be legally effective, if it has been agreed upon in writing. If the employee is a minor, this agreement also has to be supplemented with a certification from a court (Section 92 of the Labour and Social Courts Act (Arbeits- und Socialgerichtsgesetz, ASGG)) or a statutory interest group of employees, stating that the employee was instructed on the protection against notice of termination of employment under this Federal Act.

Fixed-term employment

Section 10a. (1) The expiry of a fixed-term employment relationship shall be suspended for the period from the notification of pregnancy until the commencement of the prohibition of employment pursuant to Section 3 Para. 1 or the commencement of a permanent prohibition of employment pursuant to Section 3 Para. 3, unless the limitation to a fixed term was objectively justified or stipulated by law.

(2) The limitation shall be deemed objectively justified, if it is in the employee’s interest or if the employment relationship was concluded for the temporary replacement of employees prevented from performing their work, for training purposes, for seasonal work or for probation purposes, if due to the qualification required for the planned employment the probation has to be longer than the probation period stipulated by law or collective agreement.

(3) If the expiry of the employment relationship is suspended pursuant to Para. 1, the employee shall be entitled to maternity benefit (Wochengeld) under the provisions of the ASVG in the case of a prohibition of work as set out in Sections 4 or 6.

Section 11. The expiry of the employment permit (Beschäftigungsbewilligung), the work permit (Arbeitserlaubnis) or the certificate of exemption (Befreiungsschein) pursuant to the Employment of Foreigners Act (Ausländerbeschäftigungsgesetz, AuslBG), Federal Law Gazette no. 218/1975, of a foreign employee will be suspended in the event of pregnancy and childbirth until that date on which her employment relationship may be terminated with legal effect pursuant to Section 10 Paras. 1, 3 and 4, Section 10a Para. 1, Section 15 Para. 4, Section 15a Para. 5, Section 15d Para. 1 first sentence in conjunction with Para. 5 and Section 15n Para. 1 or any other applicable statutory or contractual provisions.

Protection against dismissal

Section 12. (1) Employees may be dismissed in a legally effective way during pregnancy and until the end of a period of four months after childbirth only after the prior consent of the court has been obtained.

(2) The court may grant its consent to the dismissal only if the employee

1. has culpably and negligently violated the duties incumbent on her on the basis of the employment relationship, in particular if she has failed to perform her work without legitimate cause during a period of time that is deemed considerable under the given circumstances;
2. has committed a breach of trust in the framework of her work or if she has unjustifiably received and accepted benefits in her job from third parties without her employer’s knowledge;
3. has disclosed a business or trade secret or has operated, without the employer’s consent, an ancillary business which is detrimental to her deployment in the business operation (household);
4. has been involved in violence against or substantial defamation of the employer, the members of the employer’s family working or present in the business (household) or any employees of the business (household);
5. is guilty of committing an offence which can only be committed intentionally and is punishable by imprisonment for more than one year or has committed a punishable offence with the intent of enriching herself or somebody else.

(3) In the cases set out in Para. 2 nos. 1 and 4, the employee’s extraordinary emotional state caused by pregnancy or childbirth has to be taken into account.

(4) In the cases set out in Para. 2 nos. 4 and 5, the employee may be dismissed if the court’s consent is obtained subsequently. If the court dismisses the action seeking consent to the dismissal, the dismissal shall not have legal effect.

Section 13. The employee shall be a party to the judicial proceedings pursuant to Section 10 Paras. 3 and 4, Sections 12 and 22 as well as in administrative proceedings pursuant to Section 4 Para. 2 no. 9,
Paragraphs 4 and 5, Section 4a Para. 3, Section 5 Para. 4, Section 6 Para. 3, Section 7 Para. 3 and Section 9 Para. 3.

**Continued payment of remuneration**

**Section 14.** (1) If changing the employee’s job in the business is necessary pursuant to Section 2b, Section 4, Section 4a, Section 5 Paras. 3 and 4 or Section 6, unless defined otherwise in Section 10a Para. 3, the employee shall be entitled to payment of the remuneration that equals the average earnings she received in the last 13 weeks of the employment relationship prior to this change. If said period covers times where the employee was not paid the full remuneration due to illness or because of temporarily reduced working hours (*Kurzarbeit*), the 13-week period shall be extended by these periods; these periods shall not be considered when calculating the average earnings. The aforementioned provision shall also apply if the change in the employee’s job entails shorter working hours, subject to the proviso that the calculation of the remuneration shall be based on the working hours which would apply to the employee had there not been any change in the job. In the case of a type of seasonal work referred to in Section 4 Para. 2 no. 9, the employee shall be granted the average income of the last thirteen weeks only for that period during which such work is performed in the business; for the remaining time, the employee shall be granted the remuneration she would have received if she were not pregnant.

(2) Employees who must not be employed pursuant to Section 3 Para. 3 as well as employees for whom no employment opportunities exist in the business on the basis of the provisions of Section 2b, Section 4, Section 4a, Section 5 Paras. 3 and 4 or Section 6 shall be entitled to remuneration, for the calculation of which Para. 1 shall apply correspondingly.

(3) The entitlement pursuant to Paras. 1 and 2 is not applicable to periods during which maternity benefit or sick pay according to the Austrian General Social Insurance Act (*Allgemeines Sozialversicherungsgesetz*, ASVG) may be drawn; any eligibility for an employer’s grant to the sick pay shall remain unaffected by this.

(4) The employee retains the entitlement to other payments, in particular one-time benefits as defined in Section 67 Para. 1 of the Income Tax Act (*Einkommensteuergesetz*, EStG) 1988, Federal Law Gazette no. 400, on a pro-rata basis in the calendar years that include times of maternity benefit payments in accordance with the ASVG to that extent which is equivalent to that part of the calendar year containing no such periods.

**Chapter 5**

**Parental leave (Karenz)**

**Entitlement to parental leave**

**Section 15.** (1) Unless hereinafter specified otherwise, the employee shall, at her request, be granted parental leave subsequent to the period set out under Section 5 Paras. 1 and 2 until the child’s second birthday without remuneration, if she lives in the same household with the child. The same shall apply, if the employee took paid annual leave subsequent to the period set out under Section 5 Paras. 1 and 2 or if she was not able to work due to illness or an accident.

(1a) Simultaneous parental leave of the two parents shall not be admissible, except for the case specified in Section 15a Para. 2.

(2) The duration of parental leave must be at least two months.

(3) The employee shall notify the employer of the beginning and duration of parental leave by the end of the period set out under Section 5 Para. 1 at the latest. The employee may notify her employer no later than three months, or if the parental leave period is shorter than three months, no later than two months prior to the end of her parental leave that and until when she will extend parental leave. Notwithstanding the expiry of these notification periods, parental leave pursuant to Para. 1 may be agreed.

(4) If parental leave pursuant to Paras. 1 and 3 is taken, the protection against notice of termination of employment and dismissal pursuant to Sections 10 and 12 shall extend for a period of four weeks after the end of parental leave.

**Parents sharing parental leave**

**Section 15a.** (1) Parental leave may be shared with the child’s father and split two times. Each share of the employee’s parental leave must amount to at least two months. It has to be taken up at the point of time specified in Section 15 Para. 1 or immediately subsequent to the parental leave taken by the father.
(2) On the occasion of the first change in the person caring for the child, the mother may take parental leave at the same time as the father for a period of one month, with the entitlement to parental leave ending one month prior to the point of time set out under Section 15 Para. 1 or Section 15b Para. 1.

