

**ABU**



# **CLA for Temporary Agency Workers 2021**

**Version June 2021**

**ABU**

**CLA for Temporary  
Agency Workers  
2021**

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## THE UNDERSIGNED, BEING:

### THE EMPLOYEES' ORGANISATION

#### **LBV, Landelijke Belangen Vereniging (National Interest Group)**

Strevelsweg 700/612,  
3083 AS ROTTERDAM  
www.lbv.nl

and

### THE EMPLOYERS' ORGANISATION

#### **Algemene Bond Uitzendondernemingen (Federation of Private Employment Agencies)**

Postbus 144,  
1170 AC Badhoevedorp  
www.abu.nl

each party of the other part,

agree to enter into, effective 1 June 2021, the following collective labour agreement for temporary agency workers.

## Chapter 1 General

### Article 1 Scope

1. The CLA (Collective Labour Agreement) applies, as of 1 January 2020, to the agency work employment contract, not being a payroll agreement as specified in Article 7:692 of the Netherlands Civil Code between temporary agency workers and private employment agencies, if and insofar as the sum of the temporary agency work wage and salary bill is at least 50% of that of the private employment agency's total annual wage and salary bill on which social security contributions are due, excluding dispensation on the grounds of article 43 of this CLA.  
Chapter 2 of this CLA, except for the agency clause, continues to govern the fixed-term payroll agreement entered into before and valid after 1 January 2020 up to the termination date of this payroll agreement. This is subject to the condition that the employment terms and conditions and employee benefits of this payroll agreement are in compliance with the legal provisions for the payroll agreement and at least equal to those for the payroll agreement entered into before 1 January 2020. In derogation of Article 18 of this CLA, a percentage of 8% must be used for the holiday allowance, unless the statutory provisions for payroll agreements state that a higher percentage is to be used.
2. This CLA does not apply to employers who are admitted as members to the Netherlands Association of Intermediary Organisations and Private Employment Agencies (NBBU).<sup>\*</sup> These members are listed on NBBU's website.
3. This CLA does not apply to private employment agencies covered by the scope described in another industry CLA, unless the private employment agency concerned meets the cumulative requirements stipulated in paragraph 4.
4. Notwithstanding the provisions of paragraph 3, this CLA will continue to apply to private employment agencies that meet the following cumulative requirements:
  - a. the business activities of the private employment agency consist entirely of assigning workers, as referred to in Article 7:690 of the Netherlands Civil Code; and
  - b. the workers (temporary agency workers) of that employer are for at least 25 percent of the wage and salary bill, or at least of the relevant quantitative criterion (such as working hours) in the CLA concerned, involved in work carried out in some branch of business other than that described in the scope of that other CLA; and
  - c. the employer assigns for at least 15% of the total annual wage and salary bill on which social security contributions are due based on agency work employment contracts with agency clause as specified in Article 7:691, paragraph 2, of the Netherlands Civil Code, as further defined in Annex 1

to Article 5.1 of the Regulation of the Minister of Social Affairs and Employment and the State Secretaries for Finance of 2 December 2005, Social Insurance Directorate, No. SV/F&W/05/96420, for the implementation of the Social Insurance Funding Act, as published in the *Staatscourant* (Government Gazette), number 242 of 13 December 2005. As of the effective date of this decree, the private employment agency will have met this requirement if and to the extent that it has been established by the implementing authority, and

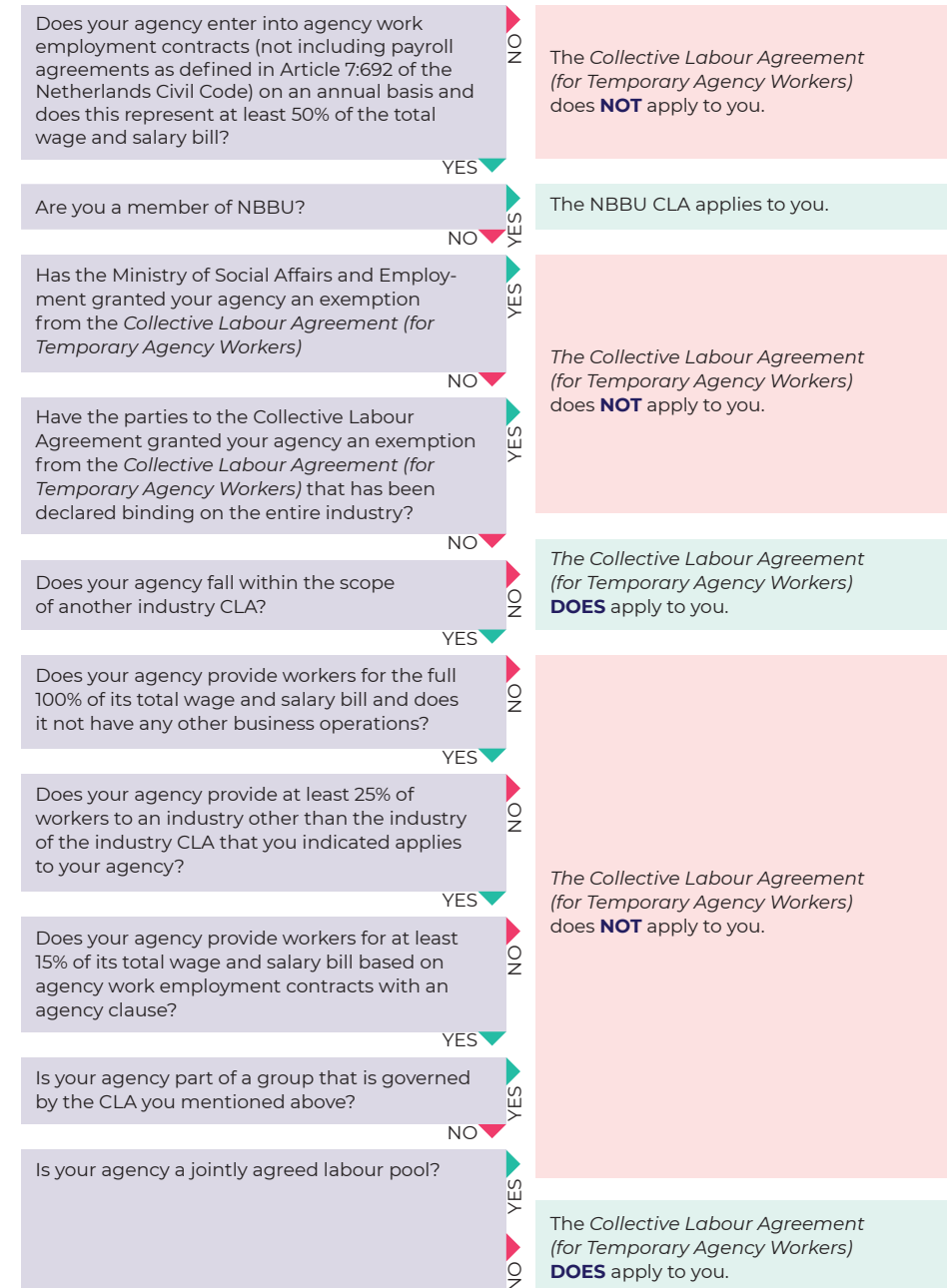
- d. the private employment agency is not part of a group that is linked directly or through an order declaring the other CLA in question binding, and
  - e. the private employment agency is not a jointly agreed labour pool.
5. a. The *Collective Labour Agreement for Temporary Agency Workers* does not apply to private employment agencies that provide workers to employers under the *Collective Labour Agreement for the Construction and Infrastructure Industry* for over 50% of their annual wage and salary bill.
- b. The private employment agency that is a member of the ABU or NBBU or has been granted an exemption from the *Collective Labour Agreement for the Construction and Infrastructure Industry* for which an order declaring it binding has been issued, in derogation of a. and in compliance with Article 1, paragraph 1, governed by this CLA.
- c. If the private employment agency provides a temporary agency worker to a user company that is subject to the *Collective Labour Agreement for the Construction and Infrastructure Industry* and the *Collective Labour Agreement for Temporary Agency Workers* governs the private employment agency, the private employment agency will be under an obligation to check with the user company and confirm to the temporary agency worker which specific provisions from Appendix 7 of the *Collective Labour Agreement for the Construction and Infrastructure Industry* apply to him\*\*.

\* NBBU members are subject to the NBBU CLA, which contains the same employment terms and conditions as the ABU CLA.

\*\* In the CLA, persons are consistently referred to in the masculine gender. This is purely a stylistic choice.

## Does the CLA apply to your agency? (schematic representation)

No rights can be derived from this chart.



## Article 2 Definitions

The following definitions apply in this CLA:

- a. **CLA remuneration:** the remuneration for a temporary agency worker as specified in Article 33, who does not receive the full user company remuneration (Article 16);
- b. **parties to the CLA:** parties to the *Collective Labour Agreement for Temporary Agency Workers*, i.e. ABU and LBV;
- c. **the CLA (Collective Labour Agreement):** this collective labour agreement, including all appendices and protocols;
- d. **actual wage:** the time-based actual gross wage, excluding holiday allowance, reserves, allowances, supplements, overtime, compensation hours, etc., allocated based on the CLA;
- e. **week worked:** every week during which temporary agency work has been performed, regardless of the number of hours worked;
- f. **user company remuneration:** remuneration as specified in Article 16 of this CLA;
- g. **assignment:** the agreement between the user company and the private employment agency on the posting of a temporary agency worker to the user company;
- h. **user company:** the party to whom a temporary agency worker is made available by the private employment agency;
- i. **written:** provided in writing or digitally by electronic means.  
If all information is provided through an electronic platform, the temporary agency worker must be able to download the documents made available on this platform. The temporary agency worker must be notified, with at least one month's notice, of the closure of this electronic platform or that the documents on the platform will be removed;
- j. **posting:** sending the temporary agency worker to work at the user company;
- k. **agency clause:** the clause as specified in Article 7:691, paragraph 2, of the Netherlands Civil Code and Article 15, paragraph 1, of this CLA;
- l. **temporary agency worker:** the natural person who enters into an agency work employment contract with the private employment agency;
- m. **private employment agency:** the party that provides, i.e. assigns, a temporary agency worker to a user company;
- n. **agency work employment contract:** the employment contract as defined in Article 7:690 of the Netherlands Civil Code, under which the temporary agency worker is made available by the private employment agency to the user company based on an assignment, so as to perform work under the user company's management and supervision;
- o. **week:** the week begins on at 0:00 on Monday and ends at 24:00 on Sunday.

## Article 3 Duration, renewal and termination, early termination, interim amendments

1. The CLA is valid from 1 June 2021 to 30 September 2021.
2. If none of the parties to the CLA have given notice of termination of the provisions of the CLA at least three months before the expiry date, these provisions will be renewed for a term of one year. In case of notice of termination, the provisions of the CLA will automatically be renewed while the parties to the CLA negotiate a new CLA.

## Article 4 Rights and obligations upon registration

1. When registering with the private employment agency, the candidate specifies whether or not he wants to be considered for work.
2. Registration obliges neither the private employment agency to offer temporary agency work nor the candidate to accept temporary agency work.
3. Upon registration, the candidate shall provide the requested details of his employment history. The requested details include information on enrolment in a pension scheme with the candidate's previous employer. If this information shows that the private employment agency could be considered to be a successive employer, as defined in Article 12, the candidate will, at the private employment agency's request, provide details of any kind of transition allowance he has received, while the private employment agency will be allowed to revoke its offer prior to the commencement of temporary agency work.

## Article 5 Obligations of the private employment agency

1. The private employment agency rejects all forms of discrimination.
2. Prior to entering into the agency work employment contract, the private employment agency will give the temporary agency worker a written copy of the CLA. The temporary agency worker can also request a print copy of the CLA, which will then be made available.
3. The provisions of the CLA are so-called minimum provisions. Derogation from the CLA and the appendices is permitted only if it favours the temporary agency worker.
4. The private employment agency will agree with the user company that the latter will treat the temporary agency worker in the same way that he treats his own employees and that the user company will take appropriate measures with respect to legal requirements in the area of health, safety, and well-being.
5. Before the commencement of the work for the user company, the private employment agency is obliged to inform the temporary agency worker of any (professional) qualifications that are required for the work and of any safety risks the work may involve and how to deal with them.
6. At the temporary agency worker's request, the private employment agency

will provide a list of the number of agency work employment contracts entered into with the temporary agency worker and the commencement and termination dates thereof, including a statement confirming eligibility for enrolment in the pension scheme. This list will also show which temporary agency work activities the temporary agency worker has performed and at what user company or user companies he has worked. These details will be provided as long as the private employment agency is authorised to process this data under the terms of the General Data Protection Regulation (GDPR).

### **Article 6 Obligations of the temporary agency worker**

1. The temporary agency worker performs his work pursuant to the agency work employment contract with the private employment agency under the user company's supervision and management.
2. The temporary agency worker must comply with reasonable regulations of the private employment agency and user company concerning the performance of the work.

If the temporary agency worker displays undesirable behaviour, fails to comply with procedures or reasonable instructions, the private employment agency may impose one or several of the following sanctions:

- a. warning
- b. suspension, possibly without pay; and/or
- c. dismissal (with immediate effect, if necessary)

## **Chapter 2 Legal position**

### **Article 7 Availability and exclusivity**

1. The temporary agency worker is free to accept work elsewhere, unless the temporary agency worker has committed to working at the private employment agency and there is clarity on the day(s), (expected) times and dates, and (expected) working hours.
2. The temporary agency worker on an agency work employment contract that includes an obligation for the private employment agency to continue to pay wages (as specified in Article 22 of this CLA), the temporary agency worker's availability, as stated upon commencement of the agency work employment contract may change in consultation with the private employment agency. In doing so, the amended availability must always be sufficient for the private employment agency to be able to assign the temporary agency worker for the agreed hours that are subject to the obligation to continue to pay wages. The requested availability must be reasonable in proportion to the agreed hours that are subject to the obligation to continue to pay wages, both in terms of the (number of) day(s), the time(s) and date(s), and the number of hours, and in terms of the spread thereof.

### **Article 8 Time registration**

1. The private employment agency will instruct the temporary agency worker on how to record hours worked. Time registration includes the number of normal, supplement, and overtime hours the temporary agency worker has worked, and these details are recorded in writing.
2. Time registration shall be truthful. The temporary agency worker has access to the original time records and will, upon request, receive a copy thereof.
3. In the event of a dispute over time records, the burden of proof will be on the private employment agency.

### **Article 9 Entering into an agency work employment contract**

1. Upon concluding the agency work employment contract, the private employment agency and the temporary agency worker enter into written agreements about the job, working hours, payment, and the form of the agency work employment contract, as specified in paragraph 3, while observing this CLA.
2. The agency work employment contract will take effect on the date and at the time that the temporary agency worker actually commences the agreed work, unless agreed otherwise in the agency work employment contract.
3. There are two forms of agency work employment contract:
  - a. agency work employment contract with agency clause;  
An agency work employment contract with agency clause can be entered into for the duration of the posting and up to the end of phase A\*.

- b. agency work employment contract without agency clause;  
An agency work employment contract without agency clause can be entered into for a fixed term or as an open-ended contract. A fixed-term agency work employment contract without agency clause can be entered into for a fixed term or for the duration of a project with an objectively definable end date. An agency work employment contract without agency clause is also referred to as a secondment agreement.

—  
\* Where this CLA refers to phase A, B, and C, the private employment agency can also opt to use the designation 1-2 (for phase A), 3 (for phase B) and 4 (for phase C).

## Article 10 Legal position

1. *Phase A - specific temporary agency workers labour contract*
  - a. Temporary agency workers work in phase A for as long as they have not worked more than 78 weeks for the same private employment agency.
  - b. In phase A, the temporary agency worker will work based on an agency work employment contract with agency clause the whole time, unless it has been specifically agreed in the agency work employment contract in writing that the agency clause has been excluded.
  - c. The 78 weeks in phase A will be considered to be a period of 78 consecutive weeks, whereby only weeks during which the temporary agency worker has actually worked count, when there has not been a gap of over six months between two agency work employment contracts. In case of a gap of over six months, the count for phase A will start over from zero.
  - d. A fixed-term agency work employment contract without agency clause that follows a previous agency work employment contract without agency clause with the same private employment agency and the same user company within a time span of one month can only be entered into for a minimum term of four weeks.
2. *Phase B - fixed term labour contract for agency workers*
  - a. Temporary agency workers work in phase B as soon as the agency work employment contract is continued after completion of phase A or if a new agency work employment contract is entered into with the same private employment agency within six months after completion of phase A.
  - b. Phase B will be a maximum of four years, during which period six agency work employment contracts without agency clause can be entered into.
  - c. In phase B, temporary agency workers always work on the basis of a fixed-term agency work employment contract without agency clause, unless a permanent agency work employment contract without agency clause has been agreed specifically.
  - d. The four-year period and the six agency work employment contracts without an agency clause (as referred to under b.) will be considered a

continuous period if there is not a gap of over six months between two agency work employment contracts. The gap period will then count towards the four-year period. In case of a gap of over six months between two agency work employment contracts, the count for phase A will start over from zero.

