



NETHERLANDS

Decent Work Check 2019

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WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

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Bibliographical information

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INTRODUCTION

Decent Work is the type of work for which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental principles and Rights at Work and Core ILO Conventions, are practiced, promoted and respected.

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., **Decent Work Check**. The Decent Work Check considers different work aspects, which are deemed important in attaining "decent work". The work makes the rather abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and gives a score to the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Workers can compare their own score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

Decent Work Check is useful both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also useful for researchers, labour rights organizations conducting surveys on the situation of rights at work and general public wanting to know more about the world of work. WageIndicator teams, around the world, have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed - being a workers, self-employed, employee, employer, policy maker, labour inspector - there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer) and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work especially the effective enforcement of legislation in financially constrained states, rise of precarious employment and measuring the impact of regulatory regimes.

Currently, there are more than 100 countries for which a Decent Work Check is available here: www.decentworkcheck.org During 2019, the team aims to include at least 10 more countries, thus taking the number of countries with a Decent Work Check to 115!

Major Legislation on Employment and Labour

1. Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek)
2. Minimum Wages and Minimum Holiday Allowances Act of 27 November 1968 (Wet minimumloon en minimumvakantiebijslag)
3. Decree concerning Minimum Wages for Young Workers of 29 June 1983 (Besluit minimumjeugdloonregeling)
4. Decree on the Adjustment of Minimum Wage from 1 July 2014 (Regeling van de Minister van Sociale Zaken en Werkgelegenheid van 13 mei 2014, 2014-0000059768, tot aanpassing van het wettelijk minimumloon per 1 juli 2014)
5. Decree on the Adjustment of Minimum Wage from 1 January 2015 (Regeling van de Minister van Sociale Zaken en Werkgelegenheid van 14 oktober 2014, 2014-0000146254, tot aanpassing van het wettelijk minimumloon per 1 januari 2015)
6. Working Time Act (Arbeidstijdenwet) of 23 November 1995
7. Working Hours Decree (Arbeidstijdenbesluit) of 4 December 1995
8. Extraordinary Decree on Labour Relations 1945 (BBA);
9. Dismissals Decree (Ontslagbesluit), 1998
10. Working Conditions Decree (Arbeidsomstandighedenbesluit) of 15 January 1997
11. Work and Care Act of 16 November 2001 (Wet arbeid en zorg)
12. Working Hours Adjustment Act of 19 February 2000
13. Extra Parental Leave 2018 (Wet Invoering Extra Geboorteverlof)
14. Working Conditions Act (Arbeidsomstandighedenwet) of 18 March 1999
15. Sickness Benefits Act (Ziektewet) of 5 June 1913
16. Health Insurance Act (Zorgverzekeringswet) of 16 June 2005
17. The Disability Insurance Act (Wet op de arbeidsongeschiktheidsverzekering-WAO) of 18 February 1966
18. The Work According to the Labour Capacity Act (Wet Werk en Inkomen naar Arbeidsvermogen-WIA) of 10 November 2005
19. General Old Age Pensions Act (Algemene Ouderdoms Wet-AOW) of 31 May 1956
20. General Surviving Relatives Act (Algemene Nabestaanden Wet-ANW) of 21 December 1995
21. Unemployment Benefits Act (Werkloosheidswet-WW) of 6 November 1986
22. Dutch Constitution of 1815, last amended in 2008
23. General Equal Treatment Act (AWGB) of 2 March 1994
24. Equal Treatment (Disability and Chronic Illness) Act (WGBH/CZ) of 3 April 2003
25. Equal Treatment in Employment (Age Discrimination) Act (WGB 1) of 17 December 2003
26. Equal Treatment (Men and Women) Act of 1 March 1980
27. Equal Treatment (Working Hours) Act (Wet verbod op onderscheid naar arbeidsduur, WOA) of 3 July 1996
28. Equal Treatment (Temporary and Permanent Employees) Act (Wet onderscheid bepaalde en onbepaalde tijd, WOBOT) of 7 November 2002

29. Regulations on Child Labour (Nadere regeling kinderarbeid)
30. Dutch Penal Code (Wetboek van Strafrecht) of 3 March 1881
31. Foreign Nationals Employment Act (Wet arbeid vreemdelingen) of 21 December 1994
32. Dutch Works Council Act (Wet op de ondernemingsraden) of 28 January 1971
33. Collective Agreements Act (Wet op de collectieve arbeidsovereenkomst) of 24 December 1971
34. Act on Declaring Provisions of Collective Agreements Generally Binding and Non-Binding (Wet op het algemeen verbindend en het onverbindend verklaren van bepalingen van collectieve arbeidsovereenkomsten) of 25 May 1937

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

Netherlands has ratified the Conventions 95 & 131 only.

Summary of Provisions under ILO Conventions

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

Regulations on work and wages:

- Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek)
- Minimum Wages and Minimum Holiday Allowances Act of 27 November 1968 (Wet minimumloon en minimumvakantiebijslag)
- Decree concerning Minimum Wages for Young Workers of 29 June 1983 (Besluit minimumjeugdloonregeling)
- Decree on the Adjustment of Minimum Wage from 1 July 2014 (Regeling van de Minister van Sociale Zaken en Werkgelegenheid van 13 mei 2014, 2014-0000059768, tot aanpassing van het wettelijk minimumloon per 1 juli 2014)
- Decree on the Adjustment of Minimum Wage from 1 January 2015 (Regeling van de Minister van Sociale Zaken en Werkgelegenheid van 14 oktober 2014, 2014-0000146254, tot aanpassing van het wettelijk minimumloon per 1 januari 2015)

Minimum Wage

Minimum Wage is regulated in Netherlands through separate legislation set by the Ministry of Social Affairs & Employment, the Minimum Wages and Minimum Holiday Allowances Act (Wet minimumloon en minimumvakantiebijslag), while the wages of young workers are governed by the Decree concerning Minimum Wages for Youth Workers of 29 June 1983 (Besluit Minimumjeugdloonregeling), as amended up to 20 July 2012. Hence, there is more than one minimum wage.

Worker and Employer are free to determine wages in an employment contract however provisions of Minimum Wages and Minimum Holiday Allowances Act must be taken into account. Workers cannot be paid less than the statutory minimum wage specified for a particular age group. Nearly 80% of the workers are covered under sectoral or enterprise level agreements and are entitled to pay scales provided in these agreements. Legislation provides for different pay scales for workers aged 22 and over and for young workers (aged 15-21). Youth workers between 15 and 21 years old receive a % of the adult minimum wage rate, which is fixed as follows: Workers of 21 years are entitled to 85%; Workers of 20 years old are entitled to 70%; Workers of 19 years old are entitled to 55%; Workers of 18 years old are entitled to 47,5%; Workers of 17 years old are entitled to 39,5%; Workers of 16 years old are entitled to 34,5%; Workers of 15 years old are entitled to 30%.

The amount of minimum wage is adjusted every 6 months (on 1 January & 1 July) based on the average development of negotiated wages in the country. Other than level of negotiated wages, social security benefits, economic development and level of employment is considered while fixing the minimum wage. For an overview of the current minimum wage, the Minimum Wage Check can be consulted. Both WageIndicator and the government show gross rates. Wages are calculated on a daily, weekly, monthly and yearly basis. The Statutory Minimum Wage includes everything, except for the statutory 8% holiday allowance.

The above-mentioned wage rates apply to the full-time workers. The full-time work week ranges between 36-40 hours, depending on the sector in which a worker is employed and is usually determined in a sectoral collective agreement. If a worker suspects that they are being paid under the minimum wage, their trade union can help. Sanctions and fines are sometimes being applied, where the amount depends on how much the paid wage differs from the legal minimum wage and holiday allowance.

In the Netherlands there is no 'official' definition for the national poverty line. However, the CBS bases the poverty line on the low-income barrier. The minimum wage is 100% of the social assistance norm for a family per month. For a single parent this is 70% of the minimum wage. For a single person this is 50% of the minimum wage.

Sources: Minimum Wages and Minimum Holiday Allowances Act of 27 November 1968; Decree concerning Minimum Wages for Young Workers of 29 June 1983; Decree on the Adjustment of Minimum Wage from 1 January 2018

Regular Pay

The term wage means the cash income from employment except premium for overtime, holiday allowance, profit distribution, benefits on special occasions, etc. (section 6(3) of the Minimum Wage Act)

Wages may consist of the following elements: money (cash); goods for personal use (except liquor and drugs/harmful substance) if it is desirable in view of the nature of the enterprise of employer; accommodation/housing including lighting and heating; services and supplies, activities provided by the employer including education, board and lodging; and shares, claims, stocks, vouchers and receivables.

The only condition regarding in-kind payments is that the employer cannot assign a higher than the real market value to goods for personal use, accommodation and board & lodging services.

An employee must be paid his/her wages at the pre-determined/agreed time on daily, weekly, four-weekly or monthly basis. The maximum wage payment period is one month. Payment may be made in cash or to a bank account and should be in the Dutch legal tender, unless agreed otherwise. Wages may be paid at the workplace, at the employer's office or at the employee's home. As part of the present Minimum Wage Act the employer is required to pay at least the amount of minimum wage to the worker's bank account.

Wages must be paid a week after the wage period but not later than a month. The period can be extended on the basis of a written agreement however the extended period cannot be longer than one month in case the weekly wage (or even less than a week) and three months in case of monthly wage. If wages are delayed from the agreed periods and non-payment is attributable to the employer, employee is entitled to certain increase in wages.

On the occasion of wage payment, an employer must also provide a written or electronic itemised pay slip indicating the amount of wages, their composition, deductions, working hours and amount of statutory wage that person of the worker's age is entitled to.

A contractual provision which gives an employer the right to withhold worker's wages on the pay day is null and void unless the workers has given a written consent allowing certain deductions to make payments such as contributions to occupational pension schemes, repayment of wages paid in advance or overpaid wages, rent for accommodation linked to the job, and compensation or penalties in certain limited circumstances.

It is not allowed for employers to appropriate any tips, received by their workers, towards themselves. Likewise, no agreement of this kind can be included in a worker's contract. It is moreover forbidden to subtract the total amount of tips from the wage a worker has earned. However, the employer is allowed to introduce a tip jar, to allocate the received tips evenly under all of the workers.

Sources: §616-633 of Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek), Minimum Wage Act (Article 7, §2, Stb. 2015, 233).

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Netherlands has not ratified the above mentioned Conventions.

