












Balanced Labour Market Act (Wab) and Civil Servants (Normalisation of Legal Status) Act (Wnra)

A number of rules under employment law and dismissal law have changed in 2020, following the introduction of the Balanced Labour Market Act (Wab) and the Civil Servants (Normalisation of Legal Status) Act (Wnra).

The most important changes are summarised below.

	Before January 2020	From January 2020																					
Employment relationship 	Appointment Civil servants receive a unilateral appointment decision and their employment and dismissal are covered by administrative law. Collective Labour Agreement (CAO) + implementation regulations.	Employment contract Employees receive a bilateral employment contract and are covered by private / civil law. Collective Labour Agreement (CAO) + implementation regulations.																					
Successive fixed-term contracts (creation of employment relationship) 	Appointment for an indefinite period is created in the case of: <ul style="list-style-type: none"> a "chain" of more than three successive temporary appointments or successive temporary appointments being used for longer than 24 months. An interruption of > 6 months breaks the "chain". An interruption of less than 6 months is NOT included when calculating the total duration of the appointment. Exceptions are possible: <ul style="list-style-type: none"> 2.3.1: academic staff 2.3.2: administrative and support staff 	An employment contract for an indefinite period is created in the case of: <ul style="list-style-type: none"> a "chain" of more than three successive temporary employment contracts or temporary employment contracts having followed in succession and over a period of more than 36 months. An interruption of > 6 months breaks the "chain". An interruption of less than 6 months IS included when calculating the total duration of the employment contract. Exceptions are possible: <ul style="list-style-type: none"> 2.3.1: academic staff 2.3.2: administrative and support staff 																					
Holiday hours 	The number of leave hours per calendar year is a total of 232 hours for a working week of 38 hours. For part-timers, the leave hours are accrued pro rata, in proportion to the working hours. Leave hours lapse 12 months after the last day of the calendar year in which the leave hours were accrued. If any of the leave hours accrued during a calendar year have not been taken, they can be carried over to the next calendar year.	Employees are entitled to 152 statutory holiday hours and 80 non-statutory holiday hours per year; this is a total of 232 hours for a full-time position of 38 hours per week. <i>Statutory holiday hours:</i> 152 hours for full-time employment, which lapse on 1 July of the next calendar year. <i>Non-statutory holiday hours:</i> 80 hours for full-time employment, which lapse 5 years after the year in which they were accrued. <i>Compensation hours</i> accrued on the basis of flexible working hours: 96 hours, which lapse on 31 December each year. Sequence in which leave is taken <table border="1"> <tr> <td>1</td> <td>remaining statutory 2019 (valid up to 1-7-2020)</td> <td>X hours</td> </tr> <tr> <td>2</td> <td>(if applicable) compensation hours 2020</td> <td>96 hours</td> </tr> <tr> <td>3</td> <td>(if applicable) bought "individual choices model" hours 2020</td> <td>38 hours</td> </tr> <tr> <td>4</td> <td>statutory 2020</td> <td>152 hours</td> </tr> <tr> <td>5</td> <td>remaining non-statutory 2018</td> <td>X hours</td> </tr> <tr> <td>6</td> <td>remaining non-statutory 2019</td> <td>X hours</td> </tr> <tr> <td>7</td> <td>non-statutory 2020</td> <td>80 hours</td> </tr> </table>	1	remaining statutory 2019 (valid up to 1-7-2020)	X hours	2	(if applicable) compensation hours 2020	96 hours	3	(if applicable) bought "individual choices model" hours 2020	38 hours	4	statutory 2020	152 hours	5	remaining non-statutory 2018	X hours	6	remaining non-statutory 2019	X hours	7	non-statutory 2020	80 hours
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		<p>If an employee has any remaining holiday entitlements at the end of his/her employment, and has not been given the opportunity to take these holidays, he/she has the right to a payment in the amount of the outstanding entitlement.</p>
<p>Dismissal</p> 	<p>The employer takes a written decision to terminate the employment relationship, if a reasonable ground exists.</p> <p>Employee Insurance Agency (UWV)</p> <p>Subdistrict court</p>	<p>Dismissal is possible on the following reasonable grounds, provided that the employer has fulfilled any redeployment efforts that may be required:</p> <p>Reasonable grounds:</p> <ul style="list-style-type: none"> A. Reasons of business economics B. Long-term sickness / occupational disability C. Frequent sickness absence D. Inadequate performance E. Culpable conduct F. Conscientious objections G. Disturbed working relationship H. Other circumstances I. Cumulation of grounds for dismissal (cumulation ground) <p>The applicable reasonable ground determines the action to be taken by the employer. Two possible routes: - ask the Employee Insurance Agency (UWV) for a dismissal permit OR - ask the subdistrict court to set aside the contract.</p> <p>For employees who are dismissed on ground A or ground B, the employer needs a dismissal permit from the UWV. For the other – personal – grounds (C to I), the employer must submit a request to the subdistrict court to set aside the employment contract. The alternative is to enter into a settlement agreement, in which the dismissal is arranged with the employee by mutual agreement.</p>
<p>Legal protection</p> 	<p>The staff member can lodge an objection against the employer's decision.</p> <p>The objection can be followed by lodging an appeal with the district court (administrative law sector) and a higher appeal with the Central Appeals Tribunal. It is also possible to conduct expedited proceedings at the administrative court.</p>	<p>An appeal against the subdistrict court's decision can be lodged with the Court of Appeal, and after this (if necessary) an appeal in cassation with the Supreme Court of the Netherlands.</p> <p>An employee can bring proceedings against a UWV dismissal permit at the subdistrict court until 2 months after the termination of the employment contract.</p>
<p>Transition payment</p>  <p>Balanced Labour Market Act (Wab)</p>	<p>At the end of the employment, staff members have the right to a transition payment if they have been working for the employer for at least 2 years and the employment was terminated on the employer's initiative.</p> <p>Amount The amount of the transition payment depends on the monthly salary and the number of years of service:</p> <ul style="list-style-type: none"> - First 10 years of employment: accrual of 1/6 monthly salary per half-year of service; - After 10 years of employment: accrual of 1/4 monthly salary per half-year of service; - for staff members aged 50 years and older who have more than 10 years of service: accrual of 1/2 monthly salary per half-year of service. 	<p>An employee has the right to a transition payment from the first day of the employment contract if the employment is terminated on the employer's initiative.</p> <p>Amount The employee receives 1/3 monthly salary per full year of service from the first working day. The accrual is the same for all employees, regardless of their age and the duration of the employment relationship. The transition payment for the remaining part of the employment contract is calculated pro rata.</p> <p>Choice between transition payment or subsequent BWNU (Non Statutory Unemployment Scheme for Dutch Universities) benefit: - If the employment contract is not continued for reasons of business economics, the employee can choose between the BWNU or transition payment.</p>
<p>Partner leave (birth / paternity leave)</p>  <p>Work and Care Act (WAZO)</p>	<p>Partner leave Since January 2019, partners have the right to "birth leave" of 1 week's working hours. The employer continues to pay the salary in full during the partner leave.</p> <p>The staff member is free to choose when to take this leave, provided that it is taken within four</p>	<p>Additional partner leave Partners have "birth leave" of 1 week's working hours. From 1 July 2020 partners can take up to five weeks of additional partner leave, which must be requested from the employer. The partner receives a payment of 70% of the daily salary and the employer is then reimbursed by the UWV.</p> <p>The employee must take this leave within six months after the birth of the child, subject to the condition that the employee</p>

