

**Step-by-step guide
for employing staff
in the Netherlands**

Step-by-step guide for employing staff

If you run a business in the Netherlands and intend to employ staff, you will have to deal with various government rules and regulations. You can use this step-by-step guide to quickly determine your obligations. This plan also includes a number of rules that apply specifically to employing foreign personnel. The plan is merely a guideline. You may be subject to other obligations as well or you may have to follow the steps in a different order. Some steps can be carried out at the same time.

Steps:

1. Recruit personnel initially in the EEA
2. Verify and register the identity of your employees
3. Apply for a work permit (if needed)
4. Organize accommodation for foreign employees
5. Register as an employer with the Tax Administration
6. Ask your employees for a tax and social insurance number
7. Enter into a contract of employment
8. Pay at least the minimum wage and holiday allowance
9. Provide healthy and safe working conditions
10. Draw up a risk inventory and evaluation (*RI&E*)
11. Check whether you are required to deduct social insurance premiums
12. Additional information which is relevant

1. Recruit personnel initially in the EEA

If you have a company in the Netherlands and you are looking for personnel, you are obliged to recruit first of all within the European Economic Area (EEA) and/or Switzerland. You will have to demonstrate that you cannot find a suitable employee in either the EEA or Switzerland before being permitted to recruit in other countries.

Work permit

You usually require a work permit (*tewerkstellingsvergunning*) for employees from Bulgaria, Romania and non-EEA countries. A work permit is not required if the worker comes from an EEA member country or from Switzerland.

If you hire foreign personnel via an intermediary (e.g. temporary employment agency, contracting firm or subcontractor), you are responsible for ensuring that they have a work permit. The intermediary must request this permit.

Citizen service number/tax and social insurance number

Foreign employees who are required to pay tax in the Netherlands must have a citizen service number (*burgerservicenummer*) or a tax and social insurance number (*sofinummer*). They must personally collect this number from an office of the Tax and Customs Administration.

Proof of identity for foreign employees

You must ensure that your records include a copy of the proof of identity of all foreign employees who you hire in or employ via a contractor or subcontractor. You must keep these copies for 5 years after the person stops working for you.

Self-employed workers and freelancers

If you work with self-employed workers without employees (*zzp'ers*) or freelancers from abroad, you must check whether they are permitted to reside in the Netherlands and work as self employed people. This is stated in their residence permit or passport. You will usually need a work permit for self-employed workers without employees from outside the EEA.

2. Verify and register the identity of your employees

If you have a business in the Netherlands and employ staff, you must verify the identity of all workers on the basis of an original identity document. This applies to both Dutch and foreign workers who you employ. Even if (foreign) temporary workers are hired through an intermediary or work for you through a contractor or subcontractor, you must nevertheless verify the identity of these workers. In addition, you must ensure that your employees can always produce valid proof of identity when at work.

Keeping a copy of the identity document

You are obliged to keep a copy of the identity document in your records. You must retain this copy for 5 calendar years after the termination of the working relationship, period of employment or activities. Where temporary workers are hired through an intermediary or a contractor or subcontractor, you must verify and record their identity for the purpose of (limiting the risk of) claims for liability by the Dutch Tax and Customs Administration (*Belastingdienst*). With regard to these workers, you must retain the copies for 7 years after the end of the activities or period of temporary work.

Valid identity documents

A driving licence is not a valid identity document for the purpose of verifying a person's identity at the start of the working relationship as it offers no indication of nationality and residency status. In other situations, for example for workplace inspections, a driving licence is a valid identity document.

3. Apply for a work permit (if needed)

If you run a business in the Netherlands and intend to employ foreign workers on a permanent or temporary basis, or if you run a business outside of the Netherlands and intend to temporarily employ workers in the Netherlands, you sometimes need to apply for a work permit (*tewerkstellingsvergunning, TWV*) for those workers.

Employing foreign workers on a permanent or temporary basis

If your Netherlands-based company intends to employ a foreign worker, you must first verify his or her nationality on the basis of a valid identity document. This applies to all workers, including trainees and volunteers.

