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Act on Temporary Agency Work

(Arbeitnehmerüberlassungsgesetz – AÜG)

Act on Temporary Agency Work in the version published on 3 February 1995 (Federal Law Gazette I p. 158) as last amended by Article 10 of the Act of 22 December 2025 (Federal Law Gazette 2025 I No. 369)

Section 1
Temporary agency work, requirement for a permit

(1) Employers acting as temporary work agencies assigning third parties (user undertakings) employees (temporary agency workers) within the scope of their business activity to perform work (temporary agency work) require a permit for this. Employees are assigned to perform work if they are integrated into the work organisation of the user undertaking and subjected to its instructions. The assignment and deployment of employees as temporary agency workers is only permissible as long as an employment relationship exists between the temporary work agency and the temporary agency worker. The temporary assignment of employees is permissible up to a maximum duration pursuant to subsection (1b). In their contract, temporary work agencies and user undertakings must expressly designate the assignment of temporary agency workers as temporary agency work before temporary agency workers are assigned or deployed. Prior to assignment, they must set out the personal details of temporary agency workers with reference to this contract.
(1a) The secondment of employees to a consortium established for the creation of a product does not constitute temporary agency work if the employer is a member of the consortium, collective agreements of the same industry branch apply to all members of the consortium and all members are committed by the consortium agreement to the independent provision of contractual services. For an employer with registered office in another Member State of the European Economic Area, the secondment of employees to a consortium established for the creation of a product also does not constitute temporary agency work, if German collective agreements of the same industry branch as for the other members of the consortium do not apply to said employer but the other prerequisites of sentence 1 are fulfilled.
(1b) The temporary work agency may not assign the same temporary agency worker to the same user undertaking for more than 18 consecutive months; the user undertaking may not deploy the same temporary agency worker for more than 18 consecutive months. The period of previous assignments by the same or another temporary work agency to the same user undertaking is to be counted in full, if the period between individual assignments does not exceed three months. A maximum assignment period in derogation from sentence 1 can be set out in a collective agreement concluded by collective agreement parties of the

deployment sector. Derogating collective agreement provisions can be adopted within the scope of application of a collective agreement in accordance with sentence 3 at user undertakings not bound by collective agreement by way of a company-level or public service agreement. A maximum assignment period in derogation from sentence 1 can be set out in a company-level or public service agreement reached on the basis of a collective agreement concluded by collective agreement parties of the deployment sector. If it is possible on the basis of a collective agreement in accordance with sentence 5 for derogating provisions to be agreed in a company-level or public service agreement, these can also be applied at user undertakings not bound by collective agreement for up to a maximum assignment period of 24 months as long as no maximum assignment period for company-level and public service agreements in derogation from sentence 1 is set out in this collective agreement. If the user undertaking not bound by collective agreement falls within the scope of application of multiple collective agreements upon conclusion of a company-level or public service agreement pursuant to sentence 4 or sentence 6, the collective agreement representative for the user undertaking's sector is to be drawn upon. Churches and religious groups under public law may stipulate maximum assignment periods in their provisions that deviate from sentence 1.
(2) If employees are assigned to third parties to perform work and the assigning party does not assume the customary employer obligations or employer risk (section 3 (1) nos. 1 to 3), it is assumed that the assigning party is conducting job placement.
(3) With the exception of section 1b sentence 1, section 16 (1) no. 1f and (2) to (5) and sections 17 and 18, this Act is not to be applied to temporary agency work

1. between employers of the same industry branch to avoid short-time work or redundancies if a collective agreement applicable to the user undertaking and the temporary work agency provides for this,

2. between affiliate companies within the meaning of section 18 of the Stock Corporation Act *(Aktiengesetz)* if the employee is not hired and employed for the purpose of the assignment,

2a. between employers if the assignment only takes place occasionally and the employee is not hired and employed for the purpose of the assignment,

2b. between employers if duties of an employee are transferred from the existing to another employer and by virtue of a public service collective agreement

   a) the employment relationship with the existing employer remains in force and

   b) the work is in future performed for another employer,

2c. between employers if these are legal entities under public law and apply public service collective agreements or provisions of religious groups under public law, or

3. abroad if the temporary agency worker is assigned to a German-overseas joint enterprise founded on the basis of intergovernmental agreements in which the temporary work agency is involved.

Section 1a
Notification of assignment

(1) An employer with fewer than 50 employees that assigns an employee not hired and employed for the purpose of the assignment to an employer for a period of up to 12 months in order to avoid short-time work or redundancies does not require a permit if the assignment is previously notified in writing to the Federal Employment Agency.
(2) The notification must specify

1. first and last names, place of residence and address, date and place of birth of the temporary agency worker,

2. type of activity to be performed by the temporary agency worker and any duty to work elsewhere,

3. start and duration of the assignment,

4. company and address of the user undertaking.

Section 1b
Restrictions in the construction sector

Temporary agency work in accordance with section 1 at construction sector establishments for work that is normally carried out by workers is prohibited. It is permitted

a) between construction sector establishments and other companies if collective agreements covering these companies and declared generally binding specify this,

b) between construction sector establishments if the lending company can supply proof that it has been covered by the same general wage agreements and collective agreements establishing social funds or their general applicability for at least three years.

In derogation from sentence 2, temporary agency work is also permitted for construction sector establishments with registered office in another Member State of the European Economic Area if the foreign establishments are not covered by German framework collective agreements and collective agreements establishing social funds or collective agreements declared generally binding, but can supply proof that they have largely been carrying out activities for at least three years that fall within the scope of application of the same framework collective agreements and collective agreements establishing social funds by which the user undertaking is covered.

