

At a glance



Holidays
Posting provisions
Winter holiday provision
Statutory severance pay
Bad weather provision
Bridging allowance
Wage and social dumping
Corporate Pension Insurance Fund

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CONSTRUCTION WORKERS' HOLIDAY AND SEVERANCE PAY FUND

The Construction Workers' Holiday and Severance Pay Fund [Bauarbeiter-Urlaubs- und Abfertigungskasse] (BUAK), one of the first social partnership institutions in Austria, is a public corporation directed on equal terms by employers' organisations and workers' organisations. The Fund was founded in 1946 (as the Construction Worker's Holiday Fund, BUK) in order to administer the Construction Workers' Holiday Act [Bauarbeiter-Urlaubs-gesetz] (BarBUG) adopted by the National Council on 26 May 1946. In 1987, a statutory severance pay provision for construction workers was included in the BarBUG, redefining the law as the Construction Workers' Holiday and Severance Pay Act [Bauarbeiter-Urlaubs- und Abfertigungsgesetz] (BUAG) and giving the BUK its present name: BUAK.

Following the expansion of the BUAG to include the winter holiday provision and after taking over the management of bad weather compensation from the Public Employment Service (both in 1996), BUAK managed four areas up until the end of 2013. In January 2014, the bridging allowance became the fifth.

While bad weather compensation is regulated in the Construction Workers' Bad Weather Compensation Act [Bauarbeiter-Schlechtwetter-Entschädigungs-Gesetz] (BSchEG), the legal provisions relating to the other subject areas are set out in the BUAG.

Since 1 September 2005, workers who are posted to carry out construction work within Austria by companies with headquarters outside Austria have also been subject to BUAK's holiday provision.

The Corporate Employee Pension Fund was founded in 2002 and renamed in 2008 as the BUAK Corporate Employee and Self-Employed Pension Fund (BUAK-BVK) and is 100% owned by BUAK. It sustainably invests (successful certification since 2003 by the Austrian Society for Environment and Technology (ÖGUT)) statutory severance and self-employed pension contributions for workers and self-employed workers in all industries.

Another subsidiary, BUAK Schulungen GmbH, was founded in 2006. This company is also 100% owned by BUAK and provides training in relation to BUAG. The courses for master builders, payroll accountants, tax advisors and other interested parties are run by experienced BUAK staff members.

On the following pages we aim to give a brief insight into the respective subject areas.



SUBJECT: HOLIDAYS

The aim of the holiday provision is to ensure that construction workers whose employment rhythm is marked by seasonal interruptions are also able to acquire and use annual leave days.

This provision is company-independent and industry-specific. The worker may build up the qualifying weeks required for their holidays through work in several different companies, provided these fall within the scope of application of BUAG. The worker takes their qualifying weeks and leave entitlements with them to the next company.

Once the worker has built up 52 qualifying weeks within a calendar year, they are entitled to a holiday lasting 30 business days or 25 working days. This leave entitlement increases to 36 business days or 30 working days if the worker has already earned 1150 qualifying weeks. Accumulated qualifying weeks immediately result in leave entitlement which is proportional to the number of qualifying weeks.

USING LEAVE

In principle, leave can only be taken during an ongoing employment contract. The date the worker goes on leave is determined by agreement between the company and the worker. Leave entitlements can be used within the calendar year in which they were earned, but must in any case be used by 31 March of the third year following the year they were earned. When deciding when leave is used, the requirements of the company and the worker's opportunity for relaxation must be taken into consideration.

EXPIRATION OF LEAVE ENTITLEMENT

Leave entitlement shall be forfeited if the worker has not used their holidays by 31 March of the third consecutive year following the calendar year in which the leave entitlement was acquired.

SUBMISSION, PAYMENT, REPORTING

After the start date of the holiday has been agreed, the employer applies to BUAK for the corresponding holiday remuneration.

COMPANIES WITH AN ESCROW ACCOUNT

If the company holds a special escrow account in accordance with §8 para. 3 BUAG, gross holiday remuneration is paid into this account. The employer then calculates the net remuneration and pays this to the worker on the last workday before the start of the holiday.



The employer informs BUAK of the duration of the holiday in the course of the monthly reporting process. From 1 January 2015, BUAK should be informed of the holiday's duration at the point the application is submitted.

COMPANIES WITHOUT AN ESCROW ACCOUNT

If the company does not hold an escrow account in accordance with §8 para. 3 BUAG, the gross-net calculation of the holiday remuneration is carried out by BUAK. The net remuneration is then transferred directly to the worker's account. Following settlement, both the worker and the company (or tax consultancy firm, accountancy firm) receive a settlement list. The payroll office may obtain all information relevant to payroll accounting from this settlement list.

BUAK will provide the company with a monthly statement showing all paid statutory fees. Separate reporting of the holiday is only required when the duration of the holiday differs from the information which has already been submitted in the course of the application for holiday remuneration.

