



Federal Ministry of Labour and Social Affairs

Questions and answers relating to short-time work (*Kurzarbeit*) and skills development

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(A) General questions about short-time work and the short-time work allowance

1. What is the short-time work allowance (*Kurzarbeitergeld*)?

The employment agency (*Agentur für Arbeit*) pays the short-time work allowance as partial compensation for a loss of earnings caused by a temporary cut in working hours. This reduces the costs faced by employers in the context of employing workers, and enables companies to continue to employ their workforce even in the event of a loss of orders. In other words, the short-time work allowance helps to prevent job losses.

2. Are the rules on the short-time work allowance being relaxed during the crisis?

Yes, the Federal Government has introduced two Social Protection Packages and issued statutory instruments relaxing the conditions for the short-time work allowance for limited periods.

The following changes apply for the period from 1 March 2020 to 31 December 2020:

- A company can register short-time work if at least ten per cent of its workforce have their working hours cut by more than ten per cent. The normal threshold is one-third of the workforce.
- There is no requirement to build up negative working time balances before the short-time work allowance is paid. The law normally requires companies with agreements on fluctuating working hours to also utilise these agreements to avoid short-time work.

- Temporary agency workers can also receive the short-time work allowance.
- The social security contributions which have to be paid solely by employers for employees working short-time are reimbursed at a flat rate by the Federal Employment Agency.
- Likewise, for recipients of the seasonal short-time work allowance (*Saison-Kurzarbeitergeld*), the social security contributions are reimbursed not from the winter employment levy, but from social security contributions.

The following change applies for the period from 31 January 2020 to 31 December 2020:

- For employees who gained entitlement to the short-time work allowance before or on 31 December 2019, the period for which it can be received has been extended to up to 21 months – ending on 31 December 2020 at the latest.

The following change applies retroactively from 1 March to 31 December 2020:

- The short-time work allowance is increased in stages for employees whose pay is reduced by at least half. From the fourth month in which employees receive the short-time work allowance, it is raised to 70 per cent (77 per cent for employees with at least one child), and from the seventh month it is raised to 80 per cent (87 per cent for employees with at least one child). Months in which employees receive the short-time allowance are counted from 1 March 2020.

The following change applies retroactively from 1 April to 31 December 2020:

- From 1 April to 31 December 2020, earnings from a second job which an individual begins while receiving the short-time work allowance will not, as is normally the case, be offset fully against the short-time work allowance. During this period, earnings from a second job which an individual begins in a critical occupation or sector while receiving the short-time work allowance will not be offset against the short-time work allowance up to the full level of the individual's previous monthly income. With effect from 1 May, this applies to all occupations and sectors.
- In the case of marginal employment (*geringfügige Beschäftigung*), also known as "450 euro jobs", the pay received is not offset against the short-time work allowance, even if it exceeds the individual's normal level of pay.

3. How quickly can short-time work be introduced?

In the case of a loss of orders, agreements to cut working hours in the company allow short-time work to be introduced and the local employment agency to be notified very quickly.

Employers calculate the short-time work allowance and pay it to the employees. An application for reimbursement is subsequently submitted to the local employment agency, which, after examining the application documents, reimburses the employer for the short-time work allowance paid without delay. Questions can be clarified with the local employment agency quickly and without unnecessary bureaucracy.

4. How much is the short-time work allowance?

The short-time work allowance is based on the amount of net pay lost. In principle, employees working short-time receive 60% of the net pay lost. Employees who have at least one child living in their household receive a short-time work allowance of 67% of the net pay lost.

The Second Social Protection Package (*Sozialschutzpaket II*) includes further special provisions relating to short-time work, which also affect the amount of the short-time work allowance. In view of the coronavirus pandemic, the short-time work allowance is being increased in stages for employees whose pay is reduced by at least half. From the fourth month in which employees receive the short-time work allowance, it is raised to 70 per cent (77 per cent for employees with at least one child), and from the seventh month it is raised to 80 per cent (87 per cent for employees with at least one child). Months in which employees receive the short-time allowance are counted from 1 March 2020.

A table for calculating the short-time work allowance is available on the Federal Employment Agency's website (www.arbeitsagentur.de).

5. For how long is the short-time work allowance paid?

The statutory period for which the short-time work allowance can be received is normally 12 months. In view of the current coronavirus pandemic, the period for which it can be received has been extended to up to 21 months – ending on 31 December 2020 at the latest – for employees who gained entitlement to the short-time work allowance before or on 31 December 2019. The statutory instrument introducing this change entered into force with effect from 31 January 2020 and, like other changes designed to facilitate short-time work, applies for a limited period until 31 December 2020.

6. Who is entitled to receive the short-time work allowance?

All employees who have not been made redundant, who lose more than 10 per cent of their pay due to the short-time work and who remain in employment subject to social security contributions are entitled to receive the short-time work allowance.

If the condition of a “substantial” cut in working hours is met (i.e. if at least one-third of the workforce is facing a cut in working hours of more than 10 per cent), employees can also receive the short-time work allowance if they have not been made redundant, they remain in employment subject to social security contributions, and they are losing 10 per cent or less of their pay. For a limited period from 1 March 2020 to 31 December 2020, the threshold for a “substantial” cut in working hours has been reduced from one-third to ten per cent of the workforce.

7. Doesn't it cost employers less to make their employees redundant?

The advantage of short-time work is that, if orders improve, it is immediately possible to increase working hours or return to normal working hours. The staff are available again immediately; there is no need to first find and hire workers and familiarise them with the workplace. The time lost is often shorter than for redundancies.