(3) If the employee takes her parental leave subsequent to the father’s parental leave, she shall notify her employer of the beginning and the duration of parental leave at least three months prior to the end of the father’s parental leave. If, however, the father takes parental leave subsequent to the prohibition of work pursuant to Section 5 Para. 1 and said parental leave is shorter than three months, the child’s mother shall notify her employer of the beginning and duration of her leave by the end of the period under Section 5 Para. 1 at the latest. Notwithstanding the expiry of these notification periods, parental leave pursuant to Para. 1 may be agreed.

(4) In the case of Para. 3, the protection against notice of termination of employment and dismissal pursuant to Sections 10 and 12 shall commence upon the notification but no sooner than four months prior to the beginning of this share of parental leave.

(5) The protection against notice of termination of employment and dismissal pursuant to Sections 10 and 12 shall end four weeks after the end of her respective share of parental leave.

**Postponed parental leave**

**Section 15b.** (1) The employee may agree with the employer that she postpones three months of her parental leave and takes it before the child’s seventh birthday, unless hereinafter specified otherwise. In this context, the requirements of the business and the reason for taking parental leave shall be taken into account. However, postponed parental leave may only be taken if the parental leave pursuant to Sections 15 or 15a has ended

1. at the end of the child’s 21\textsuperscript{st} month of age,
2. if the father also takes postponed parental leave, at the end of the child’s 18\textsuperscript{th} month of age

at the latest.

(2) If the postponed parental leave not yet taken is longer than the period between the child’s entry into school and its seventh birthday or if the child enters school only after its seventh birthday, it may be agreed that the postponed parental leave shall be taken upon the child’s entry into school. If another child is born, this shall not impede the agreement on taking the postponed parental leave.

(3) The employer shall be notified of the intention to take postponed parental leave at the points of time specified under Section 15 Para. 3 or Section 15a Para. 3. If no agreement can be reached within two weeks from notification, the employer may file an action on the grounds of taking postponed parental leave with the competent court within another two weeks, in default whereof the consent shall be deemed given. If no agreement has been reached or if an action has been filed, the employee may notify her employer that, instead of the postponed parental leave, she will take parental leave until the child’s second year. The same shall apply if the court decides in favour of the employer.

(4) The employer shall be notified of the beginning of the postponed share of parental leave at least three months prior to the requested point of time. If no agreement can be reached within two weeks from notification, the employee may start the postponed parental leave at the requested point of time, unless the employer has filed an action with the competent court within another two weeks on grounds of the point of time when starting the postponed parental leave.

(5) In the case of legal disputes pursuant to Paras. 3 and 4, no party shall be entitled to be reimbursed by the other party for costs related to the court proceedings, no appeal shall be admissible against a judgment of a court of first instance and – irrespective of the value of the matter in dispute – decisions of the court of first instance may only be appealed to for the reasons set out in Section 517 of the Code of Civil Procedure (Zivilprozessordnung, ZPO) and due to non-admission of a change to an action (Klagsänderung).

(6) If the postponed parental leave is taken during an employment relationship other than the one existing at the time of the birth of the child, an agreement with the new employer shall be required before taking postponed parental leave in any case.

**Parental leave of adoptive mothers or foster mothers**

**Section 15c.** (1) Any employee who

1. has adopted – on her own or with her husband – a child under the age of two (adoptive mother) or
2. provides unpaid foster care to a child under the age of two with the intention to adopt the child (foster mother)
and who lives with the child in the same household shall be entitled to parental leave.

(2) Sections 15 to 15b shall apply with the following deviations:

1. Parental leave pursuant to Sections 15 and 15a shall begin on the date of adoption or the placement in unpaid foster care or subsequent to parental leave taken by the father, adoptive father or foster father;
2. if the employee takes parental leave pursuant to Sections 15 and 15a immediately from the date of adoption or the placement in unpaid foster care, she shall immediately notify her employer of the beginning and duration of parental leave;
3. if an employee adopts a child that is older than 18 months but younger than two years or assumes unpaid foster care duties for such child, she may take parental leave for a period of up to six months after the child’s second birthday.

(3) If the employee adopts a child after its second birthday but before its seventh birthday or if she provides unpaid foster care to such child with the intention to adopt it, she shall be entitled to parental leave for a period of six months. Parental leave shall begin on the date of adoption or the placement in unpaid foster care or subsequent to parental leave taken by the father, adoptive father or foster father.

(4) Sections 10 and 11, Section 12 Paras. 1, 2 and 4, Sections 13 and 16 shall be applied to parental leave pursuant to Paras. 1 and 3 subject to the proviso that the notification of the pregnancy (Section 10 Para. 2) shall be replaced with the notification of adoption or placement in foster care; in both instances, the notification shall be accompanied by the request for granting parental leave.

Parental leave in the event of the father being prevented

Section 15d. (1) If the father, adoptive father or foster father is prevented from personally caring for the child due to the occurrence of an unforeseen and inevitable event for a period which is not just relatively short, the employee shall, at her request, be granted parental leave for the time of his being prevented but no longer than until the child’s second birthday. The same shall apply to the prevention of a father, adoptive father or foster father who permissibly takes parental leave after the child’s second birthday.

(2) Only the following events shall be deemed unforeseen and inevitable:

1. death;
2. stay in a hospital and nursing home;
3. serving a prison sentence and any other detention based on an official order;
4. serious illness;
5. discontinuation of the same household of the father, adoptive father or foster father with the child or discontinuation of the care of the child.

(3) The employee shall notify her employer of the beginning and expected duration of parental leave without delay and shall furnish proof of the circumstances establishing the entitlement.

(4) The employee shall also be entitled to parental leave if she has already taken parental leave, has taken up or terminated an agreed part-time employment or has announced parental leave or part-time employment for a later point of time.

(5) Unless the protection against notice of termination of employment and dismissal pursuant to Sections 10 and 12 already exists due to other provisions of this Federal Act, the protection against notice of termination of employment and dismissal in the event of taking parental leave or taking up part-time employment because of the father’s prevention shall begin at the time of notification and shall end four weeks after the end of parental leave or the part-time employment.

Employment during parental leave

Section 15e. (1) Besides the employment relationship from which she is on leave, the employee shall be entitled to work marginal part-time if the monthly remuneration due for this job does not exceed the amount specified in Section 5 Para. 2 no. 2 of the ASVG. Any violation of the duty to perform work in such jobs shall not have any effect on the employment relationship from which she is on leave. The working time for such jobs shall be agreed between the employee and the employer prior to each work assignment.

(2) Furthermore, the employee may agree with her employer, besides the employment relationship from which she is on leave, to take on employment which exceeds the marginal earnings threshold for a maximum of 13 weeks per calendar year. If parental leave is not taken during the entire calendar year, such employment may only be agreed on a pro rata basis.
(3) With the employer’s consent, an employment as defined in Para. 2 may also be entered into with a different employer.

**Other common provisions on parental leave**

Section 15f. (1) The employee retains the entitlement to other payments, in particular one-time benefits as defined in Section 67 Para. 1 of the Income Tax Act (Einkommensteuergesetz, EStG) 1988, on a pro-rata basis in those calendar years that include times of parental leave to that extent which corresponds to the part of the calendar year containing no such times. Any provisions which are more favourable to the employee shall not be affected by the foregoing. Unless agreed otherwise, the period of parental leave shall be disregarded when considering the employee’s legal claims associated with the duration of the employment period. However, the first parental leave taken in the employment relationship shall be credited to the assessment base of the notice period, the period of continued remuneration in the case of illness (accident) and the leave entitlement for a total of ten months at most.

