

Information for Students

Employment agency of studierendenWERK BERLIN

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Preamble

The guidelines of studierendenWERK BERLIN's student job placement service form the basis of our activities. All registered students are obligated to observe these.

General information on student employment relationships at a glance:

Employers / Employees

The job placement service is not an 'employee consignor' (i.e. not a bestower of labour). It merely places ads for employers. Thus, the advertisement enables an employment relationship between the respective awarding authority as employer and the student as employer to come about. The employer looks after payroll including tax assessment.

Labour law

Temporary student staff are also employees provided they are not employed on a freelance basis. They generally have the same rights and obligations as the other employees within a company. Employers must therefore pay particular attention to the regulations of the Working Time Act, the Federal Leave Act, the Continued Payment of Wages and Salaries Act, the Law on Notification of Conditions Governing an Employment Relationship and the Part-time and Limited Term Employment Act.

Industrial injury

For commercial and freelance employers, the employed students must take out mandatory insurance via the relevant employers' liability insurance association as part of their existing accident insurance. In the event of an accident at work, the employer should report the accident immediately to their relevant employers' liability insurance association and request that they, as student employees, seek an approved accident insurance consultant.

Employees who work at private households on a regular or occasional basis must be registered at the Unfallkasse Berlin, Culemeyerstr. 2, 12227 Berlin, Tel. 76240. The level of contributions is based on the length of employment.

Disclaimer

You are personally liable for damages §249ff. of the German Commercial Code to property §90a of the German Commercial Code or to life, body and health § 823ff. of the German Commercial Code (third party liability), so that you are personally responsible for your actions and the resulting obligations (e.g. duty of care).

Contract of employment

A contract of employment comes into force between you the employee and the employer even without a written agreement. In accordance with the Part-time and Limited Term Employment Act, the time limitation of an employment contract must be set in writing in order to be effective. If there are no other agreements in place, the conditions (working hours, length of employment, salary, type of work) stated on the job placement specification sheet shall form part of the employment contract as a minimum.

For periods of employment of over one month's duration, the provisions of the Law on Notification of Conditions Governing an Employment Relationship should be observed, which state that every employer must issue the employee with a signed record detailing the basic working conditions within one month of the start of the employment relationship. The written record must contain at least the following information:

- Name and address of employer and employee;
- Commencement date of employment relationship;
- In the case of limited term of employment, the expected duration;
- Place of work;
- Job description or general description;
- Level of pay;
- Working hours;
- Notice periods;
- where applicable, information on wage agreements and company agreements are to be applied to the employment relationship.

Employers' liability insurance association

Temporary employees are part of a company's workforce for the duration of their employment. They should also therefore be taken into account in communications with the employers' liability insurance association.

Data protection

The work of the job placement service at studierendenWERK BERLIN cannot be performed without the use of data processing. All stored student data is, of course, subject to data protection law.

Holidays

Even within the context of a temporary employment relationship, there is an entitlement to holiday pay if an employment of labour could potentially have taken place on that day. The public holidays in Berlin are: New Year's Day, Good Friday, Easter Monday, 1st May, Ascension Day, Whit Monday, 3rd October, Christmas Day and Boxing Day.

Equal treatment

Every contract is gender and nationality neutral provided there are no particular material grounds to justify a differentiation. Discriminatory offers of employment will not be accepted.

Notice of termination

A short-term, limited employment relationship is - unless otherwise agreed - non-cancellable, in other words there must be an important reason for any extraordinary termination. A notice of termination is required to end employment relationships for indefinite periods (unlimited). The notice periods shall apply in accordance with § 622 of the German Commercial Code.

Continued pay

In accordance with the Continued Payment of Wages and Salaries Act, temporary student employees are also entitled in case of illness to the continued payment of wages for the duration of six weeks, but not for longer than the agreed duration of employment. However, the entitlement doesn't begin until the employment relationship has been running uninterrupted for four weeks. If incapacity for work is the result of industrial injury, then the temporary student employee can potentially make a claim against the relevant employers' liability insurance association.

Level of pay

The level of pay is agreed between the employer and the employee and should be based on the job requirements. We always refer employers to the legal minimum wage and recommend this for the most basic occupations and €10-15 (where applicable €20) per day for jobs requiring training or experience. The exclusions to this rule are minimum/collectively-agreed wages that have been declared universally applicable e.g. (main construction trades). We also refer to the flat-rate salaries for one-off, short-term employment activities set by ourselves.