Moreover, in the event of redundancies, employees are entitled to receive their full pay until the end of the notice period – irrespective of whether they can still be employed full-time or not. Short-time work reduces companies' costs immediately.

8. Is the process for granting and paying the short-time work allowance too bureaucratic?

The Federal Employment Agency has made the application process as simple as possible and minimised the amount of information which has to be submitted. The benefit is normally paid to the employer within 15 working days after the application is submitted. The two-stage process for the payment and reimbursement of the short-time work allowance has worked well in practice. It is in the interest of all involved that the process is quick and unbureaucratic. The staff of the local employment agency are available to answer any questions. The forms for notifying the employment agency of the cut in working hours and for applying for reimbursement can be found on the Federal Employment Agency's website (www.arbeitsagentur.de). In addition, the feedback received from employers affected by short-time work about the application process and the handling of applications is wholly positive.

9. How is the short-time work allowance treated for tax purposes?

The Second Social Protection Package (*Sozialschutzpaket II*) provides for an increase in the short-time work allowance from 60 or 67 per cent at present to 70 or 77 per cent from the fourth month and to 80 or 87 per cent from the seventh month; these increases do not affect the fact that the short-time work allowance is tax-free. However, as a wage replacement benefit, the short-time work allowance is subject to what is known as the "exemption with progression" rule (*Progressionsvorbehalt*). This means that a special income tax rate applies when income tax is subsequently assessed. The wage replacement benefit is added to the person's taxable income, which consists of the pay received and/or any other income, and the applicable tax rate is determined using this (fictitious) level of income. This tax rate is then applied to the person's actual taxable income (i.e. excluding the wage replacement benefit).

10. How are top-up payments (*Aufstockungsbeträge*) made by employers treated for tax purposes?

Employers can voluntarily choose to top up the short-time work allowance received by their employees; in addition, a number of collective agreements provide for top-up payments by employers. As the law currently stands, these payments constitute taxable pay.

On 6 May 2020, the Federal Cabinet agreed on a draft Coronavirus Tax Assistance Act (*Corona-Steuerhilfegesetz*). This bill includes a provision under which employers' subsidies topping up the short-time work allowance are tax free up to the level of 80 per cent of the difference between the employee's normal pay and actual pay under Section 106 of Book III of the Social Code (*Sozialgesetzbuch*). The tax exemption is limited to subsidies paid for wage payment periods that begin after 29 February 2020 and end before 1 January 2021. The tax-free employers' subsidies are also taken into account in the context of the "exemption with progression" rule (*Progressionsvorbehalt*); for further details on this, please see the answer to the previous question.

11. How is the short-time work allowance treated for the purposes of social security law?

The Second Social Protection Package (*Sozialschutzpaket II*) provides for an increase in the short-time work allowance from 60 or 67 per cent at present to 70 or 77 per cent from the fourth month in which it is received and to 80 or 87 per cent from the seventh month; these increases do not affect how the short-time work allowance is treated for the purposes of social security law. The assessment basis for the calculation of social security contributions is reduced to 80 per cent for the pay that employees do not receive as a result of short-time work. The employer is solely responsible for paying the social security contributions for this fictitious pay (both the employer's and employee's share). In other words, the amount paid in social security contributions depends on the employee's pay and on the reduction in pay, but is not affected by the percentage level of the short-time work allowance. As a result, the rise in the short-time work allowance in percentage terms does not change these provisions. Financial assistance is available for employers: they are currently being reimbursed by the Federal Employment Agency for the social security contributions they pay, on the basis of special arrangements which apply until the end of this year (Section 2 of the Short-Time Work Allowance Ordinance (*Kurzarbeitergeldverordnung*)).

12. How are top-up payments (*Aufstockungsbeträge*) made by employers treated for the purposes of social security law?

Social security contributions only have to be paid on such top-up payments if the employer's subsidy and the short-time work allowance together exceed 80% of the difference between the employee's normal pay and actual pay under Section 106 of Book III of the Social Code (*Sozialgesetzbuch*). If a higher subsidy is paid by the employer, social security contributions are only paid on the amount above this level (see Section 1 (1) no. 8 of the Ordinance on the Assessment for the Purposes of Social Security Law of Grants from Employers as Pay (*Verordnung über die sozialversicherungsrechtliche Beurteilung von Zuwendungen des Arbeitgebers als Arbeitsentgelt*)). This provision in social security law applies permanently.

13. Can employees take holiday leave while on short-time work?

Yes, in principle, employees can still take holiday leave during the period of short-time work. They will receive the normal level of holiday pay from their employer (regarding the question of whether employees need to take their holiday leave before they begin receiving the short-time work allowance, see question B5).

14. Are employees entitled to receive the short-time work allowance for public holidays?

Employees working short-time are entitled to continued payment of their wages in the case of public holidays. In other words, if employees do not work on a public holiday because of short-time work for which the short-time work allowance is paid on other days, the employer must, in principle, pay employees the wage they would have received without the cut in working hours. In this case, the amount to be paid by the employer in wages for the public holiday is based on the amount of short-time work allowance that an employee would have received if the day had not been a public holiday. These wages are not reimbursed to the employer by the employment agency.

However, if a business normally operates continuously even on public holidays (for example in the hotel and restaurant sector), the employees who would have worked on a public holiday are entitled to receive the short-time work allowance; in that case,

they are not entitled to receive the allowance on the compensatory day off work they would have received for working on the public holiday. In each of these cases, this is determined on the basis of the duty roster.

