

# CHANGES IN DUTCH LABOUR LAW 2015



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# Changes in Dutch Labour Law 2015

**As of 1 January 2015, new Dutch labour laws may result in some changes to the way you hire and dismiss personnel. More specifically:**

1. Changes affecting temporary personnel (*Flexwet*).
2. Changes in regulations regarding the dismissal of employees (*Ontslagrecht*).
3. A new law to promote the hiring of occupationally disabled people (*Participatiewet*).
4. Tougher rules for tax-free pension accrual, affecting employees earning more than €100,000 per year.

These changes are elaborated upon in greater detail below.

## 1. Changes affecting employees on temporary contracts

### a. Number of fixed term contracts.

From 1 July 2015, a new law will come into effect (*Flexwet*), which aims to limit the gap between flexible and permanent employment. Hiring the same employee for more than two years on consecutive temporary contracts is no longer permitted. After two years of temporary contracts, or when a 4th contract is offered, the presented new contract must be of a permanent nature. It is only possible to prevent a change from a temporary to a permanent contract if there is a mandatory period of at least six months between the two contracts. Otherwise it is legally viewed as one contract with consecutive days. Prior to 1 July 2015, this mandatory period is three months.

**For more in-depth information in Dutch, please see:**

[www.rijksoverheid.nl/onderwerpen/arbeidsovereenkomst-en-cao/kabinetsplannen-positie-flexwerkers](http://www.rijksoverheid.nl/onderwerpen/arbeidsovereenkomst-en-cao/kabinetsplannen-positie-flexwerkers)

### b. Probation Period.

As of 1 January 2015, it is no longer permissible to include a trial or probation period of one month as part of a temporary contract that is of a maximum duration of six months. This also applies to consecutive contracts. For fixed-term contracts lasting longer than



six months, it remains possible to include a probation period.

**c. Announcement of termination for fixed-term contracts.**

A temporary contract of six months or more must have a notice period of one month. This means that a fixed-term contract does not automatically expire. You as an employer are required to take action to terminate the contract by providing sufficient notification to the employee.

**2. Changes regarding the dismissal of employees**

**a. Dismissal route.**

Prior to 2015, the dismissal of any employee was audited by the UWV (Employee Insurance Agency) or the district court in regards to whether the dismissal was legally valid. As of 1 January 2015, employers can only opt for one dismissal route and which route is taken depends on the specific reason for the dismissal. In a case where you dismiss your employee for (business) economic reasons or if the dismissed employee has been long-term occupationally disabled (minimum of two years), it is necessary to work with the UWV to terminate the contract. Dismissal for any other reason must be handled by the district court.

**For more in-depth information in Dutch, please see:**  
[www.ondernemersplein.nl/wetswijziging/hervorming-ontslagrecht](http://www.ondernemersplein.nl/wetswijziging/hervorming-ontslagrecht)

**b. Consideration period after mutual termination agreement.**

It remains possible for an employer and employee to mutually agree to a dismissal. The termination agreement has to be offered in writing. The employee then has a cooling-off period of 14 days in which they can change their mind. It is mandatory for the employer to notify the employee of this cooling-off period.

**c. Severance transition budget (compensation).**

As of 1 January 2015, another change to dismissal law relates to severance pay. Irrespective of the termination route, the government stipulates that permanent and temporary employees who are dismissed must be



awarded a 'transition budget'. This replaces the previous severance payments. The employee can use this budget, for example, for training or assistance to transfer to another job.

### 3. Participation Act and the hiring of occupationally disabled people

As of 1 January 2015, the Participation Act comes into effect. The philosophy behind this law is that ordinary companies should employ those with an occupational disability wherever possible. This has resulted in an agreement between municipalities, employers, trade unions and the government that an additional 125,000 jobs will be created for occupationally disabled individuals within five years (of which 25,000 jobs will be made available by the government). After two years, it will be assessed whether the creation of these jobs is on schedule without the introduction of a quota or other formal requirements. Currently, employers are not obliged to take action. However, companies are being encouraged to investigate the possibilities of hiring an employee with an occupational disability.

In the case that the job creation schedule is not met in 2017, new quota levies will be introduced for companies employing more than 25 members of staff.

### 4. Tougher rules for tax-free pension accrual

As 1 January 2015, tax-exempted pension contributions are no longer permitted if the earnings of your employee exceed €100,000. Consequences for employees who temporarily work in the Netherlands and continue to participate in a foreign company pension plan are as follows: you may only benefit from tax relief in the Netherlands if certain conditions apply, and if the so-called 'corresponding approval' has been granted by the Dutch Tax Office (*Belastingdienst*). If this approval is granted (conditions apply) the foreign pension plan is considered to be an approved pension plan for Dutch tax purposes. Consequently, the employee's contribution is tax deductible and the employer's contribution is not subject to inclusion in compensation and tax free.

**For more in-depth information in Dutch, please see:**  
<http://www.ondernemersplein.nl/wetswijziging/quotumregeling-participatiewet/>



**a. Corresponding approval is granted.**

If corresponding approval is granted for the participation in a non-EU company pension plan, the new rules regarding the cap of €100,000 for the pensionable basis will also apply to this foreign plan. The maximum allowable pension contribution should therefore be calculated based on a maximum pensionable amount of €100,000. Any excess contribution is not eligible for tax relief in the Netherlands. Employees who continue to participate in an EU company pension plan and have been granted corresponding approval are not affected by this change to the Dutch legislation. As such, they can continue to benefit from tax relief in the Netherlands to the extent allowable under the legislation of their home country.

**b. No corresponding approval is granted.**

If no corresponding approval is granted, the employee's contributions to the foreign pension scheme are not tax deductible in the Netherlands and the employer's contributions are fully taxable in the Netherlands.

*It is advised to closely determine and calculate the consequences of the new pension legislation as of 1 January 2015. These changes will not only have an impact upon an employer's 'domestic' employees participating in Dutch pension plans, but also for employees hired from abroad who participate in non-EU pension plans for which corresponding approval has been obtained.*

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