(2) If the respective working year includes periods of parental leave, the employee shall be entitled to annual leave on a pro-rata-basis, unless it has already been used up, to that extent which corresponds to the year of service less the period of parental leave. If the calculation of the leave entitlement does not result in full working days, they shall be rounded up to whole working days.

(3) Upon request, the employer shall issue a written statement to the employee to be co-signed by her
1. stating that she does not take parental leave, or
2. specifying the beginning and the duration of parental leave.

(4) The parental leave shall end before the agreed date, if the mother stops living in the same household with the child and the employer requests the employee to return to work prematurely.

(5) The employee shall immediately notify her employer of the discontinuation of the same household with the child and has to resume her work if the employer requests so.

**Right to information**

Section 15g. During the period of parental leave, the employer shall inform the employee about important occurrences in the business affecting the interests of the employee on leave, in particular insolvency proceedings, restructurings in the business and career development measures.

**Chapter 6**

Part-time employment and re-scheduling working hours

Entitlement to part-time employment

Section 15h. (1) The employee shall be entitled to part-time employment up to the child’s seventh birthday at the latest or any later date of the child’s entry into school, provided that
1. the employee has maintained the employment relationship for an uninterrupted period of three years at the time of taking up part-time employment and
2. the employee has worked in a business (Section 34 of the Labour Constitution Act (Arbeitsverfassungsgesetz, ArbVG), Federal Law Gazette no. 22/1974) with more than 20 employees at that time.

The beginning and duration of the part-time employment as well as the number and scheduling of the working hours shall be agreed upon with the employer, taking into account the interests of the business and the interests of the employee. Employees shall not be entitled to part-time employment during an apprenticeship.

(2) When calculating the minimum period of the employment relationship pursuant to Para. 1 no. 1, all periods of employment with the same employer in immediately preceding jobs with this employer shall be taken into account. Likewise, the periods of employment relationships which are continued with the same employer following interruption due to the promise of or an agreement stipulating re-employment shall be credited to the minimum period of the employment relationship. Notwithstanding Section 15f Para. 1 third sentence, periods of parental leave under this Federal Act shall be credited to the minimum period of the employment relationship.

(3) With regard to determining the number of employees pursuant to Para. 1 no. 2, the number of employees who are regularly employed in the business shall be decisive. In businesses where the number of employees is seasonally fluctuating, the required minimum number of employees shall be deemed met
if the average number of employees in the year prior to taking up part-time employment amounted to more than 20.

(4) In businesses with 20 employees and less, a works agreement as defined by Section 97 Para. 1 no. 25 ArbVG may expressly contain the provision that female employees are entitled to part-time employment pursuant to Para. 1. All provisions which apply to part-time employment pursuant to Para. 1 shall apply to such part-time employment. The termination of such a works agreement shall become effective only for the employment relationships of those employees who have not requested part-time work in writing or have not taken up part-time employment on the date of termination.

Agreed part-time employment

Section 15i. An employee who has no right to part-time employment pursuant to Section 15h Para. 1 or 4 may enter into an agreement on part-time employment with the employer up to the child’s fourth birthday at the latest specifying its beginning and duration as well as the number and scheduling of the working hours.

Common provisions on part-time employment

Section 15j. (1) The prerequisites for taking up part-time employment pursuant to Sections 15h and 15i are that the employee lives in the same household with the child or has child custody pursuant to Section 167 Para. 2, Section 177 or 177b of the General Civil Code (Allgemeines Bürgerliches Gesetzbuch, ABGB), Law Gazettes No. 946/1811, and that the child’s father is not on parental leave at the same time.

(2) The employee can be granted part-time employment only once for each child. The duration of such part-time employment must be at least two months.

(3) The part-time employment may be taken up no sooner than subsequent to the period set out in Section 5 Paras. 1 and 2, subsequent to paid annual leave following said period or any inability to work caused by illness (accident). In this case, the employee shall notify the employer in writing thereof by the end of the period set out under Section 5 Para. 1, specifying the duration of the part-time employment as well the number and scheduling of working hours.

(4) If the employee intends to take up part-time employment at a later point of time, she shall notify her employer thereof in writing at least three months prior to the intended beginning, specifying the beginning and duration of the part-time employment as well the number and scheduling of working hours. However, if the time between the end of the period as set out in Section 5 Para. 1 and the beginning of the intended part-time employment is less than three months, the employee shall submit a written notification of the part-time employment by the end of the period pursuant to Section 5 Para. 1.

(5) The employee may request both a change in the part-time employment (extension, change to the number of hours or scheduling) and a premature termination only once. She shall notify her employer of this in writing no later than three months, or if the part-time employment is shorter than three months, no later than two months prior to the intended change or termination.

(6) The employer may request both a change in the part-time employment (change to the number of hours or scheduling) and a premature termination only once. The employer shall notify the employee of this in writing no later than three months, or if the part-time employment is shorter than three months, no later than two months prior to the intended change or termination.

(7) If a calendar year also contains times of part-time employment, the employee shall be entitled to other, in particular one-time benefits as defined in Section 67 Para. 1 ESIG 1988, pro rata for the times of full-time and part-time employment in the calendar year.

(8) At the employee’s request, the employer shall be obliged to issue a written statement on the beginning and duration of the part-time employment or a confirmation of not taking part-time employment. The employee shall co-sign said written statement.

(9) The employee’s part-time employment shall end prematurely if she takes parental leave or takes up part-time employment under this Federal Act for another child.

Proceedings in the case of entitlement to part-time employment

Section 15k. (1) In businesses that have a works council responsible for the employee, said works council shall be involved in the negotiations on the beginning or duration of the part-time employment or the number or scheduling of working hours at the employee’s request. If no agreement can be reached within two weeks from notification, representatives of the statutory interest groups of employers and workers may be asked to participate in the negotiations if the employee and the employer mutually agree
so. The employer shall record the result of the negotiations in writing. This document shall be signed both by the employer and the employee and a copy shall be given to the employee.

(2) If no agreement on the beginning and duration of the part-time employment as well the number and scheduling of working hours can be reached within four weeks from notification, the employee may take up part-time employment at the conditions as notified by her, unless the employer files a motion for amicable settlement pursuant to Section 433 Para. 1 ZPO with the competent labour and social court, if applicable, on a public court day (Gerichtstag). The result of the negotiations pursuant to Para. 1 shall be enclosed to the motion.

(3) If no amicable settlement can be reached within four weeks from receipt of the motion by the labour and social court, the employee shall file an action seeking the employee’s consent to the conditions of part-time employment as suggested by the employer at the competent labour and social court within another week; if the employer does not file such action in the specified period, the employee may take up part-time employment at the conditions as notified by her. If the attempt to reach a settlement is made only after the expiry of the four-week period, the deadline for filing the action shall commence on the day following the attempt to reach a settlement. The labour and social court shall decide in favour of the employer if the requirements of the business outweigh the employee’s interests. If the labour and social court finds against the employer, the part-time employment intended by the employee shall take effect from the date the judgment becomes final.

(4) If the employee intends to change or terminate the part-time employment before the agreed date, Para. 1 shall be applied. If no agreement can be reached within four weeks from notification, the employer may file an action against this request at the competent labour and social court within another week. If the employer does not file an action, the change or the premature termination of the part-time employment notified by the employee shall become effective. The labour and social court shall decide in favour of the employer, if the requirements of the business outweigh the employee’s interests with regard to the intended change or premature termination.

