

# JUSTICE DURING THE CORONA CRISIS!

ÖGB



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## What is special care time ("Sonderbetreuungszeit") and how do I get it?

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The good news for employees is: The Chamber of Labour (AK) and the Austrian Trade Union (ÖGB) have accomplished a legal entitlement to "special care time" ("Sonderbetreuungszeit"). The law has already passed the main Chamber of the Austrian Parliament ("Nationalrat"), but must be confirmed by the second Chamber ("Bundesrat") and must be signed by President Van der Bellen until the new regulations enter into force. **For the time being the previous (old) regulations on special care time remain in force!**

It needed a lot of persuasive effort by AK and ÖGB to convince the Austrian government to grant parents legal entitlement to special care time ("Sonderbetreuungszeit"). The new regulation give parents the right special care time if they have to look after their child because

- kindergarten or school are closed and no childcare is provided
- or their child is quarantined

It will remain possible to arrange special childcare hours by mutual agreement, even if school or kindergarten do offer emergency care. The employer can receive a 100% reimbursement of costs. (as of 22.11.2020) so there a substantial incentive for employers to agree.

**So this is what we have (almost) achieved by now.:**

- Legal entitlement to special care time under the conditions given above.
- Possibility of care time by agreements where legal rights are not applicable.
- Extension of maximum duration from three to four weeks per parent
- the new regulation remains in force until 9.7.2021.
- 100% reimbursement of costs for employers by the federal government.

**Note:** The regulations described below concern the special care period „old“ ("Sonderbetreuungszeit alt"), which was introduced in March 2020 and extended as of 1 October 2020.

These regulations will remain in force for the time being, until the parliamentary decision from 20<sup>th</sup> of November 2020 enters into force.

If you reach an agreement with your employer to have a special care period according to the current “old” regulations after the 1<sup>st</sup> of November 2020, this will subsequently be credited to the „new“ special care period.

### **CURRENTLY AS OF 22<sup>ND</sup> OF NOVEMBER 2020 THE FOLLOWING (“OLD”) REGULATIONS APPLY:**

#### **➤ What is special care time?**

If you would like to look after your child at home because your child's school or kindergarten is completely or partially closed, you can agree on a special childcare period (“Sonderbetreuungszeit”) of up to three weeks with your employer. This can also be done in parts of full-day or half-day. It can also be done during school holidays (Christmas and semester breaks) and school-autonomous days, regardless of whether so-called emergency care “Notbetreuung” is still guaranteed at school.

So if you need to do so, you can use the special care period also at the beginning of the „second lockdown“, as long as you reach an agreement with your employer. There is unfortunately not yet a legal entitlement to the special care period until the new regulations enter into force. Your employer will receive reimbursement of costs incurred by him for this agreed special care period from the Federal Government. Therefore, “cost to the employer” will not provide a reason for not using this possibility!

#### **➤ How do I get special care time?**

Special care time can only be granted if your child is under 14 years of age and your presence at the workplace is not a vital necessity to keep the business going. Employees and employers have to reach an agreement on this point.

It is also possible to agree on a special care period if you are a relative responsible for giving care to a person in need, if the previous carer (according to the requirements of the Home Care Act) can no longer secure the needed services.

#### **➤ Does the special care period also apply to people with disabilities?**

Yes. It also applies to people with special needs, regardless of their age, if the facilities usually looking after them are now only in operation with restrictions or closed.

It is also possible to agree on special care periods if personal assistance for people with disabilities is no longer guaranteed as a result of COVID-19. In this case, relatives of the person to be cared for can use the special care time. A common household is not required.

**➤ What if my child gets sick? What rights apply in this case ?**

You are entitled to absence for care even if you do not live in a common household. Each parent is entitled to 1 week care leave (“Pflegefreistellung”) per working year – to the extent of the normal weekly hours. In addition, there is a second week off work per year for each parent if the child is below 12 years old.

As each parent has the right to leave of absence for care, you can share the care obligation between parents.

If you are claiming leave of absence for care, you must inform your employer as soon as possible.