

CIRCULAR

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By: Human Resources		Academic Fixed-Term Contracts Act (Wissenschaftszeitvertragsgesetz, WissZeitVG) (amendments)	
	Date: March 8, 2016	This circular replaces the circular of January 5, 2005 and May 7, 2007	

Amendments to the Academic Fixed-Term Contracts Act (Wissenschaftszeitvertragsgesetz, WissZeitVG)

Ladies and Gentlemen,

Amendments to the Academic Fixed-Term Contracts Act (WissZeitVG) are about to enter into effect. In the following, we would like to inform you about the resulting changes.

I. Fixed-term contracts under Section 2 (1) of the Act: funding from TUB budget or non-project-specific third-party funds

In the future, fixed-term contracts must be for **young researchers/artists working towards an academic/artistic qualification**. The length of the fixed-term contract must be such that the qualification goal is attainable in the allotted time. The following cases are distinguished:

1. Graduate qualification goals

a) Doctorate

By resolution of October 28, 2008, the Board of Trustees adopted revised regulations (*Verwaltungsvorschriften*) on fixed-term contracts for academic and artistic employees at TU Berlin (see Attachment 1) in order to lay down standard rules on TUB budget-funded fixed-term contracts for such employees. The revised regulations stipulate that fixed-term contracts with academic/artistic employees with teaching responsibilities must be entered into for the purpose of working towards a further qualification (generally a doctorate). The length of the fixed term is generally to be five years. Under the Board of Trustees resolution, it was also possible to enter into an initial three-year contract with a two-year extension option. This is no longer possible as a prognosis on the expected attainment of the qualification goal now has to be given at the time of appointment. A shorter contract term is permitted if it can be predicted with reasonable certainty that a doctorate is attainable in a shorter period. This might be the case, for example, in DFG projects where it is stated in the grant approval notice that the project work includes the possibility of completing a doctorate in three years. A three-year contract can be combined with the attainment of a doctorate in such cases as the contract does not contain any teaching commitments (unlike a contract with TUB budget funding). If contrary to initial predictions the doctorate is not completed by the end of the contract and there are valid reasons for the delay, it may be possible to extend the contract provided that it remains within the maximum duration provided for under the Academic Fixed-Term Contracts Act.

b) Other qualification goals

For other qualification goals, please see the non-exhaustive list in Attachment 3. It remains important to note that at graduate level especially, the academic skills to be acquired must include a specific qualification goal and not just preparation for an academic and research career.

2. Postdoc qualification goals

a) Preparation for first professorship

The acquisition of additional academic and artistic capabilities together with the teaching skills in readiness for a first professorship constitute a qualification goal. The length of the fixed-term contract must be such that the qualification goal is attainable in the allotted time (see I above).

b) Habilitation (venia legendi)

The length of fixed-term contracts for this purpose is governed by the revised regulations on fixed-term employment of academic and artistic employees dated October 28, 2008. The same considerations apply regarding the length of contract as for doctorates (see I.1.a).

c) Other qualification goals

For other qualification goals, please see the non-exhaustive list in Attachment 3.

3. Future procedure at TUB:

a) Job advertisements

The qualification goal must be stated in future job advertisements on the qualification goal form enclosed as Attachment 2. Jobs for research associates can be advertised on either a doctoral or a postdoc basis.

b) Appointment request

If an appointment request (*Einstellungsantrag*) is not based on a prior job advertisement, the qualification goal form enclosed as Attachment 2 must be filled out and submitted along with the other usual supporting documentation. The qualification goal form must state the qualification goal and valid reasons for the timescale deemed appropriate for its attainment.

II. Fixed-term employment of academic/artistic employees with predominantly third-party funding under Section 2 (2) of the Academic Fixed-Term Contracts Act

1. Changes in the law

If a fixed-term position is predominantly third-party funded, the funding has been allocated for a specific task and period of time and the employee is predominantly employed in accordance with purpose for which the funding is allocated, the **length of the fixed-term contract** for future appointments corresponds to the **length of the project**. The length of future fixed-term contracts cannot differ from the approved length of the project. There will therefore be no longer any scope for basing the length of the contract on the availability of TUB budget funding. Examples of where shorter-length contracts remain possible include where a project contains work packages for specific time periods with tasks that are no longer called for in the remainder of the project, or where a project includes shorter-length subprojects. The project leader provides verification of the project term or the shorter-length contract term.

Allocation of funding for less than the full length of the project (such as where funds are reallocated annually over a three-year project) does not constitute sufficient grounds on its own for a shorter-term contract.

There may also be the possibility of fixed-term employment under the Part-Time and Fixed-Term Contracts Act (*Teilzeit- und Befristungsgesetz, TzBfG*)

2. Future procedure at TUB:

a) Job advertisements

Future vacancies must be advertised for the entire project duration. If specific tasks and subprojects of shorter duration are provided for in the approval notice, they may be advertised for a shorter duration. If the reason for fixed-term employment is a temporary need for additional capacity, the form enclosed as Attachment 4 must be submitted.

b) Appointment request

The appointment request must be submitted with supporting documentation to the appropriate human resources team as before. Please see II.2.a) for cases where an appointment request is not preceded by a job advertisement.

c) Further consequences

Under the amended Academic Fixed-Term Contracts Act, fixed-term employment funded out of left-over funding, profit-making activities, overhead funding, etc. is only allowed on the basis of a suitable qualification goal (see Attachment 3). There may also be the possibility of fixed-term employment under the Part-Time and Fixed-Term Contracts Act.

