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Breaking New Ground in The Netherlands

Work Visa and Labour Law Aspects

2006

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General Introduction

This document provides a summary of the laws and procedures applicable to employment in The Netherlands. The rules and regulations relating to labour law are complicated and extensive. Therefore, this booklet does not deal with every aspect of Dutch labour law, but addresses only the most important issues.

1 Background

The Netherlands have more than sixteen million inhabitants. The labour force consists of some 7.5[1] million people, 57.7 % of whom are men and 42.3 % of whom are women. In October 2005 the number of unemployed amounted to 461,000 people (which is 6.1% of the labour force), which means an significant increase in comparison to 2000.

The productivity and skills of the average employee are high. The mobility of the average employee, however, is rather low. There is quite some reluctance to move from one area of the country to another. This is in contrast to, for example the United States, where employee mobility is far greater.

In The Netherlands, relatively few days are lost to strikes or other forms of labour unrest. This may be explained by two main factors. First, The Netherlands has a long tradition of coalition and consultation, rather than confrontation. Second, Dutch labour law offers employees a large degree of job protection, supplemented by comprehensive social security schemes. The premiums for these mandatory schemes are shared by employees, employers and the Government.

2 Recruitment

Employees are generally hired through advertisements in newspapers, periodicals or on the internet. Specialised private recruitment agencies may be engaged to search for certain key or senior employees. In addition, there is a form of official labour exchange, the Centre for Work and Income (*CWI*), which provides its services free of charge. The CWI-offices are established all over The Netherlands. The CWI plays two important roles which will be discussed later when dealing with immigration aspects and dismissals.

Employers who wish to hire employees on a short or temporary basis usually prefer to enlist the intermediary services of an employment agency. Employees who are hired through such an agency "*uitzendkrachten*" are paid by the agency, not by the employer, although this is more expensive for the employer (who pays the agency the employee's salary plus a fee). The temporary employee has an employment contract with an employment agency. There is no statutory maximum period of hire with respect to temporary employees.

The fact that the temporary employment relationship is seen as an employment contract has a number of important consequences, which curtail the freedom of the temporary employment. In order to ensure the allocation function of the temporary employment contract, the Dutch Civil Code contains the provision that, for a period of six months, some 'old freedoms' of temporary employment remain intact. This 6-month period may be extended in Collective Labour Agreements; after that period, the temporary employment relationship falls under labour law legislation (as laid down by the Dutch Civil Code).

The hire of foreign nationals not permanently residing in The Netherlands is subject to a number of rules and regulations.

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1 figures from 2005

3 Immigration Requirements

Visit to the Netherlands Not Exceeding Three Months

Many foreign nationals require a tourist or business visa to enter the Netherlands if they do not intend to stay more than three months. It is advisable to check with the Dutch Embassy or Consulate whether a visa is required. The visa is issued for a maximum period of 90 days and cannot be extended. Furthermore, the visa holder may remain in the Shengen Area (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden) no longer than 90 days within a six-month period.

Visit to the Netherlands Exceeding Three Months

A foreign national who intends to remain in the Netherlands for more than three months must apply for a residence permit. The conditions for obtaining a residence permit depend entirely on the purpose for which the individual comes to the Netherlands. This chapter discusses residence permits for the purpose of work.

As a rule, foreign nationals who intend to work and reside in the Netherlands must obtain three types of documents:

i) a temporary residence permit (Machtiging tot voorlopig verblijf or 'MVV'), which enables the holder to enter the Netherlands. An MVV is not required for citizens of the European Economic Area, the European Union and Switzerland, Japan, Canada, Australia, Monaco and New Zealand;

(ii) a residence permit, which enables the holder to live in the Netherlands; and

(iii) under certain conditions, a work permit, which enables the holder to work in the Netherlands.

There are two different procedures for applying for an MVV:

(i) the foreign national can apply in the country where he/she lives; or

(ii) the employer in the Netherlands or the person with whom the foreign national will be staying in the Netherlands can apply on his/her behalf.

Depending on the purposes of stay, it takes between eight weeks and six months to obtain an MVV. MVVs for employment purposes are usually granted within eight weeks, if the Dutch employer applies by means of the expedited procedure. During the MVV procedure, the foreign national is not allowed to enter or reside in the Netherlands.

Work Permit

As a rule, an employer that wishes to recruit an employee from outside the EU/EEA will need to apply for a work permit for that employee. There are different procedures for applying for a work permit. Which procedure is applicable depends entirely on the applicant's specific circumstances and the nature of the company he/she is being posted from and the nature of the company where he/she will be working in the Netherlands. Generally, the Dutch employer must prove that the labor market has been scanned for workers who have priority. The employer must prove that the vacancy was reported to the Center for Work and Income and, usually, the European Employment Service (EURES) at least five weeks prior to the work permit application. Furthermore, the employer is required to advertise the job in a Dutch national newspaper, a professional journal and must have engaged a recruitment office. If a company is unsure whether it

is subject to the abovementioned reporting obligation, the company is advised to consult our office in advance. In order to avoid unexpected refusals, companies should be cautious about assuming that a job does not need to be reported to the authorities. Application procedures for different types of employment require extensive preparation. This is not only necessary for the application described above, but also for individuals who wish to have self-employed status in the Netherlands, work at a university or practice a sport professionally. There are many exceptions and for this reason it is advisable to contact our office well in advance.

Knowledge Economy Workers

As of October 1, 2004, skilled and highly educated foreign workers do not require work permits to work in the Netherlands. This new regulation is applicable to nationals of the countries that are not members of the European Economic Area and most nationals of the countries that joined the European Union on May 1, 2004. With this new regulation, the Netherlands intends to stimulate its knowledge economy.

A knowledge economy worker is someone who is employed in the Netherlands and receives an annual salary of at least EUR 45,000 gross or, if aged 30 or younger, EUR32,600 gross. Knowledge economy workers who were required to have a work permit before October 1, 2004 will no longer fall under the Dutch Foreign Employment Act, but will fall under the responsibility of the Immigration and Naturalization Service (IND) and must therefore apply for the required residence permit. The IND will decide, within two weeks, whether to grant a permit.
An important requirement for admission as a knowledge economy worker is that the future employer must have a contract with the IND. The IND began handling requests for contracts on January 1, 2005. The IND concludes contracts only with legal entities that have a registered office in the Netherlands where the knowledge economy worker will be employed.