3. *Phase C - open-ended labour contract for agency workers*
  - a. Temporary agency workers work in phase C as soon as the agency work employment contract without agency clause is continued after completion of phase B or if a new agency work employment contract is entered into with the same private employment agency within six months after completion of phase B.
  - b. In phase C, temporary agency workers always work on the basis of an open-ended agency work employment contract without agency clause.
  - c. If the temporary agency worker returns after termination of an open-ended agency work employment contract without agency clause and the gap between contracts has been six months or shorter, the temporary agency worker will work under a phase C open-ended agency work employment contract. If the gap is over six months, the count for phase A will start over from zero.
4. The count for the phases continues if the temporary agency worker is transferred to and takes up employment with another private employment agency within the same group, unless the new private employment agency is able to confirm based on the registration, application, or other evidence and circumstances that the move was made on the temporary agency worker's initiative. Group is defined as in Article 2:24b of the Netherlands Civil Code.
5. The temporary agency worker and the private employment agency may, in the temporary agency worker's favour, derogate from the phases system detailed in this article.

## Article 11 Different legal position

### *Rules on succession of fixed-term employment contracts*

As long as the temporary agency worker has not worked for more than 26 weeks, the private employment agency can opt to apply the rules on succession of fixed-term employment contracts. In that case, the private employment agency will no longer be able to use the phases system specified in Article 10 and the exclusion of the continued payment of wages as specified in Article 22, paragraph 1, of this CLA. In case of a gap between contracts of over six months, the private employment agency can choose again. The other provisions of this CLA remain effective in full.



## Article 12 Successive employership

1. Successive employership is when the temporary agency worker has worked successively - within a period of six months - in the service of different employers, each of which must reasonably be deemed to be the successor to the previous employer in terms of the work that was performed.
2. Relevant employment history is defined as the number of weeks / the period during which the temporary agency worker has, based on criteria of reasonableness, been performing practically the same work. The count of weeks/ periods worked and employment and/or agency work employment contracts starts at the beginning of phase A. A private employment agency that assigns a temporary agency worker who was assigned by another private employment agency before that must align the job classification with the temporary agency worker's job classification at the other private employment agency as much as possible.
3. If the temporary agency worker is transferred to another private employment agency to be able to continue working for the same user company, the temporary agency worker's legal position will, in derogation of paragraph 2, be the same as his legal position at the previous private employment agency. The new private employment agency will, when the temporary agency worker is transferred, establish the remuneration as per the previous classification, while factoring in the previously awarded and/or yet to be awarded increments.
4. If the temporary agency worker worked for the previous employer(s) under an open-ended employment contract and/or agency work employment contract, which has been terminated in a legally valid manner, the temporary agency worker's legal position will in case of successive employership be determined as follows:
  - if the temporary agency worker's relevant employment history covers under 78 weeks worked, the relevant employment history will be incorporated into phase A;
  - if the temporary agency worker's relevant employment history extends to over 78 weeks worked, the temporary agency worker will start at the beginning of phase B.

Termination in a legally valid manner is defined as:

- cancellation of the employment contract by the (previous) employer with the permission of the Public Employment Services;
- immediate cancellation by the (previous) employer on account of urgent cause;
- dissolution of the employment contract by the court;
- cancellation by the (previous) employer during the probationary period;
- termination of the employment contract on grounds of a clause to that effect or by cancellation on grounds of the temporary agency worker reaching retirement age;

- cancellation by the receiver in the sense of Article 40 of the Bankruptcy Act.

For the purpose of this paragraph, the following are not considered valid termination:

- termination by mutual consent; or
  - termination by the temporary agency worker.
5. Employerships will not be considered successive when:
    - the applicability of the successive employership principle is not provided for because the temporary agency worker willingly or otherwise imputably submitted incorrect or incomplete information as specified in Article 4, paragraph 3; or
    - the gap between two employment contracts or agency work employment contracts is over six months.

## Article 13 Probationary period

1. A probationary period clause can only be included in a fixed-term agency work employment contract without agency clause if it is a contract for over six months. This is subject to legal terms.
2. When, after a gap of one year or less, a subsequent agency work employment contract without agency clause is entered into for a fixed term, a probationary period clause cannot be included again.  
It is, however, possible to agree on a probationary period again when the work to be performed under the new contract requires clearly different skills or involves clearly different responsibilities.

## Article 14 Working hours and working time

1. The private employment agency and the temporary agency worker agree on the number of hours the temporary agency worker will work per day/week/period.
2. The temporary agency worker's working, break, and rest time as specified in the Working Hours Act will be the same as at the user company.
3. In consultation with the user company and the private employment agency, the temporary agency worker will be allowed to work different hours and have a different working time than is customary at the user company. This can be agreed upon commencement of the agency work employment contract or during the term of the agency work employment contract. This is on the condition that:
  - a. the deviation does not lead to the user company exceeding the limits of what is allowed under the law and/or CLA (insofar as the CLA's rules are more relaxed);
  - b. the temporary agency worker's break and rest time do not end up becoming shorter than that of the user company's other staff.

## Article 15 Ending of an agency work employment contract

### *Ending of an agency work employment contract with agency clause*

1. The agency work employment contract with agency clause will end:
  - a. automatically when the user company, for whatever reason, can no longer hire or no longer wants to hire the temporary agency worker, or,
  - b. because the temporary agency worker, for whatever reason, including incapacity for work, is no longer able or willing to perform the agreed work. In case of incapacity for work of the temporary agency worker, the agency work employment contract with agency clause will be considered to have been terminated on the user company's request with immediate effect after the temporary agency worker has called in sick.
2. If the posting extended to over 26 weeks worked, the private employment agency will upon termination of the agency work employment contract be under an obligation to give the temporary agency worker notice of termination at least ten calendar days before termination of the contract by operation of law. This does not apply in case of incapacity for work of the temporary agency worker. If the private employment agency fails to observe the notice period, the private employment agency will be liable to pay the temporary agency worker compensation equalling the wage that the temporary agency worker would have earned over the notice period that the private employment agency has failed to observe, unless the private employment agency offers the temporary agency worker suitable work during that period, as specified in Article 23.
3. The temporary agency worker must submit a request to terminate the agency work employment contract to the private employment agency at least one working day in advance.

### *Agency work employment contract without agency clause*

4. A fixed-term agency work employment contract without agency clause can always be terminated early by the temporary agency worker and the private employment agency as of the next working day, under observance of the statutory notice period\*, unless this has specifically been excluded in the agency work employment contract in writing. If the term of the agency work employment contract is shorter than the statutory notice period, early termination will never be possible.
5. In derogation of paragraph 4, the temporary agency worker can terminate the agency work employment contract without agency clause with immediate effect when the private employment agency relies on exclusion of continued payment of wage, as specified in Article 22, paragraph 1, and Article 22, paragraph 6.
6. A permanent agency work employment contract without agency clause can be terminated as of the next working day under observance of the statutory notice period.

### *Reaching retirement age pursuant to the General Old Age Pensions Act (AOW)*

7. An agency work employment contract ends automatically on the day on which the temporary agency worker reaches the retirement age under the General Old Age Pensions Act (AOW), unless specifically agreed otherwise in the agency work employment contract.

—  
\* As specified in Article 7:672 of the Netherlands Civil Code.

## Chapter 3 Remuneration

### Article 16 User company remuneration

1. The temporary agency worker is entitled to remuneration from the user company, unless Article 33 is applied. Remuneration from the user company is made up of the following six elements, which are each at least the same as that earned by employees in the same or similar jobs at the user company\*, where the temporary agency worker performs work under the supervision and management of that user company:
  - a. only the periodic wage that applies for the pay scale;
  - b. the applicable reduction of working hours. Compensation for this may be paid in time and/or money, as the private employment agency sees fit;
  - c. supplements for overtime, for irregular hours (including when working on public holidays), shifted working hours, working in shifts, and work involving physical strain in relation to the nature of the work (including working at low or high temperatures, working with hazardous substances, or dirty work);
  - d. initial wage increase (amount and timing as per the user company's policy);
  - e. expense allowance (to the extent that the private employment agency is able to pay such an allowance without being liable to pay income tax and national insurance contributions and premiums: travel expenses, accommodation expenses and other expenses that have to be incurred for the performance of the work);
  - f. increments (amount and timing as per the user company's policy).If the temporary agency worker assigned to the user company is subsequently assigned to another company, the user company remuneration will be the same as the remuneration of any employee working in the same or a similar job at that company, where the temporary agency worker performs work under supervision and management.
2. If the user company has a scheme in place that provides an allowance for travel hours or travel time in relation to the work, the private employment agency will also apply this scheme for the reimbursement of the temporary agency worker's travel hours or travel time. If the temporary agency worker's travel hours or travel time are already classified as hours worked, the user company's scheme for travel hours or travel time will not apply.
3. The application of user company remuneration is based on the information submitted or confirmed by the user company with respect to the job category, the level of the wage, the applicable working hours reduction scheme, the level of the increment, the level and timing of the initial wage increase, the expense allowances, and the supplements. The private employment agency and the user company will agree on the user company being under an obligation to provide correct and complete information, as needed for the calculation of remuneration payable by the user company, and to do so in a timely manner.

4. User company remuneration will be calculated for each posting separately.
5.
  - a. If the temporary agency worker employed by the private employment agency has (practically) the same job at different user companies and, due to the fact that he has changed user companies, is not entitled to an increment from these user companies, the private employment agency will take this work experience into account for every future posting for (practically) the same job for the purpose of awarding of an increment.
  - b. If the temporary agency worker under a. joins another private employment agency that is part of the same group, the new private employment agency will also take the work experience specified under a. into account for the allocation of an increment, unless the new private employment agency is able to show based on the registration, application, or other facts and circumstances that the temporary agency worker initiated the switch himself. Group is defined as in Article 2:24b of the Netherlands Civil Code.
6. The private employment agency arranges a process that ensures that user company remuneration is calculated correctly.
7. For each and every posting, the private employment agency will be under an obligation to confirm the elements listed under a. to o. to the temporary agency worker.
  - a. the expected commencement date;
  - b. the user company's name and contact details, including those of a possible point of contact and work address;
  - c. the (general) job title and, if available, the job title as used in the user company's remuneration scheme;
  - d. the job scale and level as per the user company's remuneration scheme, if available;
  - e. the agreed working hours;
  - f. if applicable, the probable end date of the posting;
  - g. the CLA/remuneration scheme;
  - h. the gross actual (hourly) wage;
  - i. the applicable compensation under the working hours reduction scheme;
  - j. the applicable supplements payable for overtime and/or shifted hours;
  - k. the applicable supplement for irregularity (including for work on public holidays) and supplements for physically strenuous circumstances;
  - l. the applicable allowance for shift work;
  - m. the applicable travel allowance;
  - n. other applicable expense allowances;
  - o. the applicable allowance for time spent travelling in relation to the work.In the event of a change to the terms and conditions of employment that regards any of the above elements during the posting, the private employment agency will be under an obligation to confirm the change to the temporary agency worker in writing.

8. In response to an appropriately substantiated request from the temporary agency worker, the private employment agency will provide a written breakdown of the calculation of the remuneration from the user company.
9. The application of user company remuneration will never be adjusted with retroactive effect in case of:
  - intent or manifest inappropriate use; or
  - the private employment agency has failed to demonstrably endeavour to calculate the user company remuneration correctly as specified in paragraph 6 of this article;
  - the private employment agency has failed to comply with the provisions of paragraph 7 in relation to c., d., e., g., h., i., j., k., l., m., n. and o.;
  - the private employment agency has failed to provide, following an appropriately substantiated request from the temporary agency worker, a written breakdown of the calculation of the user company remuneration as specified in paragraph 8 of this article.
10. If the temporary agency worker in phase C switches, on 30 December 2019 as per the rules of Article 16 of this CLA, from remuneration based on the wage structure from the ABU-CLA with a term through to 30 December 2019 to user company remuneration, this temporary agency worker will keep the current actual wage for at least the remainder of the current posting. When the work ends and/or for a subsequent posting, the rules of this CLA will apply, as will the agreement on the level of the actual wage in the agency work employment contract.

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\* *If there are no employees working in a similar or the same job, Article 21 will apply.*

### Article 17 Calculation of hourly wage and/or compensation under the working hours reduction scheme

1. If the private employment agency, in calculating the user company remuneration, wants to calculate an hourly wage or monetary compensation under the working hours reduction scheme, the private employment agency will base the calculation on information obtained from the user company and consult, if necessary, the available authorised information on the user company's CLA. This is information as provided by the joint parties to the relevant insourcing CLA. The information on the user company remuneration as confirmed or provided by the user company is decisive in calculating the hourly wage or monetary compensation under the working hours reduction scheme.
2. Only if the information provided does not create clarity and certainty on the hourly wage or the monetary compensation under the working hours reduction scheme, the calculation method below will be used.
3. *Periodic wage*
  - a. Does the user company's CLA or employment terms and conditions

specify an hourly wage (definition)?

- b. If so, the hourly wage for the job classification must be established based on the hourly wage or hourly wage definition as used by the user company.
- c. If not, the hourly wage for the job classification will have to be calculated as follows.

Monthly wage

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$4.35 \times \text{Normal working hours}$

- d. The private employment agency must verify whether the user company's CLA or employment terms and conditions provide for different normal working hours per shift work time schedule. In that case, the private employment agency must base calculation of the hourly wage for the temporary agency worker on the normal working hours for the shift work time schedule that applies to the temporary agency worker. If the temporary agency worker is posted to work in a different shift work time schedule with different associated working hours, the hourly wage will be calculated again, based on the normal working hours for the new shift work time schedule. This will not be subject to the continued wage payment scheme in the event of cessation of temporary agency work (Article 22), unless the temporary agency worker would see his number of hours reduced in moving from the previous shift work time schedule to the new shift work time schedule.
4. If the user company remuneration for a full-time working week is below the minimum wage, a correction will be applied to the user remuneration, so that it is no longer in breach of the Minimum Wage and Minimum Holiday Allowance Act.
5. *The applicable working hours reduction*
  - a. Does the user company's CLA or employment terms and conditions provide any kind of paid leave?
  - b. If not, the normal working hours will apply directly, and the monetary compensation under the working hours reduction scheme does not apply.
  - c. If so, the private employment agency may choose to compensate the working hours reduction either in cash or through additional leave entitlement.
  - d. If the private employment agency opts to pay out the working hours reduction, the next question will apply or the next question will have to be answered.
  - e. Does the user company's CLA or employment terms and conditions specify a percentage or a calculation method for unequivocal calculation of the value of the working hours reduction?
  - f. If so, this percentage or calculation method will be used to establish the cash value of the compensation under the working hours reduction scheme.
  - g. If not, the private employment agency will calculate the working hours reduction in cash as follows.

### Calculation based on working hours reduction in days:

Days of leave under the working hours reduction scheme per year

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254

### Calculation based on working hours reduction in hours:

Hours of leave under the working hours reduction scheme per year

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$254 \times (\text{normal working hours} / 5)$

## Article 18 Holiday allowance

The temporary agency worker is entitled to a holiday allowance of 8.33% of the actual wage on:

- days worked;
- days of holiday leave;
- public holidays;
- days of on which the temporary agency worker has taken sick leave;
- compensation hours; and
- the hours for which the temporary agency worker is entitled to continued wage payment in the event of cessation of agency work based on Article 22 Article 16, paragraph 2, of the Minimum Wage and Minimum Holiday Allowance Act continues to apply in full.