If the worker comes from Romania or Bulgaria or if the worker comes from outside the EEA/Switzerland, you must verify whether he/she is permitted to work in the Netherlands pursuant to the Act on the Employment of Aliens (*Wet arbeid vreemdelingen, Wav*). This is indicated on his/her identity document. You must then apply for a work permit for this worker from the Public Employment Service (*UWV WERKbedrijf*).

In addition, when hiring temporary staff through an intermediary or outsourcing work to employees of a different company, you must verify whether a work permit has been issued for workers from Romania or Bulgaria and for workers from outside the EEA/Switzerland. The intermediary or the employer to whom you outsource work is obliged to apply for the necessary permits.

A work permit is not required if the worker comes from an EEA member country or from Switzerland. Besides, exceptions apply to certain groups of scientists, knowledge workers and work placement students active at your business. In addition, faster procedures apply to some employees, including senior management and specialists.

Foreign companies employing staff to work in the Netherlands

If your business is based outside of the Netherlands and you intend to employ workers temporarily in the Netherlands, you must in principle apply for a work permit on their behalf if they come from Bulgaria or Romania or from a country outside the EEA/Switzerland. However, a work permit is not required if:

- your company is based (= has its registered office) in an EEA member country or in Switzerland; and
- your employee will work temporarily in the Netherlands; and
- your employee is permitted to live and work in the country where your company has its registered office.

For this employee you do not require a work permit, but you do have a 'duty of notification'. This means that you must provide the Public Employment Service (*UWV WERKbedrijf*) with information in advance about your company, the nature of your services and the identity of your employees. You must provide this information by completing the notification form, which is available for downloading from the website of *UWV WERKbedrijf*. This rule does not apply to temporary employment agencies, secondment companies or subcontractors.

The duty of notification does not apply if your employee comes from an EEA member country or Switzerland. You also do not need to apply for a work permit for him/her.

4. Organize accommodation for foreign employees

If you have a company in the Netherlands and you employ foreign workers on a temporary basis, you will in some cases be obliged to provide suitable accommodation. This obligation applies if it is included as a provision in the Collective Labour Agreement for your business sector or if you employ workers who need a work permit.

Temporary employment agencies and foreign companies

The statutory requirement to find accommodation also applies to temporary employment agencies and companies from abroad that employ workers in the Netherlands. Self-employed workers without employees (known in Dutch as *zzp'ers*) must find their own accommodation.

Accommodation criteria

The accommodation must meet a number of basic requirements regarding hygiene, safety and quality. The precise details of the rules differ from municipality to municipality, which is why you need to contact your local municipal authority if you have to find accommodation for employees. The VROM Inspectorate (*VROM-inspectie*) supports the municipal and provincial authorities in this regard.

5. Register as an employer with the Tax Administration

If you set up or take over a business in the Netherlands, you must register with the Tax and Customs Administration (*Belastingdienst*). Since 6 December 2010, this happens automatically when you enter your business in the Trade Register of the Chamber of Commerce (*Kamer van Koophandel, KvK*). The latter will pass on your details to the Tax and Customs Administration. The entry in the Trade Register must take place within one week of the start of your business.

Registration of foreign businesses

If your company is established in a country other than the Netherlands, but provides services in the Netherlands or supplies goods to Dutch-based companies, you may also have to register with the Dutch Tax and Customs Administration. Please contact the Department of International Issues of the Tax Administration in Heerlen to do so. In this case, you are not required to enter your business in the Trade Register of the Dutch Chamber of Commerce.

Types of taxes

The Tax and Customs Administration uses your information to determine which taxes you are required to pay, which can include:

- income tax;
- turnover tax;
- corporate income tax;
- payroll tax.

Within a few weeks after registration, the Tax and Customs Administration will send you a letter outlining the relevant information. You may also receive a VAT number and a tax return form. You do not need to submit a separate request for a VAT number.

Changes

You must notify your tax office in writing of any changes in your name or address details. If you open an outlet at another location, you do not need to report this other outlet to the Tax and Customs Administration.

6. Ask your employees for a tax and social insurance number

When you register with a Dutch municipality, you will receive a citizen service number (*burgerservicenummer, BSN*). The Dutch government uses this unique personal identification number when processing your personal data. You can use the *BSN* to identify yourself to government agencies, health care providers and educational institutions.