4 Governing Rules

Scope of Application

Much of Dutch employment law is mandatory. In principle, Dutch employment law applies to employment relationships that are ‘usually’ performed in The Netherlands, whatever the nationality of the employee or the employer. However, there is a general principle allowing parties to choose a different applicable law (other than Dutch law) to govern the employment relationship, although certain imperative provisions of Dutch employment law can never be excluded.

Sources of law which govern employment relationships in The Netherlands:

- the pertinent sections in the Dutch Civil Code;
- the Extraordinary Decree on Labour Relations 1945 (*BBA 1945*);
- the Works Council Act;
- the Act on Collective Labour Agreements (*CAO*);
- the Working Conditions Act;
- various other specific Acts (e.g., The Act on the Notification of Collective Dismissals, the Act on Equal Treatment of Men and Women, Equal Treatment on the Basis of Age in Respect to Employment);
- various Acts dealing with taxation (e.g., Income Tax Act);

- a great number of Social Security Acts (e.g., Unemployment Insurance Act, Sickness Benefits Act).

Other sources which govern employment relationships in The Netherlands

- Collective Labour Agreements, if applicable;
- internal regulations, if any, of the company of the employer; or
- the employment contract.

5 Terms and Conditions of Employment

Form of the Employment contract

An employment contract may be oral or written. Whether oral or written, the employer is under statutory obligation to furnish the employee with a written statement containing quite a number of specified data relating to the employment contract. If written, an agreement may take the form of a contract signed by both parties, an exchange of letters, or a single confirmation (a single document).

The language may be any language as long as both parties are able to understand what the agreement says; a lack of clarity will however be for the account of the employer. A non-competition clause in an employment contract must always be (agreed upon) in writing. If it is not, it will be deemed null and void. For obvious reasons it is preferable to have a written contract.

Term of the Agreement

An employment contract may be either for an indefinite period, a fixed term, or for a temporary, specified task or project. If no fixed term (or special task) is specified, then the agreement is deemed to have entered into for an indefinite period.

A fixed term contract will end by operation of law at the end of the term. The last continued employment contract for a definite period of time is deemed to be an employment contract for an indefinite period of time if:

a) the chain of employment contracts for a definite period of time covers 36 months or more, with(out) a 'restperiod' of maximum three months between the succeeding employment contracts;

   There is one exception to this rule. A (first) contract for a definite period of time for 36 months or more can be prolonged for a maximum duration of 3 months. In this case, the succeeding employment contract is <u>not</u> deemed to be an employment contract for an indefinite period of time.

b) the chain consists of more than three employment contracts for a definite period of time which parties have entered into with(out) a 'restperiod' of maximum three months between the succeeding employment contracts.

Pursuant to a Collective Labour Agreement or by regulations laid down by or on behalf of a public body, deviations to the detriment of the Employee are possible.

Thus, in principle a contract for a definite period of time can be continued twice and still terminate by operation of law if the chain of definite employment contracts does not cover 36 months or more.

Probationary Period

The parties to the employment contract may agree to an initial probationary period.

Employment contracts for an indefinite period of time:
a maximum of two months.

Employment contracts for a definite period of time:
a maximum of one month if the contract covers a period less than two years;
a maximum of two months if the contract covers a period of two years or more.

Regarding an employment contract for a definite period of time with no specific date of termination the maximum probation period is one month. Deviations to the detriment of the employee are possible in a Collective Labour Agreement or by regulations laid down by or on behalf of a public body.

Salary

The employer has an obligation to pay the employee's salary from the outset of the employment. The salary is paid either on a weekly, four-weekly, or a monthly basis. In principle, no salary is due if the employee is prevented from working ("no work, no wages"). However, if attributable to the employer, the employee is entitled to his salary.

It is possible to depart from this latter provision contractually, in the employment contract for the first six months of employment. After this 6-month period, departure from the obligation to continue to pay wages is possible only by way of a Collective Labour Agreement.

Please note: employees who are on strike are generally not entitled to salary.

Statutory Minimum Wages

The Act on Minimum Wages (1968) provides for a statutory minimum wage for all employees between the ages of 23 and 65. Generally, this minimum wage is reviewed twice a year, on January 1 and again on July 1. As of January 1, 2006 the minimum wage will equal €1272,60 gross per month and €293,70 gross per week.

Bonuses and Other Remuneration

The employer has a statutory obligation to pay the employee a holiday allowance of at least 8% of his annual gross salary. If the employee's salary exceeds three times the minimum wage, the employer and the employee may agree in writing that the employee will not receive a holiday allowance. Also, if the employee's salary exceeds three times the minimum wage, the obligation to pay the minimum holiday allowance pertains to the portion of the wages that does not exceed 3 times the minimum wage. The holiday allowance is payable in addition to the employer maintaining the employee's salary whilst he is away on holiday. The allowance must be paid no later than the month of June. Other remunerations may be agreed upon, such as an annual bonus equal to a month's salary, a profit sharing scheme, commission, or payments in kind such as the use of a telephone or a company car.

Working Hours and Overtime

The normal working week in The Netherlands is 40 hours (38 or 36 hours in some industries), five days a week, excluding Saturdays and Sundays.

On January 1, 1996 a new Working Hours Act (*Arbeidstijdenwet*) and the Dutch Working Hours Decree (*Arbeidstijdenbesluit*) entered into force in The Netherlands.

With this Act, the Government hopes to increase the options for employees to combine work and care or other duties, such as courses or voluntary work, which they have taken on in addition to their job. The Act also stipulates the maximum number of working hours, minimum periods of rest, night work, etc.

The Act applies to all sectors of industry and to civil servants, with the exception of higher and managerial staff. Any exceptions are laid down in the

The Act pays ample attention to consultations between the social partners, which are given shape by means of, *inter alia*, a standard and a consultative arrangement. The standard arrangement applies in sectors and businesses where no provisions on working hours have been drawn up. The consultative arrangement applies between employers and employees or their representatives who have made collective arrangements about working hours. Both the standard and the consultative arrangement contains standards for periods of rest, working hours, night work, work on Sundays, breaks, overtime work and on-call shifts. The Act contains distinct standards for juvenile employees.

Overtime may not exceed the limits dictated by the Working Hours Act. It is customary to agree on specified extra compensation for overtime in employment contracts, and in Collective Labour Agreements. Reasonable overtime without extra compensation may be required from more senior staff.

