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## Netherlands: Severance pay/redundancy compensation

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Netherlands

Phase:

Management

Type:

Severance pay/redundancy compensation

Last modified: 10 December, 2021

Native name:

Burgerlijk Wetboek (transitievergoeding); Ontslagregeling UWV van 1 juli 2016; Wet arbeidsmarkt in balans (WAB) van 1 januari 2020

English name:

Civil code (transition payment); Royal decree on dismissals of 1 July 2016; Balanced labour market act of 1 January 2020

### Article

Article 7:673-673d of Civil code; article 10, Royal decree on dismissals of 1 July 2016; Article XII, XIII, XIV and XV of Balanced labour market act of 1 January 2020

### Description

#### The transition payment

With the introduction of the Balanced labour market act on 1 January 2020, an employee is entitled to a transition payment from day one if the employment is terminated at the initiative of the employer. An employee is also entitled to a transition payment if the employment contract ends or is not continued because of seriously culpable acts on the part of the employer.

The transition payment has, for the most part, replaced the practice of dismissal compensation packages that were doled out by cantonal courts whenever a dismissal took place without mutual agreement or the longer but often cheaper route by seeking approval from public employment service (UWV). The choice between the two options used to be at the employers' discretion. The main idea behind the new legislation is to make the dismissal process quicker, simpler, and fairer. For small and medium-sized enterprises (SMEs), a special transition period was in place until 2020.

On 14 September 2018, the Dutch supreme court ruled on the employee's right to a transition payment in the event of partial termination of his/her employment contract. It was decided that in this case, the employee is entitled to a partial transition payment.

However the supreme court also stated that there were several conditions to this ruling:

- the partial termination was a necessity, for example, for redundancy reasons or for a long-term incapacity to work;
- the employee lost at least 20% of his/her working hours; and
- the loss of working hours is expected to be permanent.

No transition payment is due in case of serious employee culpability and after retirement age.

For each year that the employment contract has lasted, the transition payment is equal to one third of the salary per month and a proportional part thereof for a period that the employment contract has lasted less than one year. Further rules may be laid down by order in council regarding the calculation method of the transition payment. The transition payment amounts to a maximum of €84,000 (in 2021, reviewed every year) or an amount equal to a maximum of the wage over twelve months if the wage is higher than that amount.

#### Deviating from the dismissal payment in a social plan

According to the Royal decree on dismissals, an employer can, in cooperation with the works council and/or in accordance with a collective bargaining agreement, set up a social plan. Alternatively, a social plan can be agreed at a sector level. In this case, employer organisations and trade unions are the primary actors in establishing the conditions of the plan. A social plan should outline what will happen in case of a restructuring, possibly extending severance payments and placement policies beyond what is legally required. More frequently, the goal of a social plan is to minimise dismissals by formulating a plan for placing redundant employees at other companies. A collective agreement can also stipulate that a social plan has to be made when a collective dismissal or restructuring is imminent. A social plan can increase an employer's chance of getting a dismissal permit if this becomes necessary.

### Comments

From 1 January 2020, the requirement that the employment contract must have least lasted 24 months is removed. This means that an employee is entitled to a transition payment from the start of the employment contract.

The method of calculating the transition payment has also changed. The calculation no longer takes place per period of six months. Instead, the transition payment for each calendar year that the employment contract has lasted will be 1/3 of the monthly salary and a proportional part thereof for a period that the employment contract has lasted less than a calendar year. The increase in the transition payment for employment contracts longer than 120 months has been removed. Over the entire term of the employment contract, the transition payment therefore amounts to 1/3 month's salary per year of service.

The transition payment for employees is applied in cases of regular dismissals as well as in cases of dismissals that are a consequence of restructuring. Employer organisations are often of the opinion that transition payments in cases of the latter category are detrimental to companies' ability to adequately respond to changing macro-economic circumstances.

Although the transition payment generally is substantially lower than the dismissal compensation that was previously doled out by cantonal courts, it is usually considered as the ground for dismissal compensation. Usually, the old cantonal compensation formula is kept in mind, which gives employees room for negotiation in individual dismissal cases.

The third letter of progress on the law on work and security states that less dismissals are settled via the public employment service and more dismissals are being settled directly between the employer and employee through a dismissal contract.

The effects of the transition payment have been closely monitored since 2015 and, as pointed out above, have had several compensations arrangements for employers added to it to ease the burden on employers. It is important to note that the payment does not have to be spent on the actual transition to subsequent employment.

Currently, there are no data available on the number of transition payments doled out each year. A change in the methodology of the wage tax administration, however, will facilitate the availability of these data at the Dutch Central Bureau for Statistics (CBS) in the coming years.

#### Cost covered by

Employer

#### Involved actors other than national government

Public employment service  
Trade union  
Works council  
Other

#### Involvement others

Cantonal courts, UWV (public employment service)

#### Thresholds

No, applicable in all circumstances

#### Sources

- [Articles 7:673-673d Civil code](#)
- [Royal decree on dismissals of 1 July 2016](#)
- [Nooit met lege handen naar huis](#)
- [Werkgevers pleiten voor andere transitievergoeding](#)
- [Besluit voorwaarden in mindering brengen kosten op transitievergoeding](#)
- [Third letter of progress on the Law on work and security](#)
- [UWV](#)
- [Afcis.nl](#)
- [Royal decree on dismissals](#)
- [Wet arbeidsmarkt in balans \(WAB\)](#)

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