(5) If the employer intends to change or terminate the part-time employment before the agreed date, Para. 1 shall be applied. If no agreement can be reached within four weeks from notification, the employer may file an action seeking the change or premature termination at the labour and social court within another week; if the employer does not file such action in the specified period, the part-time employment shall remain unchanged. The labour and social court shall decide in favour of the employer, if the requirements of the business outweigh the employee’s interests with regard to the intended change or premature termination.

(6) In the case of legal disputes pursuant to Paras. 3 to 5, no party shall be entitled to be reimbursed by the other party for costs related to the court proceedings. No appeal shall be admissible against a judgment of a court of first instance and – irrespective of the value of the matter in dispute – decisions of the court of first instance may only be appealed to for reasons set out in Section 517 Para. 1 nos. 1, 4 and 6 ZPO.

Proceedings in the case of part-time employment upon agreement

Section 15l. (1) In businesses that have a works council responsible for the employee, said works council shall be involved in the negotiations on the part-time employment, its beginning and duration as well as the number and scheduling of working hours at the employee’s request.

(2) If no agreement can be reached within two weeks from notification, the employer may sue the employer for consent to the part-time employment, including its beginning and duration as well as the number and scheduling of working hours. The labour and social court shall dismiss the action, if the employer has refused consent to the requested part-time employment for objective reasons.

(3) If the employee intends to change or terminate the part-time employment before the agreed date, Para. 1 shall be applied. If no agreement can be reached within two weeks from notification, the employee may file an action seeking the change or premature termination of part-time employment at the competent labour and social court within another week. The labour and social court shall dismiss the action, if the requirements of the business outweigh the employee’s interests with regard to the intended change or premature termination.

(4) If the employer intends to change or terminate the part-time employment before the agreed date, Para. 1 shall be applied. If no agreement can be reached within two weeks from notification, the employer may file an action seeking to change or prematurely terminate the part-time employment at the competent labour and social court within another week; if the employer does not file such action in the specified period, the part-time employment shall remain unchanged. The labour and social court shall decide in
favour of the employer, if the requirements of the business outweigh the employee’s interests with regard to the intended change or premature termination.

(5) Section 15k Para. 6 shall be applied.

**Parental leave instead of part-time employment**

**Section 15m.** (1) If the employee and the employer do not reach an agreement on part-time employment pursuant to Sections 15h and 15i, the employee may notify the employer within a week that she will take parental leave

1. instead of taking up part-time employment or
2. until the labour and social court has made a decision, but no longer than until the child’s second birthday.

(2) If the court decides in favour of the employer in a legal dispute pursuant to Section 15k Para. 3 or finds against the employee pursuant to Section 15l Para. 2, the employee may notify the employer within one week from receipt of the judgment that she will take parental leave until the child’s second birthday at the latest.

**Protection against notice of termination of employment and dismissal in the case of part-time employment**

**Section 15n.** (1) The protection against notice of termination of employment and dismissal pursuant to Sections 10 and 12 shall in principle commence upon notification, however, no sooner than four months prior to the intended start of the part-time employment. It shall apply until four weeks after the termination of part-time employment but up to four weeks after the child’s fourth birthday at the latest. The provisions on the protection against notice of termination of employment and dismissal shall also apply during proceedings pursuant to Sections 15k and 15l.

(2) If the period of part-time employment extends beyond the child’s fourth birthday or if it commences after the child’s fourth birthday, a notice of termination of employment given by the employer on grounds of the part-time employment intended or actually taken up may be contested in court. Section 105 Para. 5 ArbVG shall be applied.

(3) If the employee takes up another gainful employment during part-time employment without the employer’s consent, the employer may give notice of termination of the employment on grounds of this gainful employment within eight weeks from having obtained knowledge thereof, contrary to Paras. 1 and 2.

**Part-time employment of an adoptive mother or foster mother**

**Section 15o.** Sections 15h to 15n shall also apply to adoptive mothers or foster mothers, subject to the proviso that the part-time employment may start upon the adoption or the foster child’s placement at the earliest. If the employee intends to take up part-time employment at the earliest possible point of time, she shall immediately notify the employer thereof, specifying the beginning and duration as well the number and scheduling of working hours.

**Re-scheduling working hours**

**Section 15p.** Sections 15h to 15o shall also apply to any intended change in the scheduling of working hours, provided that the number of working hours is left out of consideration.

**Requesting parental leave at a later date**

**Section 15q.** (1) If the father’s employer denies part-time employment and the father does not take parental leave in that period, the employee may take parental leave during that period but until the child’s second birthday at the latest.

(2) After denial of the requested part-time employment by the father’s employer, the employee shall notify her employer of the beginning and duration of parental leave without delay and shall furnish proof of the circumstances establishing the claim.

**Chapter 7**

**Other provisions**

**Resignation due to a child’s birth**

**Section 15r** The employee may,
1. after a child’s live birth during the maternity leave period pursuant to Section 5 Para. 1,
2. after adopting a child prior to its second birthday (Section 15c Para. 1 no. 1) or placement in
unpaid foster care (Section 15c Para. 1 no. 2) within eight weeks,
3. in case of taking parental leave pursuant to Sections 15, 15a, 15c, 15d or 15q, at least three
months prior to the end of parental leave,
4. in case of taking parental leave which is shorter than three months, at least two months prior to
the end of parental leave,
announce her premature resignation from the employment relationship.

Flat provided by the employer

Section 15. During the period of protection against termination of employment and dismissal
pursuant to Sections 10 and 12, Section 15 Para. 4, Section 15a Paras. 4 and 5, Section 15c Para. 4,
Section 15d Para. 5, Section 15n Para. 1, agreements affecting an employee’s right to a flat or other
accommodation provided by the employer have to be made before court (Section 92 ASGG) in order to be
legally effective, after instruction of the employee concerning her rights.

Making the Act accessible to employees

Section 16. Every employer employing female workers shall deposit a copy of this Federal Act in a
suitable, easily accessible place on the business premises or make it accessible to the employees on a data
storage medium including a reading device, using appropriate EDP systems or suitable means of
telecommunication.

Chapter 8

Special provisions applicable to certain groups of public-service employees

Section 17. Taking into account the deviations laid down in Sections 18a to 23, Chapters 2 to 7 shall
apply to employees who have an employment relationship
1. with the Federal Government,
2. with an Austrian state (Land), a municipality (Gemeinde) or a local authorities association
(Gemeindeverband), if they work in a business,
3. pursuant to Art. 14 Para. 2 of the Federal Constitutional Law (Bundes-Verfassungsgesetz, B-VG),
4. pursuant to Art. 14a Para. 3 B-VG,
as well as to employees who have an employment relationship with a foundation (Stiftung), an institution
or a fund (Fonds) to which, pursuant to the Contractual Public Employees Act (Vertragsbedienstetengesetz, VBG) 1948, Federal Law Gazette no. 86, its Section 1 Para. 2 shall be
applied correspondingly.

Section 18a. (1) Section 2a Para. 5, Section 15k Para. 1 and Section 15l Para. 1 shall be applied to
administrative offices that do not fall within the scope of Part II of the Labour Constitution Act
(Arbeitsverfassungsgesetz, ArbVG), Federal Law Gazette no. 22/1974, subject to the proviso that the
works council shall be replaced by the staff representation body (Personalvertretung).

(2) Section 2b Para. 1 and Para. 2 sentence 1 shall be applied to public-service employees subject to
the proviso that the employee shall work in a job that is at least equivalent to her previous position under
public sector employment law.

