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European Monitoring Centre on Change

Germany: Staff information and consultation on business transfers

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Germany

Phase:

Anticipation

Type: Staff information and consultation on business transfers

Last modified: 16 May, 2019

Native name:

Bürgerliches Gesetzbuch; Betriebsverfassungsgesetz

English name:

Civil Code; Works Constitution Act

Article

613a paragraph 5 and 6 (Civil Code); 111 (Works Constitution Act)

Description

The Civil Code stipulates that if a business or a part of a business passes to another owner by legal transaction, the previous or the future employer must notify employees affected by the transfer in text form prior to transfer of:

1. the date or planned date of transfer;
2. the reason for the transfer;
3. the legal, economic and social consequences of the transfer for the employees; and
4. measures that are being considered with regard to the employees.

The individual worker may object to the transfer of the employment contract to a new employer. Objections have to be voiced in written form within one month after the notification and before the takeover by the new employer.

The Works Constitution Act applies if a works council is in place.

In an establishment with a works council and with at least 21 employees with the right to elect a works council (managerial staff, hired temporary workers and contracted self-employed workers do not hold these rights) the employer shall inform the works council in full and in good time of any proposed alterations which may entail substantial prejudice to the staff or a large sector thereof and consult the works council on the proposed alterations. In establishment that have more than 300 employees, the works council may retain a consultant to support it.

The Works Constitution Act considers the following as alterations:

- reduction of operations in or closure of the whole or important departments of the establishment;
- transfer of the whole or important departments of the establishment;
- the amalgamation with other establishments or split-up of establishments;
- important changes in the organisation, purpose or plant of the establishment;
- introduction of entirely new work methods and production processes.

The Works Constitution Act also applies to establishments with a works council and fewer than 21 employees if the establishment is a dependent business and the parent company has more than 21 employees. The number of staff of the parent company, not of the dependent business, is used as reference.

Comments

No information available.

Cost covered by

Not applicable

Involved actors other than national government

Works council

Thresholds

No, applicable in all circumstances

Sources

- Knuth, M. (2010), National background paper: Germany, Anticipating and managing restructuring in enterprises: 27 national seminars, ARENAS Report, European Commission, Brussels
- [Civil Code](#)
- [Bürgerliches Gesetzbuch](#)
- [Works Constitution Act](#)
- [Betriebsverfassungsgesetz](#)

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