BSN or tax and social insurance number

You need a *BSN* if you are liable for tax in the Netherlands. If you do not have a *BSN*, but you do need to pay taxes in the Netherlands, you can use your tax and social insurance number (*sofinummer*). This will be the case, for example, if you live in the Netherlands for a short time and are not registered with a municipality. You must apply to the Dutch Tax and Customs Administration (*Belastingdienst*) for a tax and social insurance number.

If you employ staff and you remit payroll taxes for them to the Dutch Tax and Customs Administration, you must record the *BSN* of every employee in your personnel files. Any employees without a *BSN* must apply for a tax and social insurance number from the Dutch Tax and Customs Administration.

Application for a tax and social insurance number

You or your employee must collect the tax and social insurance number in person from one of the offices of the Dutch Tax and Customs Administration. You or your employee must first schedule an appointment to do so via the Tax Information Line. You can make an appointment for several employees at the same time. The website of the Dutch Tax and Customs Administration lists the conditions that you or your employee must meet to be eligible for a tax and social insurance number.

7. Enter into a contract of employment

A contract of employment is an agreement between an employee and an employer. You enter into a contract of employment for a fixed term (a temporary contract) or for an indefinite period (a permanent contract). A contract of employment can be agreed in writing or verbally.

Providing employment data

As an employer, you are required to provide your employees with certain information either in writing or electronically. If you intend to provide the information electronically, your employee must give his or her express consent for you to do so. You can include the data in your employment contract but you may also provide the data separately.

The information includes the following:

- the name and place of residence of the employer and the employee;
- the location(s), at which the work is carried out;
- the employee's job and the nature of the work;
- the usual working hours;
- the amount of the salary and the payment periods;
- date when the employee joined the company;
- term of the contract (if for a definite period of time);
- (if applicable:) length of the trial period;
- holiday entitlement;
- period of notice;
- (if applicable:) pension;
- (if applicable:) non-competition clause;
- applicability of the Collective Labour Agreement (CAO).

Temporary contracts of employment

You may offer your employees three consecutive temporary contracts of employment in the Netherlands. A temporary contract may also run for three years at most. Permanent employment will automatically apply with regard to the fourth contract or after a contract is extended after three years.

These rules have been broadened temporarily as from 9 July 2010 when employees up to the age of 27 are involved. You may now offer these employees four consecutive temporary contracts of employment and a temporary contract may last for four years at most. Permanent employment applies with regard to the fifth contract and in the fifth year of employment. In principle, this temporary broadening applies up to 1 January 2012.

8. Pay at least the minimum wage and holiday allowance

If you run a business in the Netherlands and employ staff, or if your business has its registered office outside of the Netherlands and you employ workers in the Netherlands, you must comply with the Minimum Wage and Minimum Holiday Allowance Act (*Wet minimumloon en minimumvakantiebijslag, Wml*). This Act stipulates that you must pay all workers between the ages of 23 and 65 at least the statutory minimum wage and holiday allowance. You must pay the minimum wage for young workers to staff between the ages of 15 and 23.

Applicable to flexworkers and temporary workers as well

The Minimum Wage and Minimum Holiday Allowance Act (*Wml*) applies to every worker in the Netherlands, including flexworkers (e.g. home workers and stand-by employees). Even if you hire employees temporarily or have employees work for you via a contractor/subcontractor, you are responsible for ensuring that they are paid at least the minimum wage. This is supervised by the Labour Inspectorate (*Arbeidsinspectie*), which can impose a fine if you fail to pay the full minimum wage.

Establishment of minimum wage amounts

The minimum wage amounts are adjusted every six months (in January and July) in accordance with the average trend in collective labour agreement (*CAO*) wages in the Netherlands. These amounts are published on the website of the Ministry of Social Affairs and Employment. The level of minimum wage for young workers depends on the age of the worker. The level of minimum wage is the same for everyone older than 23.

9. Provide healthy and safe working conditions

If you own a company in the Netherlands you must ensure a healthy and safe work place for all your personnel, including temporary personnel. If you outsource work, for example to a subcontractor, you must also ensure a healthy and safe work place for the subcontractor's workers. A healthy and safe work place includes:

- work place and equipment;
- physical and psychological stress;
- substances, radiation and contagion.