Summary of Provisions under ILO Conventions

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, overtime pay rate should not be less than one and a quarter times (125%) the regular rate.

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

If a worker has to work on a national/religious holiday or a weekly rest day, he/she should be entitled to compensation. Not necessarily in the same week, provided that the right to a paid compensation is not.

If a worker has to work during the weekend, he/she should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the course of the following week. Similarly, if a worker has to work on a public holiday, he/she must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take away the right to a holiday/ rest.

Regulations on Compensation:

- Working Time Act (Arbeidstijdenwet) of 23 November 1995
- Working Hours Decree (Arbeidstijdenbesluit) of 4 December 1995

Overtime Compensation

Working time is a consecutive period of time in which work is performed and which falls between the two uninterrupted rest periods of at least 11 hours, which once in the 7 days may be shortened to 8 hours. After 5.5 hours of work the worker is entitled to a mandatory pause of 30 minutes (unpaid), which might be split up in 2 times 15 minutes. The maximum daily and weekly working hours (inclusive of overtime) are 12 hours and 60 hours respectively. Working time (inclusive of overtime) may not exceed 48 hours on average over a 16-week reference period and 55 hours on average over a four-week reference period. Collective agreements may provide for different daily and weekly hours however subject to the daily and weekly limit of 12 and 60 hours respectively. In most of the collective agreements, the full time working hours are less than 40 hours a week.

If work cannot be postponed and avoided by taking other measures, the employee of at least 18 years of age may work at most once in each 2-week period 14 hours' work per shift. The daily and weekly time limits are not applicable in connection with sudden, unforeseen situations where people are seriously injured or an immediate threat for serious injury arises, or exceptionally grave damage to property arises or is likely to arise, provided that work cannot be delayed and other measures are not feasible.

Unforeseen circumstances or the nature of the work (like seasonal work) may cause the supply of work to vary during the year. In that case, the 16-week reference period may be extended to 52 weeks provided that average working hours per week do not exceed 48 hours.

Overtime work is not regulated by special legislation. The working time limits inclusive of overtime are provided by daily and weekly limits. A time-for-time regulation for overtime or additional work is only allowed when agreed upon in the collective agreement. Time-for-time should no longer be allowed if an employee would drop below the statutory minimum wage in the pay-as-you-go period, and money must always be compensated for. Overtime must be compensated within 6 months. If that does not happen, the overtime hours must still be paid.

Sources: Working Time Act (Arbeidstijdenwet) of 23 November 1995; Working Hours Decree (Arbeidstijdenbesluit) of 4 December 1995

Night Work Compensation

Night work is the work performed for more than one hour during night time of 00:00 to 06:00. For night workers, working hours may not exceed 10 hours per shift. If work cannot be postponed or other measures cannot be taken, an employee may work for 14 hours at night at most once in a 2-week period. An employee may work a 12-hour night shift for a maximum of 5 times in two weeks and 22 times per year.

An employee may work a maximum of 36 night shifts in a 16-week period. Working hours cannot exceed 10 hours per shift and 40 hours per week on average in each 16 week period provided that worker works in night shift at least 16 times during this period. If an employee only works a night shift occasionally (less than 16 times in 16 weeks), an average of 48 hours of work per week is applicable. The number of night shifts may be increased by collective arrangement from 117 to 140 night shifts per year if the type of work or business circumstances necessitate this.

A worker may not work for more than 7 shifts in succession if one of those shifts is a night shift. This may be extended to 8 if the type of work or company circumstances make it necessary and if it has been accepted as part of a collective agreement. For workers who regularly work night shifts, they may work a maximum of 20 night shifts in every period of 4 consecutive weeks.

Workers must be given the opportunity to undergo health assessment prior to starting night work for the first time. If the medical examination indicates that the worker has health problems, employer is required to transfer the worker to day work within a reasonable amount of time. In sectors where night work exists, the collective agreements have detailed provisions on night work premiums.

Sources: §1:7, 4:9, and 5:8 of Working Time Act (Arbeidstijdenwet) of 23 November 1995; § 4:7 of Working Hours Decree (Arbeidstijdenbesluit) of 4 December 1995

Compensatory Holidays / Rest Days / Weekend/Public Holiday Work

Working on Sundays and public holidays is allowed under certain conditions like prior consent of a worker. Worker may be allowed to get extra pay or time-off (compensatory rest) for working on a Sunday and public holiday if so agreed in individual employment contract or collective agreement.

03/13 ANNUAL LEAVE & HOLIDAYS

ILO Conventions

Convention 132 (1970) on Holidays with Pay Convention Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days. In addition, for several industries, different Conventions apply.

Netherlands has ratified the Conventions 14 & 106 only.

Summary of Provisions under ILO Conventions

An employee is entitled to at least 21 consecutive days of paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

A worker should be entitled to paid leave during national and officially recognized public holidays.

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7-day period, i.e., a week

Regulation on Annual Leave and Holidays:

- Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek)
- Working Time Act (Arbeidstijdenwet) of 23 November 1995
- Minimum Wages and Minimum Holiday Allowances Act of 27 November 1968 (Wet minimumloon en minimumvakantiebijslag)

Paid Vacation

Every employee has the right to paid annual leave. The annual leave is built up over one year. If a worker has not been employed for one year, the annual leave is calculated proportionately (on pro-rata basis). During the first year of employment, the employee is entitled to a paid leave, of 4 times the working week.

Workers are entitled to paid annual leave of at least four times the number of working days/hours per week. Thus, the full time workers are entitled to annual leave of at least 20 days per year, based on the five-day work week. Individual employment contract and collective agreements provide for additional annual leave.

The timing of annual leave is determined by an employer in consultation with the worker (according to an employee's wishes). The timing of leave must be determined in sufficient time to allow worker to prepare for his/her leave unless prevented by some important reasons. The employer should ensure that the worker is able to take the consecutive period of leave in the period between 30 April and 1 October. The annual leave must be granted in periods of at least two-week duration or twice one-week (duration) if required by business reasons or preferred by the employee.

Law allows carrying forward of annual leave to the first half of next year, i.e., the leave must be taken before July 1, unless there are plausible reasons preventing the worker from taking leave (like invalidity or lack of cooperation by employer). However, the additional annual leave days (provided under employment contract or collective agreement) can be accumulated over a period of 5 years.

Workers are entitled to their regular wages during the term of annual leave. In addition to the regular wage, workers are further entitled to holiday/vacation allowance of 8% of the annual salary provided that the annual salary does not exceed three times the annual equivalent of minimum wage. If an employee's annual salary exceeds three times the minimum wage, parties may agree that the employee is not entitled to the annual leave allowance or is entitled to a lower percentage. In practice, however, most of the collective agreements prescribe holiday allowance for all salary scales including those exceeding three times the minimum wage.

A worker cannot receive payment in lieu of minimum statutory entitlement of annual leave (20 days) except in case of employment termination before a worker could take annual leave and additional leave days provided under an employment contract or collective agreement.

Sources: §634-645 of Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek); §15.1 of the Minimum Wages and Minimum Holiday Allowances Act of 27 November 1968 (Wet minimumloon en minimumvakantiebijslag)

Pay on Public Holidays

Netherlands has eleven public holidays of religious and memorial nature. Although there is no law stating that these are paid days-off however generally the employees cannot work anyway since most businesses are closed on these days, unless it is provided otherwise in the collective agreements (like in the hotel and catering industry). These days are New Year's Day (January 01), Good Friday, Easter (Sunday & Monday), King's Day (April 27), Liberation Day (May 5; official public holiday once every 5 years; next is in 2020), Ascension Day, Pentecost Sunday/Whit Sunday, Pentecost Monday/Whit Monday, Christmas Day (December 25), and Boxing Day (December 26). Whether a public holiday is a extra day-off, can be found in the collective bargain agreement or contract.

Weekly Rest Days

Workers are entitled to both the daily and weekly rest periods as provided under the Working Time Act.

Workers are allowed a daily rest period of at least 11 uninterrupted hours within the period of 24 hours. Once a week, the daily rest period may be reduced to eight hours if the nature of work or business circumstances so demand.

Workers are entitled to a weekly rest period of 36 consecutive hours. It is 72 hours for every 14 days (two weeks). The weekly rest period (of 72 hours per fortnight) may be divided into two separate periods neither of which is less than 32 hours. The weekly rest day is usually Sunday and an employee is not required to work on Sunday unless the nature of work so demands and the worker has agreed with the employer to do so.

Employer is required to organize work in such a way that an employee does not work on at least 13 Sundays in any period of 52 consecutive weeks. Collective agreements may deviate from the rule that a worker does not have to work on a Sunday. Work on 40 Sundays or more in each 52-week period is only allowed with the consent of the worker.

Sources: section 5:3, 5:5, and 5:6 of Working Time Act (Arbeidstijdenwet) of 23 November 1999

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

Netherlands has not ratified the Convention 158.

Summary of Provisions under ILO Convention

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

A reasonable probation period must be allowed to let a worker learn new skills. A newly hired employee may be fired during probation period without any negative consequences.

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

Regulations on Employment Conditions:

- Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek)
- Extraordinary Decree on Labour Relations 1945 (BBA);
- Dismissals Decree (Ontslagbesluit), 1998

Written Employment Particulars

A legal relationship is established between the worker and the employer through a contract of employment. Under an employment contract, an employee undertakes to perform specific work while the employer undertakes to pay the agreed work remuneration and ensure fair and safe working conditions that are not harmful to the health of a worker. A worker, who in exchange for remuneration, performs work for another person for three consecutive months and works per week or at least 20 hours per month is presumed to perform work pursuant to such an employment agreement.

An employment contract may be oral or in writing. A collective agreement may have rules on the required form of contract. However, employers are obliged to provide employees, within one month from the commencement of employment relationship, a written or electronic declaration including the following information: Name and place of residence of the employer and the employee; workplace; job title and job description; date of commencement of employment; duration of contract, for fixed-term contracts; days of annual leave and method of its calculation; length of notice period to be given by the employer and employee; rate or method of calculating wages and wage payment period; normal daily and weekly working hours; pension scheme in which employee is eligible to participate; any relevant collective agreement.

The above separate written declaration is not required if a written contract is entered into or a pay slip (as provided in article 7:626 of Civil Code) mentioning most of the above points is provided to the worker. Any change in the above particulars must be notified to the workers (through a new written or electronic declaration) within one month of its occurrence unless it is a result of statutory amendment or amendment of a collective agreement.