## Article 19 Compensation hours

1. The private employment agency can agree in writing with the temporary agency worker that the supplement for irregular working hours and/or overtime will not be paid out, but instead be used to accrue compensation hours that will be added to leave entitlement.
2. Irregularity or overtime supplements will be converted into leave entitlement for the temporary agency worker. Calculation of the accrual of leave entitlement is based on the number of hours on which the supplements were accrued. Next, these hours are multiplied by the applicable supplement percentage. This is the percentage used to calculate the supplement that is awarded on top of the hourly wage.\*

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\* Example:

*The temporary agency worker works 4 hours of overtime. Overtime is paid based on a supplement percentage of 25% (i.e. the temporary agency worker will receive 125% of the hourly wage for each hour of overtime that he has put in). To calculate the compensation hours that will go towards the temporary agency worker's leave entitlement, the 4 hours of overtime are multiplied by 25%. This means the temporary agency worker has earned one hour of leave.*

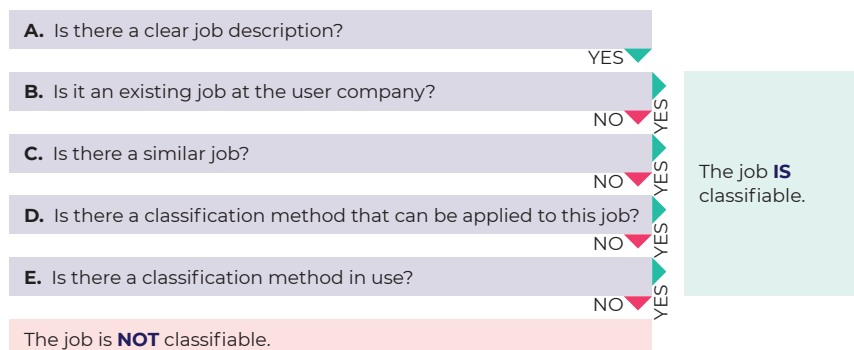
## Article 20 Conversion of remuneration

1. The private employment agency and the temporary agency worker can agree in writing for part of the remuneration as specified in Article 16, paragraph 1, including:
  - supplements for irregular working hours and overtime;
  - compensation hours specified in Article 19;
  - holiday leave entitlement over and above the statutory minimum, to be converted into tax-free reimbursements or tax-free benefits in kind to cover extraterritorial costs ('goals'). The conversion of the wage into tax-free reimbursements or tax-free benefits in kind is permitted subject to observance of the following restrictions and conditions:
    - a. Conversion of wage into tax-free reimbursements or tax-free benefits in kind in relation to extraterritorial costs is only permitted for double housing costs, transport costs from and to the place of residence in the temporary agency worker's country of origin and extra costs for living expenses.
    - b. Mandatory provisions must be taken into account for conversion of wage.
    - c. Conversion of wage is only permitted if and insofar as allowed for tax purposes.
    - d. The amount of the tax-free reimbursements or the amount of the tax-free benefits in kind which the private employment agency wishes to pay or provide tax-free must be stated on the payslip.
    - e. Conversion of wage into tax-free reimbursements or tax-free benefits in kind must be agreed on in advance with the temporary agency worker and laid down in (an addendum to) the agency work employment contract. The addendum to the agency work employment contract must also include which tax-free reimbursements or tax-free benefits in kind the temporary agency worker is converting wage into and the agreed time period.
    - f. The pay that remains after such an exchange cannot be lower than the current statutory minimum wage that applies to the temporary agency worker.
    - g. The conversion of wage, including any supplements for irregular working hours and overtime, as well as compensation hours specified in Article 19 and holiday leave entitlement over and above the statutory minimum, is capped at 30% of the wage as specified in paragraph 1.
    - h. Tax-free reimbursements allocated in the scope of this arrangement are limited to the costs actually incurred. A tax-free benefit in kind allocated in the scope of this arrangement shall be valued at market value.
    - i. No (reserves for) holiday leave entitlement, holiday allowance entitlement, short-term absence and special leave entitlement, public holidays, and waiting days are accrued on the exchanged wage. The foregoing means that the entitlements are accrued only on the remaining, lowered wage.
    - j. Insofar as applicable, no pension entitlements are accrued on the converted part of the wage.

- k. Conversion of part of the wage does not affect the basis of overtime pay and the supplement for irregular working hours.
- l. The exchanged wage and the value of the days of holiday leave entitlement over and above the statutory minimum that the temporary agency worker converts into tax-free reimbursements or tax-free benefits in kind cannot exceed 81% of the amount of extraterritorial costs which the private employment agency wishes to pay or provide tax-free. This percentage of 81% does not apply when exchanging irregularity and overtime supplements and the compensation hours specified in Article 19.

### Article 21 Calculation of remuneration for a non-classifiable temporary agency worker

1. A non-classifiable temporary agency worker is a temporary agency worker whose activities cannot be classified in the user company's job matrix. To establish whether or not activities are classifiable, the below chart must be used.
2. When, contrary to Article 9, paragraph 2, it is agreed with the temporary agency worker that the agency work employment contract will commence prior to the moment when the temporary agency worker starts working, the temporary agency worker will not be classifiable either for the period that he has not yet been posted to work for the user company.
3. Remuneration for a non-classifiable temporary agency worker is calculated following negotiations between the private employment agency and the temporary agency worker and, if applicable, the user company. Such negotiations will look at the skills and competencies needed for the job in question, as well as the responsibilities, experience, and level of education.
4. At the temporary agency worker's request, the private employment agency will provide proof to show the temporary agency worker that the activities are not classifiable.



### Article 22 Continued wage payment in case of cessation of temporary agency work

*Continued wage payment in phase A: Agency work employment contract with agency clause and agency work employment contract without agency clause without obligation to continue wage payment*

1. The private employment agency only owes the temporary agency worker working in phase A the wage due for the period(s) that the temporary agency worker actually did agency work. To exclude the obligation to continue wage payment, the user company must issue a written notification of the possible application of this exclusion upon commencement of the agency work employment contract.
2. Exclusion of the continued payment of wages obligation referred to in paragraph 1 of this article shall not apply in the case of incapacity for work, if and insofar as an agency work employment contract without agency clause has been agreed.
3. If the temporary agency worker in phase A:
  - a. is called up for temporary agency work; and
  - b. appears at the time and location agreed with the private employment agency; but
  - c. is not enabled by the user company to commence the temporary agency work,
 the temporary agency worker is entitled to a payment of at least three times the actual hourly rate that the temporary agency worker would have received for the temporary agency work. In this case, paragraph 1 of this article does not apply.

*Continued wage payment in phase A: Agency work employment contract without agency clause with obligation to continue wage payment*

4. In the event of cessation of temporary agency work, the private employment agency will be under an obligation to pay the temporary agency worker in phase A the most recent actual wage for as long as and/or for the part of the duration of the contract that the temporary agency worker has not yet been reassigned, provided the temporary agency worker works based on an agency work employment contract without agency clause for which the obligation to continue wage payment has been agreed in writing.

*Continued wage payment in phase B*

5. In the event of cessation of temporary agency work, the private employment agency will be under an obligation to pay the temporary agency worker in phase B the most recent actual wage for as long as and/or for the part of the duration of the contract that the temporary agency worker has not yet been reassigned.
6. If contrary to article 10, paragraph 1, under a. and b., a temporary agency worker works in phase B, without full use having been made of phase A, the



private employment agency shall be entitled, for 26 weeks, or any period shorter than this that the temporary agency worker has already worked for the same private employment agency in phase A, to exclude the continued payment of wages obligation, as referred to in Article 22, paragraph 1. The aforementioned exclusion of the obligation to continue wage payment does not apply in case of incapacity for work.

7. If the private employment agency opts to use the possibility specified in the previous paragraph of this article, and the temporary agency worker:
  - a. is called up for temporary agency work; and
  - b. appears at the time and location agreed with the private employment agency; but
  - c. is not enabled by the user company to commence the temporary agency work, the temporary agency worker is entitled to a payment of at least three times the actual hourly rate that the temporary agency worker would have received for the temporary agency work. In this case, paragraph 6 of this article does not apply.

#### *Continued wage payment in phase C*

8. In the event of cessation of temporary agency work, the private employment agency will be under an obligation to pay the temporary agency worker in phase C the most recent actual wage for as long as and/or for the part of the duration of the contract that the temporary agency worker has not yet been reassigned.

#### *Expired obligation to continue wage payment*

9. The obligations to continue to pay wages specified in this article shall cease to apply when the temporary agency worker:
  - terminates his registration with the private employment agency;
  - indicates that he is no longer available;
  - is no longer available to the private employment agency; or
  - rejects an offer for suitable work.

### **Article 23 Suitable work after cessation of temporary agency work**

1. If, during the term of an agency work employment contract without agency clause in which the obligation to continue wage payment has specifically been agreed to, the temporary agency work ceases to be available because the posting is terminated, the private employment agency must, for the remainder of the term of this agency work employment contract find and offer the temporary agency worker suitable other work. During the term of this agency work employment contract, the temporary agency worker is under an obligation to accept such suitable other work.
2. Other work will be considered to be suitable when:
  - a. the new job(s) is or are aligned with the temporary agency worker's

previous activities, training and education, and competencies; or

- b. it is a new job for which the temporary agency worker could, within a reasonable term, either with or without training, be suited and that is no more than two job levels below the temporary agency work that has ceased to be available. The former job must then first be classified in the job matrix in Appendix IV.

3. The other work will be offered based on one of the following conditions:
  - a. the work is for an average number of hours per week/month/period that matches the initially agreed working hours; or
  - b. the work is for an average number of hours per week/month/period that is lower than the initially agreed working hours, provided that the hours on which no work is performed are paid out based on the most recent actual wage; or
  - c. the work is for an average number of hours per week/month/period that is higher than the initially agreed working hours, to the extent that the performance of the extra hours over the agreed working hours can in all reasonableness be required of the temporary agency worker.
4. The private employment agency will have a reassignment interview with the temporary agency worker that is aimed at exploring reassignment options.
5. The obligation to find and offer the temporary agency worker suitable other work and the obligation to continue to pay wages will cease to apply when the temporary agency worker:
  - a. rejects an offer for suitable other temporary agency work;
  - b. terminates his registration with the private employment agency;
  - c. is no longer available for the full agreed term of the temporary agency work. The temporary agency worker must notify the private employment agency thereof without delay.
6. If reassignment within a reasonable term\* is unsuccessful, the private employment agency can turn to Public Employment Services to request permission to terminate the agency work employment contract without agency clause on account of business circumstances.

For the calculation of the reasonable term cited in this paragraph, phase A will be designated as 18 months worked. Aside from that, interruptions in phase B of no more than six months are also counted.

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\* Reasonable term as specified in Article 7:672, paragraph 2 of the Netherlands Civil Code

### **Article 24 Continued wage payment with suitable work**

#### *Continued wage payment in phase A*

1. For the hours during which the temporary agency worker has performed suitable other work, he will be entitled to wage as per the user company remuneration laid down for the new posting.
2. If the new posting is for fewer hours than the number of hours agreed in the

agency work employment contract with obligation to continued wage payment, the temporary agency worker will in case of a new posting be entitled to the most recent actual wage for the number of hours during which no work is performed. This is on the condition that the temporary agency worker keeps himself available for suitable work during the total number of hours included in the fixed-term agency work employment contract without agency clause.

#### *Continued wage payment in phase B*

3. For the hours during which the temporary agency worker has performed suitable other work, he will be entitled to wage as per the user company remuneration laid down for the new posting.
4. If the new posting is for fewer hours than the number of hours agreed in the agency work employment contract in phase B, the temporary agency worker will be entitled to the most recent actual wage for the number of hours during which no work is performed, unless Article 22, paragraph 6, applies. This is on the condition that the temporary agency worker keeps himself available for suitable work during the total number of hours included in the agency work employment contract.

#### *Continued wage payment in phase C*

5. For the hours during which he has performed suitable work, the temporary agency worker will be entitled to wage as per the user company remuneration laid down for the new posting, and in any case at least 90% of the most recent actual wage for the most recent posting and at least the statutory minimum wage. The temporary agency worker will always receive at least 85% of the highest earned actual wage during phase C and at least the statutory minimum wage.
6. If the new posting is for fewer hours than the number of hours agreed in the agency work employment contract in phase C, the temporary agency worker will be entitled to the most recent actual wage for the number of hours during which no work is performed. This is on the condition that the temporary agency worker keeps himself available for suitable work during the total number of hours included in the agency work employment contract.

### **Article 25 Wage in case of incapacity for work**

1. The temporary agency worker is required to notify the private employment agency and the user company on the first day of incapacity for work and as soon as possible, in any case before 10am. The notification must state the correct address where the employee is being treated and the correct contact details.

#### *Agency work employment contract with agency clause*

2. The agency work employment contract with agency clause ends upon

commencement of incapacity for work pursuant to Article 15 paragraph 1b of the CLA. If the temporary agency worker is entitled to sickness benefits in that case, the private employment agency will:

- top up these benefits to 90% of the daily wage used as a basis for determining benefits\*, as established for the daily wage decree for employee insurance, and do so for the first 52 weeks of incapacity for work;
  - top up these benefits to 80% of the daily wage used as a basis for determining benefits, as established for the daily wage decree for employee insurance, and do so from the 53rd week to the 104th week of incapacity for work.
3. The first two days of incapacity for work apply as waiting days pursuant to the Sickness Benefits Act, for which the temporary agency worker is not entitled to any benefit.
  4. One waiting day of the two waiting days will be compensated. This compensation is paid through a supplement on the wage. This supplement will be 0.71% for Private Employment Agencies I (office sector and administrative) and 1.16% for Private Employment Agency II (engineering and industrial).
  5. The private employment agency can take out insurance for this supplement or make another arrangement. The maximum percentages that can be deducted from the temporary agency worker's actual wage for this insurance and/or arrangement are 0.58% for Private Employment Agencies I (office sector and administrative) and 1.33% for Private Employment Agencies II (engineering and industrial).

—  
\* *The daily wage used for the purpose of calculation of benefits is established by Public Employment Services or by the private employment agency that is self-insured for the purposes of the Sickness Benefits Act.*

#### *Agency work employment contract without agency clause*

6. In the event of incapacity for work, the temporary agency worker will, for the remainder of the term of the agency work employment contract, be entitled to:
  - 90% of the time-based wage for the first 52 weeks of incapacity for work and at least the applicable statutory minimum wage.
  - 80% of the time-based wage for the period from the 53rd week to the 104<sup>th</sup> week.
7. The first day of incapacity for work applies as a waiting day for which the temporary agency worker is not entitled to pay.
8. a. For the purposes of this article, the time-based wage as defined in Article 7:629 of the Netherlands Civil Code is considered to be the actual wage plus at least any supplements (as defined in Article 16, paragraph 1, under c.), monetary compensation under the working hours reduction scheme (as defined in Article 16, paragraph 1, under b.), and other allowances to which the temporary agency worker would have been entitled in terms



of CLA remuneration or user company remuneration if he had not become incapacitated for work. The above allowances do not include expense allowances.

- b. The time-based wage is payable for the agreed working hours.
- c. When:
  - no working hours or no clearly defined working hours have been agreed, or
  - the actual working hours over the thirteen calendar weeks prior to the week in which the temporary agency worker called in sick differ structurally from the agreed working hours,the time-based wage is payable over the average of all hours for which a wage has been paid over the past thirteen calendar weeks. Overtime is excluded from this, unless it is of a structural nature.

The following condition applies:

if at the point where the temporary agency worker called in sick, the agency work employment contract had not yet been in effect for thirteen calendar weeks, the time-based wage will be payable for the working hours that can in all reasonableness be expected.

## Chapter 4 Leave entitlements

### Article 26 Holiday leave

#### *General*

1. For each full working month worked, the temporary agency worker accrues entitlement to 16 2/3 hours of holiday leave, or a proportional part thereof if he has not worked the full working month.
2. A temporary agency worker is entitled to a holiday of three consecutive weeks or three separate holidays of one week, provided he has accrued the required holiday leave entitlement.
3. In phase A and B, contrary to Article 7:640a of the Netherlands Civil Code, the statutory days of holiday leave will expire one year after the last day of the calendar year in which the entitlement was accrued. In phase C, also contrary to Article 7:640a of the Netherlands Civil Code, the statutory days of holiday leave will expire five years after the last day of the calendar year in which the entitlement was accrued. In all phases, the days of leave over and above the statutory minimum expire five years after the last day of the calendar year in which the entitlement was accrued.
4. The private employment agency is under an obligation to enable the temporary agency worker to take holiday leave.
5. The private employment agency can draw up holiday leave regulations, under observance of paragraph 4.
6. Paragraph 3 applies to days of holiday leave accrued after 1 January 2020. For statutory holiday leave entitlement accrued in phases A and B up to 1 January 2020, there is a statutory expiry period of six months from the last day of the calendar year in which the days of leave entitlement were accrued..

#### *Agency work employment contract with agency clause*

7. The private employment agency reserves 10.82% of the temporary agency worker's actual wage in 2021\*. This will be increased by adding the waiting day compensation in accordance with article 25 paragraph 4.
8. If the temporary agency worker takes holiday leave and the agency work employment contract continues, the actual wage will be paid out from the holiday reserve, to the extent that the reserve is sufficient.
9. If an agency work employment contract with agency clause is followed by an agency work employment contract without agency clause, the reserve for holiday leave will be converted into a proportionate entitlement to paid holiday leave. The private employment agency will provide the temporary agency worker with a written statement of this conversion.

#### *Agency work employment contract without agency clause*

10. When the temporary agency worker with an agency work employment contract without agency clause takes holiday leave, he will be entitled to

continued payment of the actual wage, to the extent that he has accrued holiday leave entitlement as per paragraph 1.

11. If applicable, in addition to paragraphs 8 and 10, the actual wage payable for days of holiday leave will be topped up with those allowances that the temporary agency worker would have received based on the CLA or user company remuneration if he would have worked during the period of holiday leave. The above allowances do not include expense allowances.

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\* For other years, please refer to Appendix I.

## Article 27 Public holidays

1. The following days are considered generally recognised public holidays, to the extent that they do not fall on a Saturday or a Sunday:
- New Year's Day;
  - Easter Monday;
  - Ascension Day;
  - Whit Monday;
  - Christmas Day and Boxing Day;
  - King's Day or holiday in lieu of King's Day; and
  - Liberation Day every five years.
2. If the agency work employment contract or the posting does not clearly state whether the public holiday falls on a day that would normally be a working day, the temporary agency worker will be granted a public holiday if:
- a. the temporary agency worker has, over a period of thirteen weeks immediately prior to the public holiday in question, worked at least seven times on the weekday in question; or
  - b. the temporary agency worker has not yet worked for thirteen consecutive weeks and has worked on the weekday in question in at least half of the weeks that he has worked.

For the calculation of the aforementioned period of thirteen weeks (under a.) or less (under b.), successive contracts will be added up, if and to the extent that one followed the other within a period of one month. The periods of interruption will not be included in the count.

