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Applying for suspension of protection against dismissal during maternity leave, parental leave or (family) care leave

Heruntergeladen am 23.07.2025

<https://fimportal.de/xzufi-services/468973166/L100040>

Modul	Sachverhalt
Leistungsschlüssel	99006045129000
Leistungsbezeichnung I	Applying for suspension of protection against dismissal during maternity leave, parental leave or (family) care leave
Leistungsbezeichnung II	
Typisierung	3 - Bundesaufsichtsverwaltung: Regelung
Quellredaktion	Niedersachsen
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt mit Verrichtung
Leistungsgruppierung	Arbeitsschutz (006)

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Verrichtungskennung	Erklärung (129)
SDG-Informationsbereich	Gesetzlich oder durch Rechtsverordnung geregelte Beschäftigungsbedingungen einschließlich Arbeitsstunden, bezahlter Urlaub, Urlaubsansprüche, Rechte und Pflichten in Bezug auf Überstunden, Gesundheitskontrollen, Beendigung von Verträgen, Kündigung oder Entlassungen)
Lagen Portalverbund	
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	30.08.2022
Fachlich freigegeben durch	Lower Saxony Ministry for Social Affairs, Labor, Health and Equality
Handlungsgrundlage	<p>§ Section 17 (2) of the Maternity Protection Act (MuSchG)</p> <p>§ Section 18 (1) of the Federal Parental Allowance and Parental Leave Act (BEEG)</p> <p>§ Section 5 Caregiver Leave Act (PflegeZG)</p> <p>§ Section 2 of the Family Caregiver Leave Act (FamilienpflegeZG)</p> <p>https://www.gesetze-im-internet.de/muschg_2018/_17.html</p> <p>https://www.gesetze-im-internet.de/beeg/_18.html</p> <p>https://www.gesetze-im-internet.de/pflegezg/_5.html</p> <p>https://www.gesetze-im-internet.de/fpfzg/_2.html</p> <p>https://www.gesetze-im-internet.de/muschg_2018/_17.html</p> <p>https://www.gesetze-im-internet.de/beeg/_18.html</p> <p>https://www.gesetze-im-internet.de/pflegezg/_5.html</p> <p>https://www.gesetze-im-internet.de/fpfzg/_2.html</p>
Teaser	If you wish to dismiss a person with special protection against dismissal, you can apply for this protection against dismissal to be lifted under certain conditions.
Volltext	If you have to give notice to a person who is subject to special protection against dismissal, you can apply for

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a declaration of admissibility or approval of dismissal before giving notice.

The following groups of people are subject to special protection against dismissal:

- Women during pregnancy, until the end of four months after a miscarriage after the 12th week of pregnancy and until the end of the protection period after childbirth, but at least until the end of four months after childbirth
- Employees on parental leave
- Persons who care for a relative in need of care or organize care during (family) care leave

The regulations on protection against dismissal vary.

Protection against dismissal for employees on parental leave begins as soon as the application is submitted. There is a special ban on dismissal 8 weeks before the start of parental leave if the child is under 3 years old, or 14 weeks before the start of parental leave if the child is between 3 and 8 years old.

In the case of (family) care leave, protection against dismissal already applies when the employer is notified that the employee will be unable to work. The protection applies for a maximum of 12 weeks before the announced start date.

Under the Maternity Protection Act, dismissal of a woman is not permitted during her pregnancy, until four months after a miscarriage after the twelfth week of pregnancy and until the end of her protection period after giving birth, but at least until four months after giving birth if the employer is aware of the pregnancy, the miscarriage after the twelfth week of pregnancy or the birth at the time of dismissal or if the employer is notified within two weeks of receipt of the dismissal.

The competent authority will only grant your consent if a verifiable reason for termination can be proven.

Subsequent consent or approval by the competent authority of a notice of termination that has already

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	been given is not possible.
Erforderliche Unterlagen	The competent authority may request further information and documents if necessary if there are any queries regarding the information provided.
Voraussetzungen	<ul style="list-style-type: none"> • There is a valid reason for termination • You employ staff who are subject to a special prohibition on dismissal • You wish to dismiss employees with special protection against dismissal • You have not yet given notice to the employee
Kosten	Please enquire at the competent supervisory authority about any processing fees. In Lower Saxony, the General Fee Regulations (AllGO) apply.
Verfahrensablauf	<p>In order to dismiss employees with special protection against dismissal, an application for a declaration of admissibility must be submitted to the competent authority prior to dismissal. You can apply for a declaration of admissibility online via the online service, using a PDF form or informally. A PDF form is available on the website of the competent authority or can be obtained on request.</p> <p>If you wish to apply for a declaration of admissibility via the online service:</p> <ul style="list-style-type: none"> • Access the online service • Registration via the Business service account • Company data is automatically transferred from the service account to the online application • The person making the application enters all the necessary termination data. • All necessary documents must be submitted to ensure rapid processing by the authorities. You can upload supporting documents for this purpose. • Your application will be checked by the competent authority. • The competent authority will send you the approval by post • A termination of the person is only legal if the authority sends written approval (notification). <p>If you wish to apply for a declaration of admissibility</p>

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	<p>using the PDF form:</p> <ul style="list-style-type: none"> • Open the corresponding PDF form • Complete the application. • Send the application to the competent authority by e-mail or post. • The remaining procedural steps correspond to the online procedure using the online service.
Bearbeitungsdauer	The processing time is three to four weeks. The processing time depends on the complexity of your application and may take longer in individual cases.
Frist	The application must be submitted before notice of termination is given.
weiterführende Informationen	
Hinweise	<p>Brochure "Employer's guide to maternity protection"</p> <p>https://www.bmfsfj.de/bmfsfj/service/publikationen/leitfaden-zum-mutterschutz-73756</p> <p>https://www.bmfsfj.de/bmfsfj/service/publikationen/leitfaden-zum-mutterschutz-73756</p>
Rechtsbehelf	You can lodge an objection.
Kurztext	<p>The special protection against dismissal exists for</p> <ul style="list-style-type: none"> • women during pregnancy, up to four months after a miscarriage after the 12th week of pregnancy and up to the end of the protection period after childbirth, but at least up to four months after childbirth Employees on parental leave Persons who care for a relative in need of care in accordance with the Caregiver Leave Act or the Family Caregiver Leave Act
Ansprechpunkt	
Zuständige Stelle	<p>Protection against dismissal can be revoked by the competent authority.</p> <p>The Celle Trade Supervisory Office is responsible for applications under the Maternity Protection Act and the Federal Parental Allowance and Parental Leave Act. (If the company is subject to mining law, by way of</p>

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	derogation: State Office for Mining, Energy and Geology), State Office for Social Affairs, Family and Youth for applications under the Caregiver Leave and Family Caregiver Leave Act.
Formulare	<p>Forms available: Partially</p> <p>Written form required: No</p> <p>Informal application possible: Yes</p> <p>Personal appearance necessary: No</p>
Ursprungsportal	Applying for suspension of protection against dismissal during maternity leave, parental leave or (family) care leave, Aufhebung des Kündigungsschutzes bei Mutterschutz, Elternzeit oder (Familien-) Pflegezeit beantragen