

Termination of Employment

Employment Protection Act

A contract of employment can be terminated by the employer or the employee. Dismissals require written form (paper form). Electronic termination (e.g. via email) is not possible. Both parties, employer and employee, have to observe the statutory notification periods.

The German Employment Protection Act (*Kündigungsschutzgesetz*) establishes certain rules for dismissals, drawing distinctions between:

- Dismissal for personal reasons
- Dismissal for conduct-related reasons
- Dismissal for business reasons

The Employment Protection Act only applies to companies with a staff of more than ten employees and with respect to continuous employment relationships of more than six months in the same company.

If these conditions do not apply, employers generally have an unfettered right to terminate employment contracts within statutory notice periods.

Dismissal for Personal Reasons

If employees are not physically or mentally suited to their job in the long term, termination is possible if the burden on the company is unreasonable. Justifiable reasons include long-term illness with a negative prognosis, or an alcohol or drug addiction with no reasonable prospect of successful treatment. However, employers must first implement reasonable stop-gap measures such as staff reorganization or the hiring of temporary staff.

Dismissal for Conduct-Related Reasons

Employee misconduct can justify dismissal. However, a dismissal must always remain an option of last resort. Less severe options, such as redeployment of the employee, have to be considered prior to dismissal. Dismissal for conduct-related reasons generally also requires a prior written warning.

A conduct-related dismissal may be based on significant inappropriate conduct such as:

- Repeated lateness for work
- Refusal to perform certain work
- Repeated unapproved private use of the internet despite prior prohibition
- Absence from work without a reason; unapproved vacation
- Criminal acts or violence at work

Dismissal for Business Reasons

Termination for business-related reasons may be permitted if the employee's job is rendered dispensable due to changes in the business organization such as:

- Plant closure
- Restructuring
- Insufficient work due to a shortage of orders

The business decision to cut back jobs under these circumstances is only limited reviewable by labor courts.

Extraordinary (Immediate) Termination

Immediate termination of employment may be considered in cases of serious misconduct rendering it unacceptable for either party to continue the employment relationship.

It is not sufficient for the termination be regarded as necessary, it must be immediately imperative. Accordingly, the legal period of notice does not apply in these cases.

Exemplary reasons for the employer:

- Continued non-performance of agreed work
- Disturbance of the general working environment
- Theft
- Disclosure of sensitive information
- Non-authorized competitive engagement

Exemplary reasons for the employee:

- Non-payment of wages
- Unlawful working

Immediate termination is only effective if the terminating party dissolves the employment within two weeks after the reasons for termination became known.

Notification Periods

When terminating permanent contracts of employment, certain notice periods are required by law. The determination of the minimum statutory period depends on whether the employee or employer is seeking to terminate the contract.

An employee must submit a notice with a minimum notice period of one month, effective either on the 15th or end of the month.

For the employer, the minimum notice period depends on the duration of employment. After the probationary period of a new employment contract has ended, the initial notice period is four weeks. This increases to seven months after 20 years of job tenure in the same company. Individual notice periods can be agreed upon, but these must comply with minimum statutory notice period requirements.

Every notice of termination must always be issued in writing - notice of termination in electronic form is insufficient.



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