Vacation Days and Holidays

Employees are entitled to annual holiday leave equal to at least four times the number of working days in a week.

In addition business and industry are normally closed on the following paid public holidays:

- New Year's Day
- Good Friday
- Easter Monday
- Queen's Birthday
- Ascension Day
- Whit Monday
- Christmas Day
- Boxing Day.

Employees are also entitled to short paid leave for such events as their wedding, death of a family member or other family obligations. These entitlements are often covered in applicable collective agreements and employment contracts.

Other leaves (see below) are regulated in the Dutch Work and Care Act ("*Wet Arbeid en Zorg*").

Sickness and Disability

Before January 1, 1994 sick employees received their sickness benefits from the Government.

On January 1, 1994 an Act came into force in The Netherlands which aimed at curbing employee absence due to illness. The Act imposed a duty on employers to continue paying 70% of an employee's salary during the first six weeks of illness (the "qualifying period"), on the understanding that the 70% did not fall below the minimum wage. The 6-week period did not apply to employees who are eligible for maternity leave.

They were paid their full wages by the Industrial Insurance Board during a 6-week period. Small enterprises (with fewer than 15 employees) were only bound to a 2-week period. The Industrial Insurance Board began paying sickness benefits only after the 6-week or 2-week period had expired.

As from March 1, 1996 the Act with respect to the Dutch Act on the Expansion of the Obligation to Continue Salary Payments in Case of Illness (*Wet Uitbreiding Loondoorbetalingsplicht bij Ziekte*) has been adopted and has been incorporated in the Dutch Civil Code. The Act basically obliges employers to continue paying the salary of their incapacitated employees for 52 weeks. As a consequence, the distinction between two and six weeks, which was introduced with the Dutch Act on the Curbing of Absence due to Illness (*Wet Terugdringing Ziekteverzuim*), vanished. An employee is no longer entitled to sick pay paid by the Government for the period during which he is entitled to his salary. During his illness the employee will be entitled to payment by the employer of 70% of his last earned salary, with the statutory minimum wage as a minimum and the maximum daily wage as a maximum, during a maximum period of 52 weeks or until the date the employment contract has expired, if earlier.

Pursuant to the Dutch Act on the Extension of the Obligation to Continue Salary Payments in Case of Illness 2003 (*Wet verlenging loondoorbetalingsverplichting bij ziekte 2003*), as of January 1, 2004, the obligation for the employer to continue payment of salary is prolonged to 104 weeks. The statutory minimum wage does not apply as a minimum for the second year of illness (53rd week till 104th week).

An employer must report an employee's absence due to illness to the Social Security Institution (the former Industrial Insurance Board) within 13 weeks. If the employer fails to do so in time, the period which is subject to the obligation to continue paying the incapacitated employee's salary shall be extended by the period of the delay. Simultaneously with reporting the employee's absence, the employer must file a plan for the reintegration of the employee in question. If the employer fails to do so or if he fails to cooperate in preparing or implementing the reintegration plan he will risk fines.

The Dutch Sickness Benefits Act (*Ziektewet*), which provided for payment of wages during illness by the Government has not vanished. It will continue to exist as a "safety net provision" for those employees who need special protection, have a flexible employment relationship or are not or no longer entitled to the continued payment of their salaries, for example, pregnant employees, incapacitated returners, unemployed people and employees whose employment contract for a definite period of time has expired. The Social Security Institution will see to sick pay for these people.

Pregnancy and Maternity Leave

An employer in principle may not dismiss a female employee during her pregnancy or during a period of six weeks following the employee's return to work after childbirth. An employer may not dismiss a female employee because of childbirth.

A female employee is entitled to a paid maternity leave of sixteen weeks (from four to six weeks leave prior to childbirth and from ten to twelve weeks leave following childbirth). On her return from maternity leave she is entitled to return to the same job she was performing prior to her maternity absence.

Besides pregnancy and maternity leave, the Dutch Work and Care Act ("*Wet Arbeid en Zorg*" or "*WAZ*") provides for the following paid and unpaid leaves:

- emergency leave and other short leave of absence;
- paternity leave;

- short-term care leave;
- long-term care leave;
- parental leave;
- adoption leave;
- terminal care leave; and
- political leave.

A general rule for all these kinds of leaves is that the employer may not dismiss the employee because he/she has made use of one of the leave arrangements.

Notice Periods

The employer has to observe the following notice period on the day of giving notice:

a) an employment contract which has lasted for a period less than 5 years: one month;

b) an employment contract which has lasted for a period of 5 years or for a longer period, however for a period less than 10 years: two months;

c) an employment contract which has lasted for a period of 10 years or for a longer period, however for a period less than 15 years: three months;

d) an employment contract which has lasted for a period of 15 years or for a longer period: four months.

The notice period which has to be observed by the employer can be shortened pursuant to a Collective Labour Agreement or by regulations laid down by or on behalf of a public body. The notice period can be extended if this is laid down in writing.

The employee has to observe a notice period of one month.

The notice period for the employee can deviate from the one month notice period if this is laid down in writing. The notice period for the employee can however not be extended beyond 6 months and for the employer the notice period can not be less than double the notice period of the employee. Pursuant to a Collective Bargaining Agreement or by regulations laid down by or on behalf of a public body, the length of this notice period can be shortened for the employer as long as the notice period for the employer is not shorter than for the employee.

Please note that transitional law applies to employees who were aged 45 or over on January 1, 1999. The applicable notice period pursuant to current legislation can be different to the notice period pursuant to the legislation before January 1, 1999. Pursuant to the transitional law, the more beneficial notice period will apply to the employee

Confidentiality Clauses

Confidentiality clauses are frequently included in employment contracts. It is a criminal offence for an employee to intentionally divulge confidential information of an active company, if he has been instructed and required to keep such information confidential. In practice, however, it is very difficult to ascertain whether any confidential information has actually been passed on to a third party by a former employee. Therefore, confidentiality clauses are seldom enforced. Employers rely more heavily on non-competition clauses (see below).

Non-Competition Clauses

A non-competition clause is defined as a stipulation whereby the employee is restricted in his right to be actively engaged in a certain manner after the termination of his employment. Typically, a non-competition clause will prohibit an employee from seeking employment, or being directly or indirectly involved in the same type of industry or business conducted by any employer. Such a clause will be effective for a fixed term (for example: six months or two years) and in a certain geographical area. The Dutch Civil Code provides that a non-competition clause is valid only if it is included in a written agreement. Non-competition clauses apply to adult (over 18) employees only.

