

Childcare and Parenting Statutory leave schemes in the Netherlands

an overview of the Dutch statutory rules and regulations

2021

**) This brochure contains an overview of the most important statutory rules regarding various Dutch leave arrangements. Not all legal details and exceptions are discussed; neither are all rules discussed. In addition, deviations are possible in collective labour agreements and individual employment agreements. It should also be remembered that the rules are subject to constant change. This brochure has been compiled with the necessary care. However, we cannot accept any liability for damage resulting from the contents of this brochure. We recommend seeking advice where appropriate.*

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1. Pregnancy and Maternity Leave

A pregnant employee is entitled to six weeks pregnancy leave and at least ten weeks maternity leave. Pregnancy and maternity leave are unpaid by the employer. The employee is however entitled to pregnancy and maternity benefits from the Employee Insurance Agency (“UWV”). The benefits amount to 100% of the employee’s salary, with a maximum of 100% of the maximum daily wage¹. The UWV usually pays the benefits to the employer, while the employer continues to pay the wages (in full) to the employee. The benefits last as long as the combined pregnancy and maternity leave, at least sixteen weeks, even if the employee gives birth earlier or later than the estimated due date.

1.1 Pregnancy Leave

Pregnant employees can take leave from six weeks, but no later than four weeks before the estimated due date. The employee must apply for her pregnancy leave at least three weeks before the date on which she wants her leave to start. The employee must also provide the employer with a certificate from her doctor or midwife stating the date the baby is due. Pregnancy leave lasts until the day of the delivery. The employee must inform their employer of the date of birth no later than two days after the delivery.

Days that the employee takes less than six weeks pregnancy leave are added to the maternity leave. For example, if the employee takes leave five weeks before the day after the estimated due date, one week will be added to the maternity leave. If the child is born later than the estimated due date, the maternity leave will not be shorter.

1.2 Maternity Leave

Maternity leave starts on the day after the delivery and lasts for at least ten weeks, even if the child is born later than the estimated due date. In that case, the pregnancy and maternity leave together last longer than sixteen weeks.

Part of the maternity leave can be taken in instalments. This concerns the part of the maternity leave that remains after six weeks following the delivery date. The employee can take this remainder divided over a period of up to 30 weeks in consultation with the employer.

1.3 Pregnant with twins or multiple birth

In case of pregnancy with twins or multiple birth the total duration of leave is longer. The employee is then entitled to ten weeks pregnancy leave and at least ten weeks maternity leave.

¹ The maximum daily wage is annually determined by the government. For the up-to-date statutory maximum daily wage, please refer to: <https://www.uwv.nl/particulieren/bedragen/detail/maximumdagloon>.

Pregnancy leave starts between eight and ten weeks before the estimated due date. The employee determines the start date of the leave within this period. Pregnancy leave lasts until the day of the delivery. Days that the employee takes less than ten weeks pregnancy leave are added to the ten weeks maternity leave.

1.4 Illness during pregnancy

If the employee becomes ill during pregnancy, different rules apply. Which rules apply depends on i) whether or not the illness is related to pregnancy or childbirth and ii) the moment in time that the employee becomes ill: before, during or after the pregnancy or maternity leave.

1.4.1 Illness related to pregnancy or childbirth

Illness during the first 24 weeks of pregnancy

In the event of illness related to pregnancy or childbirth, during the first 24 weeks of pregnancy, the employer can apply for sickness benefits for the employee at the UWV. The sickness benefits continue until the day she is reported better or until the start date of the pregnancy leave. The sickness benefits amount to 100% of the employee's salary, with a maximum of 100% of the maximum daily wage².

Premature termination of pregnancy during the first 24 weeks

In the event the employee calls in sick as a result of a miscarriage or abortion during the first 24 weeks of pregnancy, the employer can apply for sickness benefits from the UWV for the employee. The sickness benefits amount to 100% of the employee's salary, again with a maximum of 100% of the maximum daily wage³. The employee will not receive pregnancy and maternity benefits in the event of premature termination of the pregnancy during the first 24 weeks.

Premature termination of pregnancy after the first 24 weeks

In the event the pregnancy is terminated after 24 weeks due to premature birth or stillbirth, the employee is entitled to pregnancy and maternity benefits from the first day after the premature termination of pregnancy for a period of sixteen weeks.