Sources: §610 & 654-655 of Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek)

Fixed Term Contracts

An employment contract may be concluded for a definite (fixed term) or an indefinite period or for a specified task or project. If the duration (or some special task) is not specified, the employment contract is deemed to have been concluded for an indefinite period.

An employer does not have to indicate reasons for the use of successive fixed term contracts. Under the current regulation, a worker may be engaged on fixed term contract for maximum three successive terms (meaning two renewals) for a period not exceeding 3 years (36 months). Law does not restrict the duration of first fixed term contract however it does restrict the total duration as 36 months (including renewals). In a collective agreement, exceptions can be agreed upon, for instance six renewals.

Under the current legislation, a fixed term contract converts into a contract of indefinite duration if a chain of fixed term contracts covers more than 36 months or a chain of three fixed contracts is continued. However, the above referred chain is broken when the interval between two contracts is more than three months. This is referred to as 3*3*3 rule: after a maximum of 3 fixed term contracts with a period of three years following each other within three months, the next contract is an open ended/indefinite term contract. If a worker is working with the same employer through employment agency, it is also included in the chain of contracts.

The legislation governing fixed term contracts changed on 1 January 2015 and 1 July 2015. From 1 July 2015, an employer is required to inform the fixed term contract worker one month in advance (before its termination) at the latest about the continuation of employment and if so under what conditions. Next to this, the total duration of fixed term contracts is reduced to 24 months and the chain between contracts is broken only if the interval between two contracts is equal to or more than 6 months. This can be referred to as 3*2*6 rule. After three fixed term contracts within a period of two years which follow each other within a period of six months, the next contract is a contract of indefinite duration.

Deviations from above rules to the detriment of a worker may be allowed pursuant to the provisions of a collective labour agreement or regulations laid down by a public authority. In certain situations, collective agreements (especially in sectors like culture, media, academia, and board members) may extend the number of contracts (to a maximum of six) and the total duration of fixed term contracts to 48 months.

Sources: §667 & 668 of Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek)

Probation Period

A probation period of maximum two months can be agreed upon provided that it is laid down in writing and is equal for worker and employer. A probationary period is invalid if employee is engaged to carry out more or less the same work which he/she has done somewhere within the company before.

The maximum probationary period is two months in the case of open-ended employment contracts and fixed term contracts of two or more years' duration. The maximum probationary period is one month in the case of fixed term contract of less than two years' duration or for temporary contracts with no specified date of termination.

From 1 January 2015 onwards, no probationary period may be agreed for a fixed term contract of six months or lesser duration.

Sources: §652 of Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek)

Notice Requirement

An employment contract may be terminated in five different ways: termination of employment agreement by operation of law, by giving notice (after receipt of permit from Employee Insurance Agency-UWV), by dissolution through the court, summary dismissal, and by mutual consent.

In the following three cases, employment is terminated by operation of law: expiry of the term of a fixed term contract; in case of a valid termination clause; and due to the death of an employee. An employment contract may be terminated by mutual consent with or without observance of notice period. The party terminating the contract must notify the other party, on their request, in writing of the reasons leading to termination, except termination in the probation period.

While terminating an open-ended employment contract, an employer may choose between the termination through a prior permit from the UWV or judicial precision of the contract for important reasons. Under the Extraordinary Decree on Labour Relations 1945 (BBA), a dismissal permit is required from the Employee Insurance Agency(UWV) before the employer can give notice of termination to the worker. A dismissal by the employer without such permit is null and void. An employer must justify his decision before the UWV to terminate the contract based on either employer related (economic reasons) or employee-related grounds (performance or conduct). These valid grounds are provided in the Dismissal Decree and are redundancy, incompetence, grounds of conscience, misconduct, a disturbed employment relationship or disability to work. Once the UWV grants dismissal permit, an employer may serve termination notice observing the statutory or agreed notice period. The permission from UWV is not required if the notice is served by the employee; for termination of fixed term contracts;

dismissal during probationary period; employment termination by mutual consent; dismissal of a managing director who was appointed by the company's shareholders; and in the event of summary dismissal.

In the event of judicial rescission of the open-ended employment contract, important reasons are needed which include those circumstances that would have warranted a termination of a worker's employment with immediate effect for an 'urgent cause' or change of circumstances of such a nature that the contract should in all fairness be terminated instantly or on short notice. Employer can fire the worker on receipt of court's decision (which specifies the date on which employment relationship will end) without observing any notice period. A non-exhaustive list of grounds amounting to urgent cause and leading to summary dismissal is provided in the Civil Code. From 1 July 2015 onwards, an employer will no longer have a choice in terminating an employment contract (UWV permit or court proceedings). The proceeding with the UWV will become compulsory if termination is based on economic grounds or incapacity for work due to long term (longer than 2 years) illness. On the other hand, the court proceedings will become compulsory if termination is based on employee related reasons (performance, capacity and conduct related).

The statutory notice period to be observed by the employer depends on a worker's length of service and is: one month for less than five years of service; two months for more than five but less than ten years of service; three months for more than ten but less than fifteen years of service; and four months for fifteen or more years of service. If a termination notice is served after receipt of dismissal permit from UWV, it may be reduced by one month to compensate for the duration of permit procedure, provided that a minimum period of one month is observed. Dismissal with notice is prohibited during the first two years of an employee's illness, and if the worker exercises the right to leave as provided in the Work and Care Act (pregnancy or maternity leave, paternity leave, adoption leave, long or short care leave, and parental leave). The above notice period can be shortened or extended pursuant to a Collective Labour Agreement or by regulations laid down by or on behalf of a public body. The notice period can also be extended if this is laid down in writing.

An employee may terminate an employment contract by observing one month's notice period. The notice period for workers may be increased or decreased from one month if this is laid down in writing. The notice period cannot be extended beyond 6 months. As for the employer, the notice period cannot be less than double the notice period of the employee. Pursuant to a collective agreement or by regulations laid down by or on behalf of a public body, the length of notice period can be shortened for the employer as long as the notice period for the employer is not shorter than that observed by the employee.

Sources: §669-685 of Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek); Extraordinary Decree on Labour Relations 1945 (BBA); Dismissals Decree

Severance Pay

Currently, there is no statutory provision on severance pay while an employment contract is terminated after dismissal permit from UWV. On the other hand, a court may award compensation to the employee. The amount of compensation is determined under a formula ($A*B*C$) which is laid down in the Recommendations of the Association of Cantonal Courts (revised as of January 1, 2009. "A" in the formula is "weighted years of service". Up to the age of 35 years, years of service are multiplied by 0.5; from age 35 to 45 years, years of service are multiplied by 1; from age 45 to 55, the years of service are multiplied by 1.5; and from age 55, the years of service are multiplied by 2. "B" in the formula is fixed monthly wage payment while "C" is the adjustment/correction factor (at the discretion of court reflecting the special circumstances of the case). The value of this factor ranges between 0 (employee's fault) to one (neutral dissolution as in the case of redundancy).

From 1 July 2015 onwards, a statutory entitlement is created as transition pay for employees with at least two years of service, payable on dismissal (in the case of open ended contracts) or at the end of fixed-term contracts. A worker is not entitled to severance pay/transition pay if he/she is terminated for serious misconduct, has resigned, is terminated on reaching the normal retirement age or if the employment is ended by mutual consent.

A worker is entitled to one-third (33%) of the monthly salary per year of service (as transition pay) for the first 10 years of service and one-half (50%) of the monthly salary for every year of service greater than 10 years.

For employees aged 50 or over who have been employed for at least 10 years by the same employer, the severance pay is one month's pay for every year of service above the age of 50 (applicable till January 2020). However, small employers (with fewer than 25 employees) are exempt from this requirement. Moreover, for small employer facing financial difficulties, years of service before 1 May 2013 are not taken into account.

The maximum transition payment is €75,000 or one year's gross annual pay (whichever is less). The District Court may award additional compensation if the dismissal was unfair. On the other hand, if an employee is dismissed for gross misconduct, he is not entitled to any transition payment.

Sources: §673 of Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek)

05/13 MATERNITY & WORK

ILO Conventions

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

Netherlands has ratified both the Conventions 103 & 183.

Summary of Provisions under ILO Convention

During pregnancy and maternity leave, a worker should be entitled to medical and midwife care without any additional cost.

During pregnancy and while breastfeeding, a worker should be exempt from work that might bring harm to you or your baby.

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two thirds of your preceding salary.

During pregnancy and maternity leave, a worker should be protected from dismissal or any other discriminatory treatment.

Workers have the right to return to same or equivalent position after availing maternity leave.

After childbirth and on re-joining work, a worker must be allowed paid nursing breaks for breast-feeding the child.

Medical Care

With the promulgation of Healthcare Insurance Act, health insurance has become compulsory for all residents of the Netherlands. Every resident is obliged to take out health insurance (costing between €1,000 - 1,500). For employees, the employer also pays 6.95% of the income as a premium.

The medical care (including midwives) for pregnant workers is excluded from the compulsory contributions scheme / own risk (€ 385 in 2018).

Source: Healthcare Insurance Act (Zorgverzekeringswet) of 16 June 2005

No Harmful Work

The work of a pregnant worker and the worker up to six months after childbirth has to be organized in such a way that her specific needs are taken into account. Employer has to fulfill this obligation within a reasonable time after the worker has put in a request for a different working time arrangement. If required by the employer, a pregnant worker's request is accompanied by a written declaration from a doctor or a midwife stating that the worker is pregnant. The pregnant worker and the worker up to six months after childbirth is entitled to work in a stable and regular pattern of work and rest breaks.

A pregnant worker and a worker up to six months after childbirth cannot be required to do night work unless the employer can show that the exemption cannot reasonably be expected of him. As for overtime, a pregnant worker (over 18) and workers up to six months after childbirth cannot be obliged to work more than 10 hours per week period, 50 hours per week each 4-week period and 45 hours per week in each 16-week period. Employer is required to give paid time-off to a pregnant worker for going for medical examination related to the pregnancy during the working hours. For pregnant and nursing mothers, suitable and lockable places for rest must be provided. Nursing mothers are entitled to leave for nursing for $\frac{1}{4}$ of the worker's working time per period. The pregnant worker has the right to alternate work with one or more extra rest breaks. These extra breaks must not exceed $\frac{1}{8}$ of the worker's working time per work period. The extra rest breaks count as working time.