(B) Conditions regarding the short-time work allowance

1. What conditions have to be met to receive the short-time work allowance?

In principle, the short-time work allowance (*Kurzarbeitergeld*) can be granted if an agreement has been reached by the employer and the employee representative body, or by the employer and the employees affected, to cut working hours in the company in accordance with the provisions of labour law, and this results in a substantial loss of working time and pay. The following conditions must be met:

- The cut in working hours must be caused by economic reasons or circumstances beyond the employer's control (e.g. flooding, orders issued by the authorities).
- The cut in working hours must be unavoidable and the company must have done everything possible to reduce or resolve it (e.g. use of the credit in working time accounts, within certain limits).
- The cut in working hours must be temporary in nature. This means that, in principle, a return to the normal working hours can be expected during the period for which the short-time work allowance is available.
- The employment agency (*Agentur für Arbeit*) must have been notified of the cut in working hours.
- The employee must remain in employment subject to social security contributions after the cut in working hours, and must not be made redundant.
- The cut in working hours must be substantial. This means that at least one-third of the company's employees – or, for a limited period from 1 March 2020 to 31 December 2020, ten per cent of the employees – must face a reduction of more than ten per cent in their gross monthly pay.

2. Who is entitled to receive the short-time work allowance?

All employees who have not been made redundant, who lose more than 10 per cent of their pay due to the short-time work and who remain in employment subject to social security contributions are entitled to receive the short-time work allowance.

If the condition of a "substantial" cut in working hours is met (i.e. if at least one-third of the workforce is facing a cut in working hours of more than 10 per cent), employees can also receive the short-time work allowance if they have not been made redundant, they remain in employment subject to social security contributions, and they are losing 10 per cent or less of their pay. For a limited period from 1 March 2020 to 31 December 2020, the threshold for a "substantial" cut in working hours has been reduced from one-third to ten per cent of the workforce.

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Yes, the Federal Government has introduced two Social Protection Packages and issued statutory instruments relaxing the conditions for the short-time work allowance for limited periods.

The following changes apply for the period from 1 March 2020 to 31 December 2020:

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- There is no requirement to build up negative working time balances before the short-time work allowance is paid. The law normally requires companies with agreements on fluctuating working hours to also utilise these agreements to avoid short-time work.
- Temporary agency workers can also receive the short-time work allowance.
- The social security contributions which have to be paid solely by employers for employees working short-time are reimbursed at a flat rate by the Federal Employment Agency.
- Likewise, for recipients of the seasonal short-time work allowance (*Saison-Kurzarbeitergeld*), the social security contributions are reimbursed not from the winter employment levy, but from social security contributions.

The following change applies for the period from 31 January 2020 to 31 December 2020:

- For employees who gained entitlement to the short-time work allowance before or on 31 December 2019, the period for which it can be received has been extended to up to 21 months – ending on 31 December 2020 at the latest.

The following change applies retroactively from 1 March to 31 December 2020:

- The short-time work allowance is increased in stages for employees whose pay is reduced by at least half. From the fourth month in which employees receive the short-time work allowance, it is raised to 70 per cent (77 per cent for employees with at least one child), and from the seventh month it is raised to 80 per cent (87 per cent for employees with at least one child). Months in which employees receive the short-time allowance are counted from 1 March 2020.

The following change applies retroactively from 1 April to 31 December 2020:

- From 1 April to 31 December 2020, earnings from a second job which an individual begins while receiving the short-time work allowance will not, as is normally the case, be offset fully against the short-time work allowance. During this period, earnings from a second job which an individual begins in a critical occupation or sector while receiving the short-time work allowance will not be offset against the short-time work allowance up to the full level of the individual's previous monthly income. With effect from 1 May, this applies to all occupations and sectors.
- In the case of marginal employment (*geringfügige Beschäftigung*), also known as "450 euro jobs", the pay received is not offset against the short-time work allowance, even if it exceeds the individual's normal level of pay.

4. Are there concrete requirements for individual agreements on short-time work?

As the introduction of short-time work changes a key element of the employment relationship, a concrete agreement is needed on the cut in working hours and the associated reduction in pay.

An agreement of this kind should, at a minimum, specify the amount by which working hours are to be cut or the extent of the short-time work, and state when the cut in

working hours or short-time work begins and is expected to end. For logical reasons, the agreed end date should fall within the maximum possible duration for which the short-time work allowance can be received, although adjustments to the actual conditions in the company are possible at short notice at any time.

The Federal Ministry of Labour and Social Affairs and the Federal Employment Agency cannot impose concrete requirements regarding the agreement of short-time work, as these agreements, like the underlying employment contract, are subject to private autonomy and freedom of contract. Employers' associations, chambers of crafts, or chambers of industry and commerce could potentially provide assistance in this area.

5. Do employees need to take their holiday leave before they begin receiving the short-time work allowance?

For the period until 31 December 2020, given the current coronavirus pandemic, the Federal Employment Agency is not requiring employees to take holiday leave to avoid a cut in working hours. However, this only applies to holiday leave entitlement for the current calendar year. If employees still have holiday leave entitlement carried over from the previous year (*Resturlaub*), they are in principle required to take this holiday leave to avoid payment of the short-time work allowance. This does not apply if the employees have other overriding plans to use their holiday entitlement carried over from the previous year. Regarding the special rules which apply to holiday leave in the construction sector, please see the Federal Employment Agency's FAQ. This is available (in German) at the following link: <https://www.arbeitsagentur.de/news/corona-virus-informationen-fuer-unternehmen-zum-kurzarbeitergeld>.

