

# Blue-collar and white-collar employees – sweetening the deal

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## Introduction

### Overview

### Comment

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In its final session before the general election on October 15 2017, Parliament passed a bill which serves as a first step in harmonising the different legal regimes covering blue-collar and white-collar employees. For decades, the deviations in this regard were largely criticised as anachronistic, but several previous attempts to align the legislation on issues that should have been treated equally failed. It was a widespread opinion that reform was necessary, because the differences between the treatment of white-collar and blue-collar employees could be explained only historically and were not founded in different regulatory needs. However, in the past, the Austrian Social Partnership – which oversees social welfare and labour relations – repeatedly failed to reach a common ground on this matter. As a result, the employee-friendly political blocs in Parliament took the issue into their own hands, outvoting their employer-prone counterpart only hours before the election.

The outcome is a sweetened campaign deal which brought about the following changes.

## Overview

White-collar employees now have the following entitlements:

- White-collar employees are entitled to continued remuneration in the event of sickness. This entitlement has been increased to eight weeks after the first year of service instead after five years of service.
- The scope of continued remuneration is capped at eight weeks per work year. White-collar employees are therefore downgraded to the corresponding blue-collar provisions. Previously, white-collar employees received an additional entitlement to half of their regular remuneration in case of another leave of absence within six months of the previous leave of absence, if the statutory cap for full pay had already been reached.
- Work accidents and occupational diseases are not considered when calculating the statutory cap.
- Continued remuneration during leaves of absence cannot be avoided through a termination agreement during sickness. Continuous remuneration will therefore extend beyond such a termination – within the statutory, capped period – until the (then former) employee has recovered. Previously, only unilateral terminations by the employer, unfair dismissal or termination by the employee for cause would have preserved the employee's entitlement beyond his or her termination.
- Statutory notice terms also apply for employees working less than eight hours per week. Previously, the statutory minimum notice periods did not apply to marginally employed workers who work less than eight hours per week.

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- Statutory notice terms are now aligned with the provisions governing white-collar employees. This means that the notice period is increased from (in some cases) only one or two weeks to at least six weeks. This term increases to:
  - two months after two years of service;
  - three months after five years of service;
  - four months after 15 years of service; and
  - five months after 25 years of service.

The employment contract cannot go below these minimum periods, but the employer and employee can agree to have the termination date fall on the 15th or last day of a calendar month (instead of only at the end of a calendar quarter). In turn, the employee must observe only a one-month notice period, regardless of years of service. However, the employment contract can extend that period up to six months, provided that the employer has to observe the same notice period. Collective bargaining agreements, which are concluded by the social partners for entire industries, can provide for shorter periods with respect to seasonal businesses.

- Blue-collar workers will now also be entitled to a paid leave of absence in cases other than sickness or accident if considered material (eg, marriage or death of a family member).

The new provisions will enter into force on July 1 2018 and, except for the increased notice periods for blue-collar employees which will enter into force starting 2021, will govern employment relationships concluded after June 30 2018.

### **Comment**

Not everyone is happy with this half-hearted harmonisation project – most notably, employer organisations – as they believe that the extended notice period for blue-collar workers will cost employers dearly. Further, while harmonisation might have been long overdue, labour relations and collective bargaining are still governed by a dual system, differentiating between works councils for blue-collar and white-collar employees and industry-wide collective bargaining agreements for each group in various sectors, resulting in different wage systems and employment standards by operation of collective agreements concluded between the social partners.

To achieve full harmonisation, much more work is needed.

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