<p>Cross-border working</p> 	<p>weeks after the birth of the child.</p> <p>Civil servants have social insurance in the EU Member State where they work as a civil servant. This means that the social security system of the country of the official employer is applicable.</p>	<p>has first taken the partner leave of 1 week's working hours.</p> <p>Within the EU, the EU Regulation determines the country in which the employee has social insurance. In other cases, it is necessary to look at bilateral agreements.</p> <p>Example: an employee of a Dutch university who lives in Belgium and performs a substantial proportion (at least 25%) of his/her work in Belgium falls under the Belgian social security laws.</p>
<p>Pension</p> 	<p>Staff members of Leiden University build up a pension with the ABP (General Pension Fund for Public Employees). The appointment terminates when the retirement age under the AOW (General Old Age Pensions Act) is reached.</p>	<p>The Civil Servants (Normalisation of Legal Status) Act (Wnra) has no consequences for accrual of the ABP pension. The employment contract terminates when the retirement age under the AOW is reached. The content of the employment conditions, including pension, is and will remain a matter for the social partners (employers and trade unions).</p>
<p>Social security</p> 	<p>The statutory employee insurances, such as those under the WW (Unemployment Insurance Act), ZW (Sickness Benefits Act) and WIA (Work and Income (Capacity for Work) Act), are also applicable for civil servants.</p>	<p>The Wnra does not change anything in the area of social security of employees. The statutory employee insurances (under the WW, ZW and WIA) are already applicable.</p> <p>Exception: situations of cross-border working.</p>
<p>On-call contract</p>  <p>Balanced Labour Market Act (Wab)</p>	<p>An on-call contract can have unlimited duration.</p> <p>No statutory notice period for call-up of an on-call worker or for changing or withdrawing a call-up.</p>	<p>If an on-call contract has been in place for 12 months, then the University must offer an employment contract – within one month, in writing or electronically – based on the average number of hours worked in the previous year. If the employer does not comply with this obligation, the employee has the right to salary for the average number of hours worked.</p> <p>The employee cannot be obliged to obey an employer's call-up to perform work if the employer has not notified the employee (in writing) of the time when the work is to take place at least four days in advance.</p>
<p>Legal status and employment conditions of payroll workers</p>  <p>Balanced Labour Market Act (Wab)</p>	<p>Most payroll workers have a different legal status (e.g. divergence from the rules for successive fixed-term contracts, agency clause) and employment conditions than employees who work directly for the University. Payroll workers fall under the CAO for Temporary Agency Workers of the ABU (Federation of Private Employment Agencies).</p>	<p>From 1 January 2020, all payroll workers will have the right to the same employment conditions as employees who work directly for the company that engages them.</p> <p>Payroll workers will also have the right to an "adequate" pension. This pension measure for payroll workers will come into effect on 1 January 2021.</p>