Section 19. (1) Section 3 Para. 6 shall be applied subject to the proviso that the notification
concerning pregnancy of a Federal public-service employee working in Federal administrative offices, to
whom the Federal Employees Protection Act (Bundes-Bedienstetenschutzgesetz, B-BSG), Federal Law
Gazette I no. 70/1999, applies, shall be submitted to the Labour Inspectorate.

(2) The Labour Inspectorate shall advise the head of the administrative office (Dienststellenleiter) in
matters stipulated in Sections 4 and 4a, Section 5 Para. 4 and Section 9 Paras. 3 and 4. Section 89 B-BSG
shall be applied.

Section 20. (1) Section 10 Paras. 3 to 7 shall not be applied.

(2) During the period of protection against notice of termination of employment governed by
Sections 10, 15, 15a, 15c and 15d as well as during a period of four months after the termination of this
protection, there shall be no legal claim to changing an employment relationship that can be terminated
into an employment relationship that cannot be terminated (definitive employment relationship).
(2a) Notwithstanding Para. 2, the female public-service employee may acquire a legal claim to changing an employment relationship that can be terminated into one that cannot be terminated (definitive employment relationship) during parental leave taken by the child’s father pursuant to Section 15a.

(2b) During a period of postponed parental leave, the legal claim to changing an employment relationship that can be terminated into one that cannot be terminated (definitive employment relationship) cannot be acquired.

(3) Changing the employment relationship into a definitive employment relationship after expiry of the period stipulated in Para. 2 shall retroact to the point of time when it would have occurred without the interruption defined in Para. 2.

Section 21. During the period of protection against notice of termination of employment, a termination of an employment relationship by mutual agreement shall only be legally effective, if it has been agreed upon in writing. If the employee is a minor, this agreement has to be supplemented with a certification from a court (Section 92 ASGG), the staff representation body or the works council, stating that the employee was instructed on the protection against notice of termination of employment under this Federal Act.

Section 22. (1) Section 12 shall not be applied, if the employee’s dismissal has been ordered by a legally effective ruling of a disciplinary commission (disciplinary court) formed on the basis of statutory and public-service related provisions or if the employment relationship expires by act of law.

(2) Notwithstanding the grounds for dismissal given in Section 12 Para. 2, the court may consent to the dismissal if it is found out later that the contractual public employee has wrongfully entered into the employment relationship by providing false statements or invalid documents or by concealing circumstances that would have excluded her from the employment relationship in accordance with the provisions of the Contractual Public Employees Act (Vertragsbedienstetengesetz, VBG) or other Austrian legislation.

Section 23. (1) Section 15 Para. 3 last sentence and Section 15a Para. 3 last sentence shall be applied subject to the proviso that parental leave may be granted, unless this is in conflict with any compelling job-related reasons.

(2) Section 15b shall be applied subject to the proviso that the public-service employee may take postponed parental leave at the point of time requested by her.

(3) Section 15b Para. 3 second until last sentence and Para. 4 second sentence shall not be applied to Federal public-service employees, teachers employed by the Austrian Länder (state teachers) (Section 1 of the State Teachers Service Act - Landeslehrer-Dienstrechtsgesetz, LDG 1984), state teachers working in agriculture and forestry education (Section 1 of the Agriculture and Forestry State Teachers Act - Land- und forstwirtschaftliches Landeslehrer-Dienstrechtsgesetz, LLDG 1985), form teachers, judge candidates and judges.

(4) Teachers cannot take postponed parental leave in the last four months of the school year.

(5) Section 15f Para. 1, third sentence, shall not be applied. Unless stipulated otherwise in staff and pay provisions, the periods of parental leave pursuant to this Federal Act shall be disregarded when considering the employee's legal claims associated with the duration of the employment period.

(6) Section 15e Para. 2, Sections 15h and 15i shall not be applied to teachers that have a managerial position as defined in Section 8 Para. 1 of the Civil Service Act (Beamten-Dienstrechtsgesetz, BDG) 1979, Federal Law Gazette no. 333, Section 55 Para. 4 or 5 LDG 1984, Federal Law Gazette. no. 302, or in Section 56 LLDG 1985, Federal Law Gazette no. 296, or who perform a school supervisory function, as well as to public-service employees working in school supervision.

(7) An employment as defined in Section 15e Para. 3 shall require approval of the administrative authority (human resources department). Section 56 Para. 4 BDG 1979 shall be applied.

(8) Section 15h Para. 1 shall be applied to Federal public-service employees, state teachers (Section 1 LDG 1984), agriculture and forestry state teachers (Section 1 LLDG 1985) and form teachers subject to the proviso that these public-service employees shall be entitled to opt for part-time employment up to the child’s seventh birthday at the latest or up to the child’s later entry into school. The provisions of Section 15h Para. 1 governing the number of hours and scheduling of the part-time employment and Section 15j Par. 5 and 6 shall be applied with the following deviations:

1. part-time employment shall be granted for
   a) reducing the weekly working hours of full-time employment (classroom teaching hours or annual standard hours) by up to 50 per cent or
b) reducing the weekly working hours of full-time employment (classroom teaching hours or annual standard hours) by more than 50 per cent for the requested period during which the mother is entitled to childcare benefit.

2. The reduction of hours shall be agreed in such a way that the remaining regular weekly hours (classroom teaching hours or annual standard hours) result in an integral number (in the case of teachers: full teaching units). Pursuant to no. 1 lit. a, the remaining regular weekly hours (classroom teaching hours or annual standard hours)

a) must not amount to less than half of the regular weekly working hours required for full-time employment (classroom teaching hours or annual standard hours) and

b) must amount to less than the regular working hours required for full-time employment (classroom teaching hours or annual standard hours).

3. Part-time employment may be denied by the administrative authority only if the public-service employee, due to the part-time nature of the employment and for substantial job-related reasons, could neither work in her previous job nor in a job at least equivalent to her previous position under public sector employment law.

4. The provisions on protection against notice of termination of employment and dismissal shall also apply during appellate proceedings contesting denial of a part-time employment.

5. The reference in Section 15n Para. 1 made to Sections 10 and 12 shall be applied taking into account the changes resulting from Sections 20 to 22.

6. When specifying the hours during which the public-service employee has to carry out her work, her personal circumstances and, in particular, the reasons for her working part-time shall be taken into account in so far as they do not conflict with any important job-related interests.

7. At the public-service employee’s request, the administrative authority may order a change in the number of hours or a premature termination of the part-time employment in so far as this does not conflict with any important job-related interests.

8. Section 47 Paras. 3 and 3a LDG 1984 shall be applied to teachers employed by the Austrian Länder who take up part-time employment.

(9) If, due to the specific job-related circumstances, full working hours (in the case of teachers: teaching units) cannot be accurately accomplished in the case of the public-service employees as defined under Para. 8, the non-integral number shall be increased to the next higher full number rather than to the next lower full number.

(10) A public-service employee as defined under Para. 8 may only be asked to also work beyond the weekly hours agreed if this work is immediately necessary to avoid damage and if there is no public-service employee available whose weekly work hours (classroom teaching hours or annual standard hours) have not been reduced. The time of such additional work shall be set off as compensatory time or paid according to the statutory salary provisions. For teachers, such compensatory time shall not be admissible. The first sentence shall not be applied to teachers whose classroom teaching hours have been reduced by 25 per cent at the most.