### *Agency work employment contract with agency clause*

3. If the temporary agency worker is entitled to a public holiday, the following applies with respect to continued payment of wage. For continued payment of wage to the temporary agency worker on public holidays on which the temporary agency worker does not work, the private employment agency must choose one of the following two options for at least one whole calendar year for the entirety of its company:
- a. The private employment agency reserves 2.16% of the temporary agency worker's actual wage in 2021\*. This will be increased by adding the waiting

day compensation in accordance with article 25 paragraph 4. On a public holiday, the actual wage will be paid from the accrued public holiday reserve, provided the reserve is sufficient to cover this; or

- b. The temporary agency worker is entitled to continued payment of wage on public holidays.

The private employment agency shall notify the temporary agency worker in writing as to its choice. When changing this choice, the temporary agency worker's entitlements accrued in the previous situation must be settled first.

### *Agency work employment contract without agency clause*

4. The temporary agency worker with an agency work employment contract without agency clause is entitled to continued payment of the actual wage on public holidays on which no work is performed.
5. For the application of paragraphs 3 and 4 of this article, when for the day on which the public holiday falls:
- the actual working hours during the period of thirteen weeks specified in sub-paragraph 2, no or no clear working hours have been agreed; or
  - weeks (under a.) or shorter (under b.) differ structurally from the agreed working hours
- the actual wage will be payable for the average of all hours for which the wage has been paid for that day over the period of thirteen weeks (under a.) or less (under b.). Overtime is excluded from this, unless it is of a structural nature.
6. If the temporary agency worker is entitled to payment for a public holiday based on this article, this entitlement will not expire in the event of irrelevant factors and circumstances as a reason not to pay out the public holiday, such as the fact or circumstance that:
- the temporary agency worker takes leave immediately prior to or after the public holiday; or
  - the user company closes for business immediately prior to or after the public holiday; or
  - the private employment agency or user company does not schedule the temporary agency worker to work that day or removes the temporary agency worker from the schedule for that day; or
  - the public holiday falls in a gap period between two successive agency work employment contracts and there is no other reason for the gap period than the public holiday.
7. Deviations from the public holidays as specified in this article are possible only if they are in the temporary agency worker's favour.
8. In case of a dispute over non-allocation of a public holiday, the private employment agency will provide proof to the temporary agency worker to show that it acted justly in not granting the public holiday. If the private employment agency fails to justify this, the public holiday will be granted after all.

\* For other years, please refer to Appendix I.

## Article 28 Short-term absence, birth leave, and special leave

1. The temporary agency worker is entitled to short-term absence. Short-term absence is defined as absence for a reasonable period of time during which the temporary agency worker is unable to work:
  - a. due to unforeseen circumstances that require immediate interruption of work; or
  - b. due to an obligation imposed by law or an authority, without any financial compensation, which obligation cannot be fulfilled in the temporary agency worker's own time; or
  - c. due to very exceptional personal circumstances.
2. After the temporary agency worker's partner, or the person who's child the temporary agency worker has acknowledged as his own, has given birth, the temporary agency worker will be entitled to birth leave for a period of four weeks from the first day after the birth. Birth leave is capped at once the weekly working hours.
3. The temporary agency worker is entitled to special leave in the following events:

a. to give official notice of an intended marriage of the temporary agency worker	one day
b. marriage or registered partnership of the temporary agency worker	two days
c. marriage or registered partnership of a (grand)child, brother, sister, or parents of the temporary agency worker	one day
d. death of the temporary agency worker's partner or child	from the day of the death through to the day of the funeral
e. death of the temporary agency worker's brother or sister, parents, grandparents, grandchild	one day + to attend the funeral, unless the temporary agency worker makes the funeral arrangements, in which case leave will be granted from the day of the death through to the day of the funeral
f. 12.5-year, 25-year and 40-year wedding anniversary	one day
g. 25-year and 40-year employment anniversary	one day

h. 25-year, 40-year, 50-year, 60-year and 70-year wedding anniversary of the temporary agency worker's parents and grandparents	one day
i. to take a (professional) exam for an accredited diploma	one day

For the purposes of this paragraph, the following terms are defined as follows:

Child	child of the temporary agency worker or his partner, including an adopted child, stepchild, foster child, or a child that the temporary agency worker has accepted as his own
Brother or sister	adopted brother or sister, half brother or sister, stepbrother or stepsister, foster brother or sister, brother-in-law, and sister-in-law
Parents	the temporary agency worker's parents, including adoptive parents, step-parents, foster parents, or parents-in-law
Grandparents	the grandparents of the temporary agency worker or his partner, including the grandparents of an adopted child, stepchild, or foster child
Partner	the temporary agency worker's spouse, registered partner, or the person with whom the temporary agency worker lives together without being married

4. The temporary agency worker will notify the private employment agency with as much advance notice as possible that he will be taking short-term absence, birth leave, or special leave.

### *Agency work employment contract with agency clause*

5. To cover the short-term absence and special leave, the private employment agency will put aside 0.6% of the temporary agency worker's actual wage. This will be increased by adding the waiting day compensation in accordance with article 25 paragraph 4.
6. If the temporary agency worker takes short-term absence and the agency work employment contract continues, the actual wage will be paid out from the reserve created for short-term absence, to the extent that the reserve is sufficient.
7. If the temporary agency worker takes birth leave and the agency work employment contract continues, the wage as specified in Article 1:2 of the Work and Care Act will be paid from the reserve that has been built up. If the reserve is insufficient, it will be topped up by the private employment agency.

### *Agency work employment contract without agency clause*

8. When the temporary agency worker with an agency work employment

contract without agency clause takes short-term absence or special leave, he will be entitled to continued payment of the actual wage for the hours that he would have worked on the day(s) of leave.

9. If the temporary agency worker takes birth leave, he will be entitled to the wage as specified in Article 1:2 of the Work and Care Act.

## **Article 29 Payment of leave entitlement/reserves, compensation hours, and holiday allowance**

### *Agency work employment contract with agency clause*

1. Reserves built up for holiday leave, public holidays, short-term absence / special leave are not paid out every week/month/period, but instead reserved until the temporary agency worker takes the leave in question.
2. When the agency work employment contract with agency clause ends and no new agency work employment contract is entered into, any unused reserves for holiday leave, public holidays, short-term absence / special leave, and the holiday allowance will be paid out in the next pay period. This also goes for the accrued compensation hours. When no entitlement to actual wage has been acquired over a period of six weeks, while the agency work employment contract continues, any unpaid reserves for holiday leave entitlement over and above the statutory minimum, public holidays, short-term absence / special leave, holiday allowance, and compensation hours will be paid out in the next pay period. This also goes for the accrued compensation hours.
3. Contrary to paragraph 2, the temporary agency worker and the private employment agency can agree in writing for the unpaid reserves and/or compensation hours to be paid out within eighteen weeks after the end of the agency work employment contract and/or after the temporary agency worker ceases to acquire entitlement to actual wage. This can be agreed and applied only if any judicial and/or administrative fines can still be imposed due to the activities.
4. The reserved holiday allowance will be paid out to the temporary agency worker in the month of May, or at least no later than in the first week of June.
5. When the temporary agency worker takes holiday leave and is away for at least seven consecutive calendar days due to the holiday leave, the private employment agency will pay out the accrued holiday allowance at the temporary agency worker's first request.
6. The private employment agency and the temporary agency worker can, at the temporary agency worker's request, agree for the following entitlements to be paid out in cash instead of setting money aside to build up a reserve:
  - holiday leave entitlement over and above the statutory minimum;
  - short-term absence / special leave;
  - public holidays, provided that the private employment agency reserves funds for this and has not chosen the option offered by Article 27,

paragraph 3, under b.; and/or

- holiday allowance.

### *Agency work employment contract without agency clause*

7. The holiday allowance will be paid out to the temporary agency worker in the month of May, or at least no later than in the first week of June.
8. When the temporary agency worker takes holiday leave and is away for at least seven consecutive calendar days due to the holiday leave, the private employment agency will pay out the accrued holiday allowance at the temporary agency worker's first request.
9. The private employment agency and the temporary agency worker can, at the temporary agency worker's request, agree for the following entitlements to be paid out in cash:
  - holiday leave entitlement over and above the statutory minimum; and/or
  - holiday allowance.

## Chapter 5 Sustainable employability

### Article 30 Sustainable employability improvement activities and expenses

1. Sustainable employability is defined as every activity other than temporary agency work that is focused on:
  - a. the temporary agency worker acquiring, broadening, or deepening his knowledge and/or skills for further development in his current job, or to be able to fulfil a new or different job through the same private employment agency.
  - b. boosting the temporary agency worker's chances to land (permanent) work and make transitions in the labour market, offering insight and tools for further development and career planning, preventing unemployment, or helping the temporary agency worker move from one job to another job outside the private employment agency.
2. Activities that help boost sustainable employability as specified in paragraph 1 will in any case include:
  - vocational training focused on job-related reskilling or upskilling;
  - research that creates insight into the temporary agency worker's position in the labour market, and/or specific vocational training and development possibilities for the temporary agency worker;
  - vocational training focused on personal development and/or social skills;
  - coaching the temporary agency worker in a specific induction, application, or counselling process;
  - career counselling and/or sessions;
  - outplacement processes.
3. Expenses incurred to boost temporary agency workers' sustainable employability are defined as follows:
  - a. wage costs for the temporary agency worker who engages in or undergoes an activity during work hours that is related to boosting his sustainable employability;
  - b. expenses other than those specified under a. that a private employment agency incurs for the performance or commissioning of the activities that are intended to increase the temporary agency worker's sustainable employability. This may in any case include:
    - Expenses that are related directly to the sustainable employability activities, including (wage) costs of the personnel involved and the costs involved in the provision and organisation of these activities. These expenses must in all reasonableness not exceed the usual costs when contracting an external party for these activities;
    - Expenses involved in information provision, skilling, and social support for a temporary agency worker who comes to work and live in the Netherlands but does not live in the Netherlands on a permanent basis.

When the private employment agency recognises any costs involved in increasing temporary agency workers' sustainable employability under the obligation to spend funds intended for improvement of temporary agency workers' sustainable employability, as specified in Article 31, these expenses cannot also be charged to the temporary agency worker.

4. At the request of a temporary agency worker in phase A, the private employment agency will enter into talks with the temporary agency worker on the possibilities for increasing the temporary agency worker's sustainable employability.

The private employment agency will have at least one sustainable employability review with the temporary agency worker in phase B or C to discuss the temporary agency worker's development and agree on further development of his sustainable employability. Any such agreements will be recorded in writing.

### Article 31 Obligation to use funds intended for improvement of temporary agency workers' sustainable employability

1. Every year, the private employment agency is under an obligation to spend at least 1.02% of (the sum of) the actual wage of temporary agency workers working in phase A on improving their sustainable employability. These funds must be spent no later than in the calendar year following the year to which the obligation applies.
2. The part of the 1.02% that is not spent on improving temporary agency workers' sustainable employability will be donated by the private employment agency to the DOORZAAM foundation. This donation of the unused part of the 1.02% will be made no later than two years after the year to which the obligation applies.
3. The obligation to use funds, including a possible donation, will be recognised for each financial year in a specific section of the financial statements or in an audit opinion\*. At the request of the SNCU (Foundation for Compliance with the Collective Agreements for Temporary Agency Workers), the private employment agency will submit the financial statement or audit opinion to the SNCU.
4. The obligation to use funds and/or recognition can also take place at the level of a group of private employment agencies. Group is defined as in Article 2:24b of the Netherlands Civil Code.

\* *The audit opinion for the obligation to use funds intended for sustainable employability is applicable as of the 2020 calendar year.*

## Chapter 6 Pension

### Article 32 Pension

1. The parties to the CLA have agreed on a pension scheme that provides for accrual of pension entitlements for temporary agency workers. This pension scheme has been recorded in the pension agreement appended to this CLA.
2. The parties to the CLA have outsourced administration of the pension scheme to the Stichting Pensioenfonds voor Personeelsdiensten (StiPP).
3. The pension agreement is laid down in StiPP's articles and regulations. The pension scheme is made up of a Basic Scheme and a Plus Scheme.
4. StiPP's articles and regulations determine the rights and obligations of temporary agency workers and private employment agencies.
5. Parties to the CLA have agreed on the premium. The premium amounts to:
  - a. 2.6% of the gross wage for the Basic Scheme;
  - b. a maximum of 12% of the part of the wage on which pension entitlements are accrued for the Plus Scheme. Of this premium, the private employment agency can withhold a maximum of one third from the temporary agency worker's gross wage.
6. Deviations from the Basic and Plus Pension Scheme as specified in this agreement are possible always, provided they are in the temporary agency worker's favour.

The regulations and further information are available on [www.stippensioen.nl](http://www.stippensioen.nl).

## Chapter 7 Special groups

### Article 33 CLA remuneration for allocation group

1. To improve the temporary agency worker's employability and enable better mediation and support in finding work, the temporary agency worker who is part of the allocation group can receive CLA remuneration that differs from the user company remuneration, as determined in Article 16.
2. The allocation group contains temporary agency workers who:
  - a. have been designated by the government as having poor job prospects. This means target groups for the Jobs Quota Act, Participation Act, Work and Social Assistance Act, and persons who are designated by operation of law or by the government as work-disabled persons.
  - b. do not have a basic qualification (no GCSE or A levels, or at least a level 2 diploma from vocational education) and will be taking vocational training offered by the private employment agency to obtain a qualification. Such training will be accepted if it is geared towards obtaining a basic qualification.
3. A skilled temporary agency worker (regardless of his country of origin), who works in his own field, cannot be placed in the allocation group.
4. In applying CLA remuneration, the temporary agency worker will be classified in the job matrix in Appendix IV. Only when the temporary agency worker is classed in job category 6 or lower will CLA remuneration be applied. After the temporary agency worker's job has been classed in the job matrix, the actual hourly wage will be calculated, with the amounts in column I of the below salary table used as the lower limit. After having worked for 26 weeks, the private employment agency will award the temporary agency worker an increment based on the percentage listed in column II of the below table.

The salary table in euros as at 1 January 2021:

Job category	(I) Starting salary	(II) Increment to job category
1	statutory minimum (youth) wage	2.25%
2	statutory minimum (youth) wage	2.25%
3	statutory minimum (youth) wage	2.25%
4	€ 11.49	2.25%
5	€ 12.01	2.25%
6	€ 12.60	2.25%

—  
\* *The minimum actual hourly wages in this table are based on a normal 40-hour working week as specified in this CLA. If normal working hours at the user company do not extend to 40 hours per week, the hourly wage must be recalculated based on the statutory minimum (youth) wage, so as to comply with the Minimum Wage and Minimum Holiday Allowance Act.*

The salary table in euros as at 1 July 2021:

Job category	(I) Starting salary	(II) Increment to job category
1	statutory minimum (youth) wage	2.25%
2	statutory minimum (youth) wage	2.25%
3	statutory minimum (youth) wage	2.25%
4	€ 11.60	2.25%
5	€ 12.13	2.25%
6	€ 12.72	2.25%

—  
\* *The minimum actual hourly wages in this table are based on a normal 40-hour working week as specified in this CLA. If normal working hours at the user company do not extend to 40 hours per week, the hourly wage must be recalculated based on the statutory minimum (youth) wage, so as to comply with the Minimum Wage and Minimum Holiday Allowance Act.*

5. For temporary agency workers in the 15-20 age bracket, the percentages of the statutory minimum youth wage, as specified in Article 2 of the Minimum Youth Wage Decree, can be applied to the actual hourly wages of CLA

remuneration. When determining the percentage to apply based on age, the age the person will reach in a given calendar year is used as the age for the whole of that calendar year.

6. If CLA remuneration is applied, the private employment agency will enter into talks with the temporary agency worker no later than after 26 weeks to agree on vocational training and development options and the temporary agency worker's need for support.
7. CLA remuneration amounts to the actual hourly wage, initial pay increase, and the increments. For the other wage elements, user company remuneration will be applied, as specified in Article 16, paragraph 1, under b., c. and e. In calculating the other wage elements, CLA remuneration is used as the basis.
8. CLA remuneration cannot be applied for more than 52 weeks worked. After the temporary agency worker has worked 52 weeks, the temporary agency worker will receive full user company remuneration as specified in Article 16, paragraph 1.
9. An exception to the 52-week cap (as specified in paragraph 8) is applied for temporary agency workers without basic qualification, as specified in paragraph 2, under b., of this article. For this type of temporary agency worker, the period of 52 weeks can be extended to when their vocational training has been completed and up to a maximum of 104 weeks worked. When the period of 52 weeks worked is extended, the temporary agency worker will be entitled to a second increment from the 53rd week. After the extended period of (a maximum of) 104 weeks worked, the temporary agency worker will receive full user company remuneration as specified in Article 16.
10. The count in paragraph 8 and 9 of 52 and 104 weeks worked respectively continues after gaps of two years or under. The time of the gap will not be included in the count of 52 and 104 weeks worked respectively. After full use of the term of 52 and 104 weeks worked respectively, the count cannot start over.
11. Twice every year, i.e. as of 1 January and 1 July, the parties to the CLA will adjust the hourly wage based on the percentage for the increase of the statutory minimum wage. The adjustment of the hourly wage will be applied as follows:
  - a. the salary table will be increased by the agreed percentage, and
  - b. the temporary agency worker's actual hourly wage will be increased as of the agreed date by the percentage for the increase of the statutory minimum wage. If the increase of the hourly wage coincides with an increment, the actual hourly wage will first be increased and then the increment will be applied.

