

## Changes in employment law with effect from 1 January 2021 and outlook.

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*From 1 January 2021 onwards, things have again changed in the area of employment law. We have listed the key amendments and the changes to be expected.*



## The most important changes in employment law with effect from 1 January 2021

### NOW 3.0

On 9 December 2020, Minister Koolmees announced that the planned cutbacks in the Temporary Emergency Bridging Measure for Sustained Employment (hereinafter: "NOW") will not take place due to the continuation of the corona crisis. For example, in the second subsidy period (January - March 2021), the compensation percentage will remain the same as in the first period (October - December 2020). This means that the maximum compensation percentage will be 80% of the wage bill instead of 70%. In addition, the wage bill exemption will remain 10%. Furthermore, the minimum loss of turnover to qualify for the NOW in the second period will not be increased to 30%, but will remain 20%. Want to know more about the NOW 3.0? Click [here](#).

### Reduction of free space in work-related expenses scheme

The work-related expenses scheme allows employers to give their employees allowances, without having to pay payroll taxes over the amounts awarded (the "discretionary margin").

As from 1 January 2020, the discretionary margin was (temporarily) 3% of the wage bill up to and including € 400,000. The discretionary margin on the excess was 1.2%. This scheme has been changed with effect from 1 January 2021. The discretionary margin has been reduced from 3% to 1.7% of the wage bill up to and including € 400,000; from 1.2% to 1.18% on the excess. The money that the government saves in this way will be used to expand the specific exemption for training expenses. Click [here](#) for more information about the work-related expenses scheme for 2021.

### Fixed travel allowance

During the corona crisis in 2020, employers were allowed to continue to pay the fixed travel allowances to employees tax-free on the basis of the old work pattern, even if the costs resulting from working from home were no longer (fully) incurred. This scheme will be maintained at least until 1 February 2021, on the condition that it concerns fixed allowances already granted before 13 March 2020.

In January 2021, the government will provide additional information on how to deal with the tax-free fixed travel allowance in the near future.

### Unemployment insurance contribution in the event of overtime

Since 1 January 2020, employers have been paying a higher unemployment insurance contribution for fixed-term employment contracts and a lower contribution for open-ended employment contracts (the "[unemployment insurance contribution premium differentiation](#)"). In order to prevent paying the circumventing the higher contribution from being worthwhile, the legislator has stipulated that the higher contribution also applies if, afterwards, it turns out that an employee has worked overtime more than 30% than contractually agreed within one calendar year. This aims to prevent parties from contractually agreeing that, for example, the employee works 2 hours per week and then allowing the employee to "work overtime" for many extra hours. However, due to the corona crisis, there are sectors (such as the healthcare sector) where the staff has to work (a lot of) overtime. This is the reason why this rule will temporarily not apply to 2020 and 2021. For 2021, the higher contribution has been set at 7.7% and the lower contribution at 2.7%.

### Position of self-employed persons

On 16 November 2020, another progress letter regarding "Working as a self-employed person" was published by Minister Koolmees. In this letter, the Minister announced the follow-up steps with regard to the measures on self-employment. At this moment, several measures have lapsed. Only the measure regarding the web module remains. A pilot of this web module is expected to start on 11 January 2021. After a pilot period of (at least) six months, an evaluation will follow and a decision will be made on the possible introduction of the web module. The phasing out of the current enforcement moratorium (under the Assessment of Employment Relationships (Deregulation) Act (Wet deregulerend beoordeling arbeidsrelatie))

will not start until 1 October 2021. Enforcement is therefore suspended until that time, unless it concerns malice.

### Transition payment compensation scheme for SMEs

As from 1 January 2021, small employers (with fewer than 25 employees) who close their business due of retirement or death can receive compensation for the transition payment they have to pay to their employees. The compensation scheme in the event of business discontinuation due to illness of the employer has been postponed for the time being. Click [here](#) for more information about the compensation scheme.

### Transition payment increase

In the event of dismissal, employees are entitled to a transition payment if the dismissal takes place at the employer's initiative. To calculate this, a fixed formula is used, namely 1/3 monthly salary per year of service. The calculation takes place on a pro rata basis. In 2021, the maximum transition payment amounts to € 84,000 gross (this was € 83,000 gross in 2020) or one gross annual salary, if this is higher. Click [here](#) for more information about the calculation of the transition payment.

### Top incomes

Pursuant to the Senior Executives in the Public and Semi-Public Sector (Standards for Remuneration) Act (Wet normering topinkomens), as from 1 January 2021, senior executives in the (semi-)public sector may earn a maximum of € 209,000 including taxed expense allowances and pension contribution. In 2020, the overall salary maximum was € 201,000. Click [here](#) for an overview (in Dutch) of the maximum sectoral salaries.

### State pension age

The state pension age will remain 66 years and 4 months in 2021. In 2022, this will rise to 66 years and 7 months. Click [here](#) for more information regarding the state pension age.

## Minimum wage

As from 1 January 2021, the statutory gross minimum wage is € 1,684.80 per month, based on full-time employment and a minimum age of 21 years. Click [here](#) for a comprehensive list of the amounts (per week, per hour and the minimum youth wage).

## Training and development for job retention

Many jobs are disappearing or changing due to technological developments, digitisation and the corona crisis. Further training and retraining can help employees and jobseekers to remain or become attractive for the labour market.

The government will make € 200 million available for this purpose in 2021. Have you applied for the NOW 2.0 and/or 3.0? Then you have a best-efforts obligation to encourage your employees to request development advice and undertake further training.

## Brexit

The United Kingdom left the EU on 31 December 2020. For more information about the Brexit and its consequences, see the [website](#) of the Dutch government.

## Outlook: expected changes

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### Fixed-hours offer for on-call workers - July 2021

With effect from 1 January 2020, if an on-call employment contract has lasted 12 months, an employer is obliged to make an [offer for a fixed number of working hours](#) in the 13th month. This offer must be equal to the average number of working hours in the past 12 months. With effect from 1 July 2021, this scheme will be supplemented as follows. If the fixed-hours offer is accepted by the employee, this will take effect no later than 2 months after the employment contract has lasted 12 months, i.e., on the 1st day of the 15th month at the latest. The acceptance period of the employee is therefore set at 1 month.

### Paid parental leave extension - August 2022

As from 1 January 2019, partners are entitled to 5 days' [birth leave](#) after the birth of their child on full pay (based on full-time employment). With effect from 1 July 2020, partners can take another 5 weeks' birth leave in the first 6 months after the birth of their child, whereby partners are entitled to a benefit amounting to 70% of the (maximum) daily wage. The government is now taking a third step in the leave arrangements for parents of young children. Parents can currently take 26 weeks of parental leave in the first 8 years of their child's life. That leave is unpaid, unless otherwise agreed. The government has decided that, as from August 2022, parents will be entitled to a benefit of up to 50% of the (maximum) daily wage during the first 9 of the 26 weeks. Click [here](#) for more information about the current leave arrangements in the Netherlands.