



HUTH DIETRICH HAHN

# Short-time work allowance in Germany - a useful tool against job losses

## **Content**

- What is short-time work?
- What are the advantages of short-time work?
- How much money will employees receive during the short-time working phase?
- How long can short-time work benefits be drawn?
- How long do short-time workers work?
- Who can apply for cyclical short-time work?
- Who is entitled to seasonal short-time work?
- Who provides advice on short-time work and on funding opportunities for short-time work?
- What will short-time work do for the economy?

In economic crisis, e.g. caused by the Covid-19 pandemic, many employers see redundancies as the only way out to survive the economic period of weakness. But there is a meaningful alternative: short-time work helps companies that are affected by temporary lack of work. Short-time work allowance compensates adequately for the loss of remuneration for employees. Terminations can be avoided in this way.

In Germany, 650,000 companies have already announced short-time working during the Corona crisis (status as of April 4, 2020). This was announced by the Federal Employment Agency (BA) in Nuremberg. This represents an increase of about 40 percent compared to the

latest comparative figure. As of March 27, the number had been established to be 470,000.

The BA assumes that the number of employees at short-time work will be "significantly" above the level of the financial and economic crisis in 2009. At that time, up to 1.4 million employees were on short-time work at peak times. The government had recently expected about 2.1 million short-time workers. The advertisements for short-time work come from all sectors, with the main focus on the hotel and restaurant industry and the retail trade.

Due to the pandemic, the German government had decided on improvements to short-time working compensation in an emergency procedure, which have been in effect retroactively since March 1, 2020. Companies can already apply for short-time work compensation if ten percent of the company's employees are affected by loss of working hours instead of one third before. In addition, employers will be reimbursed in full for the social security contributions that they also have to pay for short-time work. The aim is to preserve jobs.

### **What is short-time work?**

Short-time work due to the economic slump enables the employer to continue to employ its employees in economic crisis even if there are insufficient orders. Instead of having to lay off workers, employers may implement short-time work in agreement with the works council. In companies without works councils, the approval of all affected employees is required. Short-time work is to be notified the Federal Employment Agency (BA). To do so, the company must fulfill the requirements of paragraphs 95 to 109 SGB III. In particular, there must be a significant lack of work which is due to economic reasons or an unforeseeable event and is temporary and unavoidable. The BA reimburses part of the remuneration (=short-time workers` allowance) if the companies meet these conditions. In addition to short-time work due to economic crisis, there are two special forms of short-time work: seasonal short-time work, especially in the construction sector, and short-time transfer work as part of restructuring measures.

### **What are the advantages of short-time work?**

Dismissals are avoided in economically difficult times, so that companies do not have to lay off well-trained and trained employees. In addition, companies are relieved of personnel costs. Instead, the time off work can be used for further training of employees. Both employers and employees benefit from this: Qualification brings competitive advantages and innovative strength for the companies on the one hand and additional

qualifications and promotion opportunities for the employees on the other. Older and low-skilled employees may in particular reduce their risk of becoming unemployed in the long term through further training. Those who work short hours also maintain their entitlement to social benefits

### **How much money will employees receive during the short-time working phase?**

The employer only pays the part of the salary that corresponds to the reduced working hours. If, for example, only half of the time is worked, the employees receive only half of the remuneration from the company. In addition, the short-time working allowance is paid which amounts to 60 percent of the loss of earnings, or 67 percent for employees with children in the household. The short-time allowance is paid by the BA to the employer, who usually pays it to his employees beforehand.

Some employers pay, on a voluntary basis, the difference between the short-time working allowance and 80 percent, 90 percent or even 100 percent of the net income of their employees during the short-time work.

Important note: The short-time work must be notified to the local labour agency (Agentur für Arbeit) before the short-time work allowance can be applied for.

### **How long can short-time work benefits be drawn?**

According to Section 104 I SGB III, short-time work benefits can be drawn for a period of up to twelve months. If there are exceptional circumstances on the labour market as a whole, there is the possibility of an extension to 24 months (Section 109 I No. 2 SGB III).

### **How long do short-time workers work?**

The company has the right to decide whether the non-productive time occurs on an hourly, daily or weekly basis. The remuneration must be reduced by more than ten percent for one-third of the employees in the company or the operating department in order to be entitled to the short-time work benefits. With so-called "zero short-time work", work is stopped completely

### **Who can apply for cyclical short-time work?**

Not only large companies, but above all small and medium-sized companies can benefit from short-time work. Every company with at least one employee subject to social security

contributions can apply for short-time work.

Further requirements for short-time work are

- The loss of working hours is unavoidable. This means that the company has previously done everything possible to prevent or remedy the loss of working hours, for example by using up working time credits or granting fixed rest leave.
- The loss of working hours is likely to be only temporary, and it can be assumed that the employees will work full-time again after the period in which they receive the short-time working allowance.
- In the respective calendar month (period of entitlement), at least one third of the employees employed in the company (as of March 1, 2020: 10 percent of the employees) must be affected by a loss of earnings of more than 10 percent of their monthly gross salary; the loss of earnings may also amount to 100 percent of the monthly gross salary.

### **Who is entitled to seasonal short-time work allowance?**

According to Section 101 SGB III, employees in the building trade, the roofing trade and the garden and landscaping sector are entitled to a so-called seasonal short-time work allowance during the period of bad weather confined to the months of December to March, in the event of substantial absences from work, i.e. for economic or weather-related reasons or due to an unavoidable event, if the absence from work is temporary and unavoidable. A loss of working hours that is predominantly customary in the industry, customary in the business or seasonal is also deemed unavoidable.

In scaffolding companies, the bad weather period begins on 1 November and ends on 31 March.

### **What will short-time work do for the economy?**

According to an evaluation, the instrument of short-time work will almost halve the economic slump caused by the Corona pandemic. The decline in economic output in Germany is around 45 percent less with short-time work than in a scenario without, according to a comparative calculation by IW Consult on behalf of the Bavarian Business Association (vbw). In countries without short-time work, employees who have been dismissed would have to be hired again after the crisis. "That costs not only time, but also a lot of money," says vbw CEO Bertram Brossardt. In addition, Brossardt says that short-time work gives companies "the urgently

needed liquidity to bridge the dry spell" and reduces the risk of insolvency. Thus, companies and jobs could be secured. (dpa)

### **Who provides advice on short-time work and on funding opportunities for short-time work?**

The regional employment agencies advise local employers on the subject of short-time work and support them with the application process. They also come directly to the companies for this. The uniform nationwide telephone number of the BA's Employer Service is 0800 4 5555 20 (within Germany only).

For further information please contact:

**Martin K. Wolff, Huth Dietrich Hahn Rechtsanwälte, Neuer Jungfernstieg 17, 20354 Hamburg, p. +49 40 41 52 50 or [wolff@hdh.net](mailto:wolff@hdh.net)**