For a pregnant and nursing worker, employer has to organize the work, arrange the work space and allow the use of work aids in such a way that the work will not cause danger to her health and safety or have adverse effects on her pregnancy or nursing. If it is not reasonably possible to prevent danger to the health and safety of the worker and adverse effects on pregnancy and nursing, a temporary adjustment in the work and rest periods is made to prevent danger to the health and safety of a pregnant or nursing worker and prevent any negative effects on the worker's pregnancy and nursing. If adaptation in the working conditions is not reasonably possible, the pregnant or nursing

worker is temporarily assigned different work. If transfer to another post is also not possible, a pregnant or nursing worker may be temporarily exempted from work.

Sources: §4:5 & 4:7 of the Working Time Act; §1:41 & 1:42 of the Working Conditions Decree of 15 January 1997 (Arbeidsomstandighedenbesluit)

Maternity Leave

Women workers are entitled to maternity leave of 16 weeks/112 days (four to six weeks prenatal and ten to twelve weeks postnatal leave). The compulsory leave is four weeks prior to the expected date of birth and six weeks after childbirth. A worker must notify the employer at least three weeks before the start of leave with an appropriate medical certificate. The post-natal leave is not reduced if birth is later than the expected date of delivery. If a worker is pregnant with twins or multiples they have the right to a minimum of 20 weeks maternity leave.

After the delivery, new mothers have the right to a minimum of 10 weeks of maternity leave. These weeks start directly after the date of delivery. Since January 2015, a mother can apply for a flexible use of the last part of the maternity leave, after the compulsory leave of six weeks after childbirth. The employer cannot refuse this, unless hardship is proven. In case the child is hospitalized for more than a week, the maternity leave can be extended with a maximum of ten weeks. Whenever the mother dies during childbirth or after that, the partner can apply for the remaining maternity leave. Building up annual leave continues while on maternity leave; maternity leave cannot subtract days from the annual leave total. Self-employed women have the right to maternity benefit based on the minimum wage with a maximum duration of 16 weeks under the Zwanger and Zelfstandige law (ZEZ).

Sources: section 3 & 4 of the Work and Care Act of 16 November 2001 (Wet arbeid en zorg)

Income

Maternity benefit is paid for the entire duration of maternity leave (112 days plus any prolongation due to the sickness related to the pregnancy or childbirth of the female worker). The right to maternity benefit is available to a worker whose delivery is likely or takes place within 10 weeks from the termination of her employment. The female worker must apply, via the employer, to the Employee Insurance Agency (UWV) at least two weeks before the start of leave. The application includes a statement from the doctor or midwife indicating the expected date of delivery and the date on which the worker wants to start prenatal leave.

During the term of maternity leave, workers are entitled to their full daily wage up to a ceiling equivalent to the maximum daily payment for social security benefit. Female self-employed entrepreneurs are also entitled to maternity benefit; their daily payment is equivalent to the minimum wage. More information about this kind of maternity leave can be found on [Eigenbaaswijzer](#).

Sources: section 3 & 4 of the Work and Care Act of 16 November 2001 (Wet arbeid en zorg)

Protection from Dismissals

An employer is prohibited from terminating employment contract of a female worker during her pregnancy (employer may demand proof of pregnancy by a doctor/midwife). The employment contract cannot be terminated during the term of maternity leave and for a period of six weeks after maternity leave. The protection from dismissal is available for longer period if a worker is unable to work after maternity leave due to a medical condition caused by pregnancy or maternity. A stipulation according to which an employment agreement can end because of the pregnancy or maternity is invalid. An employee cannot be terminated for exercising the right to take maternity leave, adoption leave, foster care leave, parental leave and other leaves provided under Work and Care Act.

Sources: §667:8, 670:2 & 7 of Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek)

Right to Return to Same Position

Worker has the right the return after availing maternity leave. It is implicitly provided under the protection from dismissal during pregnancy related leave and other leaves provided under the Work and Care Act.

Any distinction made on the ground of pregnancy, childbirth or motherhood is considered a direct discrimination which is prohibited.

Sources: §646:5, 667:8, 670:2 & 7 of Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek)

Breastfeeding

Women workers are entitled to breastfeeding breaks if they have a child under 9 months of age.

The timing and length of breastfeeding breaks is determined by the female worker in consultation with the employer. The breastfeeding breaks cannot exceed one quarter (1/4) of the working time per shift period. The nursing breaks are fully paid. For pregnant and breastfeeding workers, employer is required to make available lockable spaces (with a folding or unfolding bed or couch) for rest.

Sources: section 4:8.1-3 of the Working Time Act; section 3.48 of the Working Conditions Decree (Arbeidsomstandighedenbesluit) of 15 January 1997

06/13 FAMILY RESPONSIBILITIES

ILO Conventions

Convention 156: Workers with Family Responsibilities Convention (1981)
Recommendation 165: Workers with Family Responsibilities (1981)

Netherlands has ratified the Convention 156 only.

Summary of Provisions under ILO Convention

Paternity leave is for the new fathers around the time of childbirth and is usually of shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks the employers to look into the measures for improving general working conditions through flexible work arrangements.

Regulations on employment conditions for Parents:

- Working Hours Adjustment Act of 19 February 2000
- Work and Care Act of 16 November 2001 (Wet arbeid en zorg)
- Extra Parental Leave 2018 (Wet Invoering Extra Geboorteverlof)

Paternity Leave

In the four weeks after their partner has given birth, the partner (m/f) of the woman giving birth, or the one who acknowledges the child may take a maximum of five days of fully paid paternity leave (or birth leave). In addition to these working days, the employee is entitled to one day paid leave for the day of delivery (if that is a working day) and one day to register the birth at the municipal office. A collective agreement may provide for a longer paid or unpaid leave. The paternity leave is paid by the employer. The number of days of paternity leave is based on the weekly working hours. For example, if one works 3 days a week, they will receive a maximum of 3 days of paternity leave. These days of leave must be taken within 4 weeks after the delivery. The worker can extend paternity leave by unpaid parental leave, of which three days are unconditional - the employer cannot refuse (§4:2 and 6:5 (4)). The workers intending to take paternity leave must inform the employer of their intention to do so as early as possible.

As of 1 July 2020, parents can take up to 5 weeks of extra unpaid parental leave within the first six months of their newborn. The UWV pays up to 70 percent of the daily wage in these weeks.

Sources: §4:2 of the Work and Care Act of 16 November 2001 (Wet arbeid en zorg)

Parental Leave

Employees are entitled to 26 weeks (26 times the weekly working hours) of parental leave until a child reaches the age of 8 years. The 26-week parental leave is per child and thus with multiple births increase accordingly (52 weeks leave for twin births and so on). Parental leave is individual and non-transferable however both the parents can take parental leave at the same time.

A worker with full time job of 36 hours per week is entitled to 26 weeks (936 hours) of parental leave. Parental leave cannot be taken full time unless the employer agrees. It is usually taken as part time. The above referred worker thus may work 50% of his normal working time (18 hours) for 52 weeks. Employees are entitled to take parental leave for a shorter period of time than 12 months or to extend it to a longer period or breaking the leave into blocks of at least one month each. However, these requests may be refused by the employer for serious business related reasons. The parental leave is unpaid leave however parents qualify for a tax credit (available only till 1 January 2015).

As of January 1, 2019, an employee is entitled to six consecutive weeks of leave in the adoption of a child or with the start of foster care. The entitlement to this leave is four weeks before the adoption and must be taken within 26 weeks. If more than one child is adopted at the same time, this does not change the duration of the leave. The employer must be informed at least three weeks before the adoption date. If the employer agrees, the adoption leave can also be spread out.

Both parents receive a payment equivalent to maternity benefit. They can take the leave when they adopt a child or take a foster child into their home. The collective labour agreement can provide additional paid or unpaid adoption and foster care leave. Additional parental leave can also be included.

Sources: Chapter 6 (Parental Leave) of the Work and Care Act of 16 November 2001 (Wet arbeid en zorg)

Flexible Work Option for Parents / Work-Life Balance

The Working Hours Adjustment Act gives the workers the right to choose their working hours. Under the Act, all those employees who have completed six months of continuous service with the present employer have the right to increase or decrease their working hours. The request for adjustment of working hours must be made in writing to the employer at least two months prior to the intended commencement date of the adjustment. An employee may at most once every year submit such a request.

The employer has to consult the worker about this request. The right to adjustment of working hours is conditional: an employer may refuse to grant the request (keeping in view the commencement date and the size of the adjustment) if the business interest might be seriously harmed. The Act is not applicable to employers with less than ten employees.

Sources: Working Hours Adjustment Act of 19 February 2000

07/13 HEALTH & SAFETY

ILO Conventions

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

Netherlands has ratified both the Conventions 81 & 155.

Summary of Provisions under ILO Conventions

The employer, in all fairness, should make sure that the work process is safe.

The employer should provide protective clothing and other necessary safety precautions for free.

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

Regulations on health and work:

- Working Conditions Act (Arbeidsomstandighedenwet) of 18 March 1999
- Working Conditions Decree (Arbeidsomstandighedenbesluit) of 15 January 1997

Employer Cares

An employer is required to assess the risks of the work and the workplace, including psycho-social risks and to draw a plan of action in order to prevent the risks taking place.

An employer is also required to have a contract with a health and safety organizations (arbodienst) or an equivalent arrangement (jointly to be discussed with the workers council). The employer need to appoint a number of workers, specialized and trained to help in cases of danger (bedrijfshulpverlening BHV) and another who is specialized in prevention. The appointment of this prevention specialist needs to occur with approval of the workers council.

An employer is required to protect the health and safety of workers at the workplace in accordance with the provisions of Working Conditions Act. Employers are required to ensure all aspects of workers' health and safety and to seek optimum level of safe working conditions through cooperation between the workers and employers. Employers are required to organize work in such a way that it has no detrimental effect on the employee's safety and health; hazards and risks to the health and safety of employees to be avoided or limited at source; if these hazards cannot be avoided or limited at source, other appropriate measures to be taken with collective protection measures having priority over individual protection measures and provision of appropriate personal protective equipment to the worker.

Employers have to ensure the health and safety of worker by implementing measures including prevention of occupational risks; provision of information and training; and provision of necessary organization and means. Employers are required to undertake a risk assessment at the workplace; take necessary measures to avoid risks; reduce risks at the source of its occurrence; engage the services of occupational doctors and safety experts; avoid or limit as much as possible monotonous work and psychological stress; adapt the workplace to the needs of disabled employees; adapting the work to the individual with regard to choice of design, work equipment & production methods, and assess the risks that cannot be avoided; take effective measures to prevent accidents and fires; prevent danger to the third parties; report accidents and occupational illnesses to the authorities; take additional measures where inflammable and/or toxic materials are used; appoint at least one employee as a prevention officer to deal with everyday health and safety issues; and give employees the opportunity to have a periodic occupational health examination.