### Article 34 Holiday workers

1. For the purposes of this CLA, holiday workers are defined as secondary school students, university students, and other students who perform temporary



work exclusively during holiday periods.

2. The provisions of this CLA also govern holiday workers, albeit on the understanding that they, contrary to Article 26, are entitled to 13.33 hours of paid holiday leave for each working month worked (the private employment agency will in 2021\* set aside 8.30% of the actual wage for this purpose) or a proportional part thereof, possibly topped up as per Article 26, paragraph 11. A holiday worker cannot claim entitlement to pay during short absence / special leave and public holidays as per Article 27 or 28, or payment of the waiting day compensation detailed in Article 25, paragraph 4.

—  
\* For other years, please refer to Appendix I.

### Article 35 Temporary agency workers who are entitled to a state pension

1. This article governs temporary agency workers who are about to or have already reached the state pension age. Hereinafter, both are designated as temporary agency worker entitled to a state pension.

#### Legal position

2. If the agency work employment contract has been terminated by operation of law on the account of the temporary agency worker reaching state pension age and the temporary agency worker who is entitled to a state pension starts to work for the private employment agency within six months after termination of the contract, this temporary agency worker's legal position will be determined as follows.
  - a. If the temporary agency worker who is entitled to a state pension was in phase A, the count for phase A will be continued.
  - b. If the temporary agency worker who is entitled to a state pension was in phase B, he will start over in phase B and the count for phase B will start over.
  - c. If the temporary agency worker who is entitled to a state pension was in phase C, he will start over in phase B and the count for phase B will start over.

#### Successive employership

3. In case of successive employership for a temporary agency worker who is entitled to a state pension and the temporary agency worker continues to work for the same private employment agency, he will, contrary to Article 7:668a, paragraph 2, restart at the beginning of phase A.

#### Incapacity for work

4. The temporary agency worker who is entitled to a state pension and who has an agency work employment contract without agency clause is, contrary to Article 25, paragraph 6, entitled to 90% of the time-based wage in case of incapacity for work, as long as the agency work employment contract is valid and during the

legal term as a maximum\*. The minimum entitlement in this case is the minimum wage and the maximum entitlement is the maximum daily wage.

—  
\* Legal term as defined in Article 7:629 paragraph 2, under b. Netherlands Civil Code.

### Article 36a Temporary agency worker with a foreign employment contract (Posted Workers in the European Union Act)

The following articles/paragraphs do not apply to temporary agency workers who are deployed from abroad by a foreign private employment agency to a user company in the Netherlands and whose employment contracts are governed by the law of a country other than the Netherlands:

- Article 36, paragraph 2a;
- Article 38, paragraphs 1 and 2.

### Article 36 Temporary agency workers not living permanently in the Netherlands Housing, travel, and medical expenses

Articles 36, 37, and 38 apply solely to temporary agency workers who do not live in the Netherlands on a permanent basis and who

- are recruited outside the Netherlands by or on the instruction of the private employment agency; and/or
- are housed in the Netherlands to work in the Netherlands.

#### Housing

1. The temporary agency worker cannot be obliged to use the housing arrangement provided by the private employment agency, and the use of this housing arrangement cannot be set as a precondition for the posting either.
2. The housing offered must meet the housing standards detailed in Appendix V to this CLA, if:
  - a. the private employment agency withholds part of the temporary agency worker's wage to cover housing expenses or offsets housing expenses against the temporary agency worker's wage or
  - b. the private employment agency has entered into an agreement with the temporary agency worker on the use or rental of the housing.
3. The private employment agency will inform the temporary agency worker on the option to register in the Persons Database [Basisregistratie Personen (BRP)].
4. The private employment agency may charge the temporary agency worker for the use of housing. These charges cannot exceed the actual costs of the housing. While this temporary agency worker is not using the housing, the private employment agency is not allowed to charge another temporary agency worker for the use of the same housing, provided that the absent temporary agency worker has already paid for it.
5. Upon termination of the agency work employment contract, the private employment agency will allow the temporary agency worker a reasonable



period of time to vacate the house. This reasonable period will be longer:

- a. if there was uncertainty during the agency work employment contract as to when the agency work employment contract would end;
- b. the longer the temporary agency worker has worked for the private employment agency.

Aside from that, the duration of the reasonable period depends on the temporary agency worker's possibilities for return to his country of origin.

6. A period will at least be deemed reasonable in case of an agency work employment contract with agency clause if the private employment agency observes the terms specified in Article 15, paragraph 2, of this CLA.

#### *Travel from and to the country of origin*

7. The private employment agency will provide information on travel from and to the country of origin. The private employment agency may offer to take care of travel arrangements. The temporary agency worker is not under any obligation to accept these travel arrangements.

#### *Non-work-related travel*

8. The private employment agency will provide alternative travel facilities for the temporary agency worker who does not have his own means of transport, if:
  - a. the housing is located out of town; and
  - b. the housing is difficult to reach by public transport or cannot be reached by public transport at all.

#### *Commuting to and from work*

9. The following applies for the temporary agency worker's commute to and from work:
  - a. If the temporary agency worker uses his own means of transport, a travel allowance as specified in Article 16, paragraph 1, may be arranged.
  - b. In case of entitlement to a travel allowance as defined in Article 16, paragraph 1, but the temporary agency worker uses the travel facilities provided by the private employment agency, the temporary agency worker will not receive the travel allowance and cannot be charged for the use of the private employment agency's travel facilities.
  - c. If the temporary agency worker is not entitled to a travel allowance as defined in Article 16, paragraph 1, and uses the travel facilities provided by the private employment agency, the private employment agency may charge the temporary agency worker a reasonable personal contribution for the use of these travel facilities.

#### *Health and other insurance*

10. The private employment agency will make the temporary agency worker aware of the obligation to take out health insurance. Aside from that, the

private employment agency will offer to take out health insurance on the temporary agency worker's behalf. The temporary agency worker is not under any obligation to accept this offer.

11. If the temporary agency worker accepts the private employment agency's offer, he can authorise the private employment agency to pay the flat-rate premium to the health insurer on his behalf. The private employment agency will endeavour to ensure that the temporary agency worker, within two weeks:
  - after taking out such insurance, receives a copy of the policy, which states the flat-rate premium;
  - after termination of the insurance policy, receives confirmation of termination of health insurance.
12. If the private employment agency offers to take out a different insurance policy (such as liability or repatriation insurance), he will provide the temporary agency worker with adequate information regarding the purpose and need behind taking out such insurance. In case of such an offer:
  - a. the temporary agency worker will not be under an obligation to accept the insurance offered.
  - b. premium payments to the insurer on behalf of the temporary agency worker by the private employment agency can only be made after the temporary agency worker has signed a written authorisation. In that case, the private employment agency will endeavour to make sure that the temporary agency worker has received a copy of the policy sheet stating the flat-rate premium within a reasonable term after taking out the insurance.
  - c. the private employment agency will inform the temporary agency worker on possible voluntarily renewal of the insurance policy after termination of the agency work employment contract.

#### *Other*

13. The private employment agency will see to it that the agency work employment contract and the associated documents are available both in Dutch and the language of the temporary agency worker's country of origin.
14. The private employment agency is under an obligation to inform the temporary agency worker on safety and working conditions regulations at the user company in terms that the temporary agency worker can understand.
15. The private employment agency will endeavour to provide adequate social support for the temporary agency worker.
16. The private employment agency will allow the temporary agency worker, at the temporary agency worker's request, to take a day of leave on an alternative public holiday (i.e. not a generally recognised public holiday as defined in Article 27), provided the request to this effect is submitted to the private

employment agency in a timely manner.

17. After 26 weeks worked, the private employment agency will inform the temporary agency worker on the possibilities of taking a Dutch language course and will facilitate the course where possible. Language training is considered a form of vocational training as defined in Article 30, paragraph 3, of this CLA.
18. Vocational training of this temporary agency worker (as specified in Article 30) will at least include activities relating to facilitation of the temporary agency worker's work and stay in the Netherlands.
19. If the private employment agency provides help in filling out forms, such as the T form (tax form) and an application for healthcare benefits, only the temporary agency worker will be the immediate beneficiary of the reimbursement. The reimbursement will only be credited to the temporary agency worker's bank account.
20. The private employment agency cannot require the temporary agency worker to make cash payments to the private employment agency.

### Article 37 Offsetting of fines

1. Fines can only be offset against the temporary agency worker's wage if they are judicial and administrative fines payable by the temporary agency worker, in accordance with Article 7:632, paragraph 1, under a. Netherlands Civil Code. For these purposes, 'payable' is defined as fines imposed on the private employment agency on account of the temporary agency worker breaching a legal or administrative rule.
2. If and to the extent that it does not already ensue from Appendix II to this CLA, each separate instance where a fine is offset against the wage will be specified in writing. The private employment agency will see to it that the temporary agency worker receives a summary of fines that may have been offset against his wage, in the language of the temporary agency worker's country of origin.

### Article 38 Wage deductions

1. The temporary agency worker can authorise the private employment agency in writing to make payments from his wage on his behalf. This authorisation can be revoked at any time.
2. Deductions from the payable wage for housing and travel expenses for travel from and to the temporary agency worker's home country can never exceed actual costs incurred.
3. The costs of the activities that the private employment agency performs for the social support and administrative tasks in relation to the temporary agency worker's work and stay in the Netherlands can never be deducted from the wage.
4. Any deduction from the wage must be specified on the payslip in writing. The private employment agency will see to it that the temporary agency worker receives a summary of possible deductions, in the language of the temporary agency worker's country of origin.

## Chapter 8 Other

### Article 39 Facilities for employees' organisations

1. *Trade union membership fee*

The private employment agency will, at the temporary agency worker's request, withhold his trade union membership fee for an employees' organisation from the gross wage, to the extent that is fiscally facilitated and the temporary agency worker's gross wage is sufficient. The temporary agency worker will provide the private employment agency with a statement of the trade union membership fee to withhold from his wage.
2. *No reprisal in case of involvement in trade union activities*

The temporary agency worker working in industries and companies where activities of employees' organisation take place (including members' meetings for CLA negotiations, work-to-rule, or strikes) will be able to take part in such events without having to fear any reprisals from the private employment agency. The private employment agency will take the user company to task if they take reprisals against the temporary agency worker on account of his involvement in trade union activities.
3. *Leave of executive members of a trade union*
  - a. An executive member of an employees' organisation is a temporary agency worker working for the private employment agency who fulfils an administrative or representative position for his employees' organisation, and who has been registered as such in writing with the management of the private employment agency by the relevant employees' organisation. For the purpose of this article, 'in writing' is defined as: 'by letter or by email'.
  - b. An executive member of an employees' organisation, who has been registered as such with the private employment agency, can take part in members' meetings and take training for his role with the employees' organisation for a maximum of four days, while retaining his wage for those days. This also goes for taking part in members' meetings and training days at the user company.
4. *Access to the workplace*

The private employment agency will notify the user company, when asked, of a request submitted by the representative(s) of employees' organisations to gain access to the user company's premises. The private employment agency and the user company will each separately be available to the representative(s) to discuss matters pertaining to the temporary agency worker's work situation.

5. *Promoting and informing on the activities of employees' organisations*
  - a. Employers' organisations offer employees' organisations the opportunity to, by way of CLA apps in the temporary agency work sector, inform the temporary agency worker on the affiliated employees' organisations, the names of their representatives or contacts, and refer the temporary agency worker to further information about:
    - the views, activities, and announcements of the employees' organisation(s) with respect to the temporary agency work sector;
    - meetings of employees' organisation(s);
  - b. The private employment agency will allow employees' organisations, at their request and in all reasonableness, to:
    - use a meeting room at the private employment agency for meetings of the employees' organisation to discuss the private employment agency or the temporary agency work sector, and to maintain contact with its members working at that private employment agency;
    - inform the temporary agency worker on the nomination of members as candidates for the private employment agency's participation body;
    - to inform the temporary agency workers on the activities of employees' organisations using the private employment agency's (digital) publication channels.
6. The employees' organisations and employers' organisations referred to in this article are the ones that were involved in negotiating this CLA.

#### **Article 40 Complaint and/or dispute handling**

1. The private employment agency and the temporary agency worker can submit a dispute to the Disputes Committee over:
  - a. the implementation or application of this CLA;
  - b. the determination of suitable work; or
  - c. the job classification in case of application of CLA remuneration.
2. The temporary agency worker will report a dispute as specified in paragraph 1, under a. and c., to the appropriate officer at the private employment agency and enter the following procedure:
  - a. Within three weeks, the temporary agency worker will enter into consultation with the officer at the private employment agency to try to reach a suitable solution.
  - b. If a solution cannot be reached, the temporary agency worker can, within four weeks, lodge a complaint with the private employment agency, which then has three weeks to make a decision.
  - c. If the temporary agency worker does not accept the private employment agency's decision, he has four weeks to take the dispute to the Disputes Committee.
3. In case of a dispute over the determination of suitable work as specified in

paragraph 1, under b., the subsequent procedure will be as follows:

- a. Within one week, the temporary agency worker will enter into consultation with the officer at the private employment agency to try to reach a suitable solution.
  - b. If a solution cannot be reached, the temporary agency worker can, within one week, lodge a complaint with the private employment agency, which then has two weeks to make a decision.
  - c. If the temporary agency worker does not accept the private employment agency's decision, he has two weeks to take the dispute to the Disputes Committee.
4. The Committee has regulations that govern its procedures. These also govern the composition of the Committee that will deal with a dispute. The Dispute Committee's regulations are available on [www.abu.nl](http://www.abu.nl) / [www.nbbu.nl](http://www.nbbu.nl).

#### **Article 41 Merger code**

In the event of an intended merger or reorganisation, the private employment agency will notify the relevant employees' organisations, in accordance with the current SER Merger Code, in a timely manner and enable them to issue advice.

#### **Article 42 Compliance**

1. The parties to this CLA have established the Foundation for Compliance with the Collective Labour Agreement for Temporary Agency Workers (SNCU).
2. The SNCU's charter and regulations have been laid down in the *CLA Social Fund for the Private Employment Agency Sector*.
3. The SNCU must ensure general and full compliance with the provisions of the CLA and is authorised by the parties to the CLA to do everything to that end that may be useful and necessary.
4. The private employment agency is obliged to demonstrate, in the manner indicated in regulations drawn up by the SNCU for that purpose, that the provisions of the *Collective Labour Agreement for Temporary Agency Workers* are strictly complied with.

#### **Article 43 Dispensation**

1. At the request of parties to another CLA, the parties to this CLA may grant dispensation from application of (the provisions of) the CLA, subject to conditions to be set by the parties to the CLA, which are included in Appendix VII to this CLA. Verification of compliance with the CLA (provision) submitted for dispensation by SNCU will in any case be set as a precondition for dispensation.
2. A written request stating the reasons for dispensation in respect of (the provisions of) the CLA should be submitted to the Dispensation Committee, at the following address: Postbus 144, 1170 AC Badhoevedorp or by email on [dispensatiecommissie@abu.nl](mailto:dispensatiecommissie@abu.nl). For the purpose of this article, 'in writing' is defined as: 'sent by letter or by email'.

3. The Dispensation Committee rules on a dispensation request on behalf of the parties to the CLA.

**Article 44 Temporary agency worker with a foreign employment contract (Posted Workers in the European Union Act)**

In accordance with the provisions of Article 1 of the CLA and the Posted Workers in the European Union (Working Conditions) Act (WagwEU), the below elements of provisions of the CLA that have been declared binding on the entire private employment agency sector also apply to temporary agency workers who are deployed from abroad by a foreign private employment agency to a user company in the Netherlands, and whose employment contract is governed by the laws of a country other than the Netherlands. The elements concerned are:

- maximum working times and minimum rest periods;
- minimum number of holidays during which the private employment agency has an obligation to pay wage;
- minimum wages, including payments for overtime and not including additional company pension schemes;
- conditions for posting employees, in particular for private employment agencies;
- health, safety and hygiene at work;
- protective measures with regard to employment conditions and circumstances for children, young persons and pregnant women or women who have recently given birth;
- equal treatment of men and women.

Appendix VI applies to this employment agreement.

