

## Employment & Labour - Austria

### Subsidised leaves of absence offer improved work-life balance

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#### Introduction

In recent years, extended education-oriented programmes (eg, amended regulations for educational leave and new types of subsidised leave of absence) have set a precedent for allowing employees to find a work-life balance in an increasingly competitive work environment.

The statutory overhaul of educational leave helps employers during an economic downturn to keep their workforce at previous levels without keeping employees on their payroll during times of leave. In addition, the other statutory types of leave of absence support family-oriented career plans.

#### Educational leave

On July 1 2013 the Social Law Amendment Act took effect. The amendment allows employees to pursue further education while remaining employed on a part-time basis. The new legal framework is far more flexible than the previous provisions on educational leave – all it takes is a written agreement between the employer and the employee, containing provisions on the start date, the period, the extent and the allocation of the leave. The employee has no legal entitlement to part-time educational leave in the absence of such an agreement. Furthermore, the employee must have been employed with the company for a minimum of six months before the start date of the leave. The current regular weekly working hours under the employment contract must be reduced by a minimum of 25% and a maximum of 50% of the agreed working time for any period of leave, and must also not fall below 10 hours per working week.

Part-time educational leave must be agreed for a minimum duration of four months and a maximum duration of up to two years. The two-year total may be made up of several periods, provided that each lasts at least four months. Once this two-year limit for part-time educational leave has been reached, a new agreement cannot be concluded for a further four years.

Educational activities or training programmes during educational leave must amount to a minimum of 10 hours per week.

If these statutory requirements are met, the employee will be eligible for a special scholarship (educational subsidy) payable by the Public Employment Service, provided that the respective application is filed at least four weeks before the start of the part-time educational leave.

Generally, in businesses with up to 50 employees, a maximum of four employees are eligible for part-time educational leave and the respective subsidies. In businesses with more than 50 employees, this limit is a maximum of 8% of staff. Any number exceeding these statutory limits will require a separate decision by the regional advisory council of the Public Employment Service.

#### Family care leave

To improve the balance between family care and career, as of January 1 2014 employees can now take family care leave or switch to part-time employment in order to look after family members who are unwell. Both family care leave and part-time employment can be agreed with the employer only for the purpose of taking care of close family members who are entitled to receive a public care allowance exceeding

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certain thresholds.

Family care leave and part-time employment both require a mutual agreement between the employer and the employee, which states the start date, duration and scope of the part-time employment or family care leave. Furthermore, the employee must have been employed with the company for a minimum of three months before the start date of such family care leave or part-time employment. Both family care leave and part-time employment must have a minimum duration of one month and can have a maximum duration of up to three months, but must be taken as one single leave period (ie, they cannot be split into several shorter periods). During periods of family care or part-time leave, the employee must continue employment on a minimum 10-hour working week.

If the legal requirements are met, the employee will be entitled to receive a special payment from the Public Employment Service.

#### **Comment**

Employees who are dismissed because of their intention to take educational or family care leave, or because of the actual leave taken, can challenge the dismissal as unfair and sue their employer for either reinstatement or monetary damages.

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