GROSS HOLIDAY REMUNERATION

For each worker, the employer pays a holiday supplement into the holiday fund for every qualifying day. Five qualifying days make up one qualifying week. The company does not pay any holiday supplements for holiday periods; instead, BUAK contributes these supplements itself (these contributions are calculated against the company's supplement payment).

The worker never pays supplements to BUAK!

The daily supplement is calculated on the basis of the worker's hourly wage as per their collective agreement. The method of calculation changed as of 1 January 2015; this basis is now increased by 20% and multiplied by a factor which is taken from the worker's normal weekly working hours. The resulting weekly supplement is then divided by 5:

From 1 January 2015

$$\frac{(\text{CA hourly wage} + 20\%) \times \text{factor}}{5}$$

Normal working hours as per collective agreement	Supplement factor
40 hours	11.85
39 hours	11.55
less than 39 hours	11.40



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Holidays

A worker must earn 52 qualifying weeks in a calendar year in order to be able to use their full holiday entitlement (25 or 30 working days). Leave entitlement is awarded in relation to the number of weeks of employment built up in a calendar year. Each subsequent calendar year marks the start of a new holiday year. The qualifying weeks in this new year are then counted separately.

Of the amount paid in during a holiday period, the worker receives 64.935% gross holiday remuneration in the case of a holiday entitlement of 30 business days, and 77.922% in the case of a holiday entitlement of 36 business days. These percentages are referred to as the worker's entitlement factor.

BUAK EXPENDITURE

In addition to holiday remuneration, BUAK also bears other expenses. These include fringe benefits for the employer (30.1% of presented holiday remuneration), BUAK's own supplements (when the worker is on holiday, the supplement for the qualifying week is not paid by the company, but by BUAK, approximately 11%) and administrative costs (approximately 1.8%).

The supplements must be calculated such that all BUAK expenditure is covered.

BUAK is obliged to place paid supplements in gilt-edged investments at domestic banks until the date of payment. The interest income obtained as a result ensures the financial management of BUAK in the holiday sector.

QUALIFYING WEEK

A qualifying week is made up of 5 qualifying days (1 qualifying day = 0.2 qualifying weeks). This includes all periods of employment subject to supplements pursuant to §5 BUAG as well as holidays, sick leave and working hours lost due to bad weather.

FACTORS AND ENTITLEMENTS

The factors and entitlements are set by decree by the Federal Ministry of Labour, Social Affairs and Consumer Protection (BMASK).



HOLIDAY COMPENSATION (UEL)

UEL in accordance with §9 BUAG is the compensation provided for outstanding leave entitlement which remains unused at the end of the employment contract. UEL is directly connected to the employment contract and is due in the amount of the holiday remuneration. This differs from using up leave in that, in this case, BUAK functions as the employer. The compensation can only be paid provided the worker did not enter into any employment contracts subject to BUAG within the compensation period.

In the “mandatory variant” (§ 9 para. 3 BUAG), holiday entitlements which would expire within 6 months are paid automatically by BUAK, without the need to submit an application. This therefore takes place immediately after the end of the worker’s last paid employment contract subject to BUAG, without the worker having to submit an application.

In the “voluntary variant” (§ 9 para. 2 BUAG), the worker may apply to BUAK for UEL immediately after the end of their employment contract. The worker must indicate in the application how many of their unused holiday days are to be paid.

The worker acquires qualifying weeks and is also covered by social security while receiving UEL. BUAK bears the supplements for holidays and statutory severance. BUAK also acts as the worker’s employer.

PAY-OUT

BUAK must disburse to the worker the net UEL amount for holiday days which are unused in a calendar month on the 10th of the following month.

Wage-related statutory taxes are paid by BUAK, and income tax is paid to the tax office responsible for BUAK.

HOLIDAY PAY

The primary objective of BUAG is the acquisition and use of leave entitlement. However, it must also be clarified what is to be done with accrued entitlements when the worker moves to employment in a different industry or withdraws from the acquisition process when they receive their pension.

§10 BUAG therefore provides that workers are entitled to claim against BUAK for compensation.

This claim can be made immediately in the event of a pension or the awarding of the supplement paid to unemployed construction workers prior to retirement. If the employee changes to a different sector, the payment can only be applied for after a statutory six-month waiting period or the employee claims holiday compensation directly after the termination of the employment contract.

Following a successful application, BUAK transfers the compensation to the worker.

As UEL and compensation are subject to social security contributions, the following rules apply:

- Deduction of worker social security contributions at settlement. BUAK bears the employer social security contributions. Acquisition of insurance periods for the worker.

- When it comes to compensation, workers both apply and cancel at the Vienna Regional Health Insurance Fund. In terms of UEL, the selection of the regional health insurance fund depends on the location of the worker's most recent employer's registered office.

Example:

If the worker's last employment contract was covered by the Tyrolean Regional Health Insurance Fund, they will also be covered by the Tyrolean Regional Health Insurance Fund for UEL.

- Loss of pension entitlements in the case of early old-age pension.
- Freezing of unemployment benefits, childcare allowance, etc.

Download tip:

The application for UEL or leave compensation can be found on our homepage (<http://www.buak.at>) under eServices/Downloads -> Forms.