A worker has the right to have a conversation with the occupational doctor, even without the worker suffering from (occupational) illnesses. Moreover, the occupational doctor has the possibility to visit the workplace to get an overview of the company and its risks for the workers' health. Workers can ask for a second opinion when they have a reason to doubt the advice from the occupational doctor. The employer has to pay for the second opinion. Lastly, every occupational doctor has to have a procedure to register and handle complaints. In the new law there is also a place for the a dedicated prevention assistant. Its duties are to advise and work together with the occupational doctor. The appointment of the prevention assistant is in coordination with the work council or the staff representative(s). When an employer hands out new contracts, he or she has to comply with these rules immediately.

Sources: § 1-10 of the Working Conditions Act (Arbeidsomstandighedenwet) of 18 March 1999

Free Protection

Employer has to ensure that appropriate and properly fitting personal protective equipment to the employee if the employer cannot reasonably be required to take measures at individual protection. If it is not technically feasible to prevent the exposure of employees or restrict the exposure to the lowest possible level through collective protection measures, personal protective equipment should be made available to the employees who are or might be exposed. The time during which an employee wears protective equipment should be restricted to what is necessary.

If personal protective equipment is supplied to employees, employer has to ensure that employees are informed of their purpose, operation, and how these are to be used. Employers are required to monitor compliance with the correct use of personal protective equipment. Employees are also required to use personal protective equipment supplied to them properly, and return it to the proper storage place after use.

Personal protective equipment should be stored in accordance with the instructions in the designated place and should be cleaned after every use and checked before every use.

Sources: §3, 8 & 11 of the Working Conditions Act (Arbeidsomstandighedenwet) of 18 March 1999; §4 of the Working Conditions Decree (Arbeidsomstandighedenbesluit) of 15 January 1997

Training

The Working Conditions Act requires employers to provide training to the workers on OSH related issues. Employer has to ensure that employees are given appropriate information about their duties and associated risks, and on the measures in place to prevent or limit these risks. Employers have to ensure that employees are given appropriate information about how the panel of experts is organized in the business or establishment. Employers have to ensure that employees are given appropriate training for their particular tasks in respect of the working conditions.

Employer has to monitor compliance with instructions and rules issued to prevent or limit the risks. In all events in which employees may be exposed to hazardous substances during their work, information and training must be provided accordingly at regular intervals. The training must be focused on the knowledge level and experience of the employees and must provide them with necessary knowledge and skills regarding safety and prevention. Foreign employees who work with hazardous substances or who do hazardous work, have to master the Dutch language.

Source: Working Conditions Act (Arbeidsomstandighedenwet) of 18 March 1999; Working Conditions Decree (Arbeidsomstandighedenbesluit) of 15 January 1997

Labour Inspection System

The inspection agency (on labour related matters) in Netherlands is Inspectorate SZW (Social Affairs and Employment Inspection) which is a merger of the organizations and activities of former Labour Inspectorate, the Work and Income Inspectorate and the Social and Intelligence Investigation Service.

The major functions of Inspectorate SZW include supervision of compliance with the regulations in the area of working conditions and the prevention of major hazards involving dangerous substances; supervision of compliance with the regulations concerning illegal employment and minimum wage; detection of fraud, exploitation and organized crime within the chain of work and income (labour exploitation, human trafficking and large scale fraud in the area of social security (carried out under the direction of Public Prosecution Service)).

Different departments of Inspectorate SZW monitor compliance with different labour laws. For example the Labour Market Fraud department supervises the observation of Foreign Nationals Employment Act, the Minimum Wage and Minimum Holiday Allowance Act and the Placement of Personnel by Intermediaries Act (in order to combat illegal labour, evasion of minimum wage and labour exploitation, etc.). The Working Conditions department supervises the observation of Working Conditions Act and the Working Hours Act (to promote safe and healthy working conditions and work and rest periods for employees). Works councils and individual employees may make complaints to the Inspectorate SZW or request it to conduct an inspection.

08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

ILO Conventions

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

Netherlands has ratified the Conventions 102, 121 & 130.

Summary of Provisions under ILO Conventions

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefit may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). A worker must be entitled to paid sick leave.

During illness, a worker should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, he/she must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

Regulations on Work and Sickness:

- Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek)
- Sickness Benefits Act (Ziektewet) of 5 June 1913
- Health Insurance Act (Zorgverzekeringswet) of 16 June 2005
- The Disability Insurance Act (Wet op de arbeidsongeschiktheidsverzekering-WAO) of 18 February 1966
- The Work According to the Labour Capacity Act (Wet Werk en Inkomen naar Arbeidsvermogen-WIA) of 10 November 2005

Income/Paid Sick Leave

Sickness benefits are paid when a worker is unable to report to work due to sickness. Employers are obliged to pay sick employees at least 70% of their regular wage during the first two years of illness or till the end of employment contract whichever is earlier (No benefit is paid by the employer during the first two days of sickness). An employer does not pay beyond the two-year period (104 weeks) and if a person is still ill, he/she is eligible for benefits from Employee Insurance Agency (UWV). For people who don't have an employer (fixed term contract workers, temporary workers and unemployed workers), Sickness Benefits Act provides a safety net and sickness benefit is provided to them by Employee Insurance Agency (UWV).

The entitlement to sickness benefit ceases on end of illness or reaching the age of retirement. The wage on the basis of which the 70% figure is calculated is subject to a ceiling. During the first year of illness, the minimum of the amount of sickness benefit is the national minimum wage. In other words, a worker earning 120% of the minimum wage has an entitlement of 100% of the minimum wage, which is 80% of the former wage. The statutory minimum wage does not apply as a minimum during the second year of illness. A collective agreement may provide for higher pay during the first year of illness (100% of monthly pay during first year and 70% during the second year). The higher pay cannot exceed 170% of the monthly pay for the two years.

An employer must report an employee's absence due to sickness to the Employee Insurance Agency (UWV) not later than after 42 weeks of worker's sickness. If employer delays in informing the UWV, the period of payment is extended by the period of delay. During long term sickness, employer and employee must draw up a recovery and integration plan. After six weeks of illness, an analysis of the problem will be made by the UWV, from which a reintegration plan can be formulated. If employee does not cooperate in implementing the reintegration plan, employer may stop paying sickness benefits and ultimately dismiss the worker. On the other hand, if the UWV finds out that the employer has made insufficient efforts to reintegrate the employee, it may order the employer to continue paying sickness benefit for further one year.

Sources: §7:629, 7:658 & 660 of Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek); Sickness Benefits Act (Ziektewet) of 5 June 1913

Medical Care

With the promulgation of Healthcare Insurance Act, health insurance has become compulsory for all residents of the Netherlands. Every resident is obliged to take out health insurance (costing between € 1,000-1,500). The employer pays an income related premium for every employee to the ZWV (Healthcare Insurance Act).

Medical insurance in Netherlands is covered by the Health Insurance Act (Zorgverzekeringswet) and the Longterm Care Act. The insurance policies are either in-kind benefits policies (the insured goes to care provider from a list provided by the Insurer) or reimbursement of medical costs policies (the insured chooses the care provider and the Insurer reimburses the cost).

The care providers (doctors, specialists, and hospitals) provide medical services which include general and specialist care, hospitalization, laboratory services, medicine, limited dental care, maternity care, appliances, rehabilitation, and transportation. There is no limit on duration of medical benefits (except for physiotherapy). Exceptional medical expenses insurance finances the cost of hospitalization from the 366th day onwards.

In order to get compensation for the costs of medical care after work injury and work-related illness, the employee has to hold the employer accountable for costs, if necessary, through a court procedure.

Source: Health Insurance Act (Zorgverzekeringswet) of 16 June 2005

Job Security

Employment of a worker is secure during the first two years of his illness. An employer may terminate the employment contract of a worker who is unable to work due to sickness if this sickness has lasted for two years and employer has already paid the sickness benefit for this time.

After two years the employer can apply at the UWV / Employee Insurance Agency for a permit to end the employment relationship with the sick worker.

Source: §670 of Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek)

Disability/Work Injury Benefit

Work injuries may be classified on the basis of their consequences as those resulting in: (i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to death of a worker.

There is no special insurance against employment injuries and occupational diseases in the Netherlands. The risks are covered by sickness insurance, invalidity insurance and survivors' insurance. Employers are liable for occupational injury or illnesses suffered by employees, unless this results from deliberate intent, recklessness or negligence on the part of the employee.

The temporary incapacity is dealt similarly as sickness and workers are entitled to sickness benefits during this time. The Disability Insurance Act (Wet op de arbeidsongeschiktheidsverzekering-WAO) and the Work According to the Labour Capacity Act (Wet Werk en Inkomen naar Arbeidsvermogen-WIA) insure employees for a wage replacement benefit after two years of full or partial disability. Although WIA has replaced WAO but WAO is still applicable to workers who became disabled before 1 January 2004.

The WIA divides disability into two plans: one for individuals who are incapable of working due to total and permanent disability (IVA) and one for individuals who are deemed able to work and therefore can earn some income (WGA). A person is considered fully or partially disabled when as a result of sickness or accident, he/she is not able to earn what healthy workers with similar training and equivalent skills normally earn at his/her workplace or in the area. A person must be at least 35% unfit to receive benefits.

For the partially disabled, the Return to Work Scheme for the Partially Disabled (Regeling Werkhervatting Gedeeltelijk Arbeidsgehandicapten-WGA) encourages both the worker and the employer to endeavour to rehabilitate the employee. On the other hand, the Income Provision Scheme for People Fully Occupationally Disabled (Regeling inkomensvoorziening volledig en duurzaam arbeidsongeschikten-IVA) provides for income in case of full and permanent occupational disability, with no prospect of recovery.

The amount of WGA depends on the degree of disablement (35-80%), the employee's last wage and the wage earned while being partially disabled. If a person is unable to work, he receives 75% of the last wage during the first two months and 70% of the last wage afterwards. If a person is partially disabled but works, he is eligible to 75% of the difference between the last wage and the income earned from work in the first two months and 70% thereafter. The WGA is paid for a duration varying from three to thirty-eight months (also called LGU), depending on the number of years of employment. The partial disability wage supplement is 70% of the difference between the (maximum) daily wage and work-related income or the assessed residual earning

capacity if one earns at least half of the remaining work capacity. If a worker cannot work after expiry of wage related benefit or earns less than 50% of the remaining earning capacity, the worker receives benefit based on a percentage of statutory minimum wage.