You are obliged to record details of the occupational hazards and corresponding countermeasures in a risk inventory and evaluation (*RI&E*).

Working conditions catalogue

The Dutch government's target conditions can be found in the Working Conditions Act (*Arbowet*), the Working Conditions Decree (*Arbobesluit*), the Working Conditions Regulation (*Arboregeling*) and the Working Conditions Policy Rules (*Arbobeleidsregels*). Employers and employees use a working conditions catalogue (*Arbocatalogus*) to agree on how they are going to achieve the government's target conditions. A working conditions catalogue can apply to one company or to an entire sector. On the (Dutch-language) website DeArbocatalogus.nl you will find practical suggestions and instruments for developing an occupational health and safety catalogue.

Sector pamphlets on occupational hazards

The Labour Inspectorate (*Arbeidsinspectie*) publishes pamphlets on the main occupational hazards in specific sectors. You can read what requirements apply to you as an employer in your sector and what precisely the Labour Inspectorate looks for during an inspection.

10. Draw up a risk inventory and evaluation (*RI&E*)

If you own a business in the Netherlands and employ staff, you are obliged to conduct a risk inventory and evaluation (*RI&E*). The *RI&E* must be performed before the official start of your business. When carrying out an *RI&E*, you must check:

- which risks you and your employees encounter;
- what measures you have taken in order to prevent harm to your own health and that of your employees;
- what measures you are planning to take (*Plan van Aanpak*).

You can use one of the *RI&E* tools developed by various sector organisations specifically for their sector. An overview of these tools is available on the Dutch-language website *Rie.nl*.

11. Check whether you are required to deduct social insurance premiums

If you have a company in the Netherlands, you may have to deal with employee insurance schemes and national insurance, including social insurance against loss of income due, for instance, to unemployment, old age, illness or incapacity for work.

Employee insurance schemes

In the Netherlands, employee insurance schemes are compulsory for every employee and include insurance under the following Acts of Parliament:

- Unemployment Insurance Act (*Werkloosheidswet, WW*);
- Work and Income (Capacity for Work) Act (*Wet werk en inkomen naar arbeidsvermogen, WIA*);
- Invalidity Insurance Act (*Wet op de arbeidsongeschiktheidsverzekering, WAO*);
- Sick Leave Act (*Ziektewet, ZW*).

Employers pay contributions on behalf of employees to the Dutch Tax and Customs Administration (*Belastingdienst*). The Institute for Employee Benefit Schemes (*Uitvoeringsinstituut Werknemersverzekeringen, UWV*) arranges payment of employee benefits. With regard to the Work and Income (Capacity for Work) Act you can opt to be a self-insurer.

National insurance

National insurance is in principle compulsory for everyone who works or lives permanently in the Netherlands and includes insurance under the following Acts of Parliament:

- General Child Benefit Act (*Algemene Kinderbijslagwet, AKW*);
- Surviving Dependents Act (*Algemene nabestaandenwet, Anw*);
- General Old Age Pensions Act (*Algemene Ouderdomswet, AOW*);
- Exceptional Medical Expenses Act (*Algemene Wet Bijzondere Ziektekosten, AWBZ*).

You do not pay any contributions under the General Child Benefit Act. The contributions for the remaining national insurances are collected by the Dutch Tax and Customs Administration (*Belastingdienst*). Employers withhold national insurance contributions from their employees' wages. The Social Insurance Bank (*Sociale Verzekeringsbank, SVB*) arranges payment of the benefit.

Social insurance in the case of temporary work in the Netherlands

If your business is based outside the Netherlands and you temporarily post employees to the Netherlands, they can usually remain insured for social security purposes in your own country. In that case, however, they must apply for an E101/A1 statement. This also applies if you work temporarily in the Netherlands as a self-employed worker.

Health care insurance

Business owners and employees who live in the Netherlands are obliged to take out health care insurance under the Health Care Insurance Act (*Zorgverzekeringswet, Zvw*). This obligation also applies if you do not live here, but are insured under the *AWBZ*, a national insurance, in the Netherlands. You pay the premium for the health insurance to your care insurer. In addition, you pay an income-based contribution to the Tax and Customs Administration (*Belastingdienst*).

