

2018 WAGE AGREEMENT IN THE METAL AND ELECTRICAL ENGINEERING INDUSTRIES

Working time regulations reloaded:
More flexibility - more volume

GESAMT*METALL*

Die Arbeitgeberverbände der Metall- und Elektro-Industrie

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FOREWORD

Dear reader,

It seems that the more complex and complicated a situation becomes, the greater is our longing for simplification. Perhaps this explains why some reports on the 2018 wage agreement in the metal and electrical engineering industries have carried the headline "28-hour week". However, a more fitting heading is rather "More volume - more flexibility".

After all, with this wage agreement we have laid the foundation for a flexible working-hours system for the 21st century. The settlement enables establishments to agree more flexible arrangements for a significantly larger volume of working time. This is a major success. The new regime will also enable us to give our staff more time sovereignty.

Although there is no doubt that the pay increase means a very painful cost burden, it reflects the industry's exceptionally good economic situation. And the fact that the agreement is valid for the long period of 27 months gives our companies and our employees planning security. It is important for many small and medium-sized enterprises to maintain long-term opportunities for differentiation. This was also agreed within the framework of this wage agreement.

As regards working hours, our companies have always supported employees who had to temporarily reduce their working hours. On the other hand, it is also of existential importance for us as entrepreneurs to always have a sufficient volume of working time available, in order to be able to process customer orders. The employers therefore stipulated that we must be able to work longer hours when operational requirements demand it – only then could we concede additional options for shorter working hours. And this is exactly what we have now agreed.



Employees are now able to reduce their working hours for a limited period and then return to working full-time afterwards. The proportion of employees who can make use of this option is limited by a quota.

An even more important point is that, in return, the proportion of employees who are allowed to work more than 35 hours can be significantly increased when needed. This means not only that the volume of work lost through part-time working is offset, but also that capacity can be expanded overall when necessary.

The details seem complex and complicated, but that's what many people thought about the Pforzheim Agreement. And I am certain that the Stuttgart Agreement of February 2018 has excellent prospects of becoming similarly important for the acceptance of the industry-wide collective agreement. In this brochure we would like to explain the main points of the 2018 wage agreement.

! [By the way, in the wage agreement we have agreed additional advantages for companies that are bound by the collective agreement. This brochure also provides more information on this subject.](#)

Best regards,

A handwritten signature in blue ink that reads "Rainer Dulger". The signature is fluid and cursive, with a horizontal line at the end.

Dr. Rainer Dulger
President

LOOKING BACK

To gain a better understanding of what is new, here is a brief summary of the situation up to now

What collective agreements and legal regulations have applied up to now?

Collective agreements:

- ▶ The 35-hour week (in west Germany) and 38-hour week (in east Germany) apply on principle for employees of companies in the metal and electrical industries that are bound by collective agreements. Individual employment contracts may be concluded with up to 13 or 18 percent (depending on the pay-scale region) of the workforce stipulating a working week of up to 40 hours and proportionally higher pay. The works council has a right to information, but no say in actual decisions.
- ▶ Establishments* with a works agreement on temporary work can simultaneously allow "40-hourer contracts" to be concluded with up to 25 or 30 percent of the workforce; however, they must also meet the wishes of employees who ask for a reduction of working hours.
- ▶ In establishments where over half of the workforce are classified in a fixed, relatively high pay group, up to 40 or 50 percent of the workforce may agree to '40-hour contracts'. However, generally only pure research and development locations meet this requirement.

*An "establishment" (Betrieb) is a company's individual production facility, workplace or sales outlet, where goods are produced or sold and services provided. A company can have several establishments.

Legal regulations:

- ▶ According to the Part-Time Work and Fixed-term Employment Contracts Act [TzBfG], every worker is already entitled to reduce his or her working hours to any number of hours (with correspondingly less pay). The employer can refuse this if there are operational reasons for doing so. Employees have no right to return to their previous number of hours. They must, however, be given preferential treatment when a suitable vacancy is to be filled.
- ▶ Furthermore, in its coalition agreement the new Federal Government has announced a law for fixed-term part-time working in which an entitlement to a reduction in hours is to be combined with a right to return to the previous number of working hours.
- ▶ The number of employees using either possibility is not limited.