Illness during the period of six to four weeks before the estimated due date until the start of pregnancy leave

In the event the employee becomes ill in the period of six to four weeks before the estimated due date and the pregnancy leave has not yet started, the employer can apply for sickness benefits at the UWV. The sickness benefits continue until the day the employee is reported better or until the start date of the pregnancy leave.

The days of illness are deducted from the pregnancy and maternity leave, effectively advancing the start date of the pregnancy leave. Also, it may happen that the leave terminates

² See footnote 1.

³ See footnote 1.

earlier than planned. After the delivery the employee is however always entitled to at least ten weeks' leave. The actual end date of the leave therefore depends on the date of delivery.

Illness during pregnancy and maternity leave

In the event of illness during pregnancy and maternity leave, the employee remains entitled to pregnancy and maternity benefits from the UWV. Therefore, she is not entitled to sickness benefits and the employer does not have to report the illness at the UWV.

Illness after pregnancy and maternity leave

In the event the employee becomes ill after the end of the pregnancy and maternity leave, and the illness is related to pregnancy or childbirth, the employee is entitled to sickness benefits from the UWV during two years. The sickness benefits amount to 100% of the employee's salary, with a maximum of 100% of the maximum daily wage⁴.

1.4.2 Illness not related to pregnancy or childbirth

Illness during the first 24 weeks of pregnancy

In the event the employee becomes ill before the leave period, and the illness is *not* related to pregnancy or childbirth, the standard rules regarding sickness are applicable. This means that the employee is entitled to continued salary payment by the employer during two years.⁵

Illness during the period of six to four weeks before the estimated due date until the start of pregnancy leave

In the event the employee becomes ill in the period six to four weeks before the estimated due date and the pregnancy leave has not yet started, the employer can apply for sickness benefits from the UWV for the period up to the start date of the pregnancy leave. The days of illness are, however, deducted from the sixteen weeks' leave. If the employee is still ill at the start date of the pregnancy leave, the sickness benefits stop automatically.

Illness during pregnancy and maternity leave

In the event the employee becomes ill during the pregnancy and maternity leave period, she is not entitled to sickness benefits, but she remains entitled to the pregnancy and maternity benefits.

Illness after pregnancy and maternity leave

If the employee becomes ill after the pregnancy and maternity leave period, she is entitled to salary payment by the employer.⁶ The employer cannot apply for sickness benefits from the UWV for the employee.

⁴ See footnote 1.

⁵ During the first two years of employee sickness, the employer should pay at least 70% of the employee's regular salary. The [statutory minimum wages](#) are the absolute minimum sick pay – also if 70% of the regular salary would indicate an amount lower than the applicable minimum wage. If the regular salary exceeds the statutory 'maximum daily wage', then 70% of the maximum daily wage would suffice as sick pay. Contractual arrangements are often more generous for the employee, stipulating that the employer pays, for example, 100% or 90% of the regular salary during the first year of illness and 70% during the second year of illness. For higher salaries, the difference between the statutory minimum sick pay and the contractual sick pay can be substantial.

⁶ See footnote 2.

2. Partner leave (Paternity leave)

2.1 Paid partner leave: one working week

Co-parents of new-born children can take one working week of paid partner leave. This applies to both fulltime and parttime employees. For example, if the employee works six hours a day and five days a week, the employee is entitled to thirty hours of partner leave, i.e. one working week. The accrual of holidays during partner leave continues.

Partner leave can be taken in consultation with the employer, divided over a period of four weeks after the birth. The employer may not refuse an employee's request to take partner leave.

2.2 Unpaid additional partner leave: five weeks

For children born on or after 1 July 2020, co-parents of new-born children are entitled to five additional weeks of *unpaid* additional partner leave. The unpaid partner leave must be taken within six months of the date of birth and can be taken consecutively or, if the employer agrees, non-consecutively. The employee must request the leave at least four weeks before the requested start date of the leave. The employer may change the requested leave days up to two weeks before the agreed start date, but only in case the employer has serious business interests to do so. The employer must consult with the employee about such a change.

During the additional partner leave, the employee is entitled to benefits from the UWV. The benefits amount to 70% of the employee's salary, with a maximum of 70% of the maximum daily wage⁷. These benefits must be requested by the employer. The accrual of holidays during unpaid partner leave continues.