In the case of full disability (80-100%), the IVA is 75% of a worker's last wage. In the event of death of worker, survivors benefit as provided under Dependents' / Survivors' Benefit section are applicable.

Sources: The Disability Insurance Act (Wet op de arbeidsongeschiktheidsverzekering-WAO) of 18 February 1966; The Work According to the Labour Capacity Act (Wet Werk en Inkomen naar Arbeidsvermogen-WIA) of 10 November 2005

09/13 SOCIAL SECURITY

ILO Conventions

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat, higher standards have been set in subsequent Conventions

Employment Injury Benefits: Conventions 121 (1964),

Invalidity, Old age and survivors' benefits: Convention 128(1967)

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

Netherlands has ratified the Conventions 102, 121, 128 & 130 only.

Summary of Provisions under ILO Conventions

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If retirement age is fixed above 65 years, it should give "due regard to the working ability of elderly persons" and "demographic, economic and social criteria, which shall be demonstrated statistically". Pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

For a limited period of time, the unemployed has a right to unemployment benefit set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

Regulations on social security:

- General Old Age Pensions Act (Algemene Ouderdoms Wet-AOW) of 31 May 1956
- General Surviving Relatives Act (Algemene Nabestaanden Wet-ANW) of 21 December 1995
- Unemployment Benefits Act (Werkloosheidswet-WW) of 6 November 1986
- The Disability Insurance Act (Wet op de arbeidsongeschiktheidsverzekering-WAO) of 18 February 1966
- The Work According to the Labour Capacity Act (Wet Werk en Inkomen naar Arbeidsvermogen-WIA) of 10 November 2005

State pension rights

The current pensionable age is 65 years and 9 months (gradually rising to 67 and 3 months by 2021). A person who is resident of the Netherlands or is working in the Netherlands from age 15 (rising to 17 by 2021) to 65 years (rising to 67 years and 3 months). A person must meet the residency requirement of 50 years and the old age benefit is reduced by 2% for each missing year. As of January 2019, the new pensionable age is 66 years and 4 months.

There is no relation between the amount of old age benefit and the amount of contributions paid. The amount of old age pension depends on the number of years a person has been insured under the AOW scheme and whether a person is single or lives with someone else.

People who live on their own are entitled to AOW pension based on 70% of the net minimum wage while persons who are married or living with someone are entitled to a pension based on 50% of the net minimum wage. If the other partner has also reached retirement age, the couple together receives 100% of the net minimum wage. A person may receive supplementary pension on reaching retirement age if the younger partner has limited or no income. Supplementary pension for young partners is being discontinued from April 2015 (for new pensioners).

Most employees (90%) participate in an additional compulsory pension scheme in the sector or company that employs them. Additional pension is an important employee benefit. In most cases employers pay two-third of the premium and employees one-third.

As of 1 January 2019, very small pensions will expire. These are pensions of 2 euros or less gross per year. Also, pension administrators can now transfer small pension funds from the past to the pension provider where someone now accrues pension. It concerns pensions from 2 to 466 euros per year.

Source: General Old Age Pensions Act (Algemene Ouderdoms Wet-AOW) of 31 May 1956

Dependents' / Survivors' Benefit

There is a provision for survivors' pension in the event of death of an insured resident. Those living in Netherlands are covered by Dutch Survivors' Insurance scheme. The insurance is regulated by the General Surviving Relatives Act (Algemene NabestaandenWet-ANW) which provides for various benefits such as a survivors' pension and a full orphan's pension.

The eligible survivors include surviving partners (with an unmarried child under 18 years of age or is expecting a child, is incapable of working (unable to earn 45% of the normal wage in suitable work) and orphans until they reach 16 years of age (21 for students). The survivor's pension ceases on remarriage, registration of partnership or cohabitation (for surviving partner) and reaching the age of 16/21 (for orphans).

The survivors' pension is subject to a ceiling of 70% of the nett minimum wage and is dependent on the survivors' income. The orphan's benefits are directly linked to the minimum wage and vary according to the orphan's age as well as orphan's status. The pension for full orphans is divided in three age brackets: children aged under 10, children aged between 10 and 16, and children aged between 16 and 21. The amount of benefit is adjusted twice a year after minimum wage increase in January and July. A holiday allowance is also added in May of each year.

A lump sum of a workers' full monthly wage is paid to the deceased's partner and dependent children (Art. 7:674 BW, or Civil Code). For the death of a beneficiary of sickness, unemployment or disability benefit or an old age pension, a lump sum of one month of benefits is paid to the survivors.

From 1 April 2019, the maximum duration of the unemployment benefit is 24 months. In 2015, employees received an unemployment benefit for a maximum of 38 months, but this has gradually been shortened. Employees and employers can agree in the collective agreement to supplement the WW to the original 38 months. Employees pay the premium themselves.

Source: General Surviving Relatives Act (Algemene Nabestaanden Wet-ANW) of 21 December 1995

Unemployment Benefit

Unemployed persons in Netherlands are entitled to unemployment benefits regulated under the Unemployment Benefits Act (Werkloosheidswet-WW). In order to qualify for unemployment benefits, a person must have lost at least five working hours, or 1/2 of his former working hours, and corresponding wages as an employee per week; must be available for work; must not be unemployed due to his own fault (fired for misconduct or resigned); must have received wages in at last 26 weeks out of 36 weeks prior to

unemployment (weeks' condition); must have received a wage over at least 208 hours in at least four years out of the last five years prior to unemployment years' condition.

If a person does not satisfy above conditions or entitlement to benefits has expired, a person may still be eligible for the social assistance benefit means tested.

The amount of unemployment benefit is 75% of the last daily wage during the first two months and 70% thereafter. The duration of unemployment benefit varies depending on whether a person meets weeks' condition or years' condition. A person who meets weeks' condition is eligible for unemployment benefit for a maximum of three months. A person who also meets years' condition is eligible for up to 38 months of unemployment benefit, depending on the number of years of employment (one month of benefit for each year of employment).

Sources: Unemployment Benefits Act (Werkloosheidswet-WW) of 6 November 1986

Invalidity Benefit

The invalidity benefits are described in detail under the [Disability/Work Injury Benefit](#) section.

10/13 FAIR TREATMENT

ILO Conventions

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

Netherlands has ratified both the Conventions 100 & 111.

Summary of Provisions under ILO Conventions

At workplaces, equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and the clear matching of pay and position should be in place and to help prevent wage discrimination.

Not clearly provided in ILO Conventions. However, sexual intimidation/harassment is gender discrimination.

An employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

People have the right to work and there can't be occupational segregation on the basis of gender.

Regulations on fair treatment at work:

- Dutch Constitution of 1815, last amended in 2008
- General Equal Treatment Act (AWGB) of 2 March 1994
- Equal Treatment (Disability and Chronic Illness) Act (WGBH/CZ) of 3 April 2003
- Equal Treatment in Employment (Age Discrimination) Act (WGB 1) of 17 December 2003
- Equal Treatment (Men and Women) Act of 1 March 1980
- Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek)
- Equal Treatment (Working Hours) Act (Wet verbod op onderscheid naar arbeidsduur, WOA) of 3 July 1996
- Equal Treatment (Temporary and Permanent Employees) Act (Wet onderscheid bepaalde en onbepaalde tijd, WOBOT) of 7 November 2002
- Working Conditions Act (Arbeidsomstandighedenwet) of 18 March 1999

Equal Pay

In accordance with article 7:646 of the Civil Code, employers may not discriminate between men and women when entering into an employment agreement, nor when providing training for employees, determining the terms and conditions of employment (including pay), deciding on promotion, or terminating an employment agreement.

Equal Treatment (Men and Women) Act aims, inter alia, to eradicate sex discrimination in the payment of wages. An employee is entitled to receive equal wages to those commonly paid to an employee of the opposite sex performing work of equivalent or approximately equivalent value. The term wages includes salary, remuneration, allowances and reimbursement of expenses.

The principle of equal pay for equal work or work of equal value also prohibits distinction in pay related matters on grounds of religion, belief, political opinion, race, sex, nationality, sexual orientation or civil status, age, disability, full-time/part-time work status and fixed-term/open-ended contracts. Temporary agency workers are entitled to the same pay as employees of the company where this worker is posted.

Sources: General Equal Treatment Act (AWGB) of 2 March 1994; Equal Treatment (Disability and Chronic Illness) Act (WGBH/CZ) of 3 April 2003; Equal Treatment in Employment (Age Discrimination) Act (WGB 1) of 17 December 2003; Equal Treatment (Men and Women) Act of 1 March 1980; §646 of Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek)

Sexual Harassment

In accordance with article 7:646.6-8 of the Civil Code, sexual harassment is "a certain form of verbal, nonverbal or physical behavior with a sexual connotation which has the purpose or consequence of injuring/violation of a person's dignity, in particular in the event that a threatening, hostile, abusive, humiliating or offensive environment is created". A worker may not be treated adversely by the employer for rejecting or passively submitting to harassment or sexual harassment by others.

Similar definition is provided in General Equal Treatment Act and The Equal Treatment in Employment (Men and Women) Act. The Working Conditions Act also contains an obligation on employers to implement a general working conditions policy which is aimed at the prevention, or when prevention is not possible, limitation of psychosocial pressure/workload which includes direct and indirect discrimination, sexual harassment, aggression and violence and work pressure in employment situations that cause stress.

Sexual harassment is not a criminal law offence unless it amounts to sexual assault or rape. An employer is required to provide safe working conditions to workers which are free of psychosocial pressures. An employer who fails to provide a safe (free of sexual harassment) workplace may have to pay severance pay to a worker who leaves employment because of this. A sexually harassed worker may terminate the employment contract immediately when the continuation of the employment would subject the employee to serious dangers for his life, health, morality or good name. Similarly, an employer may also terminate employment contract of a worker who engages in dissipated behaviour or who attempts or tries to tempt other employees to perform or participate in actions contradictory to law or good morals.

Sources: General Equal Treatment Act (AWGB) of 2 March 1994; Equal Treatment (Men and Women) Act of 1 March 1980; §646, 678, and 679 of Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek); Working Conditions Act (Arbeidsomstandighedenwet) of 18 March 1999

Non-Discrimination

In accordance with article 1 of the Dutch Constitution, "All who are in the Netherlands shall be treated equal in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race, sex or on any other ground shall not be permitted".