12. Additional information

CAO (Collective Labour Agreement)

If you run a company in the Netherlands, you may have to deal with collective labour agreements (*CAOs*), which specify collective agreements concluded between employers, employers' organisations, employees and employee organisations regarding wages and other conditions of employment. The government is not a party to these agreements.

A *CAO* can be entered into per company and per business sector. The *CAO* must be registered with the Ministry of Social Affairs and Employment. If a *CAO* has been declared universally binding for your sector, you are obliged as an employer to comply with it. You must state in the individual employment contracts whether a *CAO* applies.

Obligations under collective labour agreements for businesses outside the Netherlands

If your business is based outside the Netherlands and you temporarily post employees to the Netherlands, the EU Secondment Directive will apply to you. Under this directive, you must always check whether there is a mandatory *CAO* for your sector. If there is, you as a foreign business must observe a number of key provisions in this *CAO*. These include provisions about the minimum wage, working hours and breaks and holiday entitlements. More information on this subject can be found on the website cao.szw.nl.

Working hours and rest times

If you run a business in the Netherlands and employ staff, or if your business has its registered office outside of the Netherlands and you employ workers in the Netherlands, you must comply with the Working Hours Act (*Arbeidstijdenwet*). This Act states the number of hours employees are allowed to work each day and each week and when they are entitled to breaks. Special rules apply to children, young people and pregnant women or new mothers.

Applicable to flexworkers and temporary workers as well

The Working Hours Act applies to all personnel, including foreign workers and hired personnel. If you outsource work to, for instance, a subcontractor, the Working Hours Act also applies to the subcontractor's workers. The Labour Inspectorate ensures that the working hours and rest periods specified in the Act are not violated. If the inspectorate detects violations, sanctions will be imposed.

Changing working hours

Companies with ten or more employees are also required to comply with the Working Hours (Amendment) Act (*Wet aanpassing arbeidsduur*). This Act offers employees the option of working more or fewer hours. If an employee asks for a change to the working hours laid down in the employment contract, you must always grant the request. You may only refuse if a change poses serious problems for your company. Companies with fewer than ten employees must draw up their own regulations.

Holiday entitlement

If you run a business in the Netherlands and employ staff, or if your business has its registered office outside of the Netherlands and you employ workers in the Netherlands, you must comply with statutory regulations regarding holiday entitlements. These regulations state that employees are entitled to a minimum number of days' leave with retention of pay.

Statutory number of days' leave

The statutory number of days' leave per year is at least four times the number of working days per week (e.g. 20 days per year in the event of full-time employment). In the event of part-time employment, the number of days' leave is calculated proportionally.

With regard to a full-time working week, a maximum of 250 days leave may be transferred freely to the following year. For a part-time employment contract, this maximum is reduced proportionally. The statutory minimum leave can never be paid out.

Your sector's collective labour agreement (*CAO*) may contain other agreements on holiday entitlements. In that case you must comply with these agreements.

Public holidays

The Netherlands has a number of generally recognised (Christian) public holidays and public holidays that are not generally recognised. The generally recognised public holidays are New Year's Day, Good Friday, Easter, Queen's Day, Liberation Day, Ascension Day, Whit and Christmas. The collective labour agreement (*CAO*) or employment contract that applies to your employees determines whether they have a day off on these public holidays. Public holidays that are not generally recognised are, for example, the holiday of Eid Al-Fitr at the end of Ramadan or Chanukah. The collective labour agreement may state that a Christian public holiday can be substituted for a non-recognised public holiday.

5 May (Liberation Day)

Although 5 May is a public holiday, this does not necessarily mean that your employees are entitled to a paid day off. The regulations differ from sector to sector. In the business sector, the collective labour agreement (*CAO*) determines whether 5 May is a paid day off. Many *CAOs* stipulate that 5 May is a day off once every five years (e.g. 2010, 2015 and 2020). You decide whether your employees have a day off on 5 May if the *CAO* does not contain any provisions on this subject or if there is no *CAO* in your sector.

Salary slip

If you run a business in the Netherlands and employ staff, you must provide them with a salary slip at the time of the first salary payment. You must also do so whenever there is a change in the salary or the deductions, such as the pension contribution, wage tax and social security contributions. You can send the salary slip by post or electronically. If you intend to send the salary slip electronically, your employee must give his or her express consent for you to do so.