Section 2
Granting and expiry of permits

(1) The permit is granted upon written application.
(2) The permit may be granted conditionally and may be made conditional on constraints in order to ensure that no facts arise that according to section 3 justify withholding the permit. The inclusion, amendment or addition of constraints is also permissible after the permit has been granted.
(3) The permit may be granted subject to revocation if a final assessment of the application is not yet possible.
(4) The permit is to be limited to one year. The application for renewal of the permit must be submitted no later than three months prior to the end of the year. The permit is renewed for another year unless the approval authority rejects the renewal prior to the end of the year. In the event of rejection, the permit is deemed to remain in force for execution of the permissibly concluded contracts pursuant to section 1, but for no longer than 12 months.
(5) The permit can be granted indefinitely, if the temporary work agency has lawfully carried out activities pursuant to section 1 for three consecutive years. It expires if the temporary work agency has not made use of the permit for three years.

Section 3
Denial

(1) The permit or its renewal are to be withheld if facts arise justifying the assumption that the applicant

1. does not have the requisite reliability for exercising the activity in accordance with section 1, in particular because he or she fails to comply with the provisions of social security legislation, concerning retention and payment of income tax, job placement, recruitment abroad or the hiring of foreign nationals, the maximum assignment period pursuant to section 1 (1b), the provisions of occupational safety and health law or the obligations under labour law;

2. is prevented by the design of its operational structures from duly meeting the customary duties of an employer;

3. fails to guarantee the temporary agency workers the working conditions, including remuneration, to which they are entitled according to section 8.

(2) The permit or its renewal are also to be withheld if establishments, separate departments of establishments or subsidiary establishments are earmarked for performance of the activity pursuant to section 1 that are not located in a Member State of the European Economic Area or another Contracting Party of the Agreement on the European Economic Area.
(3) The permit may be withheld if the applicant is not a German within the meaning of Article 116 of the Basic Law or if a company or legal entity submits the application that is either not founded according to German law or that has neither its registered office, nor its head office, nor its principal place of business within the territorial scope of this Act.
(4) Nationals of Member States of the European Economic Community or another Contracting Party of the Agreement on the European Economic Area receive the permit subject to the same requirements as German nationals. Companies and legal entities that are founded according to the legal provisions of these states and have their registered office, head office or principal place of business within these states are deemed equivalent to the nationals of these states. Should these companies or legal entities have their registered office but neither their head office nor their principal place of business in these states, sentence 2 only applies if their activity is genuinely and permanently linked with the economy of a Member State or Contracting Party of the Agreement on the European Economic Area.
(5) Nationals of states other than those mentioned in subsection (4), who settle within the territory where this Act applies on the basis of an international agreement and in both this respect and in terms of their business activity may not be treated less favourably than German nationals, receive the permit subject to the same requirements as German nationals. Companies founded according to the legal provisions of the other country are deemed equivalent to the nationals pursuant to sentence 1.

Section 3a
Wage floor

(1) Trade unions and employers' associations, which are at least also responsible for those of their members engaged in temporary agency work (parties to collective agreements with right of proposal) and have agreed with each other national minimum hourly wages for temporary agency work, may jointly propose to the Federal Ministry of Labour and Social Affairs that these be bindingly set out in a statutory instrument as a wage floor; the minimum hourly wages can vary according to place of work and also contain rules concerning the due date of such entitlements, including any exceptions agreed and their prerequisites. The proposal must contain uniform minimum hourly wages for assignment periods and non-assignment periods and a duration. The proposal must be justified in writing.
(2) The Federal Ministry of Labour and Social Affairs can, if this seems necessary in the public interest, determine in a statutory instrument not requiring the approval of the Bundesrat that the proposed collectively agreed minimum hourly wages in accordance with subsection (1) are to apply to all employers and temporary agency workers falling within the scope of application of the statutory instrument as a binding wage floor. The regulatory body can only incorporate the proposal into the statutory instrument with its content unchanged.
(3) When making its decision pursuant to subsection (2), the regulatory body must carry out a global assessment not only considering the objectives of this Act but also reviewing in particular whether a statutory instrument pursuant to subsection (2) is suitable for guaranteeing the financial stability of the social security systems. The regulatory body must take into account

1. the existing nationwide collective agreements for temporary agency work and

2. the representativeness of the parties to collective agreement submitting the proposal.

(4) If there are multiple proposals pursuant to subsection (1), the regulatory body must particularly take into account the representativeness of the parties to the collective agreement submitting the proposals in its decision in accordance with subsection (2) as part of the global assessment required by subsection (3). The main criteria for the decision about representativeness are

1. the number of employees falling within the scope of application of a statutory instrument pursuant to subsection (2) who are employed by members of the employers' association submitting the proposals;

2. the number of members of the trade unions submitting the proposals falling within the scope of application of a statutory instrument pursuant to subsection (2).

(5) A draft statutory instrument is to be published in the Federal Law Gazette prior to enactment. The Federal Ministry of Labour and Social Affairs provides temporary work agencies and temporary agency workers as well as the trade unions and employers' associations that are at least partially responsible for the collective agreements within the statutory instrument's scope of application the opportunity to submit comments in writing within three weeks from the date of publication of the draft statutory instrument in the Federal Law Gazette. Following expiry of the deadline for comments, the proposal is submitted to the committee specified in section 5 (1) sentence 1 of the Collective Agreements Act *(Tarifvertragsgesetz)*.
(6) Parties to collective agreement with right of proposal pursuant to subsection (1) may jointly propose the amendment of a statutory instrument issueded in accordance with subsection (2). Subsections (1) to (5) apply accordingly.