6. Do working hours need to be reduced by the same percentage for all of a company's employees?

Working hours do not need to be reduced equally for all employees. What is important is that, for all affected employees, the cut in working hours with a reduction in pay, i.e. short-time work (*Kurzarbeit*), is effectively agreed on the basis of collective agreements, firm-level agreements or the provisions of individual contracts.

The conditions for payment of the short-time work allowance are met if, among other things, at least one-third – or, for a limited period from 1 March 2020 to 31 December 2020, ten per cent – of the company's employees are affected by a loss of pay of more than ten per cent of their gross monthly pay.

7. By how much can working hours be reduced for employees working short-time?

Whether the loss of working time represents hours, days or even weeks depends on the company's order books and on agreements within the company. If working hours are reduced by 50 per cent, for example, employees receive their normal pay for 50 per cent of their usual working time, and receive short-time work allowance equivalent to 60 or 67 per cent of what they would have been paid for the other half of their usual working time. In the case of "short-time work zero" (*Kurzarbeit null*), the cut in working hours is 100 per cent, meaning that work is stopped entirely for a temporary period.

8. Do employers have to introduce short-time work for the entire company, or is it possible for it to apply only to certain departments?

Short-time work does not need to be introduced for the entire company. It can be limited to individual departments within the company.

9. Can people in marginal employment (*geringfügig Beschäftigte*) receive the short-time work allowance?

People in marginal employment cannot receive the short-time work allowance as they do not pay unemployment insurance contributions.

10. Are all employees counted when determining a company's number of employees, or do only employees in jobs subject to social security contributions count?

All employees are counted who work for the company for at least one day in the month in which short-time work applies. This includes employees who are not in jobs subject to social security contributions.

The following types of employee are to be counted, for example:

- people in marginal employment (*geringfügig Beschäftigte*),
- employees who are ill,
- employees who are on leave,
- employees on maternity leave.

However, the following groups, for example, are not to be counted:

- apprentices (expressly regulated by law),
- employees whose employment relationship is suspended, for example during parental leave.

11. Can apprentices receive the short-time work allowance?

Apprentices can also receive the short-time work allowance. However, all reasonable efforts should be made within the company to continue providing vocational training.

If short-time work for apprentices is, nonetheless, unavoidable, they are first entitled to continue to receive their normal pay for a six-week period (Section 19 (1) no. 2 of the Vocational Training Act (*Berufsbildungsgesetz*)).

Following that, the short-time work allowance can be paid. The guidance issued by the Federal Employment Agency recommends that, when examining the question of whether short-time work for apprentices is necessary, the company should consult the competent body under the Vocational Training Act (e.g. the chamber of industry and commerce, the chamber of crafts), in consultation with the employment agency's vocational guidance service.

Furthermore, the short-time work allowance can also be paid, without further conditions, for apprentices who take up a job (fixed-term or permanent) subject to social security contributions with the same or another employer after completing their apprenticeship.

12. Can the short-time work allowance be paid in municipal or non-profit organisations?

It depends on the cause of the substantial cut in working hours and the nature of the organisation's activities. In principle, municipal or public-sector organisations can also introduce short-time work and receive the short-time work allowance. The same is true of non-profit organisations such as associations or organisations in the cultural sector, for example theatres.

However, the substantial and unavoidable cut in working hours, which is one of the conditions for the granting of the short-time work allowance, must be caused by economic reasons or by circumstances beyond the employer's control. Circumstances beyond the employer's control would be, for example, the authorities ordering the temporary closure of the organisation. In this case, the employees who are affected by the cut in working hours would also be entitled to receive the short-time work allowance. A typical example would be a swimming pool which is ordered by the authorities to close temporarily because the risk of coronavirus transmission is too high.

Clearly, public authorities do not carry out economic activities.

In commercial public-sector organisations, i.e. those which sell something or offer a paid service, the substantial cut in working hours can be caused by economic reasons. For example, short-time work could be introduced for drivers working for a public transport operator which has far fewer passengers to transport because of the coronavirus pandemic and is therefore selling far fewer tickets.

A cut in working hours resulting in a loss of pay can only lead to an entitlement to the short-time work allowance if it is unavoidable. A cut in working hours at a municipal company or organisation is avoidable if, for example, municipal staff can be redeployed to an area which is under particular pressure during the crisis (such as the local public health office (*Gesundheitsamt*)).

13. Is short-time work also possible for apprentices who are given fixed-term contracts after completing their apprenticeship?

The short-time work allowance can also be paid for apprentices who take up a job (fixed-term or permanent) subject to social security contributions with the same or another employer after completing their apprenticeship.

14. What approach should employers take with regard to people in marginal employment if no work is available? Is it necessary to make them redundant before short-time work can be introduced?

It is not necessary to make people in marginal employment (*geringfügig Beschäftigte*) redundant before short-time work can be introduced. However, people in marginal employment cannot receive the short-time work allowance.

15. Can senior employees who are not covered by collective agreements also be entitled to the short-time work allowance, and can an employment contract with a senior employee not covered by collective agreements have a negative impact on the granting of the short-time work allowance?

An employment contract with a senior employee not covered by collective agreements does not preclude the payment of the short-time work allowance, provided that the

employee is employed in a job subject to social security contributions. For information about the effects of pay which is above the contribution assessment ceiling, please see Question D2 (“On what basis is the short-time work allowance calculated if the employee earns more than the contribution assessment ceiling (*Beitragsbemessungsgrenze*)?”).

16. Can service providers in the healthcare sector receive the short-time work allowance?

Workers in jobs subject to social security contributions who are employed by service providers in the healthcare sector can receive the short-time work allowance if the normal conditions for receiving it are met. This applies, for example, to staff employed by doctors or dentists authorised by the statutory health insurance funds, or staff employed by providers of therapeutic remedies and aids.

