

Outlook – An overview of the changes relating to employment law with effect from 1 January 2018

10 January 2018

A number of changes have been introduced in the area of employment law with effect from 1 January 2018. We have made a list of the most important legislative amendments and the changes that can be expected:

- Coalition Agreement – The eleven main changes in employment law
- Amendment to the Minimum Wage Act with effect from 1 January 2018
- Amendment to the Senior Executives in the Public and Semi-Public Sector (Standards for Remuneration) Act (*Wet Normering Topinkomens – WNT*) with effect from 1 January 2018
- Increase of the maximum transitional payment with effect from 1 January 2018
- Increase of the State Pension Age with effect from 1 January 2018

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Coalition Agreement – The eleven main changes in employment law

October of last year (2017), the ‘Coalition Agreement 2017-2021: Trust in the Future’ was presented to the House of Representatives. This Agreement affects employment law practice.

Among other things, there are plans to change the provisions on the succession of fixed-term employment contracts, to allow for longer probationary periods, and to introduce cumulation grounds in the legislation on the termination of employment. The Coalition Agreement also mentions a scheme to compensate employers for the costs of transitional payments that they have to pay following the dismissal of long-term sick employees.

We have made a list of the [eleven main changes in the Coalition Agreement](#) in the area of employment law.

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Amendment to the Minimum Wage Act with effect from 1 January 2018

The Minimum Wage and Minimum Holiday Allowance Act (WML) has been amended with effect from 1 January 2018. One of the purposes of this amendment is to prevent unfair competition on the basis of working conditions. We have made a list of the main changes.

Minimum wage for additional work, piecework and remuneration agreements

With effect from 1 January 2018, the minimum wage will also apply to additional work, piecework, and remuneration agreements.

Additional work

In the case of overtime (additional work), employees must earn on average at least the minimum wage for the total number of hours worked. Suppose an employee has a contract for 40 hours per week but in practice works 60 hours per week. The salary that the employee receives on the basis of 40 hours per week must on average still be equal to the minimum hourly wage if the starting salary were to be divided by 60 hours per week. This amendment will also apply to employees who work on a part-time basis and work additional hours.

As an alternative to paying the minimum wage for overtime hours, the employer can compensate the value of those hours in the form of time off in lieu. This means that an employee will be compensated for overtime hours worked at another time. This compensation is only possible if the employee has agreed to this in writing before 1 July 2018. With effect from 1 January 2019, compensation in the form of time off in lieu will only be possible if the applicable collective agreement provides for this possibility.

Holiday allowance on additional work

With effect from 1 January 2018, earnings from overtime will be part of the WML wage concept. As described above, this means that employees will be entitled to the statutory minimum wage for every hour worked. Employees will not only be entitled to a minimum wage but also to an 8% holiday allowance in respect of the overtime hours.

Piecework pay

Piecework pay is the payment of wages for a previously agreed unit of a product. For example, it is possible to agree with a mail deliverer that a certain amount will be paid for each item delivered. With effect from 1 January 2018, employees working on a piecework basis will also be entitled to the minimum wage per hour worked on average. In practice, this means that a record must be kept of how many hours a parcel delivery person spends on delivering parcels. The administration must show that the employee receives on average at least the minimum wage for the number of hours worked on an assignment.

Remuneration Agreement

The minimum wage applies not only to employees but also to persons who work on the basis of a remuneration agreement.

Please note: The minimum wage does not apply to self-employed persons, i.e. persons working on the basis of this agreement in the independent practice of their profession or business. However, it does apply, for example, to students who occasionally give extra tuition on the basis of a contract for services.

Amendment to the Senior Executives in the Public and Semi-Public Sector (Standards for Remuneration) Act (*Wet Normering Topinkomens – WNT*) with effect from 1 January 2018

On 1 January 2018, the latest provisions of the so-called WNT Assessment Act entered into force. The WNT provides a general salary ceiling for senior officials in the (semi-)public sectors (which is roughly equal to the ministerial salary).

With effect from 1 January 2018, the main (employment law) amendment to the WNT will be the following:

A person who has held a senior position which is standardised by the WNT for at least twelve months and then takes up a non-senior position at the same institution will continue to be regarded as a senior official for a further four years. This means that the salary will continue to be standardised by the WNT for the four subsequent years. The same applies to severance payments. The ceiling for severance payments has been EUR 75,000 since the WNT came into force.

Increase of the maximum transitional payment with effect from 1 January 2018

In the event of dismissal, employees will be entitled to a transitional payment if they have been employed for 24 months or more and the employer has taken the initiative for the dismissal. A fixed formula is used to calculate this. Since the introduction of the transitional payment, the ceiling has increased each year.

The law imposes a ceiling on transitional payments even if an employee would be entitled to more according to the formula. With effect from 1 January 2018, the maximum transitional payment will increase from EUR 77,000 to EUR 79,000 gross or no more than a gross annual salary if that is higher than EUR 79,000 gross. Please be aware that the calculation tools (on the internet) do not always take this into account.

Increase of the State Pension Age to 66 years

With effect from 1 January 2018, the State Pension Age will be 66 years.

This should be taken into account when persons are leaving employment because they have reached retirement age.