Section 4
Withdrawal

(1) An unlawful permit can be withdrawn with effect for the future. Section 2 (4) sentence 4 applies accordingly.
(2) On request, the approval authority must compensate the temporary work agency for the pecuniary loss sustained by the latter from having relied in good faith on the continuation of the permit where such faith is legitimate under consideration of the public interest. The temporary work agency may not invoke good faith if it

1. obtained the permit through fraudulent misrepresentation, threat or a criminal offence;

2. obtained the permit by supplying information that was incorrect or incomplete to a significant extent, or

3. was aware of the unlawfulness of the permit or unaware of it due to gross negligence.

However, the pecuniary loss is not compensated above and beyond the amount of interest that the temporary work agency has in the continuation of the permit. The pecuniary loss to be compensated is determined by the approval authority. Entitlement may only be claimed within a year; the period begins as soon as the approval authority has notified the temporary work agency of this.
(3) Withdrawal is only permissible within a year following the date on which the approval authority gains knowledge of the facts justifying withdrawal of the permit.

Section 5
Revocation

(1) The permit may be revoked with effect for the future if

1. revocation was reserved when granting the permit in accordance with section 2 (3);

2. the temporary work agency has failed to comply with a constraint in accordance with section 2 within the set period;

3. the approval authority would have been entitled to withhold the permit on the basis of facts subsequently coming to light, or

4. the approval authority would have been entitled to withhold the permit due to a changed legal situation; section 4 (2) applies accordingly.

(2) The permit becomes invalid upon entry into force of the revocation. Section 2 (4) sentence 4 applies accordingly.
(3) Revocation is not permitted if a permit with the same content would have to be granted in its place.
(4) The revocation is only permissible within a year following the date on which the approval authority gains knowledge of the facts justifying revocation of the permit.

Section 6
Administrative enforcement

If temporary agency workers are assigned by a temporary work agency without the requisite permit, the approval authority must prohibit the temporary work agency from doing this and prevent any continued assignment in accordance with the provisions of the Administrative Enforcement Act *(Verwaltungsvollstreckungsgesetz)*.

Section 7
Notifications and information

(1) The temporary work agency must notify the approval authority in advance without prompting after the permit has been granted of the relocation, closure and founding of establishments, separate departments of establishments or subsidiary establishments if this concerns the performance of temporary agency work. If the permit is granted to communities, partnerships with legal capacity or legal entities and another person is appointed after its granting to the management or representation in accordance with the law, articles of association or company agreement, this must also be notified without prompting.
(2) On request, the temporary work agency must provide the approval authority with information required for implementing the law. The information must be supplied truthfully, completely, on time and free of charge. At the request of the approval authority, the temporary work agency must submit the business documents confirming the correctness of the information or otherwise substantiate the information provided.
The temporary work agency must retain its business documents for three years.
(3) In justified individual cases, the persons commissioned by the approval authority are authorised to access the properties and business premises of the temporary work agency and carry out inspections there. The temporary work agency must tolerate the measures in accordance with sentence 1. The basic right of inviolability of the home (Article 13 of the Basic Law) is accordingly restricted here.
(4) Searches may only be carried out by order of the judge at the local court of the district in which the search is to take place. Sections 304 to 310 of the Code of Criminal Procedure *(Strafprozessordnung)* apply accordingly when challenging such orders. In case of imminent danger, the persons commissioned by the approval authority may conduct the necessary searches during business hours without a judicial order. Minutes about the search and its fundamental outcome that also state the facts leading to the assumption of imminent danger in the absence of a judicial order must be compiled on the spot.
(5) The temporary work agency may refuse to provide information in response to questions where answering such questions would expose the temporary work agency or one of the persons specified in section 383 (1) nos. 1 to 3 of the Code of Civil Procedure

(Zivilprozessordnung) to the risk of criminal proceedings or proceedings in accordance with the Regulatory Offences Act *(Gesetz über Ordnungswidrigkeiten)*.

Section 8
Principle of equal treatment

(1) The temporary work agency is obliged to grant the temporary agency worker for the period of assignment to the user undertaking the same basic working conditions, including remuneration, applicable to a comparable employee of the user undertaking at the user undertaking (principle of equal treatment). If the temporary agency worker receives the collectively agreed remuneration paid to a comparable employee of the user undertaking at the user undertaking or in the absence thereof the collectively agreed remuneration applicable to comparable employees in the deployment sector, it is assumed that the temporary agency worker is treated equally in terms of remuneration within the meaning of sentence 1. If fringe benefits are granted at the user undertaking, the equivalent value can be paid out in euros.
(2) A collective agreement can derogate from the principle of equal treatment as long as it does not undercut the minimum hourly wages set out in a statutory instrument pursuant to section 3a (2). Should such a collective agreement derogate from the principle of equal treatment, the temporary work agency must grant the temporary agency worker the working conditions due in accordance with this collective agreement. Within the scope of application of such a collective agreement, employers and employees not bound by collective agreement can agree to apply the collective agreement. Should such a collective agreement undercut the minimum hourly wages set out in a statutory instrument in accordance with section 3a (2), the temporary work agency must grant the temporary agency worker for each working hour the remuneration for a working hour payable at the user undertaking for a comparable employee of the user undertaking.
(3) A collective agreement derogating from the principle of equal treatment within the meaning of subsection (2) does not apply to temporary agency workers who in the last six months prior to their assignment to the user undertaking have left an employment relationship with the latter or with an employer that forms a group of affiliated companies with the user undertaking within the meaning of section 18 of the Stock Corporation Act *(Aktiengesetz)*.
(4) A collective agreement within the meaning of subsection (2) can derogate from the principle of equal treatment in terms of remuneration for the first nine months of an assignment to the user undertaking. A longer derogation through collective agreement is only permissible if

1. after no more than 15 months of an assignment to a user undertaking remuneration is reached that is at least set out in the collective agreement as equivalent to the collectively agreed remuneration of comparable employees in the deployment sector, and

2. after an induction period not exceeding six weeks this remuneration is gradually approached.