Social insurance

Estimation and review of the social insurance obligation is the sole responsibility of

the* employer*, who is also liable for the payment of contributions to social insurance providers. It is therefore imperative that they keep an enrolment certificate (copy).

Private households must register students employed in the household at the mini-job office using a 'Haushaltsscheck' (household cheque form) and must currently make flat-rate contributions of 12.44% for pension insurance, health insurance and accident insurance.

The following generally applies for health/nursing care and unemployment insurance:

If weekly working hours amount to 20 hours or less during term time, then there is no insurance requirement. This number of hours may be exceeded if the employment takes place primarily at weekends or during the evening and night-time hours. During the semester break, the weekly insurance exempt work time can be extended to 40 hours or greater.

Students are not allowed to work more than 20 hours per week for longer than 26 weeks in any 12-month period. Otherwise they are liable for contributions to every social insurance department.

The following applies for pension insurance:

Since 1st October 1996, all students have generally been liable for contributions to pension insurance. If a student works for several companies at the same time, as a rule pension insurance shall arise for all their student employment activities (on the assumption that the student is properly registered). The sole exception is whenever the student is pursuing a single minor job alongside their main employment activity and the marginal earnings threshold (since 01/01/2013) of approx. €15.00 per working day (€450.00 per month) is not exceeded.

If the employment is contractually limited from the outset or limited by its nature to a maximum of three months or 70 working days within a calendar year, this constitutes short-term employment.

PhD students, part-time students, Studienkolleg students, participants on German courses, students who have completed a professionally qualifying higher education degree course and/or find themselves in a holiday semester are not proper students for the purposes of social insurance and are therefore liable for contributions to every social insurance department.

The 50 fundamentally social insurance exempt working days are hereby excluded from this (students for whom we act as intermediary are only liable for pension insurance contributions as a rule)

It should also be pointed out that Studienkolleg attendees are only allowed to work during the Studienkolleg holidays (normally identical to the Berlin school holidays) and are liable for full social insurance contributions. Payment of social security contributions is the responsibility of the employer.

Please note: Most health insurance providers have published an information leaflet on this subject.

Student status

Every attendee must provide the job placement service with an enrolment certificate for each semester otherwise any work placement will not be possible. The employer must also keep a copy of the enrolment certificate. Under certain circumstances, there will be an exemption from social insurance (see social insurance).

Holidays

In accordance with the German Federal Holiday Act (Bundesurlaubsgesetz), all employees - including temporary student employees - who have been employed by an employer for at least one month (regardless of the calendar month) are entitled to holiday pay. The level of holiday entitlement is measured according to the duration of the employment relationship. For every full month, the employer contributes one twelfth of the normal annual leave entitlement of four weeks (1.67 days for a 5 day week). In accordance with §11 of the Federal Holiday Act (1), holiday pay [...] is measured according to the average earnings received by the employee over the last thirteen weeks before the start of the holiday excluding additional income for overtime.

Any increase in earnings, not just temporary in nature, occurring during the calculation period or during the holiday, will be considered as increased earnings. Earnings reductions occurring within the calculation period as a result of reduced working hours, absenteeism or involuntary absence from work are not taken into account when calculating holiday pay. Benefits in kind paid as wages that are no longer provided during the holiday will be compensated for in cash in proportion to the duration of the holiday. The level of holiday pay can be calculated based on the following formulae: for short-term employment relationships, monthly salary divided by 22 working days, multiplied by the number of vacation days (formula applies for a 5 day week). For longer employment, the earnings from the last three months must be multiplied by the requested vacation days and then divided by 65 (=5 working days per week x 13 weeks) (applies to a 5 day week). If the holiday cannot be taken, payment in lieu must be made.

Bonuses and allowances

Student employees are also entitled to wage allowances in certain circumstances.

These allowances are normally taxable. In certain circumstances, allowances for Sunday, public holiday and night-shift work are tax-free. Precise details about the type of bonuses must be provided on the work placement voucher. Where possible, documents should also be attached showing the nature of and entitlement to bonuses (basic wage, bonus amount, working hours).

The expert job agency team is at hand to provide you with advice and assistance. It advises employers and students on all issues as they arise, resolves any potential problems and can offer temporary alternatives where appropriate.

All information is correct as of 1st March 2018. Subsequent changes are excluded. Please note that we are unable to assume responsibility for the information.