Holidays

THE FOLLOWING INFORMATION AND DOCUMENTS ARE REQUIRED WHEN APPLYING FOR UEL OR COMPENSATION

- Full name
- Social security number (10 digits)
- Handwritten signature
- Pension notice if the application for compensation is made before the expiry of the statutory waiting period
- For UEL only: information relating to last employment contract subject to BUAG
- Information relating to the amount of the desired claim for payment for UEL
- In the case of transfer to a third party, power of attorney with the certified signature of the beneficiary
- All documents relating to the inheritance proceedings if the claimant is deceased
- Bank confirmation of account details (IBAN/BIC), if not yet on file

WHERE AND HOW DO I APPLY?

Applications can be made in writing or in person at the Customer Services department in the BUAK head office or in a BUAK regional or service centre.

PAY-OUT FOR OUTSTANDING ANNUAL LEAVE DAYS:

- Example: End of employment contract: 15 March 2019. The worker has outstanding entitlements from the years 2016 - 2019.

Entitlements from 2016: expiration 31 March 2019, therefore UEL paid out automatically at end of contract
Variant A:
- Entitlements from 2017: expiration 31 March 2020, therefore (partial) compensation on 15 September 2019 at the earliest
- Entitlements from 2018: expiration 31 March 2021, therefore (partial) compensation on 15 September 2019 at the earliest
- Entitlements from 2019: expiration 31 March 2022, therefore (partial) compensation on 15 September 2019 at the earliest
Variant B:
- Voluntary payment of (partial) UEL immediately following departure

The compensation entitlement shall expire on 31 March of the third consecutive year following the calendar year in which the leave entitlement was acquired.

POSTING PROVISIONS

The posting provisions in BUAG implement Directive 96/71/EC of the European Parliament and of the Council (known as the Posting of Workers Directive, or PWD) for the Austrian construction industry. The minimum statutory holiday standards thus apply in the case of cross-border work for all construction workers working in Austria. The statutory labour regulations otherwise applicable to the employment contract generally target a worker's usual place of work.

In implementing the posting provision, workers posted to Austria/cross-border workers whose usual place of work is outside of Austria have been included in the BUAK holiday fund procedure. The employment of workers whose usual place of work is Austria also constitutes posting when the employment occurs under an employment contract with an employer established outside of Austria.

Posted or temporary workers are subject to the BUAK holiday fund procedure, even if they are covered by social security in their home country during the posting period.

The provisions of BUAG apply to posted or temporary workers in Austria from the first day of employment.

The 'Montageprivileg', a clause which rules out the application of Austrian holiday entitlements for postings of no more than 8 days associated with installations, repairs and the commissioning of systems, expressly does not apply for construction workers. This means that contributions must be paid to BUAK from the first day of the posting.

The posting or temporary employment company is therefore required to pay holiday supplements to BUAK for each worker performing construction activities within the meaning of BUAG for the duration of their posting period.

European procedure

These serve to finance workers' holiday entitlements resulting from periods of posting to Austria, and which are claimable against BUAK in accordance with statutory requirements.

The holiday supplements payable by the employer each month for posted workers are prescribed for payment on the basis of this initial report (reports as per the Employment Contract Law Adaptation Act [Arbeitsvertragsrechts-Anpassungsgesetz] (AVRAG) or AÜG) are also valid as initial reports in accordance with §33g para. 2 BUAG) and/or of BUAK's own survey results (e.g. site inspections).

OVERVIEW OF REQUIREMENTS FOR BUAG POSTING PROVISIONS:

- During an ongoing employment contract,
- an employer employs workers who are not normally resident in Austria
- on a temporary basis for the purposes of continued work performance
- or to carry out construction activities
- within the meaning of BUAG
- in the context of an employee transfer to Austria

In addition, this also applies to workers who, despite their usual place of work being Austria, are called on by an employer with their registered office outside of Austria to perform work within Austria.

The decision on whether or not BUAG posting provisions are applicable to workers posted to Austria is made on the basis of the type of work that they are performing in Austria.

Once posted workers have earned 52 qualifying weeks, they are entitled to 25 days of leave (30 working days). This increases to 30 days of leave (36 working days) at 1150 qualifying weeks.

European procedure

Leave entitlement is awarded in relation to the number of qualifying weeks built up in a calendar year in proportion to the supplement payments made by the employer to BUAK for this purpose.

PAY-OUT OF LEAVE ENTITLEMENTS:

The posted worker acquires holiday (remuneration) entitlements in proportion to the contributions made by their employer; these are claimable against BUAK directly. These leave entitlements are then paid to the worker by BUAK subject to an application from the employer, provided holidays are agreed during the posting period or within a period of 6 months after the worker's return to the sending state (in the case of an ongoing employment contract with the posting employer). After a period of 6 months has lapsed, payment is made as compensation subject to an application from the workers themselves.