**Appendices**

**Appendix I Reserves, waiting day compensation, and distribution of contributions for sickness benefits over and above the statutory minimum**

1. The number of workable days is calculated by deducting the total number of public holidays and the number of days of holiday leave from the total number of working days (Monday to Friday) per year.
2. The percentage for the reserve for holiday leave is calculated by dividing the number of days of holiday leave by the number of workable days.
3. The percentage for the reserve for statutory holiday leave is calculated by dividing the number of days of statutory holiday leave by the number of workable days.
4. The percentage for the reserve for holiday leave over and above the statutory minimum is calculated by dividing the number of days of holiday leave over and above the statutory minimum by the number of workable days.
5. The number of workable days for holiday workers is calculated by deducting the number of days of statutory holiday leave from the total number of working days.
6. The percentage for the reserve for holiday leave for holiday workers is calculated by dividing the number of days of holiday leave by the number of workable days, as specified in paragraph 5.
7. The percentage for the reserve for public holidays is calculated by dividing the number of public holidays by the number of workable days.
8. The below table shows the workable days per calendar year during the term of the CLA:

Year	Number of working days
2021	261

9. The below table shows the applicable percentages during the term of this CLA:

Article	2019	2020	2021
reserve for holiday leave	10.87%	10.87%	10.82%
reserve for statutory holiday leave	8.70%	8.70%	8.66%
payment for holiday leave over and above the statutory minimum	2.17%	2.17%	2.16%
short-term absence and special leave	0.60%	0.60%	0.60%
generally recognised public holidays	2.61%	3.04%	2.16%
holiday leave holiday workers	8.30%	8.26%	8.30%
waiting day compensation, Private Employment Agencies I	0.71%	0.71%	0.71%
waiting day compensation, Private Employment Agencies II	1.16%	1.16%	1.16%
maximum percentage of deduction for sickness benefits top-up, Private Employment Agencies I	0.58% / 0.74% ABU/NBBU	0.58% / 0.74% ABU/NBBU	0.58%
maximum percentage of deduction for sickness benefits top-up, Private Employment Agencies II	1.33% / 1.43% ABU/NBBU	1.33% / 1.43% ABU/NBBU	1.33%

## Appendix II Payslip

The wage will be paid at the end of every week/month/period. Along with this payment, the private employment agency will issue the temporary agency worker with a written payslip. At his request, the temporary agency worker will receive a print copy of the payslip.

The payslip specifies the following details:

- a. the wage amount;
- b. the wage components;
- c. the wage deductions;
- d. the gross hourly wage;
- e. the number of hours worked;
- f. the supplements paid on the hourly wage itemised by supplement type (both in percentages and in euros) and hours;
- g. the cumulative reserves for the period in question;
- h. the total of the cumulative reserves;
- i. the private employment agency name;
- j. the employee's name;
- k. if possible, the name and address of the user company;
- l. if applicable, the classification for CLA remuneration;
- m. if applicable, the classification for the user company's CLA remuneration scheme;
- n. the wage paid;
- o. the statutory minimum wage and minimum holiday allowance applicable for the employee in this period;
- p. an explanation of abbreviations used;
- q. any further deductions. Any wage deductions other than taxes and social security contributions will only be implemented in consultation with the temporary agency worker and will be itemised on the payslip.

## Appendix III Pension agreement

The undersigned, being:

1. a. Algemene Bond Uitzendondernemingen (ABU – Federation of Private Employment Agencies), based in Amsterdam,  
b. Nederlandse Bond van Bemiddelings- en Uitzendondernemingen (Dutch Association of Intermediary Organizations and Private Employment Agencies), based in Amersfoort,  
each as party on one side,
2. a. FNV (Dutch Trade Union Confederation), based in Utrecht,  
b. CNV Vakmensen.nl (National Federation of Christian Trade Unions in the Netherlands), based in Utrecht,  
c. De Unie, trade union for industry and services, based in Culemborg,  
d. LBV (national interest group), based in Rotterdam,  
each party of the other part,

agree:

the pension agreement for temporary agency workers, made up of the following articles.

### Basic Scheme

1. Temporary agency workers who
  - a. have worked for a private employment agency for at least 26 weeks, but who do not meet the requirements for enrolment in the Plus Scheme, as formulated below; and
  - b. who are aged 21 or over (counting from the first day of the month of their 21<sup>st</sup> birthday);will be enrolled in the Basic Scheme.
2. The calculation of the 26-week term as specified in paragraph 1, under a., will include all weeks during which actual work has been performed for the same employer. Weeks during which no work has been performed will not be included in the calculation, regardless of the reason why the temporary agency worker did not work in those weeks. On top of that, the relevant employment history (Article 12 of the CLA) with the previous employer will, in case of successive employership, be taken into consideration in calculating the term.
3. For the application of the stipulations of the definition of paragraph 1, under a., temporary agency workers who, after having met the eligibility requirement under a., change employers will not have to meet the eligibility requirement again, unless the gap between two agency work employment contracts is 52 weeks or longer. If the gap between two agency work employment contracts is 52 weeks or longer, the temporary agency worker will again have to have worked at least 26 weeks for a private employment agency to be eligible to enter the Basic Scheme.
4. For the application of the stipulations of the definition in paragraph 1, under a.,

the 26-week period during which the temporary agency worker has worked for one private employment agency will be considered to have started, at the earliest, 26 weeks before the obligation became effective, i.e. 1 January 2004.

5. The Basic Scheme is administered by Stichting Pensioenfondsvoor Personeelsdiensten.
6. The Basic Scheme is a defined contribution scheme for which the premium payable as of 1 January 2019 is 2.6% of the gross wage. The Basic Scheme has a retirement age of 67 and will accrue pension capital for the purchase of a retirement pension and/or a partner's pension. For the purpose of this article, gross wage is defined as the wage for the hours normally worked, the wage for irregular hours (i.e. the hours in different day and time zones), waiting day compensation, reserves\*1 for holidays, special leave, short-term absence and public holidays, and the holiday allowance\*1.  
If parts of the remuneration have been exchanged, gross wage will be defined as the gross wage that the employee would have earned if the exchange had not taken place.
7. Every private employment agency is obliged to pay the premiums to Stichting Pensioenfondsvoor Personeelsdiensten, as determined on the basis of that fund's Administrative Regulations.
8. The premium payment obligation referred to in the preceding paragraph applies for each day on which the temporary agency worker enrolled in the pension scheme referred to in paragraph 1 of this article, has performed temporary agency work.
9. The full Basic Scheme has been recorded in the Basic Regulations of Stichting Pensioenfondsvoor Personeelsdiensten\*2.

\*1 To the extent that it has arisen after the eligibility requirement from paragraph 1 of this article has been met.

\*2 The regulations and further information on the Basic Scheme have been published on the website of Stichting Pensioenfondsvoor Personeelsdiensten: [www.stippensioen.nl](http://www.stippensioen.nl).

### Plus Scheme

10. Temporary agency workers who
  - a. are aged 21 or over (counting from the first day of the month of their 21<sup>st</sup> birthday); and
  - b. have worked for the same private employment agency for over 78 weeks; or
  - c. have been enrolled in the Basic Scheme for 52 weeks while working for one or multiple private employment agencies, without a gap of 52 weeks or longer between agency work employment contractswill be enrolled in the Plus Scheme.
11. The calculation of the 78-week term as specified in paragraph 10, under b., will include all weeks during which actual work has been performed for the

same private employment agency. Weeks during which no work has been performed will not be included in the calculation, regardless of the reason why the temporary agency worker did not work in those weeks. On top of that, the relevant employment history (Article 12 of the CLA) with the previous employer will, in case of successive employership, be taken into consideration in calculating the term.

12. Temporary agency workers who were enrolled in the Plus Scheme but ceased to meet the requirements under b. or c. of paragraph 10 when they signed a new agency work employment contract will continue to be enrolled in the Plus Scheme, unless there is a gap of 26 weeks or longer between the two agency work employment contracts.
13. For the application of the stipulations of the definition of paragraph 10, under b. and c., temporary agency workers who, after having met the eligibility requirement in paragraph 10, under b. and/or c., change employers will not have to meet the eligibility requirement again, unless the gap between two agency work employment contracts is 26 weeks or longer. If the gap is 26 weeks or longer, but shorter than 52 weeks, temporary agency workers will not need to meet the eligibility requirement from paragraph 1, under a., again, meaning that they will be designated as participants in the Basic Scheme. If the gap between two agency work employment contracts is 52 weeks or longer, the temporary agency worker will again have to have worked at least 26 weeks for one employer to be eligible to enter the Basic Scheme.
14. The Plus Scheme is administered by Stichting Pensioenfondsvoor Personeelsdiensten.
15. The Plus Scheme is a defined contribution scheme with a retirement age of 67 that is used to accrue pension capital for the purchase of a retirement pension and/or a partner's pension. The premium paid to accrue pension capital is expressed as a percentage of the pension basis according to the graduated rates shown below.

Age bracket	Pension premium for 2020	Pension premium for 2021
21-24	4.20%	4.20%
25-29	5.10%	5.20%
30-34	6.30%	6.30%
35-39	7.60%	7.70%
40-44	9.30%	9.30%
45-49	11.40%	11.40%
50-54	13.90%	14.00%
55-59	17.20%	17.20%

60-64	21.30%	21.40%
65-66	25.60%	25.70%

The part of the wage on which pension entitlements are accrued is established as an hourly figure by reducing the temporary agency worker's gross hourly wage by the hourly deductible. For the purpose of this article, gross wage is defined as the wage for the hours normally worked, the wage for irregular hours (i.e. the hours in different day and time zones), the days of holiday leave\*1, special leave, short-term absence and public holidays, and the holiday allowance\*1. If parts of the remuneration have been exchanged, gross wage will be defined as the gross wage that the employee would have earned if the exchange had not taken place.

16. In the event of incapacity for work in accordance with the provisions of the Work and Income (Capacity for Work) Act, pension accrual in proportion to the applicable percentage of incapacity for work shall continue on a non-contributory basis in accordance with the level of the premium paid at the time incapacity for work commenced.
17. In the event of the employee's death during the employment, the pension scheme includes provisions for risk insurance for the partner's pension over the future period of service.
18. The parties to the CLA who are involved with the ABU and the NBBU CLA have agreed to cap the flat-rate premium at 12% of the part of the wage on which pension entitlements are accrued. Each private employment agency shall then be obliged to pay these premiums in accordance with the requirements stipulated for this in the Administrative Regulations.
19. The premium payment obligation referred to in the preceding paragraph applies for each day on which the temporary agency worker enrolled in the pension scheme referred to in paragraph 10 of this article, has performed temporary agency work.
20. The private employment agency is entitled to deduct part of the pension premiums from the temporary agency worker's wage, if and as soon as the temporary agency worker is enrolled in the pension scheme. The size of the deduction shall not exceed one third of the flat-rate premium referred to in paragraph 18.
21. The full Plus Scheme has been recorded in the Plus Regulations of Stichting Pensioenfondsvoor Personeelsdiensten\*2.
22. Deviations from the Basic and Plus Pension Scheme as specified in this agreement are possible always, provided they are in the temporary agency worker's favour.



## Construction and Infrastructure Industry

23. A specific pension arrangement applies for temporary agency workers in the construction and infrastructure industry.

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\*1 To the extent that it has arisen after the eligibility requirement from paragraph 10 of this article has been met.

\*2 The regulations and further information on the Plus Scheme have been published on the website of Stichting Pensioenfonds voor Personeelsdiensten: [www.stippensioen.nl](http://www.stippensioen.nl).

## Appendix IV Job classification and job level

### Explanation:

The method used to classify a temporary agency job in a job category of the CLA wage structure is based on the principle of 'analytical comparison'.

This will be done using two tools:

### 1. CLA job matrix

The CLA job matrix, as included in this appendix, is an overview of all reference jobs under this CLA, sorted by job category and field of work.

The following fields of work are distinguished:

- a. Financial & Administrative
- b. Secretarial
- c. HR
- d. IT
- e. Facilities
- f. Hospitality
- g. Trade
- h. Logistics
- i. Manufacturing & Engineering
- j. Healthcare & Well-being

### 2. Handboek functie-indeling uitzendkrachten

This book specifies reference jobs with a job profile for each job.

Each job profile is assessed and subsequently classed in a job category.

### 3. Reference job profile finder

The *Handboek functie-indeling uitzendkrachten (Temporary agency worker job classification handbook)* is available for download on the ABU/NBBU website and the websites of the various employees' organisations.

The handbook specifies reference jobs, but the temporary agency work sector

uses many more job titles than are listed here.

To make it easier to find the right reference job, the handbook provides a finder tool. For each field of work, the first column of the finder lists a large number of reference jobs that are commonly used in the temporary agency work sector, in alphabetical order. The second column lists commonly used alternative job titles in each field of work. The third column lists the matching CLA job level.

### 4. Job classification procedure

1. The temporary agency worker is classified based on the work he will be doing.
2. This work, i.e. the job, is made up of the activities, responsibilities, and authorisations that have been assigned to the temporary agency worker.
3. The job will be classified in one of the groups of the CLA job matrix, which is part of this CLA.
4. The job is classified based on an analytical comparison to the reference jobs in the CLA job matrix, using the job description that the user company has made available. Further details on this procedure are provided in the *Handboek functie-indeling uitzendkrachten*.
5. The private employment agency will notify the temporary agency worker in writing through a dated classification decision of the job category in which he has been classed, and which reference job applies. The *Handboek functie-indeling uitzendkrachten* provides a template that can be used for this notification.
6. When the temporary agency worker changes jobs, he will be reclassified as per the above procedure.
7. The private employment agency will have regular reviews with the temporary agency worker to assess whether the job description matches the activities.
8. If the temporary agency worker concludes that the work he is assigned to do is not aligned with his job classification, he can take this to the private employment agency. The private employment agency will then investigate within two weeks whether the work assigned to the temporary agency worker matches the job classification. If this is found not to be the case, the job will be reclassified using the above procedure. A possible resulting adjustment to the temporary agency worker's remuneration will be backdated to when the job was initially classified.
9. The temporary agency worker can lodge an objection against his job classification. Article 40 of this CLA contains a consultation, objection, and appeal procedure.



Field of work → job category ↓	Financial & Administrative	Secretarial	Human Resources	IT	Facilities	Hospitality	Trade	Logistics	Manufacturing & Engineering	Healthcare & Well-being
1	- Filing assistant				- Cleaner A	- Dishwasher - Kitchen help A - Party catering preparation staff	- Shelf stacker	- Packer - Driver's mate (Loading/Unloading) - Stockroom assistant A - Mail distributor	- Domestic help - Production worker - Agricultural harvesting staff	
2	- Mailroom assistant - Administrative assistant A	- Word processing assistant			- Cleaner B - Canteen staff - Steward	- Company restaurant staff - Waiting staff - Kitchen help B - Party catering staff	- Cashier - Call centre agent A	- Fork-lift truck driver - Order collector - Warehouse assistant - Stockroom assistant B - (Mail) sorter - Postman	- Mechanic's mate - Agricultural production staff	- Home help
3	- Administrative assistant B - Invoice checking assistant	- Switchboard operator - Receptionist/Switchboard operator A			- Porter - Concierge - Security guard A	- Waiting staff - Cook - Dishwashing kitchen foreman - Party catering waiting staff - Bartender A - Hotel reservations desk assistant	- Call centre agent B - Shop assistant (retail) - Administrative assistant, internal sales department	- Stockroom assistant C - Delivery driver/courier	- Machine operator - Machine welder	- Nursing assistant
4	- Administrative assistant C	- Receptionist/Switchboard operator B - Secretary A			- Ground steward(ess) - Club porter - Hotel concierge - Security guard B	- Host/Hostess - All-round party catering staff - Bartender B - Hotel front-office staff	- Call centre agent C - Customer services assistant - Desk clerk	- Lorry driver	- Crane driver - Service mechanic A - Metalworking CNC machine operator	- Nursing assistant - Home help care
5	- Accounts assistant	- Secretary B		- Help desk agent	- Specialist security guard	- Hotel receptionist - Independently working cook - All-round waiting staff	- Internal sales assistant A - Call centre supervisor	- Forwarding department assistant/load planner	- Service mechanic B - Constructional fitter - Drafting technician (mechanical engineering) - Plumber - Welder	- Doctor's assistant - Carer
6	- Financial administration staff - Payroll assistant - Insurance underwriter	- Secretary C	- Personnel administration staff	- System management assistant	- Security team leader	- Chef small restaurant - Waiting staff manager	- Complaints handling assistant - Internal sales assistant B - Field sales assistant	- Stockroom team leader	- E & I technician - All-round metal-working CNC machine operator	- Specialist home help care - Nurse (intermediate nursing training) - Group supervisor
7	- Actuarial calculator	- Secretary D	- HR assistant	- System administrator A - Application manager - Webmaster	- Facilities coordinator	- Fast-food restaurant manager - Sous-chef	- Sales representative		- Drafting technician/Designer (mechanical engineering) - Mechanical engineering coordinator - Service engineer	- Medical practice support assistant - Nurse (higher nursing training) - Care coordinator
8	- Business economics analyst - Controller assistant	- Management assistant	- HR Officer	- System administrator B - Application programmer		- Hotel desk manager	- Account manager buyer		- Maintenance coordinator - Sales engineer	- Intensive care nurse - Physiotherapist - Laboratory analyst
9	- Head of financial administration - Actuarial analyst	- Head of the secretarial office	- HR consultant	- Application developer		- Hotel/restaurant manager	- Sales manager		- Head of production - Designer (mechanical engineering) - Product engineer	- Head of physiotherapy
10	- Controller		- Head of HR				- Product manager		- Safety & Environment consultant	

## Appendix V Housing standards

1. The private employment agency's records include an up-to-date list of all housing facilities with the number of occupants.
2. The following forms of housing are permitted:
  - a. a normal house;
  - b. a hotel/guest house;
  - c. housing units in a building;
  - d. chalets/housing units;
  - e. housing at a recreation park;and other forms of housing designated by the Stichting Normering Flexwonen (SNF).
3. The housing facilities listed under a. (normal house) and c. (housing units in a building) must offer at least 12 m<sup>2</sup> of usable surface area. The other housing facilities listed under b. (hotel/guest house), d. (chalets/housing units) and e. (housing at a recreation park) must offer at least 10 m<sup>2</sup> of private living space per person.
4. The supervisory body may inspect the housing facility to check the safety and hygiene of the housing.
5. The following must be available at the housing facility:
  - a. one toilet per eight persons;
  - b. one shower per eight persons;
  - c. 30-litre fridge/freezer space per person;
  - d. at least four burners on a cooker, whereby there must be at least one burner per two persons when there are more than eight persons in the unit, and at least 16 burners for over 30 persons;
  - e. six-litre fire extinguisher.
6. The housing facility must have an information notice on the wall. This notice must be set in the language of the occupants' country of origin. The information notice must at least provide the following information:
  - a. emergency telephone number 112;
  - b. telephone numbers for their own handler, the local police, and the fire service;
  - c. an abridged version of the house rules;
  - d. an evacuation plan and emergency procedure;
  - e. contact details for the (internal or external) manager of the housing facility.
7. Someone must be available 24 hours a day to deal with emergencies.
8. If the supervisory body finds a locked bedroom on one of its inspections, they can decide to order another inspection of the housing facility.
9. The fire extinguisher(s) at the housing facility has/have been inspected and the inspection is valid.