What must you do?

The salary slip must contain the following information:

- gross salary amount;
- breakdown of the salary into components, e.g. basic salary and performance-related bonus;
- deductions;
- statutory minimum (youth) wage and minimum holiday allowance;
- the name of the employer and the name of the employee;
- period to which the payment relates;
- agreed number of working hours.

Pension funds

In the Netherlands, you are sometimes required to participate in a sectoral pension fund, including if you are employed in the construction, retail, hotel and catering, care and printing sectors. The Minister of Social Affairs and Employment has made it compulsory for entrepreneurs and workers in the sectors concerned to participate in a pension scheme. The Dutch Association of Industry-wide Pension Funds or your trade organisation can inform you whether this obligation also applies to your sector.

Occupational pension funds

In addition to sectoral pension funds, there are also a number of occupational pension funds. Participation is almost always compulsory for entrepreneurs and workers in the occupations concerned, which include pharmacists, physiotherapists and GPs, for example. For more information, please contact the Association of Occupational Pension Funds (*Unie van Beroepspensioenfondsen*) or your professional organisation.

Individual pension schemes

If your business is not covered by a compulsory pension fund, you may make arrangements for an individual pension scheme for yourself and/or your employees.

Leave schemes

Pursuant to the Work and Care Act (*Wet arbeid en zorg, WAZO*), employees in the Netherlands can invoke a number of different leave schemes. Different rules may be laid down in collective labour agreements. In that case, the scheme laid down in the collective labour agreement will apply instead of the *WAZO* scheme. In addition to the statutory and collective labour agreement-related leave schemes, you can also make individual agreements with employees. The following leave schemes are included in the *WAZO*:

- Pregnancy and maternity leave
- Paternity leave
- Emergency leave and other short absence leave
- Parental leave
- Short-term care leave
- Long-term care leave
- Adoption leave
- Unpaid leave

If your business is based abroad and you temporarily post employees to the Netherlands, the *WAZO* also applies in part to you. In that case, you must observe the Dutch rules concerning pregnancy and maternity leave and paternity leave for the partner.

Pregnancy and maternity leave

Pregnant employees are entitled to a total of at least 16 weeks' pregnancy leave (before the birth) and maternity leave (after the birth).

Paternity leave

Employees are entitled to two working days of paternity leave if their partner has just given birth. During this period of leave, you must continue to pay 100% of the employee's salary. Your employee is entitled to take 'other short absence leave' for the birth itself and to register the birth.

Emergency leave and other short absence leave

Emergency leave is intended for unforeseen personal circumstances for which an employee has to take time off immediately. You must always grant a reasonable request for emergency leave. During this period of leave, you are required to continue paying the employee's salary.

Emergency leave can be taken, for instance, when making arrangements for the care of a sick family member or in the event of a death in the family.

Parental leave

Employees with children aged up to 8 can take unpaid parental leave. The employee must have been employed by you for at least one year. In principle, you cannot refuse this leave.

Short-term care leave

Short-term care leave can be taken to provide essential care to parents, ill children who still live at home or partners. However, this leave is only granted on the condition that the employee in question is the only person who can look after the ill person at that moment in time. During the period of leave, you must continue to pay at least 70% of the employee's salary.

Long-term care leave

If a child, partner or parent of one of your employees is seriously (i.e. life threatening) ill and requires care, the employee can request long-term care leave. During this period of leave, you do not have to continue paying the employee's salary.

Adoption leave

If an employee has adopted a child, both the employee and the child will need time to adjust to each other. All employees who adopt a child are entitled to adoption leave (foster leave). The leave applies to both parents.

Special or extraordinary leave

Special leave and extraordinary leave are not granted pursuant to the Work and Care Act (*Wet arbeid en zorg, WAZO*), but are rather provided for in your collective labour agreement (*CAO*), company scheme or employee contract. This leave includes leave in the event of giving official notice of an intended marriage, marriage (of a family member), moving house, funeral (of a family member) or a service/wedding anniversary.

Unpaid leave

Employees may in consultation with you take unpaid leave on a full-time or part-time basis. The employment contract will continue during the leave. Employees do not have any legal entitlement to unpaid leave. However, it is possible for the collective labour agreement to include arrangements relating to unpaid leave.