Within the scope of application of such a collective agreement, employers and employees not bound by collective agreement can agree to apply the provisions of the collective agreement. The period of previous assignments by the same or another temporary work agency to the same user undertaking is to be counted in full if the period between individual assignments does not exceed three months.
(5) The temporary work agency is obliged to pay the temporary agency worker at least the minimum hourly wage set out in a statutory instrument in accordance with section 3a (2) for the period of the assignment and for periods without assignment.

Section 9
Invalidity

(1) The following are invalid:

1. Contracts between temporary work agencies and user undertakings and between temporary work agencies and temporary agency workers if the temporary work agency does not have the requisite permit pursuant to section 1; the contract between the temporary work agency and the temporary agency worker does not become invalid if the temporary agency worker declares to the temporary work agency or user undertaking in writing within one month following the date agreed between the temporary work agency and user undertaking for the start of the assignment his or her intention to adhere to the employment contract with the temporary work agency; if invalidity does not set in until after commencement of the activity for the user undertaking, the deadline period commences with the onset of invalidity,

1a. Contracts of employment between temporary work agencies and temporary agency workers if, in contravention of section 1 (1) sentences 5 and 6, the temporary agency work is not expressly designated as such and the personal details of the temporary agency worker have not been set out, unless the temporary agency worker declares to the temporary work agency or user undertaking in writing within one month following the date agreed between the temporary work agency and the user undertaking for the start of the assignment his or her intention to adhere to the employment contract with the temporary work agency,

1b. Contracts of employment between temporary work agencies and temporary agency workers exceeding the maximum permissible assignment period in accordance with section 1 (1b) unless the temporary agency worker declares to the temporary work agency or user undertaking in writing within one month after the maximum permissible assignment period is exceeded his or her intention to adhere to the employment contract with the temporary work agency,

2. Agreements stipulating working conditions for the temporary agency worker, including remuneration, that are worse than those to which he or she is entitled pursuant to section 8,

2a. Agreements that restrict the temporary agency worker’s access to the amenities or collective facilities at the user undertaking in contravention of section 13b,

3. Agreements that prohibit the user undertaking from hiring the temporary agency worker at a time when the employment relationship with the temporary work agency no longer exists; this does not preclude the agreement of appropriate remuneration between the user undertaking and temporary work agency for placement after or by means of a preceding assignment,

4. Agreements that prohibit the temporary agency worker from entering into an employment relationship with the user undertaking at a time when the employment relationship between the temporary work agency and the temporary agency worker no longer exists,

5. Agreements requiring the temporary agency worker to pay placement commission to the temporary work agency.

(2) The declaration pursuant to subsection (1) nos. 1, 1a or 1b (declaration of continuation) is only valid if

1. the temporary agency worker presents this in person at an employment agency prior to its submission,

2. the employment agency dates the declaration to be submitted and confirms that it has established the identity of the temporary agency worker, and

3. the declaration is received by the temporary work agency or user undertaking no later than on the third day following presentation at the employment agency.

(3) A declaration of continuation submitted prior to the start of a deadline period pursuant to (1) no. 1 to 1b is invalid. If the assignment is continued in accordance with the declaration of continuation, (1) no. 1 to 1b applies. A fresh declaration of continuation is invalid. Section 28e (2) sentence 4 of Social Code (SGB) Book IV applies without prejudice to the declaration of continuation.

Section 10
Legal consequences in case of invalidity

(1) If the contract between a temporary work agency and a temporary agency worker is invalid in accordance with section 9, an employment relationship between the user undertaking and the temporary agency worker is deemed to materialise at the date agreed between the user undertaking and the temporary work agency for the start of the activity; if the invalidity does not arise until after assumption of the activity for the user undertaking, the employment relationship between the user undertaking and the temporary agency worker is deemed to materialise at the onset of invalidity. The employment relationship in accordance with sentence 1 is deemed temporary if the activity of the temporary agency worker for the user undertaking was only intended to be temporary and there is an objectively justifiable reason for this to be the case. The working hours agreed between the temporary work agency and the user undertaking are the agreed working hours for the employment relationship pursuant to sentence 1. In all other cases the content and duration of this employment relationship are determined according to the provisions and other regulations prevailing at the user undertaking, in the absence of which those of comparable companies apply. The temporary agency worker is entitled to receive from the user undertaking at least the remuneration agreed with the temporary work agency.
(2) In the event of invalidity of the contract with the temporary work agency in accordance with section 9, the temporary agency worker may claim compensation from the temporary work agency for the loss sustained from relying on the validity of the contract. The obligation to pay compensation does not apply if the temporary agency worker was aware of the reason for the invalidity.
(3) Should the temporary work agency pay the agreed remuneration or parts thereof to the temporary agency worker although the contract is invalid in accordance with section 9, it must also pay other components of remuneration that in the event of a valid contract of employment would have been payable to another party on behalf of the temporary agency worker to said party. The temporary work agency and the user undertaking are both deemed employer with regard to this payment obligation and bear joint and several liability.
(4) (4) and (5) repealed

Section 10a
Legal consequences in case of assignment by a person other than the employer

If contrary to section 1 (1) sentence 3 employees are assigned by another person and this person in so doing violates section 1 (1) sentences 1, 5 and 6 or (1b), section 9 (1) no. 1 to 1b and section 10 apply accordingly to the employment relationship of the temporary agency worker.

