

## Employment law changes as of 1 January 2022: paid parental leave, working from home allowance and much more.....

As of 1 January 2022, a lot will change in the area of employment law. Paid parental leave will be introduced, the law on a more balanced male to female ratio will enter into force, and many other changes will occur. We have listed the most important changes in 2022.

### COVID-19 related

#### 01 Temporary Act on widening the use of a COVID Pass

This legislative act will, in some cases, make it possible to use the COVID Pass (QR code) in the workplace. This legislative act makes the COVID Pass compulsory for employees (including self-employed persons and volunteers) in sectors where the COVID Pass is also requested from visitors, such as the hospitality industry and museums. In sectors where the COVID Pass is not yet compulsory, employers are granted the authority to ask employees for a COVID Pass if this is necessary. To which workplaces this will apply, will be determined later by ministerial regulation. The legislative act is still pending before the Dutch parliament.

#### 02 NOW 6 and final calculation NOW

Due to the extension of the strict COVID-19 measures, NOW 6 is introduced. NOW 6 covers the period 1 January to 31 March 2022. Almost the same conditions apply to NOW 6 as to NOW 5. For example, there must be at least 20% loss of turnover, a maximum of 90% loss of turnover can be claimed (of which a maximum of 85% can be reimbursed) and employers have a best-effort obligation to assist employees in a 'from-work-to-work' trajectory in the event of dismissal.

Businesses that received an advance from NOW in the past should apply for a final calculation of NOW compensation per NOW-period (for NOW 2 this is no later than 31 March 2022). On the basis of the final calculation the UWV will determine whether a part of the NOW compensation must be repaid. Click [here](#) for more information.

#### 03 Return Regulation for reduction in Working Hours

The Regulation for reduction in Working Hours (in Dutch: Werktijdverkorting) had been suspended due to the introduction of the NOW. As of 1 October 2021, employers can make use of the regulation again. The regulation offers support to employers in the case that, for at least 2 calendar weeks and at most 24 calendar weeks, at least 20% of the working capacity cannot or will not be used due to a reduction in activity caused by extraordinary circumstances that are not part of the normal business risk. The normal business risk includes corona-related circumstances.

Employers can also make use of the regulation during NOW 5 and 6. If an employer has applied for the regulation for a reason other than corona, the benefit received does count as turnover for NOW.

#### 04 End of increased discretionary margin

For 2020 and 2021, the discretionary margin (in Dutch: vrije ruimte) was increased due to the corona crisis. The employer was allowed to give tax-free reimbursements under the Work-related Costs Scheme (WKR), as long as the total amount remained under 3% of the first € 400,000 of the wage costs of all employees combined. As of 2022, a percentage of 1.7% instead of 3% will apply to the first € 400,000 of the total wage costs. Read more about the Work-related Costs Scheme [here](#).

## Legislative amendments

### 05 Law on more balanced male to female ratio

The law contains a gender diversity quota for supervisory boards of listed companies and a target scheme for gender diversity for large companies. The legislative proposal will enter into force on 1 January 2022. Read more about the law [here](#).

### 06 Lump sum payment, early retirement and leave savings scheme Act

The Act on lump sum payments, early retirement and leave savings scheme offers more freedom of choice for citizens upon retirement and the opportunity to stop working earlier. The Act provides, among other things, an exemption from the early retirement scheme (in Dutch: RVU) and a doubling of the period in which tax-free leave can be accrued. These components entered into force retroactively on 1 January 2021. In addition, as of 1 January 2022, this law will make it possible to have 10% of your pension paid out at your retirement date.

### 07 Directive on predictable and transparent employment conditions

The Directive extends, among other things, the duty of employers to inform employees about details of their employment contract. The Directive also contains minimum rights of employees, including the right to work for another employer without detrimental treatment outside working hours. 'Mandatory' training must also be offered to employees free of charge. Read more about this in our [blog](#). To implement the directive, a [legislative proposal](#) was published in November 2021. The Directive must be implemented in Dutch law before 1 August 2022.