When it comes to the settlement of holiday remuneration and compensation, BUAK calculates the net holiday remuneration attributable to each worker using the social security legislation which specifically applies (this is often the social security legislation applicable in the worker's usual place of work for a posting period of up to 2 or max. 3 years as per Regulation (EC) No 883/2004), and transfers this directly to the worker.

Furthermore, in terms of paid social security contributions, BUAK strives for a direct billing procedure with the competent social security agencies abroad.

SUBJECT: WINTER HOLIDAYS

On 1 July 1996, BUAG was extended to include the new winter holiday provision subject area. This amendment was a result of the agreement of social partners on measures to improve annual employment in the construction industry.

LIMITED SCOPE OF APPLICATION

This provision applies exclusively to companies in the mainstream construction and construction industries, as well as to public companies and temporary employment companies when these are providing workers for activities in the mainstream construction or construction industries.

WINTER HOLIDAYS

The dates 24 and 31 December are considered winter holidays in accordance with the provisions of the collective agreement, as are 25 and 26 December and 1 and 6 January in accordance with the provisions of the law on rest periods [Arbeitsruhegesetz]. If one of these days falls on a Saturday or Sunday, however, it will not be considered a winter holiday within the meaning of this provision

WHAT IS IT?

If the worker is employed during the winter holidays, he or she will receive holiday pay from their employer in accordance with statutory continued pay. The company is entitled to claim winter holiday compensation from BUAK for this purpose.

This winter holiday compensation is calculated as follows:

$$\frac{(\text{Hourly wage as per collective agreement} + 20\%) \times \text{normal weekly working hours}}{5}$$

If the employment relationship is terminated before or during the winter holidays, however, the employer is not required to pay any holiday pay and therefore will not receive any refund. Instead, the worker will be entitled to claim winter holiday compensation.

AMOUNT OF COMPENSATION ENTITLEMENT

In order to be entitled to winter holiday remuneration, a worker must acquire a certain number of qualifying weeks in the calendar year at a company subject to the winter holiday provision.

FINANCING

Companies that are subject to this provision pay a daily supplement to BUAK from April to November.

The CA hourly wage is also used as the basis for calculating the supplement:

$$\frac{(\text{CA hourly wage} + 20\%) \times \text{factor}}{5}$$

The factor required for the calculation (current factor: 1.2) is set by decree by the Federal Ministry of Labour, Social Affairs and Consumer Protection.

0 – 13 qualifying weeks:	0% compensation
14 – 19 qualifying weeks:	50% compensation
20 – 25 qualifying weeks:	75% compensation
More than 26 qualifying weeks:	100% compensation

30% of the calculated gross compensation is paid to the Public Employment Service. Social security contributions and income tax are then also deducted. The resulting net amount is paid to the worker.

As is the case with compensation, the worker also acquires periods of social security coverage in the event of settlement of winter holiday compensation. During this period, pension entitlements resulting from an early old-age pension are stopped. The receipt of unemployment benefits is not affected however, as 30% of the settlement is already being paid to the Public Employment Service

RECEIPT OF COMPENSATION ENTITLEMENT

Once the reporting data for the month of January is available, BUAK automatically settles workers' claims by 15 March. The condition for payment is holding a bank account as per §29a BUAG.

EXPIRATION OF COMPENSATION ENTITLEMENT

The entitlement to winter holiday compensation shall expire within three years of the date of payment. Entitlements expire only in cases where settlement was not possible due to missing bank account information.

SUBJECT: STATUTORY SEVERANCE PAY (OLD SYSTEM 'ABFERTIGUNG ALT')

The following provisions apply only to construction workers who have fulfilled the conditions for entitlement to statutory severance pay according to BUAG no later than 31 December 2005. Otherwise, they are subject to the provisions of the Corporate Employee and Self-Employed Pension Act [Betriebliches Mitarbeiter- und Selbständigenvorsorgegesetz] (BMSVG).

ELIGIBILITY REQUIREMENTS

The worker must first fulfil the requirements for the acquisition of compensation entitlements; he or she can achieve this by building up either

156 weeks (= 3 years) of continuous employment at a single company or

at least 92 weeks of employment within the 3-year period in the course of one or several employment contracts with the same employer. Any breaks between employment contracts must be no longer than 22 weeks.

The requirement for the same employer will be deemed to have been fulfilled in the case of a transfer to a consortium or group company.

ACQUISITION OF FURTHER SEVERANCE PAY PERIODS

Once the basic entitlement is reached, all following weeks of employment will be counted on a company-independent basis. Provided the worker was not terminated for reasons which would negate eligibility to compensation, these weeks are then used to calculate the amount of the severance entitlement.

	Reasons for departure negating severance pay
<input type="checkbox"/>	Termination on the part of the employer
<input type="checkbox"/>	Early resignation without just cause
<input type="checkbox"/>	Dismissal due to fault
<input type="checkbox"/>	Mutual resolution

DUE DATE FOR STATUTORY SEVERANCE

Statutory severance pay may be requested one year after leaving the construction industry provided the worker does not receive a bridging allowance during this period. This period of one year does not apply in the event a pension notice is presented, the worker dies, or if the most recent employment contract was terminated due to departure following the birth of a child. Special provisions apply in the event of a worker being taken on as an employee and for workers who are employed by temporary employment companies or in multi-industry companies.

