

Leaflet on the law on secondary employment

Secondary employments are all occupations not being part of the main function within and outside of the public service. Exempted are occupations that are part of the private life according to common understanding.

Persons employed according to tariff see § 40 TV – L

1. Obligations when having a secondary employment

Prior to beginning a secondary employment, the employer has to be informed in writing using form P 496. The employer has the right to refuse the secondary employment or to impose restrictions if it violates contractual obligations or justified interests of the employer. This is the case, if the time required for one or more secondary employments exceeds one fifth of the regular weekly working time. The secondary employment has to be carried out in your free time. The employer has to be immediately informed in writing about changes in secondary employments.

2. Obligation to deliver and compensation fee

If the secondary employer is a public service employer or of a similar service or if resources of the university are used when carrying out the secondary employment, the obligation to deliver and the charge of a compensation fee according to the provisions for public servants are imposed.

Civil servants

see §§ 60 ff Landesbeamtengesetz (LBG Civil Service Law of the Land), Landesnebenbeschäftigungsverordnung (LNTVO Regulation on Secondary Employments of the Land); for research personnel also § 45 Landeshochschulgesetz (LHG University and College Act of the Land) and the Hochschulnebenbeschäftigungsverordnung (HNTVO University Regulation on Secondary Employments)

1. Obligations when having a secondary employment

- On principle, any secondary employment requires prior approval and notification (§ 62 and § 63 LBG). For official approval and notification of a secondary employment, complete form P 496. Information is particularly required on the type, extent, remuneration and employer of the secondary employment. Changes in the exercised secondary employments subject to approval or notification have to be reported immediately and in writing.
- On principle, a secondary employment can only be carried out in your free time. Upon request, exceptions are possible, if the secondary employment is for the public benefit, there are no official reasons against it and the missed working time will be made up for. The time required for one or several secondary employments must not exceed one fifth of the regular working time per week. In case of restricted ability to work this limit is reduced as a factor of the reduction of the working time. For civil servants granted leave or with part-time employment, the limit is increased as a factor of the reduction of the regular working time; however, the maximum is twelve hours a week. The secondary employment must not run counter the purpose of granting leave or part-time employment.
- As a general rule, secondary employments cannot be approved for university teachers if the time required for the secondary employment exceeds one individual working day per week.
- The obligation to deliver applies for secondary employments carried out for a civil service employer or a similar service, if specified limits are exceeded (§ 5 and 6 LNTVO).

- The use of facilities, personnel or material of the Land for the practice of a secondary employment requires prior separate approval in writing. Approval must be granted only if there is an official, public or scientific interest in the practice of the secondary employment. When using facilities, personnel and material of the Land, an adequate fee (compensation fee) has to be paid.

2. Secondary employments subject to approval

Approval is to be limited to a maximum of 5 years. It can impose restrictions and conditions. It is irrelevant for the following examples of secondary employments subject to approval if they are carried out for remuneration or free of charge:

- Teaching and lecturing activities outside of the proper university,
- Direction of scientific institutions outside of the proper university,
- Taking on an additional office, a remunerated guardianship, fosterage,
- Custody or execution of a will,
- Consultancy,
- Self-employed expert activities provided that there is no practical connection with particular teaching and research tasks (see also paragraph 4),
- Commercial or self-employed activity or participation in such an activity,
- Entering an institution within an organisation with the exception of a cooperative.

3. Secondary employments subject to general approval (but requiring notification)

One or several secondary employments are generally approved if

- the remuneration for them does not exceed a total of 1 200.00 Euro per calendar year,
- the overall time required does not exceed one fifth of the regular weekly working time,
- the secondary employment will be or is carried out during free time,
- there is no legal reason against approval.

Examples:

- Activity as publisher or editor of science or art magazines, collected editions or similar publications,
- Activity as jury, adjudicator or expert at court, as far as these activities require approval,
- Participation in state or scientific exams as far as this activity is not within the frame of official activities.

Exception:

There is no obligation to notify a one-time secondary employment per calendar year with a remuneration not exceeding 200.00 Euro.

4. Secondary employments not requiring approval (but requiring notification)

are among others:

- unpaid activities provided that they are not subject to approval (see par. 2),
- the administration of own property or property assigned for beneficial use of the civil servant,
- activities as writer, scientist, artist, or lecturer
- self-employed occupation as expert in connection with teaching and research activities of a professor if she/he directs herself/himself the essential measures for the execution of the task, supervises the execution and assumes personal responsibility,
- occupation for the protection of professional interests in trade unions and professional organisations or in self-help organisations of civil servants.

5. Reasons for refusing a secondary employment

Approval will be refused if it is apprehended that the execution of the secondary employment will impair official interests. Such a reason for refusal exists in particular if the secondary employment

- may bring the civil servant into a conflict with his official duties,
- may influence the impartiality or objectiveness of the civil servant,
- may otherwise prejudice the reputation of the public service,
- another reason for refusing approval exists if the secondary employment requires the work capacity in such a way and to an extent that the proper fulfilment of the official duties will be impeded (1/5 of the weekly working hours rule)

For further information contact the staff department