The Dutch Civil Code provides for equality of treatment between men and women in employment related matters and prohibits direct or indirect discrimination while engaging employees; providing training for employees; determining the terms and conditions of employment; deciding on promotion of employees; and/or terminating an employment agreement.

The Act on Equal Treatment prohibits direct or indirect discrimination with regard to advertisements for job vacancies and procedures leading to the filling of vacancies; job placement; the commencement or termination of an employment relationship; the appointment and dismissal of civil servants; terms and conditions of employment; permitting staff to receive education or training during or prior to employment; promotion; and working conditions.

Direct discrimination includes discrimination on the grounds of pregnancy, childbirth or motherhood. Indirect discrimination means discrimination on the grounds of characteristics other than sex, such as marital status or family circumstances, resulting in discrimination on the grounds of sex.

Other than Constitutional guarantees, provisions of Civil Code and the General Equal Treatment Act, the following acts also prohibit discrimination (direct and indirect) in employment related matters: The Equal Treatment in Employment (Men and Women) Act, the Equal Treatment (Disability and Chronic Illness) Act (Wet gelijke behandeling op grond van handicap of chronische ziekte), the Equal Treatment in Employment (Age Discrimination) Act (Wet gelijke behandeling op grond van leeftijd bij de arbeid), the Equal Treatment (Working Hours) Act (Wet verbod op onderscheid naar arbeidsduur), and the Equal Treatment (Temporary and Permanent Employees) Act (Wet onderscheid bepaalde en onbepaalde tijd)

Equal Treatment of Women at Work

No provision could be found in the law prohibiting employment of women workers in the same professions as men. Moreover, in accordance with article 19(3) of the Dutch Constitution, "The right of every Dutch national to work shall be recognized, without prejudice to the restrictions laid down by pursuant to Act of Parliament."

The Equal Treatment (Men and Women) Act and a 1989 Decree do provide for certain exemptions. A so-called discrimination in employment is permitted with regard to access to occupations or courses required for occupations in cases where sex is a determining factor because of the nature of or the conditions laid down for practicing those occupations in question. Such occupations include office of the Minister of Religion (Priest), actor, singer, dancer or artist, in so far as their activities relate to the interpretation of specific roles and any other occupations specified in a Decree.

Sources: §19(3) of Dutch Constitution of 1815, last amended in 2008; §5(3) of the Equal Treatment (Men and Women) Act of 1 March 1980; Decree on Gender Related Occupational Activities of 19 May 1989.

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Netherlands has ratified both the Conventions 138 & 182.

Summary of Provisions under ILO Conventions

At workplaces, children may not be forced to perform work that could harm their health and hampers their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardize the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

Regulations on children at work:

- Regulations on Child Labour (Nadere regeling kinderarbeid)
- Working Conditions Act (Arbeidsomstandighedenwet) of 18 March 1999

Minimum Age for Employment

The minimum age for employment is 16 years. This is also the school leaving age on completion of compulsory education, except when at that age the minor has not yet achieved the Basic Qualification (in that case compulsory education lasts until 18 years). A young worker is a worker who is between 16 and 18 years old. Children from the age of 12 can be involved in different kinds of light work under the condition that such work is not performed during school hours. Employment of young workers under 16 years is allowed with the permission of their legal guardians. Children under the age of 12 are prohibited from working, unless the work is related to cultural, scientific, educational, or artistic performances. In these cases, prior permission needs to be obtained from the Ministry of Social Affairs and Employment.

An employer engaging young workers must inform the parent or legal guardian about the nature of work and associated potential risks as well as measures designed to prevent or minimize these hazards. Even when a work is permitted to be performed by a young worker and children, it should not endanger the safety of the child and adversely affect the physical or mental development of the child.

If one or more young employees are employed or are usually employed in a business or establishment, the employer should consider these factors while assessing risk in the workplace: the specific hazards which young workers as a result of a lack of work experience or lack of physical or mental development are not able to assess properly; the equipment and organization of the workplace; the nature, extent and duration of the exposure to substances, agents and physical factors; the choice and use of work equipment and personal protection devices; the overall activities in the business or the establishment and their organization; and the training level of the young employees and the information to be provided to them.

Working hours of children (12 years) may not exceed two hours a day on school days (7 hours on non-school days) and 20 hours a week when work is performed during school year. During school vacations, working hours may not exceed seven hours a day and 35 hours a week.

Working hours of children (13-14 years) may not exceed two hours a day on school days (7 hours on non-school days) and 12 hours a week when work is performed during school year. During school vacations, working hours may not exceed seven hours a day and 35 hours a week. A 13-14 years old worker may work only for 4 weeks during school vacations. For 13-14 years old children, only light non-industrial work is allowed (light work in a shop like filling boxes or packing; light work in agriculture; and work on assembly line under strict conditions). Work in a factory, with machinery, work with

hazardous substances, lifting or pulling of heavier things (10-20 pounds), work in a bar, loading or unloading of trucks, delivery of newspapers and work in hospitality industry is prohibited.

Working hours of children (15 years) may not exceed two hours a day and 12 hours a week when work is performed during school days. During school vacations and non-school days, working hours may not exceed eight hours a day and 40 hours a week. These workers may work only for 6 weeks during school vacations.

A young worker (16-17 years) cannot perform more than 9 hours of work per shift and more than 45 hours a week and an average of 40 hours per week in each 4-week period. Employers are obliged to organize the work of young workers so that they are able to pursue their education. Young workers are entitled to at least 12 consecutive hours of daily rest, which must include the interval between 23:00 and 06:00.

Minimum Age for Hazardous Work

Minimum age for hazardous work is 18 years. Workers between the age of 16-18 years are considered young workers. Hazardous work is work with toxic substances (allergens, carcinogenic substances, mutagens and toxic for reproduction), working with pesticides, work with biological substances, work under pressure environment (like diving, work in confined spaces), work with radiation, work in areas with noise and vibration. Night work (between 23:00 and 6:00) is also prohibited for workers under 18 years.

12/13 FORCED LABOUR

ILO Conventions

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

Netherlands has ratified both the Conventions 29 & 105.

Summary of Provisions under ILO Conventions

Except for certain cases, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.

Regulations on forced labour:

- Dutch Constitution of 1815, last amended in 2008
- Dutch Penal Code (Wetboek van Strafrecht) of 3 March 1881
- Foreign Nationals Employment Act (Wet arbeid vreemdelingen) of 21 December 1994

Prohibition on Forced and Compulsory Labour

Forced labour is prohibited under Dutch Penal Code. In accordance with article 273-f (relevant excerpts of the section only) of the Penal Code, any person who trafficks or abets in trafficking of a person by exploiting his/her vulnerable position and forces or induces another person to make himself/herself available for performing work or services is guilty of trafficking in human beings and as such liable to a term of imprisonment not exceeding eight years and a fifth category fine*, or either of these penalties.

Exploitation comprises at least the exploitation of another person in prostitution, other forms of sexual exploitation, **forced or compulsory labour or services**, slavery, slavery like practices or servitude. (quoting only part of the article relevant to forced labour).

Articles 197b-197d of Dutch Penal Code prohibit the employment of individuals residing illegally in the Netherlands while the employer has “serious reasons to suspect” such illegal residence. Illegal employment is also prohibited by Article 2.1 of the Foreign Nationals Employment Act. A person violating the Foreign Nationals Employment Act is subject to administrative fines if a person is employed without valid work permit (Article 18 sub 1 AEA), a person violating Articles 197b-197d DPC is criminally liable (a term of imprisonment not exceeding four years and a fifth category fine). Illegal deprivation of liberty or freedom or unlawful detention (an important aspect of forced labour) is also prohibited under the Penal Code. An employer who employs one or more foreign nationals without the necessary work permit risks a heavy fine: €12,000 per illegal worker. Private individuals risk a fine of €6,000 per illegal worker. Fines of up to €12,000 per underpaid employee will be imposed for paying less than the minimum wage and minimum holiday allowance. In the event of repeated violations, the fines increase considerably.

Freedom to Change Jobs and Right to Quit

An employee may terminate an employment contract by observing one month's notice period. The notice period for workers may be increased or decreased from one month if this is laid down in writing. The notice period cannot be extended beyond 6 months. As for the employer, the notice period cannot be less than double the notice period of the employee. Pursuant to a collective agreement or by regulations laid down by or on behalf of a public body, the length of notice period can be shortened for the employer as long as the notice period for the employer is not shorter than that observed by the employee.

In accordance with article 19(3) of the Dutch Constitution, "The right of every Dutch national to work shall be recognised, without prejudice to the restrictions laid down by pursuant to Act of Parliament."

For more information on this please refer to the section on Employment Security.

Source: §672:3-6 of Book 7, Title 10 (Employment Contracts) of Dutch Civil Code (Burgerlijk Wetboek); §19(3) of Dutch Constitution of 1815, last amended in 2008

Inhumane Working Conditions

Overtime work is not regulated by legislation. The working time limits inclusive of overtime are provided by daily and weekly limits. The maximum daily and weekly working hours (inclusive of overtime) are 12 hours and 60 hours respectively. Working time (inclusive of overtime) may not exceed 48 hours on average over a 16-week reference period and 55 hours on average over a four-week reference period. Collective agreements may provide for different daily and weekly hours however subject to the daily and weekly limit of 12 and 60 hours respectively.

For more information on this please refer to the section on Compensation.

13/13 TRADE UNION

ILO Conventions

Freedom of association and protection of the right to organize:
Convention 87 (1948)

Right to Organize and Collective Bargaining: Convention 98 (1949)

Netherlands has ratified both the Conventions 87 & 98.

Summary of Provisions under ILO Conventions

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

Trade unions are entitled to negotiate with employers on term of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violation of this principle).

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organize provided in ILO convention 87.

Regulations on trade unions:

- Dutch Constitution of 1815, last amended in 2008
- Dutch Works Council Act (Wet op de ondernemingsraden) of 28 January 1971
- Collective Agreements Act (Wet op de collectieve arbeidsovereenkomst) of 24 December 1971
- Act on Declaring Provisions of Collective Agreements Generally Binding and Non-Binding (Wet op het algemeen verbindend en het onverbindend verklaren van bepalingen van collectieve arbeidsovereenkomsten) of 25 May 1937

Freedom to Join and Form a Union

Freedom of association (and right to join trade unions) is guaranteed under the Dutch Constitution. Union density in the Netherlands hovers around 20%. The two main confederations, the FNV and the CNV, organize nearly 1.3 million manual and non-manual workers. Work Councils represent employees at the company level however these generally cannot negotiate on the core issues of pay and working time, which are reserved for the unions. In the absence of sectoral collective agreements, a Works Council can negotiate about pay, working time and allowances however it does not have the same legal status as union negotiated collective agreement.