LONGER WORKING HOURS

No rigid 35-hour week – a combination of options for expanding and reducing working hours

Ways to expand working hours

Building on the existing system, it is not the quotas that have changed; rather, new calculation methods and easier conditions for access lead to a significant increase in the volume of working time.

Three new options for expanding the volume of working time

1 Simplified access conditions applying to the **25/30 percent quota**: the 25- or 30-percent quota applicable hitherto can now be used completely independently of temporary work. In the event of a proven shortage of skilled labour, a corresponding works agreement on this quota is possible and can even be enforced in special emergency situations.

2 The **45/50 percent quota** applicable hitherto can now already be agreed if a majority of employees starting from a much lower pay group than in the past is in favour (i.e. starting from "simple foremen" and "higher foremen"). As a result, this option is open to considerably more establishments than up to now.

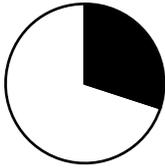
3 An employer can switch from a per-capita quota scheme to one based on the **volume of working time** by notifying – and, where appropriate, holding talks with – the works council. Taking the example of an establishment that does not meet the special conditions for access to an increased quota and has a current quota of 18 percent, this means that, taking the average of all employees at the establishment, 35.9 hours may be worked per employee per week (with 18 percent working 40 hours, 82 percent working 35 hours). In practice, this means that for every employee who works only 20 hours instead of 35, three employees can increase their working hours from 35 to 40 hours. Other averages apply correspondingly for companies operating under the 13-percent quota or the 25/30- or 45/50-percent regulations.

However, under the new system, which offers better opportunities for expanding the volume of working time, the works council has a right to object to further "40-hourer contracts" when the quota is exceeded. The procedure is similar to that used in the case of an appointment or a transfer. Where the – non-expandable – 13- or 18-percent quota is the issue, however, the right to object applies only when the quota is exceeded by 4 percentage points (or 3 points in the regions of Mitte and Thuringia) and after consultations with the works council on how compliance with the quota might be achieved.

MORE VOLUME

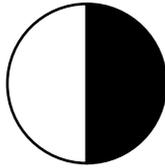
Ways to raise the 40-hour quota as from 1 January 2019

Easier access



25/30 % quota

- Where there is a shortage of skilled labour
 - No longer tied to the collective agreement on agency/temporary work
 - By works agreement



45/50 % quota

- E.g. for technology locations
- Less strict conditions
- By works agreement

New options

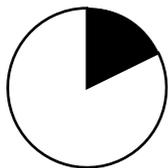


Based on the average

- E.g. 35.9-hour collective volume of working time in an establishment

possible from
1 January

Unchanged regulation



13/18 % quota

- Can be retained in its present form

2019

THE 2018 WAGE AGREEMENT

What happens if an establishment is already exceeding the quota when the collective agreement comes into force?

In this case, talks must be held at the request of one side on how compliance with a/the quota can be achieved. If these talks are unsuccessful, after the expiry of a 24-month period, the works council has a right to object to further "40-hourer contracts" in excess of the quota reached at this point in time.

What can employers do if they have been satisfied up to now, or if the new regulations appear too complicated to them?

Up until 31 October 2018, employers may state to their works council that they would like to remain with the old system. Then nothing will change for them. If they later want to switch to the new system after all, they can do so at any time by giving a notice period of six months.

There is a further innovation in working-hours accounts, which in day-to-day operations can create an additional volume of working time quickly and unbureaucratically for a certain time: in future, an agreement can be concluded with the works council to the effect that up to 50 hours can be paid out per year per employee from a working-hours account in money and without overtime bonuses.

NO RIGID 35-HOUR WEEK

- New regulations on the quota
- Option of a money payout from working-hours accounts

35

- Reduced full-time working
- Option of "exemption" from T-ZUG (A)

SHORTER WORKING HOURS

Reduced full-time working: future statutory entitlements limited by collective agreement

Employees have the right to reduce their working hours to a minimum of 28 hours for up to two years. After expiry of the agreed period, they revert to full-time working. Such an entitlement can also be expected from laws planned by the new Federal Government. The M+E collective agreement should therefore also be seen against this background.

! [The collective agreement limits the planned legal entitlement and thus restricts the impending loss of volume. Furthermore, unlike the system planned under statutory fixed-term part-time working, an application for reduced full-time working may be refused by the employer if the volume of work lost cannot be offset to the same extent.](#)

In addition, according to the collective agreement, no more than 10 percent of the workforce may take reduced full-time working.