Statutory severance pay

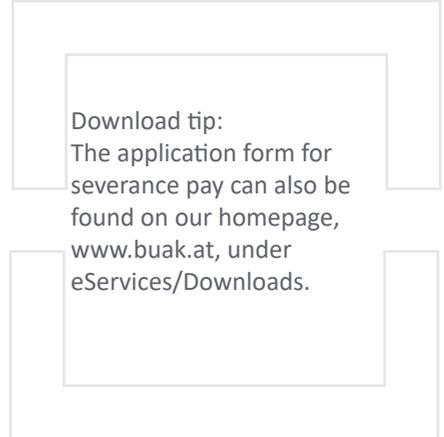
APPLYING

The application forms are available at interest groups and from the head office or from BUAK regional and service centres.

CALCULATING AMOUNT OF STATUTORY SEVERANCE

The amount of entitlement is calculated in monthly remunerations (ME) and is graded according to weeks of employment.

156 weeks of employment and above	2 ME
260 weeks of employment and above	3 ME
520 weeks of employment and above	4 ME
780 weeks of employment and above	6 ME
1040 weeks of employment and above	9 ME
1300 weeks of employment and above	12 ME



A months' remuneration (ME) is calculated as follows:

Monthly wage
+ 1/12 holiday pay
+ 1/12 Christmas bonus
= monthly remuneration

Monthly remuneration x severance entitlement
= gross severance
- 6% income tax
= net severance

MAXIMUM LIMIT AND RESTRICTIONS

Even in the event of the repeated assertion of severance pay entitlement claims, the maximum limit of 12 months' remuneration may not be exceeded.

In the event a worker is entitled to statutory severance as per BUAG several times in the course of their professional life, the sum of the number of months' remuneration must not be greater than the number that is due for all periods of employment.

EXAMPLE CALCULATION FOR AMOUNT OF STATUTORY SEVERANCE:

Example 1:

In this case, the total period of employment of the two employment contracts (AV) is 10 years. For 520 weeks, 4 ME of severance is due. For this reason, the worker will receive only 1 ME at the 2nd submission, as they had previously received 3 ME. In total, they will receive 4 ME for 520 weeks.

Example 1:

1st submission 5 year employment for 260 weeks 3 ME	2nd submission 5 year employment for 260 weeks 1 ME
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Example 2:

The worker in this example is let go by the employer after 25 years of continuous employment. One year later, the worker applies for compensation from BUAK and receives 12 ME for 1300 weeks.

He or she later returns to the construction industry and is now subject to the new statutory severance system [Abfertigung neu] in accordance with the BMSVG. They can claim further severance as per BMSVG. See “Corporate Pension Insurance Fund” on page 29.

EXPIRATION OF SEVERANCE

In accordance with § 13g BUAG, the entitlement to statutory severance shall be forfeited if no claim is submitted to BUAK within 3 years of the due date (twelve months after departure from the construction industry).

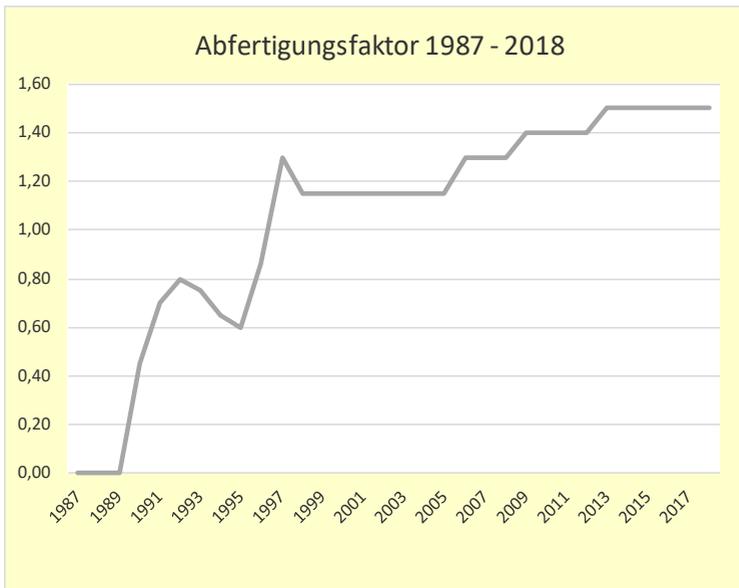
FINANCING

In contrast to the holiday sector, the severance pay sector is funded via a pay-as-you-go system. Employers pay a daily supplement to BUAK for each worker which is calculated using the following formula.

$$\frac{(\text{CA hourly wage} + 20\%) \times \text{factor}}{5}$$

The aim of this financing is that the revenue covers expenditure. This requires that the factor – currently set at 1.5 – is reviewed annually and adapted accordingly by the Federal Ministry of Labour, Social Affairs and Consumer Protection if necessary. The graph below shows the development of the severance factor since 1987. It should be noted that no supplements were paid in the period 1 October 1987 to 31 December 1989.