Only hospitals are completely ineligible for the short-time work allowance for the duration of the rescue package for the healthcare sector, initially from 16 March 2020 to 30 September 2020. During this period, they receive a flat-rate payment to cover personnel and non-personnel costs. However, private clinics which are not entitled to receive compensation payments under the rescue package can receive the short-time work allowance if the other conditions are met.

For further details, please also see the Federal Employment Agency’s guidance on the short-time work allowance for service providers in the healthcare sector, which is available (in German) at the following link:

<https://www.arbeitsagentur.de/datei/ba146469.pdf>.

17. Can cross-border workers (*Grenzgänger*) receive the short-time work allowance?

If the conditions are met, employees in border regions who commute to Germany for work can also receive the short-time work allowance.

Entitlement to the short-time work allowance is based on a complete or partial inability to work in the company or part of the company located in Germany because of an order issued by the authorities or a shortage of work. If cross-border workers are affected by the cut in working hours within the company, they receive the short-time work allowance for the reduction in working hours. This applies even if they are affected by a border closure or quarantine measure.

Companies in border regions which are already receiving the short-time work allowance for their employees but did not receive payments for employees who live in a border region because of the previous interpretation of the rules can submit an updated claim for the months of March and April. Companies which were denied the short-time work allowance entirely because of the previous interpretation of the rules can request a review of their application and receive payments retroactively.

18. How does short-time work in the workplace affect employees who are not allowed to work (*Beschäftigungsverbot*) during pregnancy or in the period when they are breastfeeding, or employees on maternity leave (*Mutterschutz*)?

The Federal Ministry of Labour and Social Affairs, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, and the Federal Ministry of Health have

agreed that maternity benefits under the Act on the Protection of Working Mothers (*Mutterschutzgesetz*) have precedence over the short-time work allowance. This means you can receive maternity pay (*Mutterschutzlohn*) or maternity benefit (*Mutterschaftsgeld*) and a top-up payment from your employer (*Arbeitgeberzuschuss*) – in other words, benefits equivalent to your previous pay. Your employer can have maternity-related expenses reimbursed via the “U2 procedure” under the Expenses Compensation Act (*Aufwendungsausgleichsgesetz*). The binding legal decision on these issues in individual cases is a matter for the following authorities: the Federal Employment Agency (*Bundesagentur für Arbeit*) takes decisions on the granting of the short-time work allowance; the statutory health insurance funds (*gesetzliche Krankenkassen*) and the Federal Office for Social Security (*Bundesamt für Soziale Sicherung*) take decisions on maternity benefit, and the statutory health insurance funds take decisions on reimbursement via the U2 procedure. For further details, please also see the website of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (in German) at the following link:

<https://www.bmfsfj.de/bmfsfj/aktuelles/alle-meldungen/volle-mutterschaftsleistungen-auch-waehrend-kurzarbeit-im-betrieb/156596>.

(C) Application process and evidence to be submitted

1. What needs to be done to apply for the short-time work allowance?

There is a two-stage process to be followed when providing notification of short-time work and applying for the short-time work allowance:

- The employer or the employee representative body notifies the local employment agency in writing of the cut in working hours. The employment agency responsible is the one in the district where the company is established. The employment agency decides without delay whether the conditions for payment of the short-time work allowance are met. The employer calculates the short-time work allowance and pays it to the employees.
- The employer subsequently submits a written application for reimbursement of the short-time work allowance payments to the employment agency in the district in which the employer's payroll office (*Lohnabrechnungsstelle*) is located. The application must be submitted within three months. This period begins at the end of the calendar month containing the days for which the short-time work allowance is claimed.

Companies which require advice regarding the application process should please contact their local employment agency directly or contact the service for employers run by the Federal Employment Agency on the following telephone number: +49 (0)800 4 5555 20. The necessary forms and a table for calculating the short-time work allowance are available on the Federal Employment Agency's website (www.arbeitsagentur.de).

2. How do I prove that economic reasons exist for the introduction of short-time work (*Kurzarbeit*)?

A detailed explanation of the reasons for the cut in working hours must be provided on the form used to notify the local employment agency about the cut in working hours. The form includes a declaration by employers that the information provided is true to the best of their knowledge.

If an employee representative body exists, it must state its agreement with the information provided by the employer or submit a separate statement. The notification must be submitted in writing or electronically to the employment agency in the district where the company is established (Section 99 (1), first sentence, of Book III of the Social Code (*Sozialgesetzbuch*)).

3. Do employers have to introduce short-time work for the entire company, or is it possible for it to apply only to certain departments?

Short-time work does not need to be introduced for the entire company. It can be limited to individual departments within the company.

4. What role does the works council (*Betriebsrat*) play in the introduction of short-time work, and what happens if no works council exists?

The agreement of the works council is required for short-time work to be introduced in a company. In the case of companies without a works council, if no collective agreement containing a short-time work clause applies, or if the employer does not dismiss the employees while offering them new contracts with reduced working hours (*Änderungskündigung*), short-time work can generally only be introduced with the consent of the affected employees. In some cases, consent is already provided via a

clause on short-time work in employment contracts. The employer can then introduce short-time work on this basis. If this is not the case, short-time work must be agreed individually or in individual contracts.

5. What happens if the employer and the works council (*Betriebsrat*) are unable to agree on the introduction of short-time work?