Section 11
Other provisions concerning the temporary employment relationship

(1) Proof of the essential conditions of contract of the temporary employment relationship is based on the provisions of the Act on Documenting Essential Conditions for an Employment Contract *(Nachweisgesetz)*. The following must be included in the minutes in addition to the details stipulated in section 2 (1) of the Act on Documenting Essential Conditions for an Employment Contract:

1. Company and address of the temporary work agency, approval authority and place and date of issue of the permit pursuant to section 1,

2. Type and amount of benefits for periods in which the temporary agency worker is not assigned.

(2) The temporary work agency is furthermore obliged to provide the temporary agency worker with a leaflet of the approval authority containing the key content of this Act upon contract conclusion. Non-German temporary agency workers are to receive the leaflet and the proof pursuant to (1) in their mother tongue on request. The costs of the leaflet are borne by the temporary work agency. The temporary work agency is to inform temporary agency workers prior to each assignment that they are being deployed as temporary agency workers and is to provide them in text form with the company name and address of the user undertaking to which they are assigned.
(3) The temporary work agency must inform the temporary agency worker promptly about the date of expiry of the permit. In cases of non-renewal (section 2 (4) sentence 3), withdrawal (section 4) or revocation (section 5), the temporary work agency must also notify the temporary agency worker of the anticipated end of execution (section 2 (4) sentence 4) and the statutory execution deadline (section 2 (4) sentence 4 last half sentence).
(4) Section 622 (5) no. 1 of the Civil Code *(Bürgerliches Gesetzbuch)* is not to be applied to employment relationships between temporary work agencies and temporary agency workers. The entitlement of the temporary agency worker to remuneration in the event of default of acceptance of the temporary work agency (section 615 sentence 1 of the Civil Code) cannot be lifted or restricted by contract; section 615 sentence 2 of the Civil Code remains unaffected. If short-time work is agreed, the right of temporary agency workers to remuneration can be suspended for the reduced working hours and while the temporary agency workers receive short-time work allowance pursuant to Book IIII of the German Social Code; such an agreement can suspend the right of temporary agency workers to remuneration until 30 June 2022 at the most.
(5) The user undertaking may not deploy temporary agency workers if its company is immediately affected by an industrial dispute. Sentence 1 does not apply if the user undertaking ensures that temporary agency workers do not take on any activities that were previously carried out by employees who

1. are involved in the industrial dispute or

2. themselves have taken on activities of employees who are involved in the industrial dispute.

The temporary agency worker is not obliged to work for a user undertaking if the latter is immediately affected by an industrial dispute. In cases involving industrial disputes, the temporary work agency must inform temporary agency workers of their right to refuse to work.
(6) The temporary agency worker's activity for the user undertaking is subject to the public law safety and health regulations applicable to the user undertaking; the resulting employer obligations lie in the user undertaking's responsibility notwithstanding the obligations of the temporary work agency. In particular, the user undertaking must inform temporary agency workers prior to the start of employment and in the event of changes in their area of work about safety and health risks to which they may be exposed during their work, as well as the measures and facilities for averting such risks. The user undertaking must additionally inform temporary agency workers about the necessity for special qualifications or professional skills or special medical surveillance as well as special increased risks at the workplace.
(7) If during the period of activity for the user undertaking the temporary agency worker makes an invention or technical improvement suggestion, the user undertaking is deemed employer within the meaning of the Employees' Inventions Act *(Gesetz über Arbeitnehmererfindungen)*.

Section 11a
Authority to issue statutory instruments

The Federal Government is authorised to determine by statutory instrument not requiring the approval of the Bundesrat that the right of the temporary agency worker to remuneration as set out in section 11 (4) sentence 2 is suspended upon agreement of short-time work for working hours lost for the duration of the period in which the temporary agency worker is paid short-time work allowance in accordance with Social Code Book III. Such statutory instrument must be limited in time. This authorisation will cease to be effective on 30 June 2023.

Section 12
Legal relations between temporary work agency and user undertaking

(1) The contract between the temporary work agency and the user undertaking must be drawn up in writing. If the contract and its effective implementation contradict each other, the effective implementation is decisive for legal classification of the contract. The temporary work agency must declare in the contract whether it holds the permit pursuant to section 1. The user undertaking must specify in the contract the special features of the activity envisaged for the temporary agency worker, the professional qualifications required for this and the key working conditions applicable at the user undertaking to a comparable employee of the user undertaking, including remuneration; the latter does not apply if the prerequisites for the exception set out in section 8 (2) and (4) sentence 2 are met.
(2) The temporary work agency must inform the user undertaking promptly about the date of expiry of the permit. In cases of non-renewal (section 2 (4) sentence 3), withdrawal (section 4) or revocation (section 5), the temporary work agency must also notify the temporary agency worker of the anticipated end of execution (section 2 (4) sentence 4) and the statutory execution deadline (section 2 (4) sentence 4 last half sentence).
(3) (repealed)

Section 13
Right to information of temporary agency workers

In the event of an assignment, the temporary agency worker may request from the user undertaking information about the basic working conditions applicable at the user undertaking for a comparable employee of the user undertaking, including remuneration; this does not apply if the prerequisites for the exception set out in section 8 (2) and (4) sentence 2 are met.

Section 13a
Duty of the user undertaking to provide information about vacancies and about requests by temporary agency workers to join its staff

(1) The user undertaking is to inform the temporary agency worker about vacancies of the user undertaking that require filling. This information can be supplied through general announcement at a suitable location within the user undertaking that is accessible to the temporary agency worker.
(2) When temporary agency workers who have been assigned to a user undertaking for at least six months and notify it of their desire to conclude an employment contract, the user undertaking must give them an answer in text form with reasons within one month of having received the notification. Sentence 1 does not apply if temporary agency workers already notified the user undertaking of their desire before within the preceding twelve months. The duration of the assignment under sentence 1 is determined in accordance with Section 1 (1b) sentence 2.

Section 13b
Access of temporary agency workers to amenities or collective facilities

The user undertaking must grant temporary agency workers access to the company's amenities or collective facilities under the same conditions as for comparable employees at

the company in which such temporary agency workers perform their work except where different treatment is justified for objective reasons. Amenities or collective facilities within the meaning of sentence 1 in particular include childcare facilities, canteens and transport services.