However, an employee may seek to be relieved (partially or in whole) from a non-competition clause by filing a petition to that effect with the Cantonal Division of the Court (the Court that handles employment-related matters). The employee must argue that his interests are unreasonably prejudiced in comparison to the interests of the employer. The employee may use the same argument as a defence if the former employer seeks to enforce the non-competition clause.

In deciding the issue, the Cantonal Court takes all the relevant circumstances of the case into account, such as the type of the employer's business, the duration of the employment, the reason for the termination of the employment and the prospects of the employee of finding new employment.

If the non-competition clause includes a penalty to be paid by the employee in case of breach, the Court may reduce it.

If the non-competition clause seriously restricts the employee from being employed elsewhere, the Court may at any time rule that the employer must pay compensation to the employee for the duration of the obligation not to compete. The Court determines how much compensation should be paid on the basis of the principles of reasonableness/fairness between the parties.

Please note that there is currently a legislative proposal submitted with regard to the non-compete clause. This bill provides for the obligation of the employer to compensate the employee during the period the non-compete restrictions apply, the limitation of the non-compete clause to a period of 12 months and the obligation to clearly describe the geographical and functional scope of the non-compete clause. However, recent developments make clear that it is questionable whether this bill will be accepted.

The Absence of Non-Competition Clause

In principle the absence of any non-competition clause means that the former employee is at liberty to compete with his former employer. The Court has held that the risks involved in the failure to include a non-competition clause in an employment contract should be the employer's. However, the former employee can still be in breach of contract if he is in breach of his post-contractual duty of due care. It is generally accepted that this duty obliges a former employee not to:

- systematically approach and coax away his former employer's customers, or (to a lesser extent) his former employer's employees;
- violate his former employer's trust - he is under a duty to keep confidential his former employer's business and production secrets (e.g., technical expertise, lists of customers, calculations of quotations, etc.);
- make misleading or derogatory remarks about his former employer or his former employer's business.

The former employee's new employers may commit a wrongful act if they knowingly benefit from the former employee's wrongful act, or encourage him to commit such acts.

6 Business Transfers

The Netherlands has implemented EC Directive No. 77/187 (which was amended by EC Directive No. 98/50, and later replaced by EC Directive 2001/23) by adding several articles on transfers of business to the Dutch Civil Code, the Act on Collective Labour Agreements, and the Act on the Declaration of General Enforceability/ Unenforceability of Collective Labour Agreements.

Applicability

The EC Directive applies only to the transfer of an undertaking, business, or part of a business to another employer ensuing from a legal transfer or merger. Pursuant to the Dutch Civil Code (gathered from case law of the European Court of Justice) an 'undertaking' can be defined as an '*economic entity*'. This also includes services or non-profit making institutions. The European Court of Justice ruled in the important *Spijkers* case that "a transfer of an undertaking, business or part of a business to another employer envisages the case in which the business in question retains its *identity*. To establish whether or not such a transfer has taken place (…) it is necessary to consider whether, having regard to all the facts characterising the transaction, the business was disposed of as a going concern, as would be indicated inter alia by the fact that its operation was actually continued or resumed by the new employer, with the same or similar activities". Furthermore pursuant to European case law, in order for the Directive to apply it is required that a *permanently organised economic entity* is transferred. An economic identity is defined as an organised body of persons and elements in which an economic activity with a purpose of its own is exercised (i.e. the outsourcing of cleaning services will be considered the transfer of part of an undertaking, even if only one cleaning person is involved).

In order to determine whether an undertaking or a part of an undertaking has been transferred, the decisive criteria are whether the identity of the undertaking has remained intact and whether the economic entity of the undertaking is being transferred. All the circumstances of the transfer must be taken into consideration, including the type of undertaking, the degree to which assets, employees and customers are being transferred, and whether or not the same activities are being performed after the transfer.

Under Dutch law, a legal merger by means of share transfers, sale or exchange does not constitute a transfer of undertaking.

Terms and Conditions of Employment

The rights and obligations under an employment contract are transferred to the transferee, whilst the transferor remains - next to the transferee - liable for a period of 12 months from the date of the transfer in respect of obligations arising under employment contracts prior to the transfer date. Obligations that arise after the transfer date are for the account of the transferee. The terms and conditions contained in a Collective Labour Agreement binding on the transferor are automatically transferred to the transferee for the remainder of the term of that agreement. If the duration this Collective Labour Agreement ends, the terms and conditions of employment can be renegotiated. An introduction of a new Collective Labour Agreement (applicable to the transferee and concluded after the date of the business transfer) supersedes the previous agreement. However, if an employee would have

(for instance, based on the conditions contained in a Collective Labour Agreement that transferred to the transferee) better terms in the previous agreement, such as a higher salary, he remains entitled to this salary. Even if a new Collective Labour Agreement (containing a lower salary) is applicable, this would not prevent this employee from receiving a higher salary as most Dutch Collective Labour Agreements contain 'minimum'-conditions, from which deviation in the favour of the employee is possible.

Mergers involving undertakings that are established in the Netherlands and that regularly employ 50 employees or more are subject to the provisions of the 'Rules of Conduct' of the 'Resolution of the Social and Economic Council on Rules relating to Mergers 2000 for the protection of the interests of employees' (this resolution replaced the 'Resolution of the Social and Economic Council on Rules relating to Mergers 1975').

Termination of Employment

An employer cannot rely on the business transfer itself to be a ground for dismissal, but this does not prevent dismissals in connection with a transfer for 'economic, technical or organisational reasons which entail a change in the workforce'. Under these circumstances, a transferee can ask the Court (cantonal division) for dissolution of the employment contract or apply for a dismissal permit from the CWI (Centre for Work and Income) giving an explanation that it is relying on these grounds to justify the dismissal. It should be remembered that, under Dutch law, no dismissal (by giving notice) can be validly effected without such authorisation. If an employee terminates his or her employment because the business transfer involves a detrimental change in working conditions, the employer will be regarded as responsible for the termination.

Consultation

Where an enterprise employs 50 or more people, the employer must set up a Works Council. If an employer with 50 or more employees considers transferring all or part of an undertaking, it must, prior to its decision on the matter, request the advice of the Works Council. If the employer disregards a negative advice of the Works Council, the latter can file a complaint against the employer's decision to proceed with the transfer. This complaint is made to the Enterprise Chamber of the Court of Appeal in Amsterdam, which court can force the company to reverse its decision.