Under Section 87 (1) no. 3 of the Works Constitution Act (*Betriebsverfassungsgesetz*), the works council has a right to co-determination when it comes to the introduction of short-time work. In concrete terms, this means that if the employer and the works council are unable to agree on whether and how short-time work should be introduced, the conciliation committee (*Einigungsstelle*) can be convened by either the employer or the works council. The conciliation committee's decision replaces an agreement between the employer and the works council (Section 87 (2) of the Works Constitution Act).

6. Is the process for granting and paying the short-time work allowance too bureaucratic?

The Federal Employment Agency has made the application process as simple as possible and minimised the amount of information which has to be submitted. The benefit is normally paid to the employer within 15 working days after the application is submitted. The two-stage process for the payment and reimbursement of the short-time work allowance has worked well in practice. It is in the interest of all involved that the process is quick and unbureaucratic. The staff of the local employment agency are available to answer any questions. The forms for notifying the employment agency of the cut in working hours and for applying for reimbursement can be found on the Federal Employment Agency's website (www.arbeitsagentur.de). In addition, the feedback received from employers affected by short-time work about the application process and the handling of applications is wholly positive.

(D) Calculation of the short-time work allowance

1. How is the short-time work allowance calculated?

In many companies, software is used to calculate the short-time work allowance. If software of this kind is not available, the table produced by the Federal Employment Agency can be used to calculate the short-time work allowance.

2. On what basis is the short-time work allowance calculated if the employee earns more than the contribution assessment ceiling (*Beitragsbemessungsgrenze*)?

The short-time work allowance is calculated on the basis of the difference between the employee's actual pay (actual gross pay in the month in which short-time work takes place) and his or her normal pay (gross pay subject to social security contributions which the employee would otherwise have earned in the month in question). In other words, the normal pay to be used in the calculation is, in principle, the regular pay for the purposes of social insurance up to the contribution assessment ceiling.

As in the case of unemployment benefit (*Arbeitslosengeld*), protection against loss of pay is provided up to the level of pay which represents the ceiling for social security contributions. Consequently, if the actual pay received during short-time work is above the contribution assessment ceiling, the short-time work allowance cannot be paid.

3. Are top-up payments regulated by a collective agreement taken into account in the calculation of the short-time work allowance?

Top-up payments (*Aufstockungsbeträge*) or subsidies to the short-time work allowance paid by the employer are not taken into account in the calculation of the short-time work allowance. They do not reduce the amount of short-time work allowance paid, provided that a loss of pay still exists.

4. How do existing agreements to safeguard jobs affect the level of the short-time work allowance?

Agreements to safeguard jobs through temporary changes to working hours (*Beschäftigungssicherungsvereinbarungen zur vorübergehenden Änderung der Arbeitszeit*) which the employer reaches with the works council (*Betriebsrat*) or – if no works council exists – with the employees do not have a negative impact on the level of the short-time work allowance. The short-time work allowance is based on the wage paid before the introduction of the agreement to safeguard jobs.

5. How much is the short-time work allowance?

The short-time work allowance is based on the amount of net pay lost. In principle, employees working short-time receive 60% of the net pay lost. Employees who have at least one child living in their household receive a short-time work allowance of 67% of the net pay lost.

The Second Social Protection Package (*Sozialschutzpaket II*) includes further special provisions relating to short-time work, which also affect the amount of the short-time work allowance. In view of the coronavirus pandemic, the short-time work allowance is being increased in stages for employees whose pay is reduced by at least half. From the fourth month in which employees receive the short-time work allowance, it is raised to 70 per cent (77 per cent for employees with at least one child), and from the seventh month it is raised to 80 per cent (87 per cent for employees with at least one child). Months in which employees receive the short-time work allowance are counted

from 1 March 2020. In other words, the first month in which the higher rate of the short-time work allowance can be received is June 2020 (the earliest possible fourth month).

A table for calculating the short-time work allowance is available on the Federal Employment Agency's website (www.arbeitsagentur.de).

6. Do employees need to have had their pay reduced by at least 50 per cent in all three preceding months in order to qualify for an increase in the level of the short-time work allowance from the fourth month?

To qualify for the higher level of the short-time work allowance, employees must meet the condition of having their pay reduced by at least 50 per cent "in the month in question". This means that employees can already receive the higher rate if their pay is reduced by at least 50 per cent in the fourth month or in subsequent months in which they receive the short-time work allowance. The reduction in their working hours does not need to have met this threshold in the preceding months; it is only necessary for the employees to have been receiving the short-time work allowance. The extent of the cut in working hours during those months is irrelevant. The reference month for calculating the number of months in which the short-time work allowance is received is March 2020.

7. How does a break in receiving the short-time work allowance affect the higher rates from the fourth and the seventh months?

Employees who received the short-time work allowance in, for example, March, April and June 2020, but did not work short-time in May 2020, would receive the higher rate of the short-time work allowance from July (the fourth month in which they receive the short-time work allowance). To receive the higher rates, it is sufficient for employees to have received the short-time work allowance in a total of three or six months respectively. The number of months does not reset after a break in receiving the short-time work allowance.

(E) Additional earnings

1. How do additional earnings / a second job affect the level of the short-time work allowance?

If an employee had a second job before short-time work was introduced, it has no impact; in other words, the pay received from the second job is not deducted from the short-time work allowance. If an employee begins a second job while receiving the short-time work allowance, the pay received from the second job is not deducted from the short-time work allowance, as the actual amount of pay received by the employee has increased.

