

2024

# WORKATION IN: THE NETHERLANDS

Overview of Mandatory Employee Protection Law

# Workation in: The Netherlands – Mandatory employee protection law

In a connected world, mobile delivery of work performance is becoming increasingly more common. The most popular phenomenon here is probably the so-called "workation". When employers allow work from abroad, it is not uncommon for mandatory employee regulations to be ignored, regularly unintentionally and out of lack of knowledge.

However, according to Art. 8 (1) 2 and Art. 9 (1) Rome I Regulation, mandatory employee regulations must be taken into account. Usually, these concern personal occupational health and safety law enacted in the public interest for reasons of public welfare.

When allowing an employee to work temporary in **the Netherlands**, the following mandatory regulations are to be observed by any employer based in an EU member state regardless of the applicable laws in that state and any contractual choices of law.

The following list is only intended as an overview and cannot replace a specific case assessment.

**1. Minimum wage** The Netherlands has mandatory minimum wage provisions. These minimum wage provisions are indexed every half year. Currently, every employee who is 21 years or older must be paid at least 12,79 EUR by a 36 hours workweek, 12,12 EUR by a 38 hours workweek and € 11,51 by a 40 hours workweek (WML= Minimum Wage and Minimum Holiday Allowance Act). As of January 1, 2024, the minimum wage will be € 13,27 per hour regardless of the numbers of hours per week. In principle overtime hours must also be compensated with the normal hourly wage.

**2. Minimum paid leave** Following art. 7:634 BW (Dutch Civil Code) employees are entitled 4 times the number of working days per week. So, Employees working a five-day week in the Netherlands are entitled to at least 20 business days of paid leave a year.

**3. Public holidays** In the Netherlands there are a few public holidays. However, there is no specific law which tells us that these days are work-free days. There must be a special agreement, such as a collective employment agreement or an employment contract. Although there is no specific law, most employees have these days off while still getting their loan.

Name	Date	Scope of application
New Year	January 1st	Nationwide
Easter day 1	Moving date between	Nationwide

	March 22nd and April 25th	
<b>Easter day 2</b>	Moving date between March 22nd and April 25th	Nationwide
<b>Kingsday</b>	April 27th	Nationwide
<b>Liberation Day</b>	May 5th	Nationwide (once per 5 years)
<b>Ascension Day</b>	39 days after Easter	Nationwide
<b>Ascension Day</b>	40 days after Easter	Nationwide
<b>Christmas Day 1</b>	December 25th	Nationwide
<b>Christmas Day 2</b>	December 26th	Nationwide

**4. Maximum working time**

The Dutch legal limit of working time amounts to 12 hours a day and a maximum of 60 hours a week. During a period of 16 consecutive weeks there is a limit of 48 hours a week. (art. 5:7 ATW = Working Hours Act) When an employee earns more than 3 times the minimum wage the Working Hours Act does not apply according to art. 2.1:1 Working Hours Decision.

**5. Minimum rest periods**

As determined in art. 5:3 ATW, an employee must have 11 hours of continuous resting time between the end of a work day and the beginning of the next.

**6. Occupational safety laws**

In the Netherlands we have the, Arboret (Dutch Working Conditions Act). The Arboret applies to all places where work is carried out. So also for employees with a 0-hour contract, associations, foundations, part-time employees, on- call employees and flex workers.

**7. Maternity Protection provisions**

Employers must also observe the following maternity protection provisions:

Art. 3:1 WAZO (Work and Care Act) gives employees the right to take time off within the last 6 to 4 weeks before childbirth. This right to maternity leave stays in place for ten weeks after childbirth accordingly to art. 3:3 WAZO. The maximum working time for pregnant adult employees is 10 hours a day or 50 hours in four weeks and they must not work during the night (Art. 4:5 WAZO)

**8. Protection of young people at work**

In the Netherlands special rules apply to the employment of young people regarding the kind of work and their working hours and rest times. These rules differ per age category.

Youths above the age of 16 and 17 can do any type of work, as long as it is not dangerous. The work must not interfere with their school work. Adolescent employees between the age of 16 and 17 are protected by the ATW, which determines a maximum time of 9 hours a day and 45

hours a week (art. 5:7 lid 1 ATW). They may not work longer than 4,5 hours without a break of at least 15 minutes (art. 5:4 ATW).

Adolescent employees must be granted a minimum rest period of 12 hours between working days (art. 5:3 lid 1 ATW). They may not work between 23:00 and 06:00 AM.

### **9. Anti-discrimination provisions**

As in any other of the EU member states, employees working in the Netherlands are protected by the European anti-discrimination provisions, such as art. 21 of the EU Charter of Fundamental Rights

As well as the corresponding Dutch provisions (7:646 BW, AWGB (=Equal Treatment Act), WGBH/CZ (Equal Treatment Disability and Chronic Illness Act, WGBL (= Dutch Equal Treatment in Employment Age Discrimination Act)

### **10. Reporting obligations to authorities when taking up work**

Since march 1st 2020 there is a general reporting obligation for employers and independent contractors from EU member states or Suisse when their employees or themselves taking up work in the Netherlands.

The employer must register the following (art. 7 WagwEU= Employment Conditions (Posted Workers in the EU) Act):

- His identity
- The identity of the service recipient
- The contact person
- The identity who is responsible for paying loan
- What kind of job it is and the duration
- The address of the workplace
- Social security contribution

### **11. Miscellaneous**

Some of the mandatory regulations follow from collective employment agreements. These regulations can be different from the information above. Some of these agreements are translated and can be seen over [here](#).

Feel free to contact us if you have any questions about Dutch labour law.

# CONTACT

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