7 Sex Discrimination

Equal Pay

The Netherlands has implemented Article 119 of the Treaty of Rome and the Equal Pay Directive. The Dutch Act on Equal Treatment of Men and Women 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 value". This applies to both individual and Collective Labour Agreements; any provisions which seek to depart from the principle of equal pay are null and void.

"Wages" are defined in extensive terms to include salary, remuneration, allowances and reimbursement of expenses. However, the definition does not cover social security payments or claims pursuant to pension schemes.

To ascertain whether two particular jobs are of equal value, detailed rules must be followed in The Netherlands. The employer must first determine whether one or more employees within the organisation do work of equivalent (or nearly equivalent) value as members of the opposite sex also within the same organisation. However, for such

a comparison to be effective, the company must have proper and sound systems for job evaluation/ratings. If there are no such systems for job evaluation/ratings, the employer in question must evaluate the job in question on a reasonable (and non-discriminatory) basis. There are no specific binding rules dealing with how such job evaluation must be conducted.

Under Dutch law, disputes arising from employment contracts must be submitted to the Court (cantonal division). However, before an employee can bring an equal pay claim, complaint must be filed with the Committee on Equal Treatment of Men and Women at Work. The Committee then makes a recommendation to both the employer and employee. Unless and until the Committee has made its recommendation, the Court cannot hear the claim. However, once the recommendation has been made, the Court can place whatever value on it as it considers appropriate. The Court is not bound by the Committee's recommendation.

An employee's potential claim against the employer arises at the moment wages become due with an entitlement to the difference between his or her wages and those of the male or female comparator for up to two years in arrears. However, this time limit can be extended by the issue of a writ of summons. Employers may also be liable to pay a penalty up to a maximum of 50% of the unpaid wages in addition to the amount of deficit due to the employees in question. Dutch Courts accept the direct applicability of Article 119 of the Treaty of Rome. If an employee brings a claim under Article 119 in the Dutch Courts, the various restrictions provided under Dutch law do not apply.

Equal Treatment

Based on Article 1 of the Dutch Constitution, all individuals within The Netherlands are entitled to be treated equally where their cases are comparable. Discrimination on grounds of religion, belief, race or sex and other specified grounds is prohibited by the General Equal Treatment Act 1994. Furthermore, Dutch law dealing with equal treatment between men and women is contained in the Act on Equal Treatment of Men and Women 1980. The Dutch Civil Code provides for equal treatment of men and women who are employed by a private employer.

Dutch law forbids any direct or indirect discrimination between men and women. The Dutch Civil Code sets out those situations where direct or indirect discrimination is forbidden:

- engaging employees;
- training employees;
- the terms and conditions of employment (social security and pensions excluded);
- promotion of employees;
- termination of employment.

The Act on Equal Treatment goes even further than the above provision of the Dutch Civil Code. It also excludes direct or indirect sex discrimination in the following areas:

- all acts connected with the recruitment of employees, (e.g., advertising and dealing with job applications);
- vocational training and guidance given to employees (although an exception is made where being a member of one sex is a decisive factor for the profession to which the training relates).

In common with most EU Member States, discrimination against a woman on grounds of her pregnancy will often contravene the equal treatment legislation. However, in one case before the Haarlem District Court, it was held that the refusal to offer employment to a pregnant woman was not unlawful because, in the special circumstances of the case, the employer's business interests would have been seriously damaged. In contrast, the District Court of Arnhem held that the dismissal of a pregnant woman during her initial two months' trial period was contrary to Dutch law, even though the District Court (on appeal) did not consider her dismissal to be void. She was awarded damages instead.

Discriminatory retirement ages for men and women contravenes the equal treatment legislation. Both the Act on Equal Treatment and Article 7:646 of the Dutch Civil Code exclude from their ambit cases where being a member of one sex is a decisive requirement of the job, e.g., a woman to model women's clothes. In addition provisions to protect women in relation to pregnancy or motherhood do not infringe this legislation. In certain limited circumstances, positive discrimination is permitted to eliminate existing sex discrimination.

Any stipulation, provision or act which infringes Equal Treatment Legislation is null and void. It therefore follows that a dismissal of an employee for invoking his or her rights under that legislation is also void. In such case, the discriminated employee can claim damages from his or her employer. All disputes arising from contracts of employment are submitted to the Court.

Where the claim is brought by an employee, it must first be filed with the Committee on Equal Treatment of Men and Women at Work. Where an employer wants to check whether or not the legislation is being contravened a similar reference can be made to the Committee. In both cases, the Committee conducts an investigation into the matter and produces a report. This is given to both the employer and employee and if a dispute still remains, the matter can be pursued before the Court.

8 Race and other Discrimination

Based on Article 1 of the Dutch Constitution and the General Equal Treatment Act 1994, all individuals in The Netherlands shall be treated equally in equal cases. Discrimination is not allowed on the basis of religion, life principles, political beliefs, race, sex or any other ground.

The Act on the Implementation of the European Treaty regarding the legal position of migrating employees provides a certain degree of protection for foreigners. The terms and conditions of employment contracts entered into with foreign employees residing in The Netherlands, as well as renewal or termination of those agreements, may not be less favourable than those governing employees of Dutch nationality. Any provision which violates the above prohibition is null and void.

Moreover, Article 429 quater of the Dutch Criminal Code provides that any person who, in conducting his business or profession, discriminates on the basis of race, is subject to a fine of no more than EUR 4.500 (or imprisonment of not more than two months).

Recently a bill has been proposed regarding age discrimination in recruiting and selecting employees.

On May 1, 2004, the Law on Equal Treatment on the Basis of Age in Respect to Employment has come into effect. This law prohibits age discrimination in employment, professions and vocational training. Age discrimination is permitted only in cases in which setting an age limit is objectively justified.

Case law has shown that no discrimination on other grounds is also not allowed. For example a Court ruled that an unjustified distinction was made between fulltime and part-time employees and an other Court ruled that this unjustified distinction existed between employees who were employed on a permanent basis and those who were temporarily employed.

9 Collective Labour Agreements

A Collective Labour Agreement ("*CAO*") is a written agreement concluded between a single (usually large) employer (or an employer's organisation), and one or more Unions. A CAO deals with terms of employment that must be observed in such jobs as are covered by the CAO. The CAO is legally binding upon the parties and its members. Employers who are party to a CAO must apply it to all their employees, whether or not those employees are Union members.