There must be clear instructions on the fire extinguisher. There must be a fire extinguisher within five metres from the area where occupants do their

- cooking. Aside from that, there must be a fire blanket in the kitchen.
10. Functional smoke and CO detectors must have been installed at the right location.

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\* *The rules for calculating the usable surface area are specified in NEN 2580.*

## Appendix VI Matrix for temporary agency workers with a foreign employment contract (Posted Workers in the European Union Act)

The matrix below shows which provisions of the CLA apply, either in full or after amendment, to the employees referred to in Article 44 of the CLA.

General	Article 2	Definitions
	Article 29	Payment of leave entitlement/reserves, compensation hours, and holiday allowance
	Article 30	Sustainable employability improvement activities and expenses
	Article 34	Holiday workers
	Article 36	Temporary agency workers not living permanently in the Netherlands. Housing, travel, and medical expenses
	Article 42	Compliance
	Article 44	Temporary agency worker with a foreign employment contract (Posted Workers in the European Union Act)
	Appendix VI	Matrix for temporary agency workers with a foreign employment contract (Posted Workers in the European Union Act)
	Appendix V	Housing standards
	Article 8	Time registration
	Article 14	Working hours and working time
Article 28	Short-term absence, birth leave, and special leave	
Minimum number of holidays	Article 26	Holiday leave
	Article 27	Public holidays
Minimum wage	Articles 16, 17, 19, 20, 21, 22, 24, 33	
	Article 18	Holiday allowance
	Appendix I	Reserves
	Appendix II	Payslip
Conditions for the posting of workers	Article 5	Obligations of the private employment agency
	Article 9	Entering into an agency work employment contract

Health, safety and hygiene at work	Article 5	Obligations of the private employment agency
	Article 6	Obligations of the temporary agency worker
Equal treatment of men and women	Article 5	Obligations of the private employment agency

### Applicable sections

#### *Article 2 Definitions*

In full, except for:

'as specified in Article 7:691, paragraph 2, of the Netherlands Civil Code' under k.;  
'as specified in Article 7:690 of the Netherlands Civil Code' under n.

#### *Article 9 Entering into an agency work employment contract*

Paragraph 1 with text amended as follows: 'The private employment agency and the temporary agency worker make agreements set forth in writing, regarding the job, working hours and remuneration, taking into account the CLA provisions and appendices summarised in this appendix (if the user company remuneration referred to in this paragraph, then the agreements described in this paragraph will be concluded taking the arrangements that apply at the user company into account)'.

*Article 5 Obligations of the private employment agency.* Paragraph 3 Derogation from the listed provisions and appendices of the *Collective Labour Agreement for Temporary Agency Workers* is allowed only if it benefits the temporary agency worker and provided that the derogation is agreed on in writing between the private employment agency and temporary agency worker.

*Article 5 Obligations of the private employment agency*  
Paragraphs 1 and 4

*Article 8 Time registration*  
In full

*Job classification*  
Article 16, paragraphs 1 and 4, and Article 33, paragraph 4

*User company remuneration*  
Articles 16 and 21 in full

*Continued wage payment in the event of cessation of temporary agency work and for suitable work*  
Article 22, paragraphs 4, 5 and 8.  
Article 24 in full

*CLA remuneration*  
Article 33, paragraphs 2, 3, 4, 5

## Applicable sections (continuation)

### *Wage increase*

Article 16, paragraph 1, under d.  
Article 33, paragraph 11

### *Increments*

Article 16, paragraph 1, under f., and paragraph 5  
Article 33, paragraphs 6 and 8

### *Supplements for irregular working hours*

Article 16, paragraph 1, under b.

### *Overtime supplement*

Article 16, paragraph 1, under b.

### *Work-related expenses and allowances*

Article 16, paragraph 1, under e.

### *Article 19 Compensation hours*

In full

### *Article 5 Obligations of the private employment agency*

Article 5 paragraph 5

### *Article 14 Working hours and working time*

in full

### *Article 26 Holiday leave*

Paragraph 1

Temporary agency workers are entitled to paid holiday leave, to the extent that entitlement to holiday leave has been accrued pursuant to paragraph 1 of this article. Temporary agency workers who are still entitled to holiday leave when the agency work employment contract expires will be entitled to a financial payment for those holiday leave entitlements.

### *Article 29 Payment of leave entitlement/reserves, compensation hours, and holiday allowance*

Paragraph 6

### *Article 18 Holiday allowance*

In full: except for the second sentence.

### *Article 28 Short-term absence, birth leave, and special leave*

Paragraph 1 with addition of: "The temporary agency worker will be entitled to continued payment of the actual wage in these cases."

## Applicable sections (continuation)

### *Article 27 Public holidays*

Paragraph 1

Paragraph 2 as follows: 'The temporary agency worker will be entitled to continued payment of the actual wage on public holidays on which the temporary agency worker has not worked on account of these days being a public holiday.'

### *Article 34 Holiday workers*

Paragraph 1

Paragraph 2 as follows: 'The provisions of this appendix correspondingly apply to holiday workers, albeit on the understanding that, contrary to Article 26, paragraph 1, of the CLA, they will be entitled to 13 1/3 hours' holiday leave for each full working month they have worked or a proportional part thereof in the case of not having worked a full working month.'

### *Article 20 Conversion of remuneration*

In full

### *Article 29 Payment of leave entitlement/reserves, compensation hours, and holiday allowance*

Paragraph 6

### *Article 30 Sustainable employability improvement activities and expenses*

Paragraph 3b, under 3

### *Article 36 Temporary agency workers not living permanently in the Netherlands. Housing, travel, and medical expenses*

In full: except for paragraph 2a

### *Article 44 Temporary agency worker with a foreign employment contract (Posted Workers in the European Union Act).*

In full

### *Article 42 Compliance*

Paragraphs 1 and 2.

## Applicable sections (continuation)

### *Appendix IV Job classification*

In full

Foreign diplomas recognised at EC level comparable to the diplomas referred to in the CLA will be recognised. The SBB Expertisecentrum Internationale diplomawaardering (international credential evaluation) can help with this, and they can be contacted on [www.s-bb.nl/](http://www.s-bb.nl/).

### *Appendix I & II Reserves & Payslip*

In full

Appendix II as follows: 'For any wage payment the temporary agency worker will be provided with a written or electronic specification of the gross wage amount, as well as the amount of the gross hourly wage, the number of hours worked and supplements paid on the hourly wage, broken down by supplement type and hours.'

### *Appendix VII Matrix for temporary agency workers with a foreign employment contract (Posted Workers in the European Union Act)*

In full

### *Appendix V Housing standards*

In full

## Appendix VII Dispensation regulations *Collective Labour Agreement for Temporary Agency Workers*

The parties to the CLA have implemented the advice issued by the Labour Foundation for the parties to a collective labour agreement for a particular industry to make their own rules for dispensation. For this reason, Article 43 has been included in the CLA.

### Article 43 **Dispensation**

1. At the request of parties to another CLA, the parties to this CLA may grant dispensation from application of (the provisions of) the CLA, subject to conditions to be set by the parties to the CLA, which are included in Appendix VII to this CLA. Verification of compliance with the CLA (provision) submitted for dispensation by SNCU will in any case be set as a precondition for dispensation.
2. A written request stating the reasons for dispensation in respect of (the provisions of) the CLA should be submitted to the Dispensation Committee, at the following address: Postbus 144, 1170 AC Badhoevedorp or by email on [dispensatiecommissie@abu.nl](mailto:dispensatiecommissie@abu.nl). For the purpose of this article, 'in writing' is defined as: 'sent by letter or by email'.
3. The Dispensation Committee rules on a dispensation request on behalf of the parties to the CLA.

### **I. Composition of the Dispensation Committee**

The Dispensation Committee is made up of a minimum of four members, assisted by an independent secretary. At least two of the members will be appointed by the Federation of Private Employment Agencies (ABU), and at least two members will be appointed by the joint parties on the employees' side. The secretary and his possible deputy will be appointed by the Federation of Private Employment Agencies (ABU).

### **II. Procedure**

1. Parties submitting a dispensation request must do so in writing to the Dispensation Committee, by post on Postbus 144, 1170 AC Badhoevedorp or by email on [dispensatiecommissie@abu.nl](mailto:dispensatiecommissie@abu.nl). Requests must be made with reference to the CLA for which dispensation is sought, stating the reasons for dispensation, substantiation of equivalence to the *Collective Labour Agreement for Temporary Agency Workers* and including the details of all the CLA parties involved.
2. The Dispensation Committee is free to require parties to provide further written documents.
3. Within eight weeks after having received the complete file for the dispensation request, the Dispensation Committee will issue a written decision, stating the reasons behind the decision.

4. If necessary, the Dispensation Committee may extend the term specified in paragraph 3 of this article by four weeks, albeit only once.

### III. Dispensation request assessment criteria

The Dispensation Committee will assess a dispensation request against the following criteria:

1. The dispensation request must have been submitted by the joint parties to another legally valid collective labour agreement.
2. The parties requesting dispensation must be sufficiently independent from each other, as formulated in the assessment framework for orders declaring CLA provisions binding on an entire industry, effective date: 01/01/1999; as most recently amended in the *Staatscourant* (Government Gazette) 2010, 13489.
3. The collective labour agreement for which dispensation is requested must, on the employees' side, have been entered into by at least two different parties who are directly involved in the *ABU CLA*, or two different parties that are members of the same trade unions as that the employees' organisations of the *ABU CLA* are member of.
4. The collective labour agreement for which dispensation is requested must not be in breach of the law.
5. The collective labour agreement proposed for dispensation must at least be equivalent to the *Collective Labour Agreement for Temporary Agency Workers*.
6. The request must be adequately substantiated.

### IV. Decision to grant dispensation

1. Dispensation will at most be granted for the term of the collective labour agreement or for the duration of the provision(s) that is or are proposed for dispensation. The validity term of the dispensation is furthermore capped at the term of the current *Collective Labour Agreement for Temporary Agency Workers*.
2. Dispensation will be granted only on the condition that the SNCU can audit compliance with the collective labour agreement for which dispensation has been requested.

For the purpose of this appendix, 'in writing' is defined as: 'sent by letter or by email'.

## Protocols

### Future

Parties jointly look ahead to the future and have formulated a number of basic principles:

1. Temporary agency work must be the most attractive form of flexible labour.
2. This attractiveness can vary per category.
3. Temporary agency work must not be chosen based purely on price..
4. To create greater employment security around uncertain work, thus increasing satisfaction with employment (security) and income for the temporary agency worker.
5. To harness the parties' potential joint capacity to influence the outside world.
6. To take responsibility for pursuing 'good employment practices'.
7. To create a consistent explanation and interpretation on what the parties have agreed on.
8. To make temporary agency work a steppingstone to other (kinds of) work by organising work experience, training, etc., and to build on this.
9. To promote emancipation, i.e. equal treatment of temporary agency workers / temporary agency work.
10. To create a 'level playing field' in the temporary agency work sector.

### Pension

The parties have the ambition to reach agreement on a new pension scheme for temporary agency workers in 2019. In this context, a study into the effects of shortening the waiting time has been launched in collaboration with StiPP.

### Scope

The parties to the Collective Labour Agreement will as soon as possible jointly further explore the benefits and possibilities with respect to amending or not amending the scope and/or dispensation provision.

### Construction and Infrastructure Industry

The individual parties to this Collective Labour Agreement have a difference of opinion on the status of the so-called construction agreement ('Agreement on the position of temporary agency workers in the construction industry'), which took effect on 29 November 2005 and has subsequently become a continuing agreement. The individual parties to this Collective Labour Agreement reserve all rights and defences with respect to the status of the construction agreement. The parties to this Collective Labour Agreement agree to enter into consultation, as promptly as possible, with the parties to the collective labour agreement for the construction and infrastructure industry, and the other parties involved to reach a workable solution.

Regardless of the outcome of the aforementioned consultations, the parties to the *Collective Labour Agreement for Temporary Agency Workers* agree that as far as the current pension is concerned, these arrangements will be maintained for temporary agency workers in the construction industry, as laid down in Article 51, paragraph 3, *ABU Collective Labour Agreement for Temporary Agency Workers 2017 – 2019* (and further formulated in the Order for mandatory participation in the Industry Pension Fund for Staffing Services, as became effective on 18 December 2014, published in the *Staatscourant* (Government Gazette) of 22 December 2014, no. 37623) with as its mirror image the provisions in the Order on mandatory participation in the Industry Pension Fund for the Construction Industry, as became effective on 14 January 2015, published in the *Staatscourant* (Government Gazette) of 16 January 2015, no. 1456).

### **Extraterritorial scheme**

The parties will, as promptly as possible, inform the StiPP pension fund and the Dutch Tax and Customs Administration on the amendment to the CLA scheme for the conversion of remuneration to cover extraterritorial expenses, in relation to pension accrual. If the Dutch Tax and Customs Administration were to reject the amendment, the parties to the CLA will immediately enter into consultation to agree on a different arrangement, other than the scheme that applies before 30 December 2019, for the conversion provision.

### **Information on temporary agency work collective labour agreements**

The parties to the collective labour agreement set great store by the correct calculation of the user company remuneration. In this light, they have run a pilot to obtain authorised information from the parties involved in the temporary agency work CLAs regarding the application of the user company remuneration components from these CLAs. They will evaluate this pilot and decide whether exploring and setting up an information system for user company remuneration would be possible and desirable, and if so, how to organise and fund the creation and management of such an information system.

### **Regulation of the price/quality ratio for migrant worker housing**

The parties to the collective labour agreement agree to continue to explore the possibilities of regulating the price/quality ratio for housing facilities offered to migrant workers. To this end, besides (the previously explored possibility of) regulation based on a points system, other possibilities are also explored.

### **Public holidays**

The parties to the collective labour agreement will conduct a representative study into working on and continued wage payment for temporary agency workers on public holidays. This will also look at the sum of paid public holidays, the percentage for the reserve under the CLA, and how the public holiday

scheme at the user company or user companies relates to the scheme for temporary agency workers.

### **Compensation for shortened entitlement to benefits under the Unemployment Insurance Act (WW) and Return to Work for the Partially Disabled Act (WGA)**

Following on from advice issued by the Labour Foundation on 11 July 2014, the parties will continue their consultations on joining Stichting PAWW (Private-sector insurance to top up unemployment benefits) to compensate for shortened entitlement to benefits under the Unemployment Insurance Act (WW).

As soon as benefits paid by Public Employment Services under the Unemployment Insurance Act (WW) or Return to Work for the Partially Disabled Act (WGA) come to an end, an arrangement will be made through PAWW, subject to conditions, to extend the benefits under the Unemployment Insurance Act (WW).

## Information on relevant legislative text:

### Article 2:24b Netherlands Civil Code

A group is an economic entity in which legal entities and companies are organisationally linked.

Group companies are legal entities and companies that are linked together in a group.

### Article 7:628 Netherlands Civil Code

1. The employee preserves the right to wages that are fixed in money terms if he has not performed the contracted work due to a cause which, reasonably, should be for account of the employer.
2. If the employee is entitled to a financial benefit pursuant to any insurance prescribed by law or pursuant to any insurance policy or from any fund in which participation has been agreed or which results from the employment agreement, then his wages will be reduced by the amount of that benefit.
3. The provisions of the present Article apply as well to wages in money that are fixed in a way other than based on time, on the understanding that for this purpose these wages are considered to be the average wages which the employee could have earned during that period if he had not been prevented from earning them.
4. The wages are, however, reduced by the amount of the expenses which the employee has saved because he did not perform the work.
5. Only with regard to the first six months of the employment agreement it is possible to derogate to the disadvantage of the employee from paragraph 1, provided this is done by written agreement.
6. In case of consecutive employment agreements in the sense of Article 7:668a, a derogation as referred to in paragraph 5 may only be agreed upon for not more than six months in total.
7. The period referred to in paragraph 5 can only be extended by Collective Labour Agreement or by a Regulation made by or on behalf of a public governing body for the jobs defined by the agreement or arrangement provided the activities of these jobs are of an incidental nature and no clear working hours have been fixed.
8. By Regulation of Our Minister of Social Affairs and Employment, the Labour Foundation can request that certain industries, or sections thereof, be exempted from paragraphs 5, 6, or 7.
9. It is not possible to derogate to the disadvantage of the employee from the present Article.

