

IN Amsterdam

Working in Amsterdam Area

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Dutch Employment & Dismissal Law

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Noordam Advocaten



international newcomers
amsterdam

Introduction

- Twenty-five years assisting expats with **Employment Law**
 - A. Revision of draft employment contracts
 - B. Sickness situations - salary issues
 - C. Non-competition clauses - legal advice
 - D. Dismissal and redundancy - advice, negotiations and court proceedings

Topics of this presentation:

- 1) Types of employment contracts
- 2) Chain rule
- 3) Probation period
- 4) Contract clauses (salary, holidays, notice period, non-compete, no side activities)
- 5) Employee protection
- 6) Severance pay
- 7) Questions?

Types of employment contracts

- 1st Temp contracts -
 - CAO Uitzendkrachten Collective Labour Agreement temporary workers:
 - Phase A (78 weeks, with / without temp clause; 52 weeks 2023)
- 2nd Flex Workers - 0 hours - On-Call
 - Fixed number of hours after 12 months
 - 4 days notification
 - Payment if shift cancelled
- 3rd Definite period of time contracts
- 4th Indefinite period of time contracts

Chain rule - 2020 *

Contract for an indefinite period of time

A. After 36 months, or

B. As of the commencement of the 4th fixed-term contract

Unless there is a break of more than **six** months between successive contracts

** Exceptions in collective labour agreement possible!*

Probation period

Duration of employment contract	Maximum probation period *
Indefinite contract	2 months
Contract of 2 years or longer	2 months
Contract less than 2 years	1 month
Contract for the duration of a project	1 month
Contract for 6 months or shorter than 6 months	No probation period

** The provisions of a collective labour agreement may deviate from the given maximum probation periods*

Contract clauses

Clause	Comments
<i>Salary July 2022</i>	Minimum wages € 1.756,20 (> 21 years)
<i>Salary 2022 EXPATS</i>	Highly Skilled Migrant: € 4.840 (\geq 30)
<i>excluding holiday pay</i>	Highly Skilled Migrant: € 3.549 (\leq 30) Highly Educated Person: € 2.543
<i>Salary 2022 30% ruling</i>	€ 39,467 / year (\geq 30) € 30,001 / year (\leq 30 with Masters)

Contract clauses

Clause	Comments
<i>Holidays</i>	Minimum: 4 * weekly working days (4*5 = 20 days)
<i>Holiday pay</i>	8 % of monthly salary - paid in May
<i>Employee notice period</i>	1 month; sometimes more...
<i>Employer notice period</i>	< 5 years: 1 month 5 - 10 years: 2 months 10 - 15 years: 3 months > 15 years: 4 months

Contract clauses

Clause	Comments
<i>Non-competition clause</i>	A. NOT for short term contracts - in principle... B. Binding clause ?
<i>No ancillary activities</i>	A. Clause banned since August 2022 B. <i>Unless</i> 'objective grounds' such as <ul style="list-style-type: none">- Health and security reasons...- Protecting business information

Employee protection

- *Sickness situations*
 - 2 years continued payment: 70% or more
 - For higher salaries statutory *minimum* is capped
 $70\% * € 5.065,58 = € 3.545,91$ gross
 - Re-integration
 - No termination of employment by giving notice during first 2 years of sickness
- *Dismissal protection*

Severance pay - statutory rules

- 1/3rd of monthly salary for each year of employment
 - 2.78% of salary for each day/month/year
- Maximum: € 86,000 - or 1 year gross salary (if higher)
- Court can award higher severance if employer seriously culpable...

Severance pay before July 2015

old rules sometimes still used in Social Plan

$$A*B*C = \text{€ ...?}$$

A = Number of years of employment, weighted according to age (< 35, 35-45, 45-44, >55)

B = Monthly remuneration

C = Blame factor (in Dutch: '*Correctie factor*')

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