Severance factor 1987 – 2018



SUBJECT: BAD WEATHER

Bad weather compensation is regulated by the Construction Workers' Bad Weather Compensation Act [Bauarbeiter-Schlechtwetter-Entschädigungs-Gesetz] (BSchEG)

The basic idea of this provision is to spread the risks of bad weather and the associated costs over a community so that the harm to the individual can be minimised. For the purposes of this Act, the term bad weather is taken to mean work-hindering atmospheric influences as well as the effects of disturbances which prevent work from being resumed or continued.

HEAT

Previously, the term 'bad weather' was used in connection with the cold, rain, snow, etc. As the result of new factors (climate change), extreme positive temperatures have also been included under the term since 1 January 2013.

Hours in which the temperature exceeds +35°C are regarded as bad weather hours.

Should the temperature remain above +35°C for three consecutive hours, the bad weather provision shall apply for the remainder of the working day.

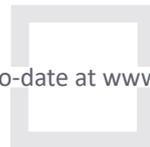
In principle, although §5 (2) BSchEG stipulates that a standby period of 3 hours must be observed on the site (in case weather conditions change), this provision does not apply in cases of extreme heat as the temperature is likely to increase or stay the same until around 21:00, rather than decrease.

It is made clear that the decision on whether or not work will take place in bad weather is the responsibility of the employer.

A clear classification is available on our homepage

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SCOPE OF APPLICATION

Companies of the following types fall within the scope of application of this Federal Act:

- Building construction and civil engineering companies including shaft construction companies and iron bending companies
- Road building companies including gravel transport roads
- Bridge construction companies with the exception of steel bridge construction
- Railway superstructure construction companies
- Earthwork companies
- Hydraulic engineering and torrent and avalanche control companies
- Incineration companies
- Demolition companies
- Carpentry companies
- Plastering companies
- Roofing companies
- Plastering companies
- Scaffold erection and hiring companies

Temporary employment companies also fall within the scope of application of BSchEG with regard to workers to whom the holiday provision applies.

AMOUNT OF BAD WEATHER COMPENSATION

If work is stopped as the result of bad weather, the employer must grant the employee bad weather compensation.

The compensation is equal to 60% of the worker's actual wage.

REIMBURSEMENT FOR PAYMENTS

The company may claim a refund from BUAK for bad weather compensation which it has paid out within three months of the end of the billing period. This can be done via BUAK portal applications.

Bad weather

QUOTA

In the winter season (1 November - 30 April), entitlement to bad weather compensation is limited to a maximum of 200 hours.

In the summer season (1 May - 31 October), entitlement is limited to 120 hours.

Hours which are not used during the summer period may be carried over to the subsequent winter season for the awarding of bad weather compensation.



WHO DECIDES?

The company decides whether work should be stopped, continued or resumed following consultation with the works council.

STANDBY TIME

By order of the employer, workers must remain on site for 3 hours (excluding in cases of extreme heat) in case weather conditions improve. This is conditional on the availability of appropriate shelter.

ALTERNATIVE WORK

Workers are obliged to perform other reasonable work within the company. Workers shall receive not just 60%, but 100% of their actual wage for this alternative work.

*With the exception of apprentices who are undergoing simultaneous training in two apprenticeship trades at two different construction operations, of which one is not subject to the bad weather provision pursuant to § 1 BSchEG.

SUBJECT: BRIDGING ALLOWANCE

A new subject area was created in BUAG for the bridging allowance.

The aim of this provision on the bridging allowance is to pay long-time construction workers, who are unable to remain in employment until retirement, a monthly compensation for the last eighteen months until they actually retire.

ELIGIBILITY

The bridging allowance is available to any worker who:

- is no longer in an employment contract upon reaching the age of 58,
- is entitled to a retirement pension (old-age, corridor or heavy-labour pension) following receipt of the bridging allowance,
- has acquired at least 520 weeks of employment upon reaching the age of 40 in one/several employment contract(s) subject to BUAG
- has acquired at least 30 weeks of employment upon reaching the age of 56 in one/several employment contract(s) subject to BUAG
- From 1 January 2017: present evidence/a certificate of at least 10 hours/units of at least 45 minutes of rehabilitation (REHA) procedures.

REHA PROCEDURES

Treatments, training sessions or therapies that ease physical and mental complaints and can typically appear in connection with working in the construction industry are considered to be such procedures.

These complaints especially affect the areas of the musculoskeletal system, the cardiovascular system, the airways, hearing or psychological stress.

AMOUNT AND DURATION

The monthly bridging allowance shall amount to 169.5 times the hourly wage agreed in the collective bargaining agreement, which is calculated using the worker's predominant classification over the last 52 weeks prior to the termination of their employment. In the case of part-time workers, the amount is calculated on a proportional basis.

Example for a full-time labourer in the mainstream construction industry (predominant hourly wage as per collective agreement (CA wage): €12.09):

€12.09 x 169.5 = € 2.049,20 monthly gross amount

The bridging allowance can be paid for a maximum of 18 months and is paid out in twelve payments per year (no special payments).