! [Moreover, statutory part-time working is also limited to a maximum of 10 percent, and the total percentage of employees working fewer hours than the collectively agreed working week is restricted to 18 percent.](#)

Entitlement to reduced full-time working

- For employees working ≥ 35 hours per week
- After at least 2 years of company service
- From 1 January 2019



- Reduction to a minimum of 28 hours per week
- Maximum reduction period is 2 years
- Repeatable

Can be rejected by the establishment

- if 10 percent of the workforce have already taken the option of reduced full-time working

and/or

- if 18 percent of the workforce have a shorter working week compared to the collectively agreed working week

and/or

- if no substitute with suitable qualifications is available

SPECIAL PAYMENTS

Days off now possible as an alternative to money

- Instead of a normal table-linked pay increase, starting in 2019 there will be two new special payments under the collective agreement (tarifliche Sonderzahlungen) to be paid to employees annually on 31 July – or, if there is a justified reason for postponement, by 30 September at the latest. The supplementary payment T-ZUG (A) amounts to 27.5 percent of an individual's monthly basic earnings. The second special payment T-ZUG (B) is a uniform, index-linked amount: it is identical for all employees and will amount to €400 in 2019.

The 27.5-percent T-ZUG (A) will be paid to all employees. However, three groups of employees can opt for eight additional days off in lieu of the payment:

- ▶ Employees with children up to the age of 8 whom they are personally looking after and bringing up
- ▶ Employees caring at home for parents, children, spouse/partner or parents-in-law with a care-level category of at least 1
- ▶ Employees on shift work

In each case, there are different conditions, e.g. relating to length of company service. Furthermore, the employer can insist on a payment if no substitute (i.e. another employee) with suitable qualifications can be found to offset the volume of work lost. This must be discussed by the employer and works council. Another employee who works correspondingly longer hours during this time will not count towards the "40-hourer quota".

- **The new special payments are given different names in some pay-scale regions: T-ZUG (A) is called T-ZUG, and T-ZUG (B) is referred to as the "additional contribution" (Zusatzbeitrag) or the "contribution" (Beitrag). To ensure greater clarity, this brochure refers only to T-ZUG (A) and T-ZUG (B).**

Supplementary payment
T-ZUG (A) amounting to
27.5 %

Can be rejected

Employers have a
right of rejection if
volume loss cannot
be offset within
the establishment

Option I

- Special payment for all instead of a second-stage pay increase
- 27.5% of an individual's monthly earnings
- In July

Option II

- Optional working-hours module
- Volume: 8 days

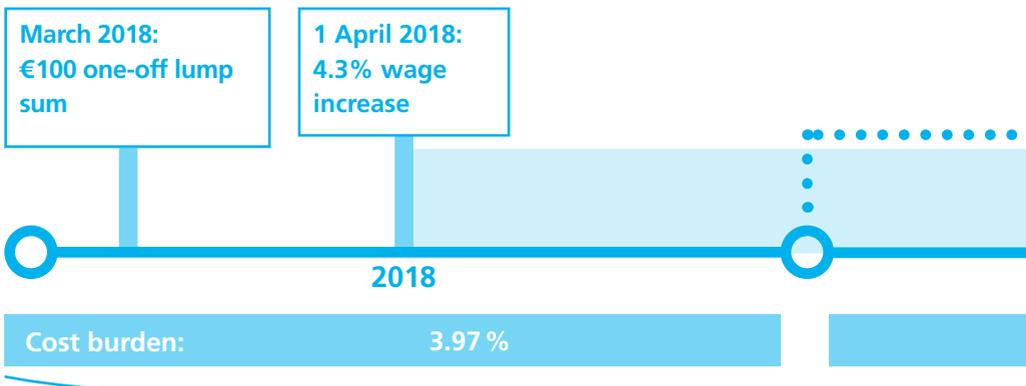
Strict conditions

Switch possible (only)
for certain employees:

- Children's education
- Nursing care
- Shift work

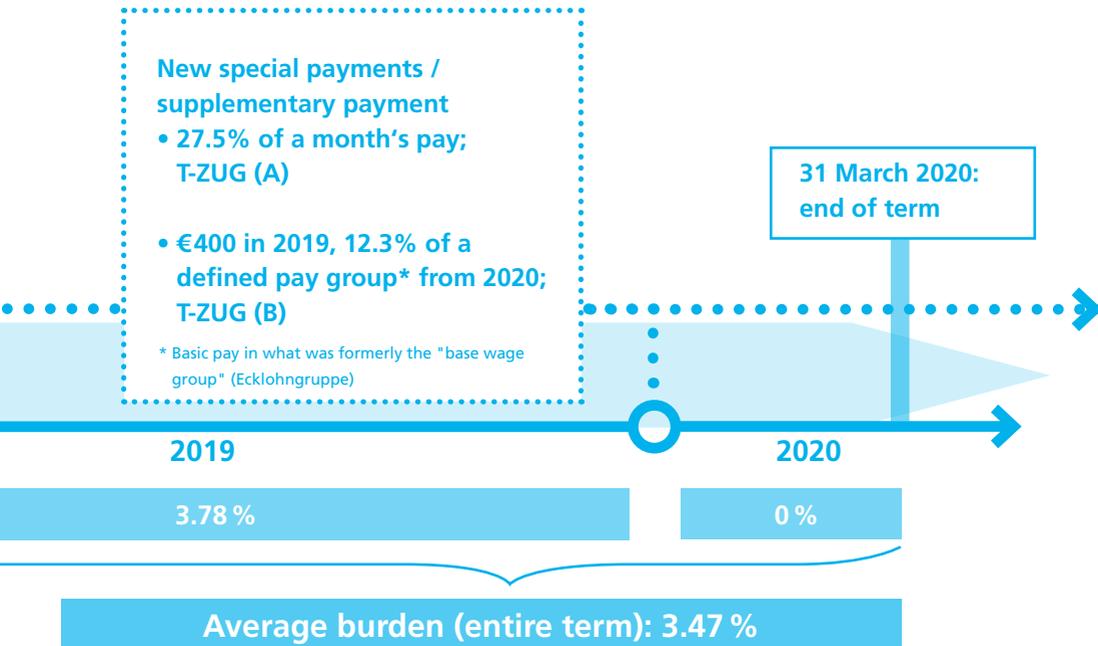
PAY

Higher cost burden – on the other hand: a long contract term and permanent flexibilization options



The collective bargaining agreement begins on 1 January 2018 and ends on 31 March 2020; it includes a total of four modules relating to pay:

- ▶ A lump sum of €100 has been agreed for all employees for March 2018.
- ▶ On 1 April 2018, wages and apprentices' pay will rise by 4.3 percent.
- ▶ Starting from 2019, there will be two special payments every July: T-ZUG (A) amounting to 27.5 percent of an individual's monthly pay and T-ZUG (B) amounting to a further €400 for 2019 and 12.3 percent of the basic pay of a defined pay group (formerly "base wage group" [Ecklohngruppe]) in the following years.



- ▶ With the prior consent of the parties to the collective agreement, T-ZUG (B) (€400 / 12.3 percent) may be cancelled, reduced or postponed. This opportunity for differentiation applies beyond the term of the collective agreement!

The nationwide cost burden in the 2018 calendar year thus amounts to 3.97 percent (including costs from the previous agreement, which amount to 0.45 percent); in 2019 it will be 3.78 percent. The average cost burden over the full term amounts to 3.47 percent. If the differentiation opportunities are fully utilized, the burden for 2019 can be reduced to 3.06 percent and the overall burden to 3.14 percent.