Travel allowance

If you own a company in the Netherlands, you can pay employees with a fixed place of work a predetermined travel allowance. You are not, however, required to do this. Often agreements have been made in the employment contract or in the collective labour agreement (*CAO*) about the allowances for travel expenses.

You can pay this kilometre allowance for both commuting and business trips. Allowances of EUR 0.19 or less per kilometre are free of tax and social security contributions. If an allowance exceeds EUR 0.19 per kilometre, the Dutch Tax and Customs Administration (*Belastingdienst*) will regard the excess as wages. If your employee travels (partially) by public transport, then you can also reimburse the actual travelling expenses without it being liable to taxation.

Dismissal

If you have a company in the Netherlands and you want to dismiss employees, you must have a good reason for requesting dismissal, such as refusal to perform work, culpable conduct, excessive sickness absence, reorganisation or company closure.

Dismissal permit issued by the Public Employment Service

If you intend to terminate an open-ended contract of employment without the employee's consent, you can request a dismissal permit from the Public Employment Service (*UWV WERKbedrijf*). If the Public Employment Service does not give you permission to dismiss your employee, you can submit a request to the sub-district court (*kantonrechter*) asking the court to dissolve the contract of employment.

Dismissal granted by the sub-district court

You can only request the sub-district court to dissolve a contract of employment if the contract is for an indefinite period (*arbeidsovereenkomst voor onbepaalde tijd*). This request must be supported by compelling reasons, such as urgent reasons in the case of summary dismissal or a breach of trust.

Dismissal by mutual consent

If you and your employee agree in mutual consultation to terminate the contract of employment, dismissal by mutual consent is involved. Your employee, therefore, agrees voluntarily to the dismissal. The agreements you make with your employee can be set down in a termination agreement. You do not require the consent of Public Employment Service (*UWV WERKbedrijf*) and you do not need to have the employment contract be set aside by a sub-district court with regard to dismissal by mutual consent.

Fixed term contract of employment

In the case of a fixed-term contract of employment, you normally have to wait until the contract period has ended. Sometimes a collective labour agreement (*CAO*) or the employment contract contains rules on dismissal or a redundancy scheme.

Severance payment

If you run a business in the Netherlands and you wish to terminate the employment of one of your employees, there are various ways to do so. If your employee also wants the employment to end, you may opt for 'dismissal by mutual consent' (*'ontslag met wederzijds goedvinden'*). If your employee disagrees with the dismissal, you may apply to the Public Employment Service (*UWV Werkbedrijf*) for a dismissal permit or request the sub-district court to dissolve the employment contract.

Payment

In the event of dismissal by mutual consent, you can agree a severance payment with your employee. If the employment contract is dissolved by the sub-district court, the court may determine a severance payment. You make the payment, for example, as compensation for loss of income. Specific fiscal rules apply depending on the type of severance payment (e.g. periodic or a one-off lump-sum payment).

Periodic benefits

Compensation in the form of periodic benefits are untaxed if a number of conditions are fulfilled. The claim must, for example, provide for periodic benefits which commence no later than in the year in which the former employee reached the age of 65.

Golden handshake

A golden handshake means you give your employee a lump sum benefit in the event of dismissal. This amount is not seen as income which is subject to employee insurance contributions. However, this compensation is considered income which is subject to the wage tax/national insurance contributions and the income based contribution under the Health Care Insurance Act (*Zorgverzekeringswet, Zvw*).

Equal treatment and pay

If you run a business in the Netherlands and employ staff, or if your business has its registered office outside of the Netherlands and you employ workers in the Netherlands, you must comply with the Dutch Equal Treatment Act (*Algemene wet gelijke behandeling, AWGB*). This Act states that employers may not discriminate on the grounds of religion, philosophy of life, political persuasion, age, race, sex, handicap or any other grounds. This rule relates to:

- recruitment and selection;
- employment mediation;
- entering into an employment relationship;
- dismissal;
- terms and conditions of employment and wages;
- professional education and refresher courses;
- internal recruitment and promotions;
- working conditions (on the shop floor);
- career orientation;
- (membership of) employers' and employees' organisations/professional associations;
- access to 'independent professions' (such as lawyers and civil-law notaries).