FREEZING THE BRIDGING ALLOWANCE

The bridging allowance will be frozen

- in calendar months in which the worker is employed under an employment contract subject to BUAG,
- in calendar months in which the worker receives income from other employment (whether paid employment or self-employment) which exceeds the marginal earnings threshold,
- while the worker is in receipt of UEL or holiday pay.

The bridging allowance is stopped in the event of the recipient's retirement or death. In the case of undeclared work, the recipient will lose their entitlement to a bridging allowance and BUAK may reclaim any allowance already paid to the worker.

APPLYING FOR A BRIDGING ALLOWANCE

- The worker must make an application for a bridging allowance at least two months before the start of payments. The worker may request an application form from BUAK provided they fulfil all the criteria.
- Payment of the net amount is made using the account details provided via bank confirmation in arrears on the first day of the following month.

NON-UTILISATION OF BRIDGING ALLOWANCE/BRIDGING SETTLEMENT

If, despite fulfilling all other requirements, a worker does not claim their bridging allowance, but remains employed under an employment contract subject to BUAG, both the worker and the company will receive a one-off bridging settlement for the non-utilisation of the bridging allowance.

The bridging settlement is due to workers born in or after 1957. No bridging settlement can be paid out for periods in which the bridging allowance is frozen.

If the payment period of the bridging allowance is not postponed in good time (at least three working days before the original start of the period) by the employer, this reduces the bridging settlement by five percentage points in each case.

AMOUNT OF THE BRIDGING SETTLEMENT

The worker is due a one-off settlement payment amounting to 35% of the bridging allowance to which they would otherwise be entitled. The company is entitled to a one-off settlement payment amounting to 20% of the bridging allowance to which the worker would otherwise be entitled.

APPLYING FOR A BRIDGING SETTLEMENT

The bridging settlement may be applied for within six months of the worker starting to receive their old-age, corridor or heavy-labour pension.

WAGE AND SOCIAL DUMPING

The Anti Wage and Social Dumping Act [Lohn- und Sozialdumping- Bekämpfungsgesetz] (LSD-BG) came into force on 1 May 2011. The aims of the LSDB-G are to protect the Austrian minimum wage as per the collective agreement and to ensure fair competition between individual companies. To achieve these objectives, the LSD-BG established official wage checks and granted the controlling bodies (BUAK, Financial Police, LSDB Competence Centre, health insurance institutions) appropriate powers.

Since then, the core provision of the Act Against Wage and Social Dumping (LSD-BG) has been the criminal offence under administrative law of underpaying workers. The provision has been part of the new LSD-BG since 1 January 2017. It is not only the underpayment of workers that is a punishable offence, but the circumvention of wage monitoring too. Therefore, accompanying offences, such as the failure to transmit wage documentation, are important tools for BUAK. On 1 January 2015, the penalties in this area increased significantly.

REMUNERATION CHECKS

Minimum remuneration is checked within the meaning of (§ 29 LSD-BG). The remuneration comprises:

- Basic salary (gross wage)
- Bonus payments
- Supplements and allowances (which are not listed in § 49 para. 3 of the General Law on Social Insurance [Allgemeines Sozialversicherungsgesetz] (ASVG))

Not included:

- Compensation for expenses and non-cash benefits
- Remuneration components which are based on a company agreement or on the employment contract

WAGE DOCUMENTATION

Employers based in EU/EEA countries must retain the following wage documents at their place of work for the duration of a worker's posting period so that wages may be checked:

- Employment contract or statement of employment terms
- Payslips, pay records
- Evidence of wage payment or bank transfer note
- Work records
- Documents relating to wage classification

PENALTIES FOR INFRINGEMENT

Range of penalties in the case of underpayment (§ 29 LSD-BG)

- A) If up to a maximum of three workers are affected by the underpayment, the fine will be
- EUR 1,000 to 10,000 per worker,
 - EUR 2,000 to 20,000 in the event of a repeat offence,
- B) If more than three workers are affected, the fine will be
- EUR 2,000 to 20,000 per worker,
 - EUR 4,000 to 50,000 in the event of a repeat offence.

The other criminal offences have been in the new Act Against Wage and Social Dumping (LSD-BG) since 1 January 2017. Sanctions here largely relate to violations of reporting and document availability obligations as well as various acts of obstruction.

CORPORATE PENSION INSURANCE FUND (STATUTORY SEVERANCE PAY AS PER BMSVG)

The new statutory severance system ('Abfertigung Neu') is governed by the BMSVG.

Corporate pension insurance funds were established to manage worker severance contributions in order to settle statutory severance as per BMSVG. BUAK established a corporate pension insurance fund on 19 September 2002.

BUAK Betriebliche Vorsorgekasse GesmbH manages the severance contributions of all construction workers subject to severance as per BMSVG and is also open to companies and self-employed workers in all industries.

WHICH CONSTRUCTION WORKERS ARE SUBJECT TO SEVERANCE AS PER BMSVG?