FURTHER INFORMATION

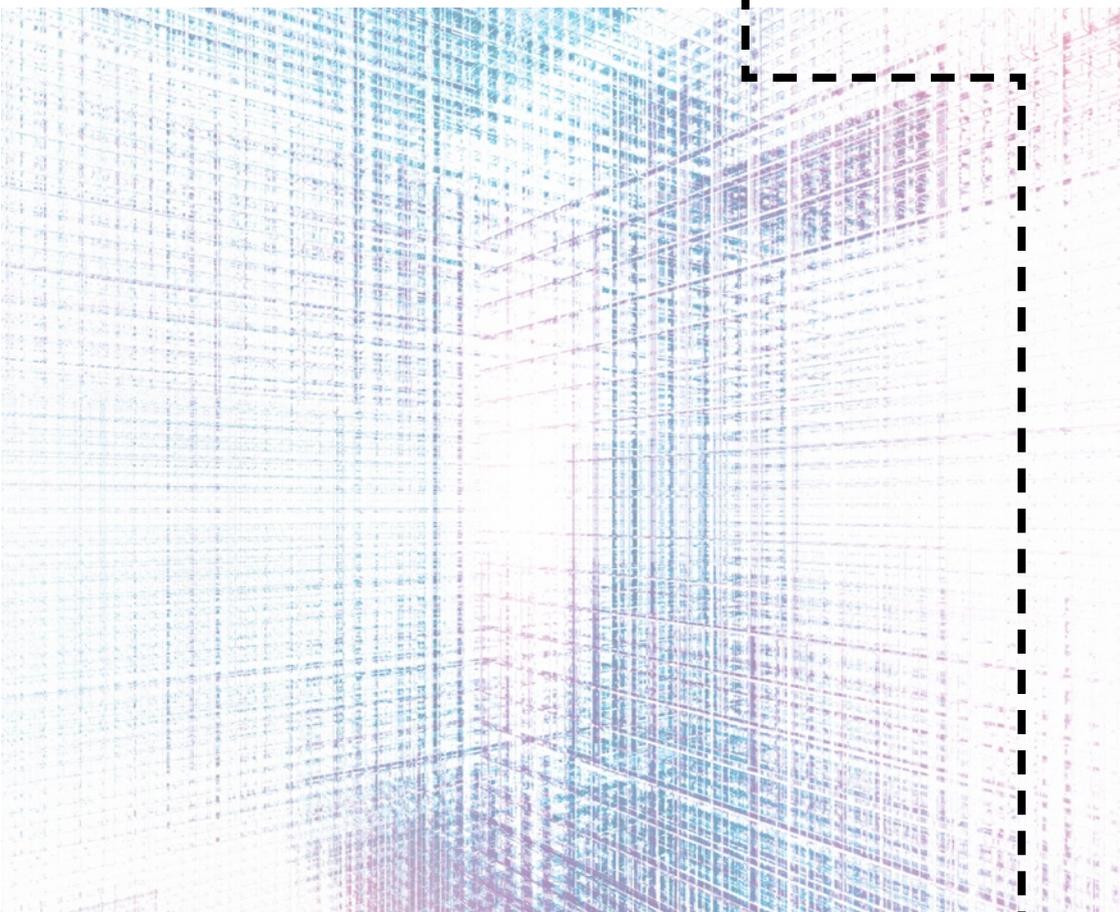
Successes in the fields of mobile working and occupational retirement provision

A number of additional agreements have been concluded. The most important for day-to-day operations is probably the general conditions on **mobile working**. There is no obligation to conclude a works agreement on mobile working, and employees have no entitlement to mobile working. However, when the arrangement under the collective agreement is applied, a person who chooses mobile working and works late or at night of their own free choice will not be paid bonuses for late or night-time working. [! Furthermore, statutory rest periods will be reduced from eleven to nine hours if the employees themselves can select the beginning or end of the working hours and there is compensation.](#)

These, too, were long-standing demands of the employers. Moreover, the possibility of deviating from the statutory rest period places companies bound by collective agreements in a better position than companies without a collective agreement on a further point.

[! In the field of **occupational retirement provision**, the companies have been spared considerable administrative and cost burdens. \[Since the parties to the collective agreement already agreed in 2001 that in the metal and electrical engineering industries, because of the administratively complex choice options open to employees, the social security contributions that are saved in the case of deferred compensation are not to be passed on to the employees, this arrangement has been successfully confirmed – despite revision by the "Strengthening Occupational Pensions Act" and the obligation it contains to pass on up to 15 percent of the deferred pay.\]\(#\)](#) This also represents an advantage for companies bound by collective agreements.

Furthermore, as from 2019 **trainees** will, where appropriate, receive a further paid day off to prepare for examinations, a measure that will hopefully also benefit training companies.



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Gesamtmetall | Federation of German Employers' Associations in the Metal and Electrical Engineering Industries

Vossstrasse 16
10117 Berlin
Germany

Telephone: +49 (0)30 55150-0
Telefax: +49 (0)30 55150-400

info@gesamtmetall.de
www.gesamtmetall.de/english
www.facebook.com/MEArbeitgeber
www.twitter.com/MEArbeitgeber

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