(11) Section 15h Para. 1 shall be applied to judge candidates and judges subject to the proviso that they are entitled to part-time employment up to the child’s seventh birthday at the latest or up to the child’s later entry into school. The provisions of Section 15h Para. 1 governing the number of hours of the part-time employment and Section 15j Paras. 5 and 6 shall be applied to judge candidates and judges with the following deviations:

1. “Part-time employment” shall be replaced by “half-time employment”. Half-time employment shall mean a reduction of regular working hours by half.

2. For the premature termination of a half-time employment period, Section 76c of the Judges Services Act (Richterdienstgesetz, RDG) shall apply.

(12) Section 15n Para. 2 last sentence shall not be applied to the other public-service employees not covered by Paras. 6, 8 and 11, and Sections 15h and 15i shall be applied subject to the proviso that

1. part-time employment shall in no case be permissible if the public-service employee, due to the part-time nature of the employment and for substantial job-related reasons, could neither work in her previous job nor in a job at least equivalent to her previous position under public sector employment law, and

2. the reference in Section 15n Para. 1 made to Sections 10 and 12 shall be applied taking into account the changes resulting from Sections 20 to 22.
Section 15f Para. 4 shall not be applied. If the mother stops living in the same household with the child, parental leave pursuant to this Federal Act shall end. From this point of time until the end of the parental leave initially granted pursuant to this Federal Act, the public-service employee shall be considered and shall be deemed taking unpaid leave as defined in the relevant public-service provisions. However, if the employer requests so, the public-service employee shall resume work earlier.

Section 15e Para. 2 shall not be applied to judges.

Section 15r shall not be applied to
1. public-service employees and
2. contractual public employees whose employment commenced before 1 January 2003 unless stipulated otherwise by an ordinance pursuant to Section 46 Para. 1 last sentence of the Act on Corporate Staff Provision (Betriebliches Mitarbeitervorsorgegesetz, BMVG), Federal Law Gazette I no. 100/2002.

Sections 15i, 15k, Section 15n Para. 2 last sentence and Section 15p shall not be applied to public-service employees.

Sections 15m shall be applied to public-service employees subject to the proviso that, in the case of denial of the part-time employment by the administrative authority pursuant to Para. 8 no. 3, the employee shall be entitled to take parental leave instead of working part-time or until a final administrative decision has been decreed.

Chapter 9
Special provisions for employees working in private households and residing in the employer’s household

Persons covered

Section 24. Chapters 2 to 7 shall apply with the deviations contained in Sections 25 and 27 to employees subject to the Domestic Help and Domestic Employees Act (Hausgehilfen- und Hausangestellengesetz, HGHAG), Federal Law Gazette no. 235/1962, who work in private households and reside in their employer’s household.

Section 25. Section 7 (prohibition of working on Sundays or public holidays), Section 16 (flat provided by the employer) and Section 17 (making the Act accessible to employees) shall not be applied. Sections 15 to 15d, Sections 15m and 15q (parental leave) shall apply subject to the proviso that the employee does not reside in the employer’s household during parental leave.

Rest periods

Section 26 (repealed)

Protection against notice of termination of employment

Section 27. Notwithstanding Section 10 Para. 3, consent to the notice of termination of the employment relationship shall only be given if the employer is not able to employ a worker in the household because his/her economic circumstances have changed or if the reason necessitating the employment has disappeared or if the employee agrees to the termination of employment during the court hearing, after the parties have been instructed by the presiding judge on the protection against notice of termination of employment under this Federal Act. A notice of termination of the employment relationship not in line with these provisions shall have no legal effect.

Section 28 (repealed)

Section 29 (repealed)

Section 30 (repealed)

Chapter 10
Special provisions for homeworkers

Section 31. (1) Chapters 2 to 7 shall apply to homeworkers with the deviations contained in Paras. 2 and 3 concerning their homework.

(2) Sections 6 to 8 shall apply subject to the proviso that the quantity indicated on a distribution and calculation of homework statement must not exceed the quantity that can be accomplished by a full-time worker without using help and adhering to an eight-hour working day. The delivery deadlines shall be set in such a way that the orders can be carried out without working at night, i.e. working between 8 p.m. and
6 a.m., and without working on Sundays or holidays. If a homeworker works for several clients, the total workload must no exceed the work quantities mentioned. If the homeworker works for several clients, she shall inform each of them of this fact. At the request of the employer, the intermediary or the homeworker, the Labour Inspectorate shall decide which work quantities may be distributed.

(3) Sections 10 and 12 shall apply correspondingly subject to the proviso that the exclusion from distribution of homework shall be deemed equivalent to an employment notice of termination or a dismissal.

(4) Apart from Para. 3, homeworkers must not be discriminated compared to other homeworkers employed by the same client during pregnancy and until the end of a period of four months after childbirth, with the exception of those periods during which the distribution of homework is not allowed due to prohibitions from work pursuant to this Federal Act. Section 10 Para. 7 shall be applied correspondingly.

(5) Homeworkers that have been discriminated against in violation of Para. 4 with regard to the distribution of homework may file an action seeking compensation for the remuneration lost. The calculation of the remuneration lost shall be based on the remuneration which the homeworker received during the last thirteen weeks before the discrimination started or which would have been due to her if a collective agreement for homeworkers (Heimarbeitsgesamtvertrag) or a rate schedule for homeworkers (Heimarbeitstarif) had existed.

Section 32. Anyone who distributes homework shall deposit for reference a copy of this Federal Act in a suitable place easily accessible to the homeworker in the distribution, delivery or payment rooms.

Chapter 11
Common provisions and final provisions

Section 33 (repealed)

Section 34 (repealed)

Responsibility of authorities and procedural rules

Section 35. (1) The duties and responsibilities incumbent on the individual Labour Inspectorates pursuant to this Federal Act shall be taken over by the Transport Labour Inspectorate in businesses that are subject to the Austrian Transport Labour Inspection Act (Verkehrs-Arbeitsinspektionsgesetz, VAIG), Federal Law Gazette no. 650/1994, and by the authorities otherwise responsible for protecting the employees’ interests in the other businesses that are not in the sphere of responsibility of the Labour Inspectorate.

(2) A deadline shall be set for administrative decisions pursuant to Section 6 Para. 3 and Section 7 Para. 3. Administrative decisions pursuant to Section 6 Para. 3 and Section 7 Para. 3 shall be revoked or changed, if the prerequisites are no longer given. The Federal Minister for Labour and Social Affairs shall decide on appeals to administrative decisions of the Labour Inspectorate; appeals pursuant to Section 4 Para. 2 no. 9, Paras. 4 and 5, Section 5 Para. 4 and Section 9 Para. 3 do not suspend the effect of an administrative decision.

(3) Certificates pursuant to Section 3 Para. 3 as well as Section 4a Para. 1, Section 15f Para. 3, Section 15j Para. 8 as well as official acts pursuant to Section 3 Para. 3 and Section 31 Para. 2 last sentence shall be exempt from stamp duties and Federal administration fees.

Section 36. The competent administrative authority as defined in Section 5 Para. 4 and Section 9 Para. 4 shall be:
1. the District Administration Authority (Bezirksverwaltungsbehörde) for businesses subject to the Labour Inspection Act (Arbeitsinspektionsgesetz, AIG) 1993 and private households;
2. the authority competent pursuant to Section 22 of the mentioned Federal Act for businesses that are subject to the Transport Labour Inspection Act.