- ❑ Workers who entered their first employment contract in the construction industry (within the scope of application of BUAG) after 1 January 2003.
- ❑ Workers who are entitled to receive payment in accordance with old severance law ('Abfertigung Alt') or who hold an existing claim which has expired shall be subject to the severance law pursuant to BMSVG under their next employment contract.

HOW IS STATUTORY SEVERANCE CALCULATED UNDER THE NEW SYSTEM?

The employer pays a severance supplement to BUAK for their construction workers (see Abfertigung Alt).

In the case of workers who are subject to severance in accordance with BUAG, the contribution to which they are entitled is calculated from this supplement and then credited to the worker's account.

$$\frac{1.53\% \text{ of } ((\text{CA hourly wage} + 20\%) \times \text{weekly hours} + 16.67\%)}{5}$$



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BUAK Betriebliche Vorsorgekasse GesmbH invests the paid-in contributions in accordance with the provisions of BMSVG. Any income earned is credited to the worker's account.

Administrative costs and cash expenses for pension funds are deducted from these credit items. Where the aforementioned costs exceed the investment income, the paid-in severance pay contributions are paid out as a minimum (capital guarantee).

The worker will receive account information once per year on the balance sheet date.

ENTITLEMENT TO STATUTORY SEVERANCE PAY

An application form is sent automatically if a claim for severance pay becomes possible.

Following the termination of an employment contract, the worker is entitled to severance pay and may choose from the following available options:

- Pay-out as a capital sum
- Transfer to the corporate pension insurance fund of the new company
- Further investment in BUAK corporate pension insurance fund
- Transfer of severance pay entitlement

A to an insurance company as a single premium for supplementary pension insurance which has demonstrably been taken out or to an insurance company through which the worker is already insured under a company group insurance plan.

B to a pension fund

Die Verwaltungskosten

Das BMSVG berechtigt die Betrieblichen Vorsorgekassen bis zu 3,5% der eingenommenen Abfertigungsbeiträge einzubehalten. Die BUAK Betriebliche Vorsorgekasse GesmbH behält nur 2,2% ein.

Daneben werden 0,4% von den Veranlagungs-erträgen als Vergütung für die Vermögensverwaltung einbehalten. (Laut BMSVG sind hier 0,8% möglich)

Barauslagen:

Laut BMSVG dürfen Depotgebühren und sonstige Kosten im Zusammenhang mit der Vermögensverwaltung als Barauslagen weiterverrechnet werden. Die BUAK Betriebliche Vorsorgekasse GesmbH verzichtete in den Jahren 2003 und 2004 auf diese Weiterverrechnung. Seit 2005 wird dafür ein Pauschalsatz von 0,05% des veranlagten Abfertigungsvermögens verrechnet.

RUCKSACK PRINCIPLE

If the employment relationship is terminated by the worker themselves (excluding departure following maternity or paternity leave) or ends as the result of justified dismissal or unauthorised early resignation, or in the event that the worker has not paid a minimum of 3 years of contributions, the severance sum will not be made available to the worker. The severance pay entitlement will not be lost however; instead, this will be further invested in the corporate pension insurance fund.

Cash expenses such as bank fees or money order costs which are incurred during the course of severance payment may be charged and withheld. BUAK Betriebliche Vorsorgekasse GesmbH does not charge for the costs of transfer to a domestic bank account or to a foreign bank account using BIC/IBAN.

Remuneration payable to the competent health insurance institution:

The corporate pension insurance funds must pay 0.3% of collected contributions to the competent health insurance institution as remuneration for the collection of contributions. This does not apply to construction workers, however, because BUAK levies severance supplements against the companies directly

BUAK TRAINING

BUAK-Schulungen GmbH was founded in 2006. This subsidiary, which is also 100% owned by BUAK, provides training in relation to BUAG. The courses for master builders, payroll accountants, tax advisors and other interested parties are run by experienced BUAK staff members.

We are constantly striving to meet the expectations of our participants in terms of the high quality of our training offer.

A list of current training courses can be found on our homepage and these can be booked hassle-free by filling out an online registration form.

Buak-Schulungen GmbH
Tel.: +43(0) 579 579 3500

Online registration
is possible at
www.buak-schulungen.at

 +43 (0) 579 579 0 **YOUR CONCERNS ARE IMPORTANT TO US!**

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Mail kundendienst@buak.at

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BUAK Training

Tel DW 3500
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OPENING HOURS

Vienna

Monday, Tuesday, Thursday
8.00 am – 3.00 pm
Wednesday 8.00 am – 6.00 pm
Friday 8.00 am – 12.00 pm

Tyrol, Carinthia and Styria

Monday to Thursday
8.00 am – 3.00 pm
Friday 8.00 am – 12.00 pm

Upper Austria, Salzburg and Burgenland

Monday to Thursday
8.00 am – 1.00 pm
Friday 8.00 am – 12.00 pm

Vorarlberg

Monday to Friday
8.00 am – 12.00 pm

LOCATIONS

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