As of 1 January 2019, according to the Dutch Works Councils Act (WOR), the annual interview on wages and pay differences within the company is mandatory. This applies to companies with 100 and more employees. The goal is to stimulate awareness and transparency on this topic within companies. The Council has the right to receive all information which it needs to properly perform its duties (of giving advice to the employer on important issues).

The information and consultation stipulated in the Dutch Works Council Act comprises the following: information on recent and likely developments relating to the activities and economic state of the enterprise; information and consultation relating to the state, structure and likely developments of the job situation within the company, as well as any measures planned to pre-empt such developments, particularly in respect of any circumstances posing a threat to employment; and information and consultation concerning decisions that may entail substantial changes in either the way work is organised or in employment contracts.

An employer may not terminate the employment agreement because of the membership of the employee of an association of employees which, by virtue of its articles of association, has the objective to protect the interests of the members as an employee or because of performing activities for or participating in such an association, unless those activities were performed in the employee's working hours without the employer's permission.

No specific legislation has been enacted to prohibit discrimination against job applicants on the basis of trade union membership. However, trade union members are protected by Article 1 of the Dutch Constitution, which prohibits discrimination on any grounds; thus, employers may not refuse to employ a person or dismiss a current employee because he or she may be a member of a union.

Source: §1 & 8 of the Dutch Constitution of 1815, last amended in 2008

Freedom of Collective Bargaining

The collective labour agreements in Netherlands are regulated under the Collective Agreements Act (Wet op de collectieve arbeidsovereenkomst) and the Act on Declaring Provisions of Collective Agreements Generally Binding and Non-Binding (Wet op het algemeen verbindend en het onverbindend verklaren van bepalingen van collectieve arbeidsovereenkomsten).

Trade unions and employer organizations have the right to negotiate and conclude collective agreements however there is no statutory obligation on either side to do so. The only conditions for trade unions to engage in bargaining are that they must have full legal status as associations and their objective is to protect the interests of the members and conclude collective agreements. Employers are not obliged to recognise trade unions for collective bargaining purposes.

A Collective Labour Agreement (“CAO”) is a written agreement concluded between a single employer/ employers’ organisation and one or more trade unions with the full legal rights to represent both the parties. The dominant level of collective bargaining is sector level. Although trade union density is lower, the collective bargaining coverage remains high with 80% of the workers covered under collective agreements. The Agreements are entered into for two or three years (in recent years, the CAOs are concluded for one year, the maximum limit is 5 years), and are renegotiated from time to time.

Collective Labour agreements principally or exclusively regulate terms and conditions of employment, which must be taken into account in contracts of employment. Collective agreements are legally binding to the parties (including employees working with employers organised in the employers’ organisation that conducted the agreement) of the agreement and on the request by the respective social partners, collective agreements can be extended to all employees by the Ministry of Social Affairs and Employment. In order for a collective agreement to be binding, it must always be registered first with the Ministry of Social Affairs. However, the collective agreement must also always be reported with the Ministry. An agreement can be made generally binding by a decree of the Ministry of Social Affairs and Employment if a significant majority (at least 55%) of the sector's workforce is already covered by the agreement and a formal request is made by one or more of actual agreement signatories. A collective labour agreement is made up of the normative (substantive) and obligation (procedural) clauses. The Normative

clauses regulate issues of pay, working hours and other working conditions and are extendable to other workers and employers (by a decree) even if they are not members of the signatory parties. The obligation clauses (like peace obligation clause in agreement) set out the mutual obligation of the parties and thus are not extendable to others.

Right to Strike

Workers do not have the statutory right to strike. Industrial action/ right to strike finds its basis in the case law. The Dutch Supreme Court ruled in 1986 that article 6(4) of the 1961 Council of Europe Social Charter (the right to engage in collective bargaining and to take collective action) is directly applicable in Netherlands, thereby recognizing a right to strike for workers (excluding public servants). Thus the right to strike is derived European Social Charter.

Collective agreements usually have a peace obligation clause requiring parties to avoid industrial disputes and thus use of industrial action during the currency of a collective agreement. Employees/unions may still take industrial action if employer breaches the agreement, but not before both parties have deliberated with each other.



DECENT WORK QUESTIONNAIRE

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Check

DecentWorkCheck Netherlands is a product of WageIndicator.org and

<http://www.loonwijzer.nl/home>

National Regulation exists



National Regulation does not exist

01/13 Work & Wages

	NR	Yes	No
1. I earn at least the minimum wage announced by the Government		<input type="checkbox"/>	<input type="checkbox"/>
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)		<input type="checkbox"/>	<input type="checkbox"/>

02/13 Compensation

3. Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate)</i>		<input type="checkbox"/>	<input type="checkbox"/>
4. Whenever I work at night, I get higher compensation for night work		<input type="checkbox"/>	<input type="checkbox"/>
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day		<input type="checkbox"/>	<input type="checkbox"/>
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it		<input type="checkbox"/>	<input type="checkbox"/>

03/13 Annual Leave & Holidays

7. How many weeks of paid annual leave are you entitled to?*		<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 4+
8. I get paid during public (national and religious) holidays		<input type="checkbox"/>	<input type="checkbox"/>
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week		<input type="checkbox"/>	<input type="checkbox"/>

04/13 Employment Security

10. I was provided a written statement of particulars at the start of my employment		<input type="checkbox"/>	<input type="checkbox"/>
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature <i>Please tick "NO" if your employer hires contract workers for permanent tasks</i>		<input type="checkbox"/>	<input type="checkbox"/>
12. My probation period is only 06 months		<input type="checkbox"/>	<input type="checkbox"/>
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)		<input type="checkbox"/>	<input type="checkbox"/>
14. My employer offers severance pay in case of termination of employment <i>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</i>		<input type="checkbox"/>	<input type="checkbox"/>

05/13 Family Responsibilities





15. My employer provides paid paternity leave <i>This leave is for new fathers/partners and is given at the time of child birth</i>		<input type="checkbox"/>	<input type="checkbox"/>
16. My employer provides (paid or unpaid) parental leave <i>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</i>		<input type="checkbox"/>	<input type="checkbox"/>
17. My work schedule is flexible enough to combine work with family responsibilities <i>Through part-time work or other flex time options</i>		<input type="checkbox"/>	<input type="checkbox"/>

06/13 Maternity & Work





18. I get free ante and post natal medical care		<input type="checkbox"/>	<input type="checkbox"/>
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work		<input type="checkbox"/>	<input type="checkbox"/>
20. My maternity leave lasts at least 14 weeks		<input type="checkbox"/>	<input type="checkbox"/>

* On question 7, only 3 or 4 working weeks is equivalent to 1 "YES".





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- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy
<i>Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity</i> |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | I have the right to get same/similar job when I return from maternity leave |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | My employer allows nursing breaks, during working hours, to feed my child |  | <input type="checkbox"/> | <input type="checkbox"/> |





07/13 Health & Safety

- | | | | | |
|-----|--|---|--------------------------|--------------------------|
| 25. | My employer makes sure my workplace is safe and healthy |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | My employer provides protective equipment, including protective clothing, free of cost |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |









08/13 Sick Leave & Employment Injury Benefits

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 29. | My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. | I have access to free medical care during my sickness and work injury |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | My employment is secure during the first 6 months of my illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | I get adequate compensation in the case of an occupational accident/work injury or occupational disease |  | <input type="checkbox"/> | <input type="checkbox"/> |













09/13 Social Security

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 33. | I am entitled to a pension when I turn 60 |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | When I, as a worker, die, my next of kin/survivors get some benefit |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | I get unemployment benefit in case I lose my job |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident |  | <input type="checkbox"/> | <input type="checkbox"/> |



10/13 Fair Treatment

- | | | | | |
|-----|--|---|--------------------------|--------------------------|
| 37. | My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. | My employer take strict action against sexual harassment at workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 39. | I am treated equally in employment opportunities (appointment,promotion, training and transfer) without discrimination on the basis of:* |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Sex/Gender |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Race |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Colour |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Religion |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Political Opinion |  | <input type="checkbox"/> | <input type="checkbox"/> |




* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.

Nationality/Place of Birth		<input type="checkbox"/>	<input type="checkbox"/>
Social Origin/Caste		<input type="checkbox"/>	<input type="checkbox"/>
Family responsibilities/family status		<input type="checkbox"/>	<input type="checkbox"/>
Age		<input type="checkbox"/>	<input type="checkbox"/>
Disability/HIV-AIDS		<input type="checkbox"/>	<input type="checkbox"/>
Trade union membership and related activities		<input type="checkbox"/>	<input type="checkbox"/>
Language		<input type="checkbox"/>	<input type="checkbox"/>
Sexual Orientation (homosexual, bisexual or heterosexual orientation)		<input type="checkbox"/>	<input type="checkbox"/>
Marital Status		<input type="checkbox"/>	<input type="checkbox"/>
Physical Appearance		<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy/Maternity		<input type="checkbox"/>	<input type="checkbox"/>
40 I, as a woman, can work in the same industries as men and have the freedom to choose my profession		<input type="checkbox"/>	<input type="checkbox"/>





11/13 Minors & Youth

41. In my workplace, children under 15 are forbidden		<input type="checkbox"/>	<input type="checkbox"/>
42. In my workplace, children under 18 are forbidden for hazardous work		<input type="checkbox"/>	<input type="checkbox"/>

12/13 Forced Labour

43. I have the right to terminate employment at will or after serving a notice		<input type="checkbox"/>	<input type="checkbox"/>
44. My employer keeps my workplace free of forced or bonded labour		<input type="checkbox"/>	<input type="checkbox"/>
45. My total hours of work, inclusive of overtime, do not exceed 56 hours per week		<input type="checkbox"/>	<input type="checkbox"/>

13/13 Trade Union Rights

46. I have a labour union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
47. I have the right to join a union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
48. My employer allows collective bargaining at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
49. I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination		<input type="checkbox"/>	<input type="checkbox"/>

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Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:



is your amount of "YES" accumulated.

Netherlands scored 47 times "YES" on 49 questions related to International Labour Standards

If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.