The Dutch Equal Treatment Commission (*CGB*) monitors compliance with this legislation.

Sick pay

If you own a company in the Netherlands and one of your employees becomes ill, you are required to pay at least 70% of the wage last earned by this employee for a maximum of two years (Note: this is linked to a maximum daily wage). You are obliged to supplement this amount to the minimum wage in the first year of illness. This statutory minimum wage guarantee does not apply to the second year of illness. This obligation to continue payment of wages in the event of illness is laid down by law in Article 629 of Book 7 of the Dutch Civil Code.

Resumption of work

You must consult with the employee to find ways to facilitate the resumption of work. Within the two-year period, you have the option of temporarily discontinuing payment of wages if the employee does not cooperate sufficiently as regards resuming work. Insufficient cooperation can even serve as grounds for dismissal.

Work and Income (Capacity for Work) Act (WIA)

After two years, the employee may be eligible for a benefit pursuant to the Work and Income (Capacity for Work) Act (*Wet werk en inkomen naar arbeidsvermogen, WIA*). You can then dissolve the employment contract. The Institute for Employee Benefit Schemes (*UWV*) assesses whether the employer and the employee have done enough to avoid a benefits claim. If that is not the case, *UWV* may reclaim the sick pay from the employer.

Reintegration obligations

If you own a company in the Netherlands and one of your employees becomes ill, you must work together with the employee to do all you can to ensure that the employee in question resumes work – if sensible – as quickly as possible. The employee can return to his/her original position, another suitable position within your organisation or a position with another employer.

Reintegration dossier

The Eligibility for Permanent Incapacity Benefit (Restrictions) Act (*Wet verbetering poortwachter*) obliges you to take a number of steps within a certain period of time. You and your employee have to draw up a plan of action. You have to maintain a reintegration dossier which records all agreements and activities. This dossier also includes for example the plan of action, the reintegration report and correspondence with the Occupational Health and Safety Service (*Arbodienst*).

Work and Income (Capacity for Work) Act (WIA)

After two years, your employee may be able to claim a Work and Income (Capacity for Work) Act (*Wet Werk en Inkomen naar Arbeidsvermogen, WIA*) benefit. You can then dissolve the employment contract. The Institute for Employee Benefit Schemes (*UWV*) assesses whether you and your employee have done enough to avoid a benefit being claimed. If that is not the case, *UWV* may reclaim the sick pay from you the employer.

Illness and recovery reporting

If you own a company in the Netherlands and an employee reports ill, you must notify your occupational health and safety service or occupational health and safety doctor. When your employee has been ill for more than 42 weeks, you must report this to the Institute for Employee Benefit Schemes (*UWV*). This also applies if you are a self-insurer for the purpose of the Invalidity Insurance Act (*WAO*) or the Return to Work (Partially Disabled) Regulations (*WGA*). You are not required to report your employees' recovery. These rules do not apply if a sick employee is entitled to sickness benefits.

Sickness benefits

Sometimes a sick employee is entitled to sickness benefits. This applies to, for example:

- Employees who are ill as a result of pregnancy or childbirth
- Employees with structural functional limitations and occupationally disabled persons who are ill
- Employees whose employment ends during their illness

If your employee is entitled to sickness benefits, you must report your employee's illness to the *UWV* by no later than the fourth working day. You can do this online by means of the (Dutch-language) Absenteeism Reporter for the Sickness Benefits Act/Work and Care Act (*Verzuimmelder Ziektewet/WAZO*). You must notify the *UWV* of this employee's recovery within two days.

Stand-by employees

A stand-by employee is one who only comes to work when called upon to do so. The rules with which you must comply depend on the type of employment contract you have with the stand-by employee. There are three types of employment contracts:

- Stand-by contract involving a preparatory agreement. The employee can decide whether to come to work when called upon.
- Zero-hours contract. The employee is required to work when called upon.
- Min.-max. contract. The employee is required to work up to the maximum number of hours agreed upon with the employer.

Permanent employment

A stand-by employee can demand permanent employment when he/she:

- Has worked every week over a three-month period
- Has worked at least 20 hours per month

You can use written agreements or a work schedule to prove that the pattern of work is not permanent.