The Minister of Social Affairs may decide that a CAO (or a part thereof) is applicable to all employment contracts between employees and employers in a certain type of trade or industry (or in a particular part of such trade or industry).

CAOs cover a great variety of employment terms and conditions such as wages, general working conditions, schooling, working hours, vacation days, notice periods, dismissals, early retirement and pensions, disciplinary sanctions and working rules. Some terms and conditions under a CAO may even deviate from certain statutory provisions.

Generally, employment contracts with more senior staff and executives are not subject to the mandatory provisions of a CAO.

CAOs are usually entered into for two or three years, and are renegotiated from time to time.

10 Termination of the Employment contract

A distinction should be made between employment contracts for a fixed term and employment contracts for an indefinite period. A further distinction should be made between termination by one or both of the parties to the agreement, and termination by the Court. These distinctions are discussed below.

Probationary Period

The maximum allowable probationary period is two months (in case of an employment contract for a term of less than two years, this maximum is one month). At any time during the probationary period, either the employee or the employer may terminate the agreement without cause, without severance payment, without observance of any notice period, and regardless of whether the agreement is for a fixed term or for an unlimited period (see page 5).

Termination by Mutual Consent

All employment contracts may be terminated at any time by mutual consent, with or without observance of a notice period, and with or without payment of compensation. However an incentive for an employee to give his consent may very well be the offer of monetary compensation. It should be noted that an employee who consents to a dismissal is practically never entitled to statutory unemployment benefits. It is generally accepted that the employer has to alert the employee to this probable consequence.

It is strongly advisable to record the termination by mutual consent in writing and have the document or letter signed by both parties, or in any event by the employee. This is a precaution against a possible future denial by the employee that he gave his consent to termination.

Termination by Notice

Under the Extraordinary Decree on Labour Relations 1945 (*BBA*), a notice or dismissal permit is required from the Centre for Work and Income (*CWI*) before the employer may give notice of termination of an employment contract that was entered into for an unlimited period. A dismissal by the employer is null and void without such permit.

To obtain such approval, the employer must file a written application with the CWI, outlining the reasons why he wishes, or feels compelled, to dismiss the employee (e.g., redundancy, incompetence, misconduct, etc.). The employee is heard by the CWI and may contest or deny the reasons or the necessity for dismissal. The CWI will refuse the permit if it finds that the reasons cited by the employer are inaccurate, untrue, or do not merit a dismissal of the employee. The result is that the employer may not give notice of termination, and that the employment contract is left intact.

If the CWI does grant permission, the employer may give notice of termination (but only then), with due observance of the statutory or agreed notice period (see above). Notice must be given effective the end of a calendar month (with a few exceptions, which are not discussed here). Non-observance of the notice period exposes the employer to compensation in lieu of notice.

The procedure for obtaining a dismissal permit from the CWI takes in general two to eight weeks.

It should also be noted that neither the employer nor the employee can appeal from the granting or the refusal of a permit. However, the employer can file a new application if and when new circumstances or facts become apparent.

In case of illness of the employee, this employee is protected against dismissal and the CWI will not grant a permit (unless the illness started after the request was received by the CWI). However, if the illness has lasted for two years or more, a dismissal permit may be applied for. The bon on dismissal of sick employees does not apply in case of closure of an entire business.

Termination of Employment contracts for a Fixed Term

Generally, an employment contract entered into for a fixed term ends by operation of law upon expiration of the term. Notice is not required and neither, therefore, is permission by the CWI. However, there are two exceptions:

i) if notice is nevertheless agreed upon. If parties explicitly agree upon the requirement of giving notice, the applicable notice period should be observed and prior permission from the CWI must be obtained;

ii) if an agreement for a fixed term was renewed for the third time or if the total duration of two (or more) fixed term contracts exceeds 36 months, the statutory notice period must be observed and prior permission from the CWI must be obtained. (an exception to this is the renewal for a maximum of 3 months of a contract of three years or more).

Termination for Urgent Cause

An employer is at all times entitled to terminate an employment contract with an employee immediately for "urgent cause". No prior permission from the CWI is required, nor need any notice period be observed. The "urgent cause" must be of such

a nature that no employer could reasonably be expected to continue the employment for a moment longer. The employee may also terminate the agreement with immediate effect for urgent cause, but in practice this rarely happens. The Dutch Civil Code lists a number of examples of "urgent cause":

- misleading or false statements by the employee while applying for his position;
- serious lack of competence during the performance of his duties;
- theft, fraud or crimes involving a breach of trust;
- the intentional damaging of property;
- divulging secrets;
- gross negligence in the performance of duties.

It should be noted that, if an employee has committed any of the offences listed above, that in itself is not sufficient reason for an immediate dismissal. Such offence must also be sufficiently serious to justify immediate dismissal (e.g., stealing a pencil does not constitute an "urgent cause").

The "urgent cause" must be immediately notified to the employee. Any delay before termination might be regarded as evidence that the cause was not so urgent. Nonetheless a very short delay to consult a lawyer or to verify certain facts has been accepted by the Courts.

The employee has six months from the dismissal date to contest the termination for "urgent cause" and have the dismissal declared null and void. Usually at the same time the employee will demand that the employer pay the employee's wages. One condition, however, is that the employee must be readily available to resume his work and must have clearly notified his (ex) employer of his availability. If the Court finds that the cause is not serious or urgent enough to justify immediate dismissal, the termination is null and void and the employee is entitled to all salaries as from the date of the void termination until the day the employment contract is properly terminated (e.g., with CWI permit, notice period, etc.). However, the Court, at its discretion, may mitigate the amount of salary to be paid.

The necessary restraint should be observed in dismissing employees summarily. The Courts generally tend to apply a restrictive interpretation in favour of the employee.

Termination by the Court

Under Article 7:685 of the Dutch Civil Code, the Cantonal Court may be petitioned to terminate the employment contract. Cantonal Courts handle employment matters and operate quite independently from the Centres for Work and Income (CWIs).

Both the employer and the employee have the right to file a petition. The Court will only terminate the agreement for "weighty reasons". This may be an "urgent cause", (as described above), or a "change of circumstances" in the employment relationship which justifies termination of the agreement on short notice. The Court is not bound by a refusal of the CWI to grant permission to give notice, although the Court will take notice of such refusal (if any). The procedure before the Court is often quicker than the procedure with the CWI.