Section 14
Rights of participation and co-determination

(1) Temporary agency workers continue to remain employees of the temporary work agency's sending enterprise during the period of their assignment with a user undertaking.
(2) Temporary agency workers cannot be elected as workers' representatives to the supervisory board of the user undertaking or as workers' representatives of the user undertaking under the Works Constitution Act *(Betriebsverfassungsgesetz)*. They are entitled to seek the advice of these worker representatives during their consulting hours and to attend works and youth meetings at the user undertaking. Sections 81, 82 (1) and 84 to 86 of the Works Constitution Act apply at the user undertaking also with regard to temporary agency workers deployed there. Where provisions of the Works Constitution Act with the exception of section 112a of the European Works Councils Act or the election regulations decreed on the basis of the applicable laws require a specific number or share of employees, temporary agency workers at the user undertaking are also to be considered. Where provisions of the Co-determination Act *(Mitbestimmungsgesetz)*, the Act on Co-determination in the Coal, Iron and Steel Industry *(Montan-Mitbestimmungsgesetz)*, the Supplementary Co-determination Act *(Mitbestimmungsergänzungsgesetz)*, the One-Third Participation Act *(Drittelbeteiligungsgesetz)*, the Act on Employee Participation in the Event of Cross-Border Mergers *(Gesetz über die Mitbestimmung der Arbeitnehmer bei einer grenzüberschreitenden Verschmelzung)*, the Act on Employee Participation in the Event of Cross-Border Changes of Legal Form or Cross-Border Splits *(Gesetz über die Mitbestimmung der Arbeitnehmer bei grenzüberschreitendem Formwechsel oder grenzüberschreitender Spaltung)* or the Act on the Participation of Employees at a European Company *(SE-Beteiligungsgesetz)*, the Act on the Participation of Employees at a European Cooperative Society *(SCE-Beteiligungsgesetz)* or the election regulations decreed on the basis of the applicable laws require a specific number or share of employees, temporary agency workers are also to be considered at the user undertaking. Where application of the laws specified in sentence 5 requires a specific number or share of employees, temporary agency workers at the user undertaking are only to be included if the duration of their assignment exceeds six months.
(3) The works council of the user undertaking is to be consulted in accordance with section 99 of the Works Constitution Act before taking on a temporary agency worker for the performance of work. The user undertaking must also present to the works council the declaration of the temporary work agency pursuant to section 12 (1) sentence 3. It is also obliged to inform the works council immediately of notifications of the temporary work agency pursuant to section 12 (2).
(4) Subsections (1), (2) sentence 1 and 2 and (3) apply analogously to application of the Staff Representation Act *(Bundespersonalvertretungsgesetz)*.

Section 15
Foreign temporary agency workers without authorisation

(1) Any temporary work agency that without authorisation in contravention of section 1 assigns to a third party a foreign national who does not possess the requisite residence permit pursuant to section 4a (5) sentence 1 of the Residence Act *(Aufenthaltsgesetz)*, a permit or authorisation in accordance with section 4a (5) sentence 2 in conjunction with (4) of the Residence Act, permission to remain or a temporary suspension of deportation entitling them to pursue gainful employment, or a permit pursuant to section 284 (1) of Social Code (SGB) Book III is liable to penalty by imprisonment of up to three years or a fine.

(2) The penalty in particularly serious cases is imprisonment from six months up to five years. A particularly serious case is normally deemed to exist if the perpetrator acts commercially or out of gross self-interest.

Section 15a
Borrowing of foreign nationals without authorisation

(1) Any user undertaking that deploys a foreign national assigned to it who does not possess the requisite residence permit pursuant to section 4a (5) sentence 1 of the Residence Act, a permit or authorisation in accordance with section 4a (5) sentence 2 in conjunction with (4) of the Residence Act, permission to remain or a temporary suspension of deportation entitling them to pursue gainful employment, or a permit pursuant to section 284 (1) of Social Code Book III subject to working conditions of the temporary employment relationship that are conspicuously disproportionate to the working conditions of German temporary agency workers carrying out the same or a comparable activity is liable to penalty by imprisonment of up to three years or a fine. The penalty in particularly serious cases is imprisonment from six months up to five years; a particularly serious case is normally deemed to exist if the perpetrator acts commercially or out of gross self-interest.
(2) Any user undertaking that

1. simultaneously deploys more than five foreign nationals who do not possess the requisite residence permit pursuant to section 4a (5) sentence 1 of the Residence Act, a permit or authorisation in accordance with section 4a (5) sentence 2 in conjunction with (4) of the Residence Act, permission to remain or a temporary suspension of deportation entitling them to pursue gainful employment, or a permit pursuant to section 284 (1) of Social Code Book III or

2. repeatedly commits a wilful infringement as set out in section 16 (1) no. 2

is liable to penalty by imprisonment of up to one year or a fine. If the perpetrator acts out of gross self-interest, the penalty is imprisonment of up to three years or a fine.