III. Fixed-term employment of accessory (non-academic) staff under Section 2 (2) Sentence 2 of the Academic Fixed-Term Contracts Act

Section 2 (2) of the Academic Fixed-Term Contracts Act likewise previously permitted fixed-term contracts for accessory staff (such as technicians, administrative staff and employees with academic degree qualifications) provided that the fixed-term position was predominantly third-party funded, the funding was allocated for a specific task and period of time and the employee was predominantly employed in accordance with purpose for which the funding was allocated.

Fixed-term contracts for accessory staff are no longer possible under Section 2 (2) of the Act since the amendments to the Act came into force.

Future procedure at TUB:

Accessory staff can be employed under fixed-term contracts in the future under the Part-Time and Fixed-Term Contracts Act (*Teilzeit- und Befristungsgesetz, TzBfG*). Any appointment of accessory staff on a fixed-term contract requires an objective reason (such as a temporary need for additional capacity or as a stand-in for another employee). If the reason for fixed-term employment is a temporary need for additional capacity, the form enclosed as Attachment 4 must be submitted. A contract with a fixed term of up to two years may also be entered into without an objective reason if the individual has not previously been employed with TUB. Fixed-term contracts are also permitted under special provision for such contracts in other legislation, such as Section 21 of the Federal Parental Allowance and Parental Leave Act (*Bundeselterngehalt- und Elternzeitgesetz, BEEG*).

IV. Student assistants

Future fixed-term contracts for student assistants are governed by Section 6 of the Academic Fixed-Term Contracts Act. Fixed-term contracts for academic or artistic assistance positions can be entered into as before for a total cumulative duration of six years with students enrolled for first or higher degree studies at a German institution of higher education. Note that additional stipulations also continue to apply under the Berlin Higher Education Act (*Berliner Hochschulgesetz*) and the collective agreement for student assistants (*TV Stud II*).

Employment related to a course of study, even if it is not on a fixed-term basis under Section 6 of the Academic Fixed-Term Contracts Act, is no longer to be taken into account against the permissible length of a fixed-term contract stipulated under Section 2 (1) of the Act for academic or artistic employees working towards a graduate qualification.

V. Family policy component

The amended wording of the Academic Fixed-Term Contracts Act makes clear that the family policy component applies not only to biological children, but to all children in a stable long-term family relationship. This notably includes stepchildren and foster children. Supplementary notes will be provided on how the family policy component is applied.

As before, the family policy component does not apply to fixed-term contracts with third-party funding under Section 2 (2) of the Act.

VI. Disability/severe chronic illness

In cases of fixed-term employment with the purpose of working towards an academic qualification under section 2 (1) of the Academic Fixed-Term Contracts Act where the employee has a disability as defined in Section 2 (1) of Book IX of the German Social Code (SGB IX) or has a severe chronic illness, the maximum total duration of fixed-term employment may be extended by two years. It is necessary to state to what extent the disability or severe chronic illness is the reason for non-attainment of the qualification goal. It is also necessary to state, with reasons, the length of time expected to be needed to attain the qualification goal. Any severe chronic illness must be substantiated with a doctor's note.

VII. Additional grounds for extension under Section 2 (5) of the Academic Fixed-Term Contracts Act

In addition to the existing scope for extending fixed-term contracts under Section 2 (1) of the Academic Fixed-Term Contracts Act – such as in the event of taking parental leave or being granted leave of absence for other academic or artistic employment – the length of contract can now be extended, with the employee's consent, by the duration of any incapacity due to illness during which there is no entitlement by law or collective agreement to sick pay. The amended wording also makes clear with regard to all grounds for an extension set out in Section 2 (5) of the Act that, to the extent that they result in the extension of a fixed-term contract, the time periods in question are not taken into account against the permitted maximum duration of fixed-term employment.

As the amendments mean some major changes to procedure, we request that you submit job advertisement requests and appointment/contract renewal requests in good time to ensure that they can be processed without problem.

Your human resources team and human resources officer will be pleased to help with any questions, especially in the initial transition phase. The TUB human resources officers may be contacted as follows:

Faculties II, V, ZELMI, tubIT: Benjamin Klingbeil, phone: 28230; email: Benjamin.Klingbeil@TU-Berlin.de

Faculties VI, ZUV, UB: Margrit Kahl, phone: 22556; email: Margrit.Kahl@TU-Berlin.de

Faculties I, III, IV, VII, ZEMS, ZEH, ZEWK, El Gouna: Axel Kolbow, phone: 24708; email: Axel.Kolbow@TU-Berlin.de

Yours sincerely,

On behalf of
Human Resources