

Scientific Career and Parenthood

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**DEUTSCHER
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Köpfe die Wissen schaffen

The Act of Academic Fixed-Term Contract (1)

On April 18th, 2007, the Act of Academic Fixed-Term Contract (so called Wissenschaftszeitvertragsgesetz) came into force. The Act contains rules for temporary employment of scientific, research and artistic staff at higher education institutions (e.g. the University of Hamburg) and research facilities. The Act applies equally to German and foreign academic staff.

The Act of Academic Fixed-Term Contract (2)

Employment contracts of scientific staff can be limited up to 12 years and for medical staff even 15 years (Section 2 Paragraph 1 of the Act). The 12-years-limit is called the maximum fixed-term contract period or qualification phase.

The Act of Academic Fixed-Term Contract (3)

Section 2 Paragraph 1 regulates the employment for scientific or research associates (in German: “wissenschaftlicher Mitarbeiter” or “wissenschaftliche Mitarbeiterin”), scientific or research assistants (in German: “wissenschaftliche Hilfskraft”) and student assistants (in German: “studentische Hilfskraft”) funded by university or research facility. The Act does not apply to university professors.

The Act of Academic Fixed-Term Contract (4)

Section 2 Paragraph 1 contains the regulations concerning the duration of the qualification phase: Fixed-term employment contracts for the research and scientific staff, who have not been awarded a doctorate, are permissible for a limitation period of six years. So, during this prior qualification phase a dissertation should be written by the employee. Following completion of a doctorate, fixed-term contracts up to duration of six years are permissible. In this post-doc phase, the staff should achieve further qualification such as gaining a professorship.

The Act of Academic Fixed-Term Contract (5)

If the fixed-term employment in the phase without doctorate was less than the maximum permitted six years, the limitation period in the post-doc phase extends correspondingly by the time not used in the prior limitation period. So, the maximum duration of the fixed-term contract prior and after the doctorate amounts to a total of the permissible 12 years.

The Act of Academic Fixed-Term Contract (6)

How to calculate the limitation period of 12 years: all fixed-term employment relationships with more than a quarter of the regular working time which have been entered into with a German institution of higher education or a research facility as well as corresponding temporary civil servant relationships or private contracts pursuant to Section 3 must be counted to the permissible fixed-term period of 12 years regulated in Section 2 Paragraph 1.

The Act of Academic Fixed-Term Contract (7)

How to calculate the limitation period of 12 years: Also, periods without employment at a German university or research facility in which the employee worked at his dissertation has to be counted for the maximum duration of the qualification phase! Employment periods as a research or scientific student shall not be counted to the permissible maximum duration of the qualification phase.

The Act of Academic Fixed-Term Contract (8)

Section 2 Paragraph 1 of the Act contains the regulations in case of the scientific or research staff is being funded by university or research facility. For this kind of staff, the limitation period of the employment can extend – if there is a will and the possibility of financing through the university or research facility – in case of care for one or more children under the age of 18 living in the same household as the employee for two years for each child.

Reduction of working hours

Section 2 Paragraph 5 Sentence 1 Number 1 rules that the duration of a fixed-term employment contract is extended with the consent of the employee by times of a maternal or parental leave or a reduction of the working hours by at least a fifth of the regular working hours that have been granted in order to care for a look after one or more children under the age of 18 or other family members requiring care. This extension is not counted to the fixed-term period permissible in **Section 2 Paragraph 1.**

Maternal and Parental Leave

Section 2 Paragraph 5 Sentence 1 Number 3 of the Act contains this family-friendly rule: the respective duration of a fixed-term employment contract pursuant to Section 2 Paragraph 1 is extended with agreement of the employee – father or mother - by times of taking parental leave pursuant of the Federal Act on Parental Benefits and Parental Leave (so called Bundeselterngeld- und Elternzeitgesetz) and times of a ban on working pursuant to Sections 3, 4, 6 and 8 of the Maternity Protection Act (the German “Mutterschutzgesetz”) to the extent that no gainful employment has taken place.

Family-friendly rules in case of contracts being funded by university

The family-friendly rules in Section 2 Paragraph 1 (the possible prolongation for each child under the age of 18) and in Paragraph 5 (the possibility of extension in case of maternal and parental leave or in case of leave or reduce the working hours for childcare) allow the extension of the qualification phase before and after the doctorate for employees with fixed-term contracts pursuant to Section 2 Paragraph 1.

Family-friendly rules in case of third-party funding? (1)

The family-friendly rules are not mentioned in the regulations for the third-party funded staff pursuant to Section 2 Paragraph 2. So, the situation for employees in positions financed by third parties is in case of childcare and parenthood much more complicated. The universities and research facilities have no due to extend the third-party- funded contracts in case of maternal or parental leave or in case of reduce the working time for childcare.

Family-friendly rules in case of third-party funding? (2)

Here, an extension of the employment contract is only possible if the project financed by third party funding continues also after the employment contract expires and when therefore personnel funding is still available. Third-party-funded projects financed from the German Research Foundation (DfG) often contain the financial opportunities for an extension in case of parenthood. Furthermore, some universities or research facilities have special substitute funds for such kind of extension.

Third party funding (1)

Section 2 Paragraph 2 contains rules that third-party-funded research staff can be legally employed in the university or research facility on fixed-term contracts – even beyond the end of their qualification phase. The permitted contractual period is based on the duration of the grant.

Third party funding (2)

The conditions for this type of third-party-funded limited contract are:

(1) The overwhelming majority, i.e. at least more than half (50 percent + x) of the funding for the position in question must come from external sources.

(2) The third-party funding must be made available for a specific research project and for a limited period of time.

(3) Fixed-term contract employees must also be occupied mainly with tasks pertaining to this research project.

Act of Part-Time Work and Fixed-Term Employment Contracts

Section 1 Paragraph 2 of Act of Academic Fixed-Term Contract regulates, that this framework does not affect the right of the institutions of higher education or research facilities to employ the scientific or research staff also in accordance to the Act of Part-Time Work and Fixed-Term Employment Contracts (in German: Teilzeit- und Befristungsgesetz). For contracts based on this Act there has to be an objective reason for the fixed-term employment.

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Thanks for listening!
Do you have any
questions?