3. Parental leave

Parents with children up to the age of eight years old are entitled to parental leave. Both parents can take parental leave. The employee can take parental leave for his or her child, adopted child or acknowledged child. The employee can also take parental leave for a foster child, stepchild or aspiring adoptive child if the child lives with the employee according to the key register of persons.

The statutory number of parental leave hours is 26 times the number of working hours per week. The leave is taken in consultation between the employer and employee. The employee reports the intention to take the leave at least two months before the requested start date. The leave may be taken consecutively or, if the employer agrees, non-consecutively. The employer may not refuse an employee's request to take parental leave. The employer may however change the requested leave days up to four weeks before the agreed start date, but

⁷ See footnote 1.

only in case the employer has serious business interests to do so. The employer must consult with the employee about such a change.

Until August 2022, parental leave is unpaid. However, it is expected that as of 2nd of August 2022, employees are entitled to benefits from the UWV during the first 9 of the 26 weeks of parental leave. The benefits amount to 50% of the employee's salary, with a maximum of 50% of the maximum daily wage⁸. An important condition is that the paid leave of 9 weeks is taken in the first year of the child's life. The remaining 17 weeks of unpaid parental leave can still be taken until the child's eight birthday. These rules are expected to be applicable as of 2 August 2022. During parental leave employees do not accrue holidays.

4. Adoption leave and foster care leave

The employee with an adopted child or foster child is entitled to a maximum of six weeks of adoption leave or foster care leave.

Adoption leave or foster care leave may be taken consecutively or, if the employer agrees, non-consecutively. If the leave is not taken consecutively, the leave must be taken within a period of 26 weeks, from four weeks before the actual adoption until 22 weeks afterwards. The employer may not refuse an employee's request to take adoption or foster care leave.

During the adoption leave or foster care leave the employee is entitled to benefits from the UWV. The benefits amount to 100% of the employee's salary, with a maximum of 100% of the maximum daily wage⁹. The UWV usually pays the benefits to the employer, while the employer continues to pay the wages (in full) to the employee. The accrual of holidays during the adoption and foster care leave continues.

5. Short-term care leave

If the employee needs to take care of a sick person in his or her immediate surroundings, the employee is entitled to short-term care leave if the employee is the only person that can take care of the sick person.

The maximum number of hours of short-term care leave is twice the number of working hours per week within a twelve-month period.

During short-term care leave, the employer must continue to pay at least 70% of the last-earned salary (and at least 100% of the statutory minimum wage¹⁰). The accrual of holidays during short-term care leave continues.

⁸ See footnote 1.

⁹ See footnote 1.

¹⁰ The statutory minimum wage is annually determined by the government. For the up-to-date statutory minimum wage, please refer to: <https://www.rijksoverheid.nl/onderwerpen/minimumloon/bedragen-minimumloon>.

The employer may refuse an employee's request to take short-term care leave if serious business interests so require. Once the leave has started, the employer cannot prematurely terminate the short-term care leave.

6. Long-term care leave

If the employee needs to take care of his or her child, partner or another relative with a life-threatening illness, the employee is entitled to long-term care leave. The employee is also entitled to long-term care leave if someone in his or her immediate surroundings is seriously ill or needs help for a longer period of time if the employee is the only person that can take care of the patient.

The maximum number of hours of long-term care leave is six times the number of working hours per week within a twelve-month period.

The employer may refuse an employee's request to take long-term care leave if serious business interests so require. Once the leave has started, the employer cannot prematurely terminate the short-term care leave.

During long-term care leave, the employer does not have to continue salary payment and the employee does not accrue holidays.

7. Emergency and other short absence leave

For urgent, unforeseen or special personal circumstances, the employee is entitled to emergency or other short absence leave. Depending on the situation, the leave can vary from a few hours to a few days. Examples include the situation where the employee has to take his or her child out of school because the child has suddenly become ill, a doctor's visit that cannot be planned outside working hours, a burst water pipe or the employee's partner giving birth. The employee is also entitled to leave fulfilling a legal or government-imposed obligation during working hours, for example if the employee is obliged to appear in court.

The employer may not refuse a reasonable request for emergency leave or other short-term absence leave. The employer may however ask the employee afterwards to demonstrate that the leave was necessary.

During emergency and other short absence leave the employer must continue salary payment, and the employee continues to accrue holidays.