Penal provisions

Section 37. (1) Employers or their authorised representatives who violate Section 2a, Section 2b, Section 3 Paras. 1, 3, 6 and 7, Section 4 Paras. 1 to 3, Paras. 5 and 6, Section 4a, Section 5 Paras. 1 to 3, Sections 6 to 8a, Section 9 Paras. 1 and 2, Section 31 Para. 2, Section 32 or an administrative decision pursuant to Section 4 Para. 2 no. 9 and Para. 5, Section 5 Para. 4, Section 9 Paras. 3 and 4 shall be punished, unless the offence is subject to more severe punishment according to other provisions, by the
District Administration Authority with a fine of EUR 70 to EUR 1820, and, in the case of repetition, with a fine of EUR 220 to EUR 3630.

(2) Para. 1 shall not be applied if the violation has been committed by an organ of a territorial corporate body (Gebietskörperschaft). If the District Administration Authority suspects such an organ of a violation it shall, if the organ works at Federal or state (Länder) level, report this to the highest-level organ to which the organ suspected of the violation is subordinate to (Art. 20 Para. 1 first sentence B-VG) and, in all other cases, to the supervisory authority.

Continued applicability of provisions

Section 38. Any provisions in collective agreements, works agreements and work rules that provide more far-reaching protection to employees before and after childbirth than this Federal Act shall not be affected by this Federal Act.

References

Section 38a. Where this Federal Act refers to other Federal Acts, the latter shall be applied as last amended.

Transitional provisions

Section 38b. (1) Parents, adoptive and foster parents shall have claims or entitlements that were newly generated by Federal Law Gazette no. 833/1992 only if the child was born after 31 December 1992. The notification periods for taking parental leave or working part-time to be agreed shall be extended by four weeks after the promulgation of this Federal Act if the child was born between 1 January 1993 and the promulgation of the Federal Act. Federal Law Gazette 833/1992. Claims or entitlements of parents, adoptive or foster parents whose child was born before 1 January 1993 shall be determined in accordance with the statutory provisions that were valid immediately before they were changed by this Federal Act.

(2) Existing provisions in standards of collective law or individual agreements concerning the inclusion of periods of parental leave when calculating claims or entitlements that depend on the duration of the employment relationship shall be credited to the claims or entitlements arising pursuant to Section 15e Para. 2 last sentence.

(3) Mothers (adoptive and foster mothers) shall have claims or entitlements that were newly generated by Federal Law Gazette I no. 153/1999 only if the child was born later than 31 December 1999. Claims or entitlements of parents (adoptive or foster parents) whose child was born before 1 January 2000 shall be determined in accordance with the statutory provisions that were valid immediately before they were changed by this Federal Act.

Section 38c. On premises that were built before this Federal Act entered into force and where no rest facilities as defined under Section 8a are available, said rest facilities shall be provided by 1 January 1996 at the latest.

Transitional provisions (optional) for births after 30 June 2000 and before 1 January 2002

Section 38d. (1) Mothers whose children were born after 30 June 2000 but before the promulgation of this Federal Act, Federal Law Gazette I no. 103/2001, may, if either the child’s mother or father are on parental leave or have postponed a part of the parental leave on the date of the promulgation, notify their employer within three months from the promulgation of the law as to whether they will take parental leave until the child's second birthday pursuant to the provisions of this Federal Act as amended by Federal Law Gazette I no. 103/2001.

(2) Starting from 1 January 2002, mothers whose children were born after 30 June 2000 but before 1 January 2002 may enter into an agreement on an employment as defined in Section 15e Paras. 2 and 3 of this Federal Act as amended by Federal Law Gazette I no. 103/2001.

(3) Part-time employment agreed upon in accordance with the provisions of this Federal Act as amended by Federal Law Gazette I no. 153/1999 before 1 January 2002 shall remain unchanged, unless the employer and the employee agree otherwise.

(4) Part-time employment ordered by administrative decision in accordance with the provisions of this Federal Act as amended by Federal Law Gazette I no. 153/1999 before 1 January 2002 shall remain unchanged, unless a modification is ordered by administrative decision at the public-service employee’s request.

Entry into force and execution

Section 39. (1) This Federal Act shall be executed by:
1. the Federal Chancellor for employment relationships with the Federal Government, if the spheres of responsibility of the Labour Inspectorate are affected, however, in agreement with the Federal Minister of Social Administration; the corresponding minister in matters that are within the sphere of responsibility of only one minister, for the spheres of responsibility of the Labour Inspectorate, however, in agreement with the Federal Minister of Social Administration; if financial matters are concerned, action shall be taken in agreement with the Federal Minister of Finance;

2. the Federal Minister of Social Administration for employment relationships with the Länder, municipalities and local authorities associations in case of public-service employees working in businesses; if financial matters are concerned, action shall be taken in agreement with the Federal Minister of Finance;

3. the Federal Minister of Agriculture and Forestry in agreement with the Federal Chancellor in case of employment relationships of teachers and educators employed in the institutions specified in Art. 14a Para. 2 lit. a to d B-VG; if financial matters are concerned action shall be taken in agreement with the Federal Minister of Finance;

4. for other employment relationships:
   a) the Federal Minister of Social Administration for employees working in businesses within the sphere of responsibility of the Labour Inspectorate;
   b) the Federal Minister for Transport in agreement with the Federal Minister of Social Administration for employees working in businesses within the sphere of responsibility of the Transport Labour Inspectorate;
   c) the Federal Minister of Social Administration with regard to all other provisions.

   (2) For employment relationships of teachers at public compulsory schools (Art. 14 Para. 2 B-VG) as well as teachers at public agricultural and forestry occupational schools and medium-level secondary agricultural and forestry colleges and educators at public school boarding houses that are either exclusively or mainly designated for students of public agricultural and forestry occupational schools and medium-level secondary agricultural and forestry colleges (Art. 14a Para. 3 B-VG), the Austrian Länder shall be responsible for the execution of this Federal Act, unless the enactment of implementing ordinances is reserved to the Federal Government.

   (3) Ordinances based on this Federal Act shall be enacted by the Federal Minister for Education and Arts in agreement with the Federal Chancellor for employment relationships of teachers at public compulsory schools (Art. 14 Para. 2 B-VG), by the Federal Minister of Agriculture and Forestry in agreement with the Federal Chancellor for employment relationships of teachers at public agricultural and forestry occupational schools and medium-level secondary agricultural and forestry colleges and educators at public school boarding houses that are either exclusively or mainly designated for students of public agricultural and forestry occupational schools and medium-level secondary agricultural and forestry colleges (Art. 14a Para. 3 B-VG); if financial matters are concerned, action shall be taken in agreement with the Federal Minister of Finance.

   (4) The Federal Minister for Education and Arts shall exercise the rights appertaining to the Federal Government pursuant to Art. 14 Para. 8 B-VG in agreement with the Federal Chancellor. With regard to the persons specified in Art. 14a Para. 3 lit. b B-VG, the Federal Minister of Agriculture and Forestry shall exercise the rights appertaining to the Federal Government pursuant to Art. 14a Para. 6 B-VG.

   (5) In cases where exemption from stamp duty is stipulated pursuant to Section 35 Para. 3, the Federal Minister of Finance and, where exemption from Federal administration fees is stipulated by this provision, the Federal Minister of Social Administration in agreement with the Federal Minister of Finance shall be responsible for the execution.

