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Netherlands: Wage guarantee in case of insolvency

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Netherlands

Phase:

Management

Type:

Wage guarantee in case of insolvency

Last modified: 18 June, 2021

Native name:

Loongarantieregeling/Werkloosheidswet – WW

English name:

Pay guarantee regulation/Unemployment Insurance Act

Article

Article 61-68 (Chapter IV)

Description

Insolvency

If employees have a financial claim against an employer who is insolvent (permanently unable to fulfil its payment obligations), they can benefit from the guarantee in case of:

- bankruptcy (declared by court);
- suspension of payments (surceance van betalen);
- debt restructuring (if a private person, after the finalisation of bankruptcy proceedings, is still confronted with debts they are unlikely to pay in future, the debtor has to do everything possible to collect the money needed to pay creditors for three years);
- permanent cessation of payments.

Eligibility

There is no minimum duration of the employment relationship in order to be eligible. Part-time and fixed-term workers are also eligible, alongside employees with permanent contracts. There are requirements in terms of the timing of the request made by the employee. The employee is required to file the request within a week after the date on which he or she normally would receive their payment or after it becomes clear the employer cannot fulfil its payment obligations (article 63 of the Unemployment Insurance Act). Domestic civil servants that usually work fewer than three days a week are excluded from the pay guarantee regulation.

Funding of the guarantee

In cases of bankruptcy, employees' pay and unpaid premiums constitute debts which are paid directly out of the estate with preference over the claims of other creditors.

The employees have to claim the benefits from the public employment service (UWV). The maximum benefits awarded may comprise pay (over the last 13 weeks immediately preceding the date of notification of the dismissal and the period of notice for dismissal), holiday payments and holiday bonuses to which the recipient is entitled over the past year. The benefits to which employees are entitled under this regulation are determined on a monthly basis and have been maximised at 150% of the maximum daily wage (€223.40 per day as of January 2021), multiplied by the number of days worked. This has been done to cap employers' costs for high-wage workers. The UWV operates as the guarantee institution. Benefits are paid out of the general unemployment fund, funded by premiums paid by employees and employers. There is no direct link between payment of these premiums and the right to receive benefits. In addition to this, the employee can be eligible to receive support for payments to third parties (e.g. pension funds) if he/she is in a position to incur a financial disadvantage due to the fact that the employer has not paid such parties.

Comments

This regulation is fairly uncontroversial and is supported by trade unions and employer organisations alike. As a consequence, it is unlikely to change in the next term of government. Figures on how often the articles are invoked are not readily available and no evaluations seem to have taken place.

Cost covered by

Companies
Employee
National government

Involved actors other than national government

Public employment service

Thresholds

No, applicable in all circumstances

Sources

-  [Chapter IV of the Unemployment Insurance Act \(Dutch\)](#)
-  [Wage guarantee regulation \(in Dutch\)](#)
-  [ERM database on restructuring support instruments](#)
-  Sargent, M., 2007, Implementation Report Directive 80/987 EEC amended by Directive 2002/74/EC [protection of employees in the event of the insolvency of their employer], Human European Consultancy/Middlesex University Business School
-  [Netherlands: Rescue procedures in insolvency](#)
-  [UWV current amounts \(2021\)](#)

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Contact us

Eurofound, Wyattville Road, Loughlinstown, Co. Dublin, D18 KP65, Ireland

Phone: (00) 353 1 2043100

E-Mail: information@eurofound.europa.eu

Press: media@eurofound.europa.eu



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