### 08 Normative Regulation on Work-Related Passenger Mobility

The draft regulation applies to employers with more than 100 employees and aims to reduce CO2 on work-related passenger mobility, as agreed in the Climate Agreement. The employer is responsible for the CO2 reduction in work-related passenger mobility (business mobility and home-to-work mobility) and is obliged to report on this annually. The regulation was supposed to enter into force on 1 January 2022, but has been postponed until further decision-making by the next government. Read more about the draft regulation in our [blog](#).

### 09 Amendment Foreign Nationals Employment Act

The amendment of the Foreign Nationals Employment Act contains, besides a number of adjustments, two measures. Payments of the wage of foreign nationals must be made monthly and cashless and work permits or combined residence and work permits will be refused if an employer is not or no longer economically active. It is not yet known when the amendments will enter into force. Read the amendments [here](#).

### 10 Collective Act SZW 2022

The Collective Act SZW 2022 (in Dutch: Verzamelwet SZW) aims to amend (i) the involvement of flex workers in employee representation, (ii) the reduction of the workload of works council members and (iii) exceptions from Dutch employment conditions for temporary secondment to the Netherlands. The Act was intended to enter into force on 1 January 2022, but it has been postponed until further decision-making by the next government. Read more about the Act [here](#).

### 11 Legislative proposal 'Work where you want'

By the legislative proposal 'Work where you want', the request to change the place of work will from now on be treated in the same way as a request to change the working time or working hours. This means that the employer must grant a request to work from home, unless there are compelling business or service interests against this. However, according to the Dutch Advisory Board on Regulatory Burden, the proposal has serious shortcomings in the problem definition, analysis and justification of the need to amend the law. It remains to be seen whether the law will be passed (in this way). Read more [here](#).

### 12 Amendment Small Pensions (Value Transfer) Act

The transfers of small pensions that have arisen from a collective termination cannot, under the current legislation, be transferred via the system of automatic value transfer of small pensions. The announced amendment of the law aims to make the transfer of these small pensions possible. The aim is to have the amendment of the law enter into force as soon as possible in 2022. Click [here](#) for more information.

## Other developments

### 13 Introduction of nine weeks paid parental leave

As of 2 August 2022, parents will be able to take nine weeks of paid parental leave in the child's first year of life. Currently, parents can take 26 weeks of unpaid parental leave in the first eight years of the child's life. With this regulation, the government wants to stimulate parents to actually take parental leave. The benefit will be 70% of the parents' daily wage (up to 70% of the maximum daily wage). More information on paid parental leave? Click [here](#).

### 14 Tax exemption for home office costs

As of 1 January 2022, the government introduces an untaxed home-working allowance of up to €2 per day. This means employers do not have to pay payroll taxes over the home-working allowance. The exemption also applies if the employee works at home for part of the day. In addition, the untaxed travel allowance for commuting remains (€ 0.19 per kilometre). Employers can either give the home-working allowance or the travel allowance per day (not both). Click [here](#) for more information on the home-working allowance.

### 15 Compensation transition payment for SMEs

Since 2020, employers have received compensation from the Dutch Employee Insurance Agency for a transitional payment in the event of dismissal after 2 years of illness.

Since 2021, the government also compensates the transition payment in case of dismissal due to company closure because of retirement or death of small employers (up to 25 employees). As from mid-2022, the transition payment will also be compensated in the event of dismissal due to company closure because of illness or disability of the employer.

### 16 Adjustment minimum wage

The gross statutory minimum wage will be adjusted by 1.41% to € 1,725.0 per month as of 1 January 2022.

### 17 STAP-budget

As of 1 March 2022, employees and jobseekers can apply for a STAP-budget of up to €1,000 for education and development. This subsidy can be used for education in order to strengthen your position on the labour market. The STAP budget replaces the fiscal deduction of training costs.

### 18 Smoke-free working environment

As of 1 January 2022, companies are no longer allowed to have a smoking area. This measure stems from the [National Prevention Agreement 2018](#).

## Contact us for more information

P A L T H E  
O B E R M A N  
advocaten



Nadia Adnani  
adnani@paltheoberman.nl



Ilse van Aert  
vanaert@paltheoberman.nl