Section 40. (1) Section 3 Paras. 4, 6 and 7, Section 4 Para. 2 nos. 2, 4, 9 and 10, Section 4 Paras. 5 and 6, Section 5 Paras. 1 and 5, Section 8, Section 10 Paras. 4 and 6, Sections 10a, 11 and 12, Section 14 Paras. 1 and 4, Section 15 Para. 2, Section 15c Paras. 2 to 6, Section 15d Para. 1, Sections 19, 21 and 22, Section 23 Para. 2, Sections 24, 25 and 27, Section 29 Para. 1, Sections 35 and 36, Section 37 Para. 1, Section 39 Para. 1 no. 4 lit. c and Section 38a as well as the abolition of Sections 26 and 28 as amended by the Federal Act, Federal Law Gazette no. 833/1992, shall enter into force on 1 January 1993.

(2) Section 36 and the renumbering of the former Section 39 Para. 6 as Section 40 Para. 1 as amended by the Federal Act, Federal Law Gazette no. 257/1993, shall enter into force on 1 July 1993. However, they shall not be applied to proceedings pending at that point of time.

(3) Section 1 Para. 2 no. 1, Section 3 Paras. 7 and 8, Section 4 Para. 1, Para. 2 nos. 3, 10 und 11 and Para. 5 no. 2, Section 4a, Section 8a, Section 9 Paras. 3 and 4, Section 11, Section 13, Section 14 Paras. 1
and 2. Section 15 Para. 6 first half sentence, Section 15c Para. 6 sentence 2, Section 18, Section 18a, Section 19 Para. 2. Section 24, Section 27, Section 31 Para. 4, Section 35 Para. 3, Section 36, Section 37 Para. 1. Section 38a, Section 38b, Section 38c and Section 39 Para. 5 as amended by the Federal Act, Federal Law Gazette no. 434/1995, shall enter into force on 1 July 1995.

(4) Sections 2a and 2b shall enter into force on 1 July 1995 premises where more than 250 workers regularly work, with regard to others on 1 January 1997. Section 102 Para. 3 of the Workers Protection Act (ASchG) shall be applied.

(4a) The employer's obligations stipulated under Sections 2a and 2b shall be implemented no later than:
1. by 1 July 1997 for premises where more than 100 employees regularly work;
2. by 1 January 1998 for premises where 51 to 100 employees regularly work;
3. by 1 July 1999 for premises where 11 to 50 employees regularly work;
4. by 1 January 2000 for premises where up to 10 employees regularly work.

Section 102 Para. 3 ASchG shall be applied.

(5) Notwithstanding Para. 4, the obligations stipulated under Sections 2a and 2b for Federal administrative offices subject to the Federal Employees Protection Act (Bundes-Bedienstetenschutzgesetz, B-BSG) shall be implemented no later than:
1. by 31 December 2000 for administrative offices (parts of administrative offices) with a high or medium risk potential;
2. by 30 June 2001 for administrative offices (parts of administrative offices) with a low risk potential.

(6) At the end of 30 June 1995, Section 5 Para. 5, Sections 29, 30, 33, and 34 shall expire.

(7) Section 23 Paras. 3 to 8 as amended by the Federal Act, Federal Law Gazette I no. 61/1997, shall enter into force on 1 July 1997.


(9) Section 19 Paras. 1 and 2 second sentence and Section 40 Para. 5 as amended by the Federal Act, Federal Law Gazette I no. 70/1999, shall enter into force on 1 January 2000.

(10) Section 3 Para. 8, Section 11, Section 13, Sections 15 to 15i, Section 16, Section 20 Paras. 2 to 2b, Section 23 Paras. 1 to 2d, 3, 4, 7 to 9, Section 25, Section 35 Para. 3 and Section 38b Paras. 2 and 3 as amended by the Federal Act, Federal Law Gazette I no. 153/1999, shall enter into force on 1 January 2000.

(11) Section 2a Para. 2, Section 4 Para. 2, Section 4a Para. 2, Section 5 Para. 3, Section 36 and Section 39 Para. 1 no. 4 as amended by the Federal Act, Federal Law Gazette I no. 98/2001, shall enter into force on 1 August 2001. At the same time, the following laws and sections shall expire:
1. the law of 28 July 1919, State Law Gazette no. 406, on the employment of juveniles and women, as well as on hours of work and weekly rest in the mining industry (Mining Act – Bergarbeitergesetz, BergAG);
2. the Federal Act on the prohibition of employment of women in underground mining, Federal Law Gazette no. 70/1937.


(13) Section 10, Sections 15 to 15j, Section 20 Paras. 2a and 2b, Sections 23 and 25 as amended by the Federal Act, Federal Law Gazette I no. 103/2001, shall enter into force on 1 January 2002 and shall apply to mothers whose children are born after 31 December 2001, unless stipulated otherwise under Section 38d.

(14) Section 15k and Section 23 Para. 15 as amended by the Federal Act, Federal Law Gazette I no. 100/2002, shall enter into force on 1 January 2003, unless stipulated otherwise by means of an ordinance pursuant to Section 46 Para. 1 last sentence of the Act on Corporate Staff Provision (BMVG).

(15) Section 23 Paras. 7 and 8 nos. 1 und 2 as amended by the Federal Act, Federal Law Gazette I no. 130/2003, shall enter into force on 1 January 2004 and shall apply to mothers whose children are born after 31 December 2001.

(16) Section 11, Section 15d Para. 5, Sections 15h to 15r, Sections 16 and 18a and Section 23 Paras. 8, 11, 12, 15 to 17 as amended by the Federal Act, Federal Law Gazette I no. 64/2004, shall enter
into force on 1 July 2004 and shall apply to mothers (adoptive and foster mothers) whose children are born after 30 June 2004. For mothers (adoptive and foster mothers) whose children were born before 1 July 2004, the provisions of Section 11, Section 15d Para. 5, Sections 15h to 15k, Section 16, 18a and 23 as amended by the Federal Act, Federal Law Gazette I no. 64/2004 shall continue to apply. Notwithstanding the aforementioned, part-time employment or a change to the work schedule pursuant to Sections 15h to 15r and Section 23 Paras. 8, 11, 12, 15 to 17 as amended by the Federal Act, Federal Law Gazette I no. 64/2004 may be requested by a

1. mother (adoptive or foster mother) if she or the child’s father (adoptive or foster father) is on parental leave pursuant to this Federal Act, the Parental Leave for Fathers Act (Väter-Karenzgesetz, VKG) or similar Austrian legislation or on the basis of similar legislation of an EEA member state on 1 July 2004; part-time employment can only be commenced or the work schedule can only be changed pursuant to the Federal Act, Federal Law Gazette I no. 64/2004, after the end of parental leave at the earliest;

2. mother (adoptive or foster mother) if she or the child’s father (adoptive or foster father) is part-time employed pursuant to this Federal Act, the Parental Leave for Fathers Act or similar Austrian legislation or on the basis of similar legislation of an EEA member state on 1 July 2004; part-time employment can only be commenced or the work schedule can only be changed pursuant to the Federal Act, Federal Law Gazette I no. 64/2004, after the expiry of the initially agreed period of part-time employment at the earliest;

3. mother who is prohibited from working pursuant to Section 5 Paras. 1 and 2 on 1 July 2004;

4. mother who is on paid annual leave on 1 July 2004 subsequent to the period set out under Section 5 Paras. 1 and 2 or who is prevented from work due to illness or an accident and who has already requested parental leave or part-time employment in accordance with this Federal Act; part-time employment can only be commenced or the work schedule can only be changed pursuant to the Federal Act, Federal Law Gazette I no. 64/2004, after the expiry of the initially agreed period of part-time employment at the earliest.

(17) Section 15g as amended by the Federal Act, Federal Law Gazette I no. 58/2010, shall enter into force on 1 August 2010.