After the petition has been filed the respondent is allowed a number of weeks to file its reply. This is followed by an oral hearing. Within a few weeks the Court gives its decision. It may grant or refuse the petition. If it grants the petition, the Court will determine the effective date of termination. No permission by the CWI or notice is required. The Court decision may not be appealed.

There is one major distinction to be made between a termination by Court order or a termination by notice following CWI permission. The Court may award compensation to the respondent (usually the employee), whereas the CWI may not. With regard to the amount of compensation, a general rule is laid down in the Recommendations of the Association of Cantonal Courts:

The severance payment is calculated according to the formula a x b x c, in which:

a = weighed years of service (up to the age of 40, multiply the years of service with 1, from 40 till 50 multiply the years of service with 1.5, as from 50 multiply the years of service with 2)

b = fixed monthly wage payments (the basis is the fixed (gross) monthly salary, plus all fixed and agreed salary components (such as bonus payments if on a regular basis). Other perquisites are not taken into account. Similarly, the employer's share in the pension premiums and company car, if any, are not usually taken into account)

c = adjustment factor (at the discretion of the Court, expressing the special circumstances of the case)

There is no statutory maximum on the amount of compensation that can be awarded by the Court.

The other major distinction is that termination by Court order may be requested at any time, whether the agreement is for a fixed or an unlimited period, and whether or not the employee is pregnant, sick or disabled.

The Fictitious Notice Period

In many cases the employment contract is terminated without observing the notice period that would usually have applied (if the employee was terminated by giving notice). The agency that grants the unemployment benefits regards the income to be received by the employee in the context of a dissolution of the employment contract as compensation for the failure to take into account the notice period that normally would have applied between the parties. During the period that would have been the notice period (the fictitious notice period) the employee is therefore not entitled to unemployment benefits.

If permission is obtained from the CWI, the notice period is deducted with one month (with a minimum remaining notice period of one month). With respect to the fictitious notice period, this one month deduction is also applied in case of dissolution by the court.

Manifestly Unreasonable Dismissal

If an employment contract is terminated by the employer on notice subsequent to CWI permission, the dismissal may nevertheless be "manifestly unreasonable". A dismissal may be "manifestly unreasonable" if no reason, or a false pretext is given for termination, or (which is more common) if the consequences of the termination are unreasonably harsh for the employee when compared to the interests of the employer. This may be the case where minimal severance pay is given by the employer and the employee has little possibility of finding other suitable work.

If the employee feels the dismissal was "manifestly unreasonable", he may petition the Cantonal Court for compensation. Whether compensation is granted (and how much) depends on a large number of circumstances (e.g., his age, position, future prospects, number of years of employment, etc.).

The dismissal must be "manifestly unreasonable", not merely unreasonable.

Managing Directors

A distinction must be made between corporate law and labour law where the position of Managing Directors is concerned. The Managing Directors of a company may be dismissed at any time on the basis of corporate law. No prior permission of the CWI is required. However, a Managing Director must be given timely notice of the intention to dismiss him and an opportunity to defend himself against the intended dismissal. Managing Directors are entitled to compensation in lieu of notice and/or to (additional) compensation in order to avoid the risk of the dismissal being considered "manifestly unreasonable". Disputes with Managing Directors are decided by the District Court instead of the subdistrict 'cantonal' sector (normally the competent court to hear labor disputes). In its judgment of November 1992, the Supreme Court of The Netherlands held that if a Managing Director becomes ill (before the invitation for the meeting of the shareholders was sent), his position may be terminated under corporate law, but under labour law his position with the company as an ordinary employee will remain intact. If desired, the dissolution of the labour-law relationship must additionally be requested from the Court.

Suspension

An employee may be temporarily suspended by his employer. Great restraint should be observed in suspending employees. The Courts will only allow suspension for reasons of a very serious nature.

Economic Dismissals

Employers' obligations applicable in the event of collective redundancies are governed by the Act on the Notification of Collective Dismissals, 1976. Its provisions have not been incorporated into the section of the Dutch Civil Code dealing with employment, but have remained separate. Under the Act, an employer who plans to dismiss within a three month period 20 or more employees within one CWI area must notify the CWI. At the same time the employer must notify the interested Trade Unions. In addition the employer must file an application with the CWI to obtain permission to dismiss the employees concerned. Under Dutch law, employers cannot dismiss employees without the prior authorisation of the CWI.

A more stringent definition of "Collective Dismissal" came into force on January 1, 1994. To determine the number of employees (20), any petitions to dissolve the employment contract under Article 7:685 of the Dutch Civil Code which have to be submitted by the employer for reasons which do not relate to the person of the employee, may be included to determine this number, provided that five or more of such petitions have been submitted.

The CWI must observe a one-month "waiting period" between the date it is notified of the proposed dismissals and the date when it can first deal with the application to make the dismissals. The requests will be dealt with immediately, if the notification of the proposed dismissals is supported by a statement of the Trade Unions involved showing that they were consulted.

In its various notifications to the Unions and the CWI, the employer must give the following information:

- the reasons for the collective redundancies;
- the number of employees to be made redundant along with a breakdown of their job descriptions, age, sex;
- the number of employees normally employed; and
- proposed timescale for such redundancies.

In addition, the employer must furnish the CWI with the following additional data:

- whether the employer's enterprise has a Works Council, and whether it will be or was consulted;
- if so, the date when the Works Council's advice will be or was sought.

In practice, the notification of the collective redundancies to the Trade Unions represents the start of the negotiations on the matter. These usually focus on two main issues: whether the redundancies are really necessary and if so, the measures the employer proposes to take to alleviate its adverse consequences. The employer will normally offer a "social plan" to the Unions and Works Council. This will contain the employer's proposals on compensation, moving expenses, assistance in finding other employment, continued health insurance, expenses etc. This plan is negotiated with the Unions. If and when agreement is reached, the social plan is signed by both employer and Trade Unions. It becomes binding on Union members, but not on non-members of the Union. However, in practice it is rare for non-members to object to its contents because they are unlikely to be able to negotiate as good terms on their own behalf. The negotiations over the social plan may last for a period longer or shorter than the one month waiting period. If they take less than one month (which they seldom do), the employer must wait until the full one month has elapsed and then file its application for authority to make the redundancies. If the negotiations take longer than one month, the employer files the application to the CWI as soon as agreement has been reached. If agreement is reached over the social plan, then authorisation from the CWI is normally something of a formality. If no agreement can be reached, the CWI will then consider the application to dismiss on the basis of each individual separately. This usually causes a substantial delay since employers cannot proceed with any dismissal without the prior authorisation of the CWI. Once the employer has received authorisation from the CWI, it can proceed with the dismissals by giving due notice of termination.