Until 31 December 2020, earnings from a second job which an individual begins while receiving the short-time work allowance will not, as is normally the case, be offset fully against the short-time work allowance. During this period, earnings from a second job which an individual begins in any occupation or sector while receiving the short-time work allowance will not be offset against the short-time work allowance up to the full level of the individual's previous monthly income. Previously, under the First Social Protection Package, the rules on additional earnings were only relaxed for second jobs in critical occupations and sectors, and the change applied initially until 31 October 2020. The Second Social Protection Package has expanded this change to encompass all occupations and extended it until 31 December 2020.

In the case of marginal employment (*geringfügige Beschäftigung*), also known as "450 euro jobs", the pay received is not offset against the short-time work allowance, even if it exceeds the individual's normal level of pay.

The level of the short-time work allowance does not change in such cases.

Critical sectors and occupations are those which are essential for public life and for ensuring people's safety and basic needs. These include, in particular, the healthcare and long-term care sector – including hospitals, doctors' practices and pharmacies – the agricultural and food sector, and occupations involved in supplying people with food. Criteria for assessing which sectors and occupations are regarded as critical are contained in the Ordinance Defining Critical Infrastructures under the Act on the Federal Office for Information Security (*Verordnung zur Bestimmung kritischer Infrastrukturen nach dem Gesetz für das Bundesamt für Sicherheit in der Informationstechnik*).

2. Is it true that social security contributions do not have to be paid on earnings from a second job?

Unemployment insurance contributions do not have to be paid on earnings from a second job which an individual begins in a critical sector or occupation – or in any occupation or sector, with effect from 1 April 2020 – while receiving the short-time work allowance, regardless of the amount earned. The normal rules apply to the question of whether and to what extent earnings are also exempt from contributions to other social insurance branches.

3. If I have been placed on short-time work and would like to take up a second job (e.g. harvesting asparagus), who do I have to notify and how?

You are required to notify your (main) employer that you are taking up a second job and to state how much you are earning from it. The local employment agency (*Agentur für Arbeit*) can help you to find a suitable second job.

In addition, the Federal Ministry of Food and Agriculture has set up the “Job gesucht - Erntehelfer gefunden!” platform at www.daslandhilft.de, where farmers and people who are interested in helping with the harvest can quickly make contact free of charge.

4. Who checks whether earnings from a second job have to be offset against the short-time work allowance?

The main employer checks whether the earnings from a second job have to be offset against the short-time work allowance. Evidence of earnings from the individual’s second job must therefore be submitted to the main employer in a timely manner. The main employer then has the task of calculating the level of the short-time work allowance, taking into consideration the cut in working hours in the month in question and employee’s total earnings. The employee’s earnings from a second job have to be taken into consideration in this process.

However, these earnings are only offset against the short-time work allowance if and to the extent that the individual’s total income during short-time work (actual earnings from the individual’s main employment, earnings from the individual’s second job, the short-time work allowance and, where applicable, top-up payments) is greater than the pay received from the individual’s main employment before the introduction of short-time work.

(F) Effects of the short-time work allowance on social protection

1. Does short-time work have a negative impact on social protection for employees?

No. Employees working short-time have to cope with a reduction in their income, but they remain in jobs subject to social security contributions. They retain their social safety net in the form of health insurance, pensions, long-term care insurance, occupational accident insurance and unemployment insurance.

2. Who pays the social security contributions during the period of short-time work?

In the case of the pay earned during the period of short-time work, social security contributions continue to be paid jointly by the employer and the employee. In the case of the time which is not worked because of short-time work and for which the short-time work allowance is paid, the social security contributions are reduced to 80 per cent of the normal level. These contributions are paid by the employer alone. For a limited period from 1 March 2020 to 31 December 2020, the social security contributions which are to be paid by the employer alone will be reimbursed to the employer by the Federal Employment Agency at a flat rate.

3. How does short-time work affect pension entitlements?

Employees remain enrolled in pension insurance while receiving the short-time work allowance. The contributions to be paid on the employee's reduced wages are, as normal, shared by the employer and employee.

To ensure that employees do not suffer any disadvantages in terms of their pension entitlements in retirement, contributions are also paid on 80 per cent of the lost pay (the difference between what the employee is normally paid and what he or she is actually paid), and these contributions are paid by the employer alone. For a limited period from 1 March 2020 to 31 December 2020, the employer can have these contributions reimbursed by the employment agency.

Anyone who has questions relating to how short-time work affects pension benefits later in life can contact the staff of the information and advice centres of Deutsche Rentenversicherung (German Pension Insurance) or the service hotline on +49 (0)800 1000 480 70.

4. Does the short-time work allowance affect entitlement to and the level of unemployment benefit (*Arbeitslosengeld*)?

In many cases, short-time work helps to avoid redundancies for operational reasons (*betriebsbedingte Kündigungen*). If redundancies nonetheless take place, employees do not suffer any disadvantages as a result of short-time work.

Periods in which an individual has received the short-time work allowance do not have a negative impact on entitlement to unemployment benefit. If a job is, in principle, subject to social security contributions for employment promotion, receiving the short-time work allowance does not change this. This remains true even if employees stop working entirely in the framework of short-time work.

Periods in which employees receive the short-time work allowance count towards the qualifying period (*Anwartschaftszeit*) for entitlement to unemployment benefit in the

same ways as “normal” periods of employment, and are also taken into account when calculating the entitlement period.

If employees become unemployed after receiving the short-time work allowance, unemployment benefit is calculated on the basis of the pay they would have received without the cut in working hours. This ensures, in principle, that employees do not suffer any disadvantages in terms of their entitlement to benefits if they should become unemployed after receiving the short-time work allowance.