Section 16
Regulatory offences

(1) Regulatory offences are committed by parties that wilfully or negligently

1. assign a temporary agency worker to a third party without a permit in contravention of section 1,

1a. deploy a temporary agency worker assigned to them by a temporary work agency without a permit,

1b. assign or deploy an employee in contravention of section 1 (1) sentence 3,

1c. fail to designate an assignment or fail to do so correctly or on time in contravention of section 1 (1) sentence 5,

1d. fail to set out personal details or fail to do so correctly or on time in contravention of section 1 (1) sentence 6,

1e. assign a temporary agency worker in contravention of section 1 (1b) sentence 1,

1f. assign or deploy employees in contravention of section 1b sentence 1,

2. deploy a foreign temporary agency worker assigned to them who does not possess the requisite residence permit pursuant to section 4a (5) sentence 1 of the Residence Act, a permit or authorisation in accordance with section 4a (5) sentence 2 in conjunction with (4) of the Residence Act, permission to remain or a temporary

suspension of deportation entitling them to pursue gainful employment, or a permit pursuant to section 284 (1) of Social Code Book III,

2a. fail to provide correct, complete or timely notification in accordance with section 1a,

3. fail to comply with a constraint or to do so completely or on time in accordance with section 2 (2),

4. fail to provide due notification in accordance with section 7 (1) or to do so correctly, completely or on time,

5. fail to provide information or to do so correctly, completely or on time in accordance with section 7 (2) sentence 1,

6. fail to meet their obligation of safekeeping in accordance with section 7 (2) sentence 4,

6a. in contravention of section 7 (3) sentence 2 do not tolerate a measure specified therein,

7. (repealed)

7a. fail to grant working conditions in contravention of section 8 (1) sentence 1 or (2) sentence 2 or 4,

7b. in contravention of section 8 (5) in conjunction with a statutory instrument pursuant to section 3a (2) sentence 1 fail to pay the minimum hourly wage level specified therein or to do so on time,

8. fail to meet an obligation in accordance with section 11 (1) or (2),

8a. deploy a temporary agency worker in contravention of section 11 (5) sentence 1,

9. fail to inform the temporary agency worker or to do so correctly and completely in contravention of section 13a (1) sentence 1,

10. fail to grant access in contravention of section 13b sentence 1,

11. in contravention of section 17a sentence 1 in conjunction with section 5 (1) sentence 1 no.1 of the Act to Combat Undeclared Work and Unlawful Employment (Schwarzarbeitsbekämpfungsgesetz) do not tolerate an audit or cooperate with said audit,

12. in contravention of section 17a sentence 1 in conjunction with section 5 (1) sentence 1 no. 2 of the Act to Combat Undeclared Work and Unlawful Employment to not tolerate properties and business premises being accessed,

13. in contravention of section 17a sentence 1 in conjunction with section 5 (1) sentence 1 no. 3 (a) of the Act to Combat Undeclared Work and Unlawful Employment do not provide an information referred to therein or do not do so correctly, completely, in the prescribed manner or on time,

14. in contravention of section 17a sentence 1 in conjunction with section 5 (1) sentence 1 no 3 (b) of the Act to Combat Undeclared Work and Unlawful Employment do not make available or submit a document referred to therein or do not do so correctly, completely or on time,

15. in contravention of section 17a sentence 1 in conjunction with section 5 (1) sentence 1 no. 4 of the Act to Combat Undeclared Work and Unlawful Employment do not allow access to a document referred to therein or do not so correctly or on time.

16. in contravention of section 17b (1) sentence 1 do not submit a notification or do not do so correctly, completely, in the prescribed manner or on time,

17. in contravention of section 17b (1) sentence 2 do not submit a notification of change or do not so correctly, completely, in the prescribed manner or on time,

18. in contravention of section 17c (1) do not create records or do not do so correctly, completely or on time or do not store them for at least two years, or

19. in contravention of section 17c (2) do not store documents or do not do so correctly, completely or in the prescribed manner.

(2) The regulatory offence in the cases referred to in (1) no. 2, 7a, 7b and 8a can be penalised with a fine of up to 500,000 euros, the regulatory offence in the cases referred to in (1) no. 18 with a fine of up to 50,000 euros, the regulatory offence in the cases referred to in (1) no. 1 to 1f, 6, 11 to 17 and 19 with a fine of up to 30,000 euros, in the cases referred to in (1), no. 2a, 3, 9 and 10 with a fine of up to 3,000 euros, in the cases referred to in (1) no. 8 with a fine of up to 2,000 euros and in the other cases with a fine of up to 1,000 euros.
(3) The administrative bodies within the meaning of section 36 (1) no. 1 of the Regulatory Offences Act are the customs administration authorities for their applicable areas of responsibility in the cases of (1) nos. 1, 1a, 1c, 1d, 1f, 2, 2a, 7b and 11 to 19 and the Federal Employment Agency in the cases of (1) nos. 1b, 1e, 3 to 7a and 8 to 10.
(4) Section 66 of Social Code Book X applies accordingly.
(5) The fines are added to the funds of the responsible administrative authority, which in derogation from section 105 (2) of the Regulatory Offences Act bears the necessary expenses and is also obliged to pay compensation within the meaning of section 110 (4) of the Regulatory Offences Act.

Section 17
Implementation

(1) The Federal Employment Agency implements this Act in accordance with specialist instructions from the Federal Ministry of Labour and Social Affairs. Administrative costs are not refunded.
(2) The review of the working conditions pursuant to section 8 (5) also lies in the responsibility of the customs administration authorities in accordance with sections 17a to 18a.

Section 17a
Powers of the customs administration authorities

Sections 2, 3 to 7, 13, 14, 15 to 20, 22 and 23 of the Act to Combat Undeclared Work and Unlawful Employment are to be applied accordingly with the proviso that the authorities specified there are also able to inspect contracts of employment, minutes pursuant to section 2 of the Act on Documenting Essential Conditions for an Employment Contract and other business documents providing direct or indirect information about compliance with the working conditions in accordance with section 8 (5). As part of inspections carried out under the Act to Combat Undeclared Work and Unlawful Employment, posted workers may be contacted even after their posting has ended.