11 Employee Participation

Works Council Act

Under Article 2(1) of the Dutch Works Council Act, every business that employs at least 50 persons must have its own Works Council. Part-time employees and employees who are hired out are also granted full participation in the enterprise which hires them out. A condition is that they have an employment contract with the enterprise.

Employees who are hired in (including temporary employees) will be entitled to participate in the hiring enterprise's Works Council, provided that they have worked there for at least 24 months (pursuant to Article 7:690 of the Dutch Civil Code) and they have contributed in the activities of the enterprise.

Composition of the Works Council

A Works Council consists of members chosen directly by and from the persons who work in the business. Voting rights are conferred on those who have been employed for a minimum of six months. Persons who have been employed for a minimum of one year are eligible for election. The Works Council elects a chairperson and one or more substitute chairpersons from its midst. The chairperson (or substitute chairperson) has the power to represent the Works Council in Court.

The management of the enterprise and the Works Council shall meet if the enterprise or the Works Council consider consultation desirable. During these meetings, subjects concerning the enterprise are discussed, if either management or the

Works Council feel that they merit discussion. Management has an obligation to provide the Works Council with the necessary data and documentation, and to inform the Works Council about the results and prospects of the enterprise.

The employer (management) must seek the prior advice of the Works Council for proposed decisions regarding a number of important subjects. These subjects include: termination of, or a major change in the activities of the enterprise, major investments, important reorganisations, mergers, takeovers, change of location, major redundancies (see section 25 Works Council Act).

The advice of the Works Council must be sought in sufficient time so that it can influence the proposed decision of the management. If the advice is positive, the employer can go ahead.

If the advice is negative, but the employer takes the proposed decision anyway, the employer must observe a "waiting period" of one month before it may implement its decision. During that one-month waiting period, the Works Council may petition the Enterprise Chamber of the Court of Appeal in Amsterdam, and claim that the decision could not reasonably have been arrived at in view of the interests concerned.

The Court may order the employer to revoke its decision and/or to reverse any act of implementation (either permanently or temporarily). The Court will, however, seldom rule in favour of the Works Council if the objections of the Works Council are based on the merits only. The employer has considerable freedom in determining company policy. The Court is far stricter when the petition is based on procedural matters. The employer must observe proper procedure, especially the procedures found in the Works Council Act.

The employer requires approval from the Works Council in respect of changes in employment conditions (e.g., pension schemes) to the extent that such conditions apply to all or a group of employees.

Enterprises with at least 10 and less than 50 employees and where no Works or personnel representative is established are obliged to have a meeting at least twice a year with all of the personnel. In this meeting director(s) and employees consult each other with regard to issues concerning the enterprise and the position of the employees. The employer is also obliged to initiate and held such a meeting in a situation when at least ¼ of the employees make a substantiated request therefore. The employer must request advice for any intended decision that could lead to the loss of jobs or to an important change in the work or the working circumstances of at least ¼ of the employees. This is only not necessary in case the matter is already been taken care of in a CAO.

12 Social Security

A distinction should be made between:

- national insurance;
- employees' insurance.

National Insurance

The types of insurance belonging to national insurance apply to all residents in The Netherlands, regardless of their nationality. The obligation to pay contributions ends at the age of sixty-five. The following Acts belong to this category:

- General Old Age Pensions Act (AOW);

- General Surviving Relatives Act (ANW);
- Exceptional Medical Expenses (Compensation) Act (AWBZ).

The national insurance contribution rates for employers and employees are as follows (as of January 1, 2006):

Scheme	Employer	Employee
AOW	-	17.90%
ANW	-	1.25%
AWBZ	-	12.55%

Employees' Insurance

Employment almost always leads to compulsory insurance in compliance with the following Acts:

- Disability Insurance Act (WIA), has come into force as of 2006 (formerly known as WAO). Premiums are borne by the employer, these premiums are partly fixed and partly variable (e.g. depending on the number of employees and type of business);
- Unemployment Insurance Act (WW), the premium for this insurance is borne both by the employer and the employee;
- Compulsory Health Insurance Act (ZVW), compulsory for all residents and non-residents taxable for wage tax in the Netherlands. The employer has to withhold an income related premium of 6.5% with a maximum of €1.950, = on the salary of the employee. Generally the employer is obliged to compensate this premium.

The contribution rates for employers and employees of each of these insurances are complicated and may differ due to requirements related to specific circumstances of either the employer and/or the employee. With regard to WIA the *fixed* employer premium amounts to 5.40%. With respect to the WW the employer premium amounts to 3.45% and the employee premium amounts to 5.45%.

The rules and regulations applicable under the Social Security Acts are extensive and complicated. Although a full discussion would be beyond the scope of this booklet, some explanatory notes on the (revised) Dutch Unemployment Insurance Act (*Werkloosheidswet*) are provided below.

The Dutch Unemployment Insurance Act

The system of the Dutch Unemployment Insurance Act, which is formed by basic benefit payments during six months which, depending on employment record and age, may be followed by extended payments, has been abandoned. Since March 1, 1995 there have been three types of benefits payments, i.e., the wage-related benefit payment, the extended benefit payment and the short-term benefit payment. The extended benefit has been abolished for everyone who becomes unemployed after August 11, 2003. The employee who has become unemployed is eligible for a wage-related benefit payment if he:

1) worked as an employee during at least 26 weeks in the 39-week period immediately preceding the first day of unemployment (the "weeks requirement"); and
2) received wages for 52 days or more per year during at least four calendar years in the period of five calendar years immediately preceding the year of his first day of unemployment (the "years requirement").

The duration of the wage-related benefit payment depends on the unemployed employee's employment record.

The unemployed employee is entitled to a short-term benefit payment if he meets the weeks requirement but not the years requirement. The short-term benefit payment is provided for six months.

In the course of 2006 changes to the Dutch Unemployment Insurance Act are expected i.e. the 39-week period will be shortened.

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