5. Can employees be made redundant during a registered period of short-time work?

The principle of proportionality (i.e. that dismissal should be the last resort) means that the introduction of short-time work in the event of a temporary loss of work, as a less severe measure, can make redundancies for operational reasons (*betriebsbedingte Kündigungen*) impermissible. However, short-time work does not prevent redundancies for operational reasons if the company is unable in the long-term to provide work for the employees concerned. If an employee is actually made redundant, the short-time work allowance can no longer be paid.

6. Do short-time work and the short-time work allowance affect integration grants which the employer receives for an employee?

Integration grants (*Eingliederungszuschüsse*) are calculated on the basis of the “eligible pay” (*berücksichtigungsfähiges Entgelt*). This consists of the regular pay and a standardised employer’s share of the total social security contribution. For periods when the employer does not pay the employee, the integration grant is to be reduced accordingly or cannot be paid at all. In principle, these periods do not affect the period for which the grant is provided. Further information can be obtained from the local employment agency.

(G) Continuing education and training and skills development

1. Can funding be provided for continuing education and training during the period of short-time work?

Employees can receive full or partial funding for the cost of continuing education and training under Book III of the Social Code (*Sozialgesetzbuch*) if

- the programme will impart knowledge and skills which go beyond solely job-related updating training,
- they obtained their vocational qualification at least four years ago,
- they have not taken part in continuing vocational education and training funded under Book III of the Social Code in the last four years before submitting the application,
- the programme takes place outside of the workplace and lasts for more than 160 hours,
- the programme and the provider are eligible to receive funding, and
- the employees are affected by structural change or are applying for continuing education or training in shortage occupations. Exceptions may be made in the case of companies with fewer than 250 employees.

2. How does the employment agency's funding for continuing education and training work in practice?

Both employers and employees can contact their employment agency to apply for it to cover the costs of skills development programmes.

The employment agency examines whether an entitlement to funding exists and determines whether funding is possible. If funding is provided, an education voucher is normally issued to the employee. Subject to the conditions which apply to the education voucher, employees can then redeem the voucher with a provider of their choice which is eligible for funding.

A guide to finding a suitable programme and various tips are provided in the leaflet "*Förderung der beruflichen Weiterbildung*" ("Support for continuing vocational education and training"), which is available from the employment agency. Comprehensive information about eligible programmes is also available from the Federal Employment Agency's "KURSNET" online database of initial and continuing training programmes, and from the providers themselves.

3. What opportunities exist for continuing education and training before short-time work becomes an issue, or in companies where short-time work is not necessary?

The introduction of the Skills Development Opportunities Act (*Qualifizierungschancengesetz*) in 2019 paved the way for employees to receive support for continuing education and training irrespective of their training, age and the size of their company, and thus further opened up access to support.

The expansion in support for continuing education and training is focused on all employees who perform work activities which could be replaced by technology, who are otherwise affected by structural change, or who want to engage in continuing vocational education and training in a shortage occupation.

The support for continuing education and training includes, on the one hand, meeting the costs of continuing education and training (e.g. course fees) for individual employees (employee support) and, on the other hand, the payment of wage subsidies to employers for absences from work caused by continuing education and training (employer subsidy).

In principle, co-financing by the employer is a precondition for employees' costs to be met and for wage subsidies to be received by the employer. The type and scope of the support is based primarily on the size of the company concerned.

4. Is it possible to continue a continuing education or training programme begun before the introduction of short-time work?

This is possible, in principle, if the programme in question takes place alongside work (e.g. in the evenings or at weekends). If, before the introduction of short-time work, an employee began skills development which takes place wholly or partially during working hours, requiring the employee to be released from work for that purpose, it must be kept in mind that the short-time work allowance is paid for cuts in working hours which are necessary for economic reasons. In these cases, however, the periods of release from work are caused by continuing education and training, and so the employee retains his or her entitlement to be paid. If the employee continues to be paid, the employment agency will continue to fund the costs of continuing education and training, if applicable.

5. Can a continuing education or training programme begun during the period of short-time work be continued if the short-time work is reduced or ended?

Continuing education and training must not stand in the way of a return to normal working hours. In principle, therefore, the continuing education or training programme must be adapted, in terms of time, to reductions in short-time work, and must end when employees return to their normal working hours. If the employer agrees and continues to release the employee from work, the continuing education or training programme may potentially be continued even after the end of the period of short-time work. Details about continued funding in the framework of support under the Skills Development Opportunities Act (*Qualifizierungschancengesetz*) can be requested from the local employment agency.

6. Who takes the decision on possible skills development measures – the employer or the employee?

The employer and employee agree on the substance, type and duration of continuing education and training measures.

7. What do I have to do, in concrete terms, for my continuing education or training programme to be funded by the employment agency (*Agentur für Arbeit*)?

Both employers and employees can contact their employment agency to apply for it to cover the costs of skills development programmes.

The employment agency examines whether an entitlement to funding exists and, if so, an education voucher is normally issued to the employee. Subject to the conditions which apply to the education voucher, employees can then redeem the voucher with a provider of their choice which is eligible for funding.

A guide to finding a suitable programme and various tips are provided in the leaflet "*Förderung der beruflichen Weiterbildung*" ("Support for continuing vocational education and training"), which is available from the employment agency. Comprehensive information about eligible programmes is also available from the Federal Employment Agency's "KURSNET" online database of initial and continuing training programmes, and from the providers themselves.

In parallel, employers can apply to the employment agency for a wage subsidy if they release employees from work to take part in a skills development programme and continue to pay them during this period. If the application is successful, the employment agency pays the wage subsidy directly to the employer.

Last updated: 1 August 2020 / Any changes to the German version are only reflected up to this date. The English language version will be updated.