Section 17b
Notification requirement

(1) If a temporary work agency established abroad assigns a temporary agency worker to a user undertaking for the performance of work, the temporary work agency is obliged, in cases where a statutory instrument pursuant to section 3a applies to the employment

relationship, to forward to the responsible customs administration authority prior to the commencement of each assignment a written registration in German with the following details:

1. Last name, first names, date of birth, nationality and contact data of the assigned temporary agency worker,

2. Start and duration of the assignment,

3. Place of deployment,

4. Place in Germany at which the documents required pursuant to section 17c are kept,

5. Last name, first names and address in Germany of an authorised recipient of the temporary work agency,

6. Sector to which the temporary agency worker is to be assigned,

7. Activity or position of the assigned temporary agency worker for the duration of the assignment and

8. Last name, first names or company and address of the user undertaking.

Changes in these details are to be reported by the temporary work agency immediately.
(2) The Federal Ministry of Finance may determine by statutory instrument not requiring the approval of the Bundesrat in consultation with the Federal Ministry of Labour and Social Affairs

1. in which case, in which manner and subject to which technical and organisational requirements registrations or notifications of changes may be submitted electronically in derogation from (1),

2. under which conditions a change by way of exception does not need to be reported and

3. how the reporting procedure can be simplified or modified.

(3) The Federal Ministry of Finance may determine the responsible authority pursuant to (1) sentence 1 by statutory instrument not requiring the approval of the Bundesrat.

Section 17c
Preparation and storage of documents

(1) To the extent that a statutory instrument pursuant to section 3a applies to an employment relationship, the user undertaking is obliged to record the start, end and duration of the temporary agency worker's daily working hours no later than by the end of the seventh calendar day following the date of work performance and to store these records for at least two years starting from the relevant date of recording.
(2) Each temporary work agency is obliged to store the documents required for monitoring compliance with a statutory instrument pursuant to section 3a within the country in German for the entire duration of the effective assignment of the temporary agency worker within the territory in which this Act applies but no longer than a total of two years. At the request of the inspection authority, the documents are also to be kept at the place of deployment.

Section 18
Cooperation with other authorities

(1) In order to track down and punish regulatory offences in accordance with section 16, the Federal Employment Agency and customs administration authorities cooperate in particular with the following authorities:

1. the health insurance funds as collecting agencies of social insurance contributions,

2. the authorities specified in section 71 of the Residence Act,

3. the tax authorities,

4. the authorities responsible under Land law for tracking down and punishing regulatory offences in accordance with the Act to Combat Undeclared Work and Unlawful Employment,

5. the accident insurance funds,

6. the Land authorities responsible for occupational safety and health,

7. the pension insurance funds,

8. the social assistance agencies.

(2) If concrete indications arise in individual cases for the Federal Employment Agency or customs administration authorities in the implementation of this Act of

1. infringements of the Act to Combat Undeclared Work and Unlawful Employment,

2. a deployment or activity of foreign nationals without the requisite residence permit pursuant to section 4a (5) sentence 1 of the Residence Act, a permit or authorisation in accordance with section 4a (5) sentence 2 in conjunction with (4) of the Residence Act, permission to remain or a temporary suspension of deportation entitling them to pursue gainful employment, or a permit pursuant to section 284 (1) of Social Code Book III,

3. infringements of the duty to cooperate in accordance with section 60 (1) sentence 1 no. 2 of Social Code Book I towards an office of the Federal Employment Agency, a health, long-term care, accident or pension insurance fund or a social assistance agency, or of the reporting obligation in accordance with section 8a of the Asylum Seekers Benefits Act *(Asylbewerberleistungsgesetz)*,

4. infringements of the provisions of Social Code Books IV and VII concerning the obligation to pay social insurance contributions to the extent that they are connected with the infringements specified in nos. 1 to 3 and temporary agency work in contravention of section 1,

5. infringements of tax laws,

6. infringements of the Residence Act,

7. infringements of the Act on the Protection of Workers‘ Rights in the Meat Industry

8. infringements of the Minimum Wage Act

9. infringements of the Posted Workers Act

they notify the authorities responsible for tracking down and punishing the offences, the social assistance agencies and the authorities pursuant to section 71 of the Residence Act.
(3) In criminal law matters pertaining to offences in accordance with sections 15 and 15a, the Federal Employment Agency and the customs administration authorities are to be notified

1. upon the initiation of criminal proceedings of the personal details of the accused, the constituent elements of the offence, the time of the offence and the place of the offence,

2. if public charges are preferred of the final decision and justification

for the tracking of regulatory offences. If the decision specified in no. 2 overturns an appeal or makes reference to a contested decision, the contested decision must also be notified. This is initiated by the penalty or law enforcement authority. Use

1. of employees' data for measures in their favour,

2. of the employer's data concerning the filling of its vacancies that have become known in connection with the criminal proceedings,

3. of the data specified in nos. 1 and 2 for decisions concerning the discontinuation or reclaiming of benefits of the Federal Employment Agency

is permitted.
(4) (repealed)
(5) The customs administration authorities notify the local Land revenue authorities responsible about the content of notifications pursuant to section 17b.
(6) The customs administration authorities and the other authorities specified in section 2 of the Act to Combat Undeclared Work and Unlawful Employment may also cooperate in accordance with the relevant rules on the protection of personal data with authorities of other Treaty States of the Agreement on the European Economic Area that conduct tasks corresponding to section 17 (2), are responsible for combating clandestine employment or are able to provide information as to whether an employer meets its obligations pursuant to section 8 (5). The rules concerning international mutual assistance in criminal law matters remain unaffected by this.

Section 19
Transitional provision

(1) Section 8 (3) does not apply to temporary employment relationships founded prior to 15 December 2010.
(2) Assignment periods prior to 1 April 2017 are not taken into account when calculating the maximum permissible assignment period in accordance with section 1 (1b) and the assignment periods in accordance with section 8 (4) sentence 1.

Section 20
Evaluation

The application of this Act is to be evaluated in 2020.