### Article 7:629 Netherlands Civil Code

1. Where the employee is unable to perform the contracted work due to sickness, pregnancy or the delivery of a child, the employee remains entitled to 70% of the wages fixed in money terms for a period of 104 weeks, as far as these wages are not higher than the maximum daily wages meant in Section 17 first subsection of the Financing Social Security Act, on the understanding that during the first 52 weeks of incapacity, the employee is at least entitled to the minimum wages as set under law for a person of the same age.
2. In derogation of paragraph 1, the right to wages referred to in that paragraph only lasts for a period of six weeks for the employee who:
  - a. in service of a natural person, usually works exclusively or nearly exclusively in the household of this natural person for less than four days a week; or
  - b. has reached the age specified in Section 7, under a, of the General Old Age Pensions Act.  
If the incapacity due to sickness started before the date on which the employee reached the age specified under b, the term specified in this paragraph will start on that date, to the extent that the total time period does not exceed 104 weeks.
3. The employee has no right to wages as referred to in paragraph 1:
  - a. if he has caused his sickness intentionally or if his sickness results from a disability about which he has given false information at his pre-employment medical examination and, because of this, the test to determine if he meets the special medical fitness requirements for the job could not be carried out correctly;
  - b. over the time during which his recovery has been obstructed or slowed down by him or from his side;
  - c. over the time during which he, although capable of doing so, did not perform suitable alternative work as meant in Article 7:658a, paragraph 4, offered to him by his employer and to be performed on behalf of his employer or of a third person appointed to this end by his employer, unless he has a sound reason for not performing this suitable alternative work;
  - d. over the time during which he has refused to carry out reasonable instructions or measures issued, either by his employer or by an expert appointed to this end by his employer, which instructions or measures are intended to enable him to perform suitable alternative work as meant in Article 7:658a, paragraph 4, unless he has a sound reason for not properly responding to these instructions or measures;
  - e. over the time during which he has refused to collaborate in making, evaluating or adjusting an action plan as meant in Article 7:658a, paragraph 3, unless he has a sound reason for not cooperating;
  - f. over the time that has expired after the moment on which he should have submitted an application for a social security payment as meant in



Section 64, first subsection, of the Act on Work and Income in proportion to Labour Capacity, unless he has a sound reason for this delay.

4. Contrary to paragraph 1, a female employee has no right to wages as referred to in paragraph 1 over the period during which she enjoys maternity or birth leave in accordance with Section 3:1, subsection 2 and 3, of the Work and Care Act.
5. The wages are reduced by the amount of any financial payment to which the employee is entitled pursuant to any social insurance required by law and of any financial payment out of an insurance policy or from any fund in which the employee has not contributed or participated. In addition, the wages are reduced by the amount of any income earned by the employee, in or out of service, for work he has performed during the period in which he could have performed the contracted work for the employer if he would not have been unable of doing so.
6. The employer is entitled to withhold the payment of wages referred to in paragraph 1 over the period during which the employee has not complied with reasonable written checking instructions of the employer concerning the provision of information needed by the employer to determine the employee's right to wages.
7. The employer cannot invoke any ground meant in the present Article for any non-payment of wages or for withholding any payment of wages if he has not notified the employee of this ground immediately after he suspected or should have suspected its existence.
8. Article 7:628, paragraph 3, applies accordingly.
9. It is not possible to derogate to the disadvantage of the employee from the present Article, with the exception that the employer may stipulate that the employee has no right to wages over the first two days of the time period referred to in paragraph 1 or 2.
10. For the purpose of paragraph 1, 2 and 9, periods of time in which the employee has been unable to perform his work due to sickness, pregnancy or the delivery of a child will be added up together if they have followed each other in succession with an interruption of less than four weeks, or if preceded or followed a period in which the employee has enjoyed maternity or birth leave in accordance with Section 3:1 subsection 2 and 3 of the Work and Care Act, unless the inability to work cannot reasonably be considered to result from the same cause.
11. The period of 104 weeks, meant in paragraph 1, is extended:
  - a. with the duration of the delay if the application, meant in Section 64 first subsection of the Act on Work and Income in proportion to Labour Capacity, is later submitted than it should have under that Section;
  - b. with the duration of the extended period as determined by the Social Security Agency on the basis of Section 24 first subsection of the Act on Work and Income in proportion to Labour Capacity, and with the duration of the period, meant in Section 25, ninth subsection, first sentence, of that Act;

- c. with the duration of the prolongation of the waiting period, meant in Section 19, first subsection, of the Invalidity Insurance Act, if that waiting period is extended pursuant to the seventh subsection of that Section; and
  - d. with the duration of the period as determined by Public Employment Services on the basis of Section 71a, ninth subsection, of the Invalidity Insurance Act.
12. If the employee performs suitable alternative work as meant in Article 7:658a, paragraph 4, the employment agreement remains fully in force.
13. For the purpose of paragraph 2, introduction and part a, 'work performed in the household' also includes the provision of care to members of that household.

### Article 7:632 Netherlands Civil Code

1. During the employment agreement, the employer may only set off his debts resulting from the obligation to pay wages against the following debt-claims against the employee:
  - a. debt-claims for damages that the employee has to pay to the employer;
  - b. debt-claims for fines which the employee is indebted to the employer according to Article 7:650, provided that the employer hands over written evidence indicating the amount of each fine as well as the moment on which it was imposed and the reason for imposing it, mentioning in addition the contractual provision of a written agreement that has been violated;
  - c. debt-claims resulting from advance payments of wages, paid by the employer to the employee in money, provided these payments are proven in writing;
  - d. debt-claims for the amount for which the employer has received more wages than to which he was entitled;
  - e. debt-claims related to the rent of a house or another space, of a parcel of land or of equipment, machines or tools which have been used by the employee in the conduct of his own business and which have been leased out by the employer to the employee under a written agreement.
2. A setoff of debt-claims against payable wages is not possible for the part of the wages specified in Section 7 of the Minimum Wage and Minimum Holiday Allowance Act, unless setoff against a claim as specified in paragraph 1, under c has been agreed in writing with the employee beforehand. If the amount specified in the previous sentence is lower than the part of the wages for which a seizure of these wages by a third person would not be valid, setoff will only be applied to the part of the wages for which such a seizure would be valid. With regard to what the employer could claim pursuant to paragraph 1, under b, he may, at each payment of the wages, only offset a tenth part of the wages in money which should have been paid at that moment, on the understanding that the setoff will not be applied to

the part of the wages specified in the previous sentences.

3. The amount which the employer withholds from the wages on account of a seizure of a third person, must be deducted from the maximum amount of the wages that he may offset against his own debt-claims.
4. A contractual stipulation granting the employer a more extensive right of set-off is voidable, on the understanding that the employee is entitled to nullify each setoff declaration of the employer separately that was based on the presumption that this stipulation is valid.

#### **Article 7:640a Netherlands Civil Code**

Entitlement to the minimum specified in Article 7:634 will expire six months after the last day of the calendar year in which the entitlement was accrued, unless the employee has, up to that day, in all reasonableness, not been able to take leave. It is possible to, through a written agreement in the employee's favour, derogate from the six-month term specified in the first sentence.

#### **Article 7:652 Netherlands Civil Code**

1. Where parties have agreed a probationary period, it shall be equal for both parties.
2. The probationary period must be agreed in writing.
3. When entering into an employment agreement for an indefinite term, a probationary period may be agreed upon for not more than two months.
4. When entering into an employment agreement for no more than six months, a probationary period may not be included.
5. When entering into an employment agreement for a fixed period of over six months, the maximum possible probationary period is:
  - a. one month, if the contract is entered into for a period of under two years;
  - b. two months, if the contract is entered into for a period of two years or longer.
6. If the end of the fixed-term employment contract has not been set on a calendar date, a probationary period of a maximum of one month can be agreed upon.
7. Derogation from paragraph 5, under a, and paragraph 6 to the disadvantage of the employee is possible only through a collective labour agreement or regulation by or on behalf of an appropriately authorised public governing body.
8. Each contractual provision on a probationary period will be null and void if:
  - a. the probationary period is not the same for both parties;
  - b. the probationary period is set for a period of over one month in the case specified in paragraph 5, under a, other than through a collective labour agreement or regulation by or on behalf of an appropriately authorised public governing body;
  - c. the probationary period is set for a period of over two months;
  - d. the contractual provision has been included in a successive employment contract between an employee and the same employer, unless the new contract requires clearly different skills or responsibilities from the

employee than the previous contract;

- e. the contractual provision has been included in a successive employment contract between an employee and another employer who, in terms of the work to be performed, should in all reasonableness be considered the successor to the previous employer; or
- f. the contractual provision has been included in an employment contract that has been entered into for a maximum of six months.

#### **Article 7:668a Netherlands Civil Code**

1. As from the day that between the same parties:
  - a. two or more employment agreements for a fixed term have succeeded one another at intervals of not more than six months and these employment agreements jointly have exceeded a total period of 36 months, these intervals included, the last employment agreement for a fixed term is deemed to be an employment agreement that has been entered into for an indefinite term;
  - b. more than three fixed-term employment agreements have succeeded one another at intervals of not more than six months, the last employment agreement is deemed to be an employment agreement that has been entered into for an indefinite term.
2. Paragraph 1 applies accordingly to employment agreements for a fixed term succeeding one another between an employee and different employers who reasonably must be considered as each other's successor with regard to the work that has been performed by this employee.
3. Paragraph 1, under a, does not apply to an employment agreement that has been entered into for not more than three months and that has been entered into immediately after the ending of an employment agreement for a period of 36 months or more between the same parties.
4. The duration of the term of notice of termination is calculated as from the day that the first employment agreement referred to in paragraph 1, under a or b, was entered into.
5. The period of 36 months specified in paragraph 1, under a, can only be extended to up to a maximum of 48 months, and the number of three specified in paragraph 1, under b, can only be increased to six through a collective labour agreement or a regulation by or on behalf of a public governing body competent to this end, if it emerges from that agreement or regulation that the intrinsic nature of the operations for the jobs or job categories that are to be determined through that agreement or regulation requires this extension or increase.
6. Derogation from paragraph 2 to the employee's disadvantage is possible only through a collective labour agreement or regulation by or on behalf of an appropriately authorised public governing body.
7. Derogation from the period specified in paragraph 1, under a, to the em-

ployee's disadvantage is possible through a written agreement to that effect or through a regulation by or on behalf of an appropriately authorised public governing body.

8. A collective labour agreement or regulation by or on behalf of an appropriately authorised public governing body can declare this article inapplicable to certain jobs in an industry, if Our Minister of Social Affairs and Employment has designated these jobs by ministerial regulation, because it is established practice for these jobs in the industry in question and necessary on account of the intrinsic nature of the operations and of these jobs that the work is performed exclusively based on fixed-term employment contracts other than the agency work employment contracts specified in Article 7:690. By regulation, further conditions can be set for such a declaration of inapplicability as referred to in the first sentence.
9. A collective labour agreement or regulation by or on behalf of an appropriately authorised public governing body can declare this article inapplicable for the employment contracts designated therein that are entered into exclusively or predominantly for the purpose of adult education for the employee.
10. This article does not apply to employment contracts that have been entered into for a vocational training pathway as specified in Section 7.2.2 of the Adult and Vocational Education Act.
11. This article does not apply to an employment contract for an employee who has not yet reached the age of eighteen, if the average duration of the labour performed by this employee has not exceeded twelve hours a week.
12. In case of an employment contract with an employee who has reached the age specified in Section 7, under a, of the General Old Age Pensions Act, the period specified in paragraph 1, under a, will be extended to a maximum of 48 months, and the number specified in paragraph 1, under b, will be raised to a maximum of six. To establish whether or not the period specified in this paragraph or the referenced number of employment contracts has been exceeded, only those employment contracts that were entered into after the employee reached the age specified in Section 7, under a, of the General Old Age Pensions Act will be taken into account.
13. Through a collective labour agreement or a regulation by or on behalf of an appropriately authorised public governing body, intervals specified in paragraph 1, under a and b, can be shortened to three months for jobs designated by the collective labour agreement or the regulation that can only be done over a period of a maximum of nine months a year and cannot be done successively by the same employee over a period of over nine months a year.
14. Through a regulation by Our Minister of Social Affairs and Employment, the intervals specified in paragraph 1, under a and b, can, at the request of the Labour Foundation be shortened to three months for jobs designated by the regulation that can only be done over a period of a maximum of nine months

a year and cannot be done successively by the same employee over a period of over nine months a year.

15. This article does not apply to an employment contract with an employee at a school as specified in Section 1 of the Primary Education Act or Section 1 of the Expertise Centres Act, if the employee is contracted to substitute for a sick employee in a teaching or teaching-support position with lesson-related or counselling tasks.

### Article 7:672 Netherlands Civil Code

1. A notice of termination takes effect at the end of a month, unless another termination date has been agreed in writing or has been ordered by common practice.
2. The term of notice of termination to be observed by the employer is, when the employment agreement on the effective termination date has lasted:
  - a. shorter than five years: one month;
  - b. five years or longer, but shorter than ten years: two months;
  - c. ten years or longer, but shorter than fifteen years: three months;
  - d. fifteen years or longer: four months.
3. In derogation of paragraph 2, the term of notice of termination to observe by the employer is one month if the employee has reached the age specified in Section 7, under a, of the General Old Age Pension Act.
4. The term of notice of termination to be observed by the employee is one month.
5. If the permission as referred to in Article 7:671a, paragraph 1 or 2, is granted, the term of notice to be observed by the employer is shortened by the length of the period starting on the date the full request for such permission was received and ending on the date of the decision in response to the request for permission, on the understanding that the remaining term of notice at all times remains at least one month.
6. The term of notice meant in paragraph 2 or 3 can only be shortened through a collective labour agreement or a regulation by or on behalf of a public governing body competent to this end. The term of notice can be lengthened in writing.
7. The term specified in paragraph 4 may be shortened or lengthened in writing. This term of notice may, however, not be longer than six months, and if it is lengthened the term of notice to be observed by the employer may not be shorter than twice the term applicable to the employee.
8. It is only possible to shorten the term of notice of termination, as meant in paragraph 7, second sentence, for the employer through a collective labour agreement or a regulation by or on behalf of a public governing body competent to this end, provided that the term is not shorter than the term to be observed by the employee.
9. In the event that an employment agreement has been restored pursuant to

Article 7:682 or Article 7:683, employment agreements are, for the application of paragraph 2, considered to be the same uninterrupted employment agreement.

10. The party giving notice of early termination will be liable to pay the other party compensation to the amount of the wage established for the period between the termination date and the date on which the employment agreement would normally have ended.
11. The subdistrict court can lower the compensation specified in paragraph 10 if deemed fair in light of the circumstances, on the understanding that the compensation can never be less than the wage established for the notice period specified in paragraph 2, and can neither be less than three months' wages.

### **Article 7:690 Netherlands Civil Code**

An agency work employment contract is an employment agreement under which the employer, within the framework of his business or professional practice, places the employee at the disposal of a third party in order to perform work under supervision and direction of that third party by virtue of an agreement for the provision of services between the third party and the employer.

### **Article 7:691 Netherlands Civil Code**

1. Article 7:668a shall apply only to an agency work employment contract once the employee has performed work for a period of more than 26 weeks.
2. An agency work employment contract may stipulate in writing that such an agreement will end by operation of law when the third party referred to in Article 7:690 has requested the employer to end the situation in which this employee is placed at his disposal for the performance of work. If a contractual stipulation as meant in the preceding sentence is included in an agency work employment contract, the employee may always terminate the agency work employment contract with immediate effect, and the employer will not be subject to Article 7:668, paragraph 1, 2, 3, and 4, under a.
3. A contractual stipulation as meant in paragraph 2 shall no longer have any effect if the employee has performed work for the employer for more than 26 weeks. On expiry of this period, the employee's right to terminate the secondment agreement as referred to in paragraph 2 ceases to exist.
4. For the calculation of the periods referred to in paragraphs 1 and 3, successive periods during which work is performed with intervals of no more than six months shall be taken into account as well.
5. For the calculation of the periods meant in paragraph 1 and 3, the periods during which work is performed for different employers who, in respect of the work performed, must reasonably be considered to be each other's successors, shall also be taken into account.
6. The present article does not apply to an agency work employment contract

whereby the employer and the third party are both part of the same group as referred to in Article 24b of Book 2 or whereby one of them is a subsidiary of the other as referred to in Article 24a of Book 2.

7. Only by written agreement will derogation from Article 7:628, paragraph 1, to the disadvantage of the employee be possible up to the first 26 weeks during which the employee performs work. Article 7:628, paragraphs 5, 6, and 7 do not apply.
8. In a collective labour agreement or through a regulation made by or on behalf of a public governing body competent to this end:
  - a. the terms specified in paragraphs 1, 3, and 7 can be extended to a maximum of 78 weeks; and
  - b. derogation from paragraph 5 to the employee's disadvantage will be possible.

### **Article 7:692 Netherlands Civil Code**

The payroll agreement is the agency work employment contract whereby the assignment agreement between the