

Collective Employment Contract

regarding the waiver to register
working hours (GAV VAZE)

Important Note:

This is a translation of the binding German version; in the event of a dispute, only the German version is legally valid.

Preamble

With this GAV VAZE the parties aim to achieve the implementation of article 73a of the Regulation 1 to the labour ordinance (article 73a ArGV1) which entered into force on 1 January 2016 and which allows exceptions from the obligation to register working hours according to article 73 ArGV1. All other provisions of the labour law ordinance and its regulations are not affected by this GAV VAZE.

1. Scope of application

This GAV VAZE is based on article 73a ArGV1 and applies to employment relationships between employers which are members of Arbeitgeber Zürich VZH and have not declared in writing that they are not subject to (i.e. have not opted-out of) the Collective Employment Contract for commercial and commercial-technical employees and sales personnel in the retail trade (GAV) on the one hand, as well as the trained commercial and commercial-technical employees and the academically trained employees of all faculties employed by these employers on the other hand.

Excluded from the scope of application of this collective employment agreement (GAV VAZE) are the retail trade as well as employment relationships that are subject to a company, industrial sector or generally binding collective employment agreement regarding the waiver to register working hours.

2. Preconditions for the time registration waiver

a) Autonomy

The registration of working hours may be waived for employees who possess a considerable autonomy in the organisation of their work and determine their working schedule and reachability mostly themselves. In particular, employees with a high degree of leadership responsibilities and/or employees who are primarily responsible for the organisation and design of their field of activity fall into this category.

The assessment of the autonomy is to be carried out in each individual case based on the entire context of the employment relationship and the working environment.

b) Income threshold

A time registration waiver requires an annual gross income (including bonus) of more than CHF 120'000.

In the case of part-time employment this income threshold is reduced proportionately.

c) Waiver agreement

The time registration waiver must be agreed individually and in writing between the employer and each employee. The waiver agreement must describe to what extent and in what way the employee possesses autonomy. In the waiver agreement the employee confirms to have received and understood the information on working hours and rest period regulations as well as health and psycho-social risks as required in paragraph 3 below.

If, after the conclusion of a waiver agreement, the annual gross income of an employee for a calendar year does in fact not amount to more than CHF 120'000, the waiver is ineffective for the following calendar year.

Employees who meet the preconditions for the time registration waiver but do not sign a waiver agreement shall not experience any resultant disadvantages.

The waiver agreement can be revoked by either party by giving one month notice as per the end of a year with effect for the following year.

3. Health protection measures

a) Information on working hours and rest period regulations

Before conclusion of a waiver agreement, the employer must inform the employees (with special attention to part-time employees) in writing about the statutory and contractual rights and duties regarding working hours, rest periods and health measures.

This information must contain at least the following:

- Contractual weekly working hours or contractual annual working hours and weekly target working hours,
- statutory maximum working hours (including maximum “Überzeit”),
- information on the statutory requirements regarding work at night or on Sundays and regarding breaks and rest periods as well as
- in-house and, optionally, external contact point for questions regarding working hours.

The joint commission pursuant to article 5 of the GAV (joint commission) provides the respective information and may be consulted in an advisory capacity.

b) Prevention

The employer informs all employees before conclusion of the waiver agreement and thereafter at least once a year in appropriate form about potential psycho-social risks and their impact on health.

The information must include the following:

- Cause, nature and impact of psycho-social risks and illnesses,
- the employees’ own obligations to act,
- preventive activities and measures of the employer as well as contact and help centres (in particular in the health protection sector).

Employees with leadership responsibilities shall be specifically informed about their responsibility regarding working hours and rest periods and

shall be sensitised to health measures in general and psycho-social risks in the workplace in particular.

c) Annual talk

Once a year, the employer conducts talks with all employees who signed a waiver agreement which must be recorded in writing and must cover the following issues:

- Volume of work,
- working hours, overtime (Überzeit), work on Sundays and at night, breaks as well as
- stress factors.

4. Contact point and information duties

a) In-house contact point

The employer must name an in-house contact point for all questions regarding working hours and must provide it with the necessary competences for the correct implementation of article 73a ArGV1.

b) Annual reporting to the joint commission

Companies who conclude waiver agreements according to this GAV VAZE are required to inform the joint commission yearly by 31 March about the number of employees who signed waiver agreements and their percentage of the entire staff.

c) Documentation duties

The employer must have the following documentation available for the appropriate labour law inspectorate:

- GAV and GAV VAZE,
- individual waiver agreements concluded with the employees,
- list of all employees who have waived the obligation to register working hours, including the confirmation that the required income threshold according to paragraph 2.b) is met.

5. Sanctions in the case of a violation of the GAV VAZE

The joint commission oversees the implementation of this GAV VAZE and conducts regular exchanges on questions regarding working hours and health measures. In case of an indication of a serious or systematic violation of the GAV VAZE, it sets an appropriate period for the fallible company to implement the GAV VAZE correctly.

Should the joint commission discover that the company continues the serious or systematic violation of the GAV VAZE, it can impose the following sanctions:

- warning,
- exclusion from the GAV VAZE.

The exclusion must be preceded by a warning and the warning by an antecedent setting of a time-limit. The joint commission informs the labour law inspectorate of the imposed sanction.

6. Entry into force and duration

The GAV VAZE enters into force on 1 January 2016. It may be terminated by either contracting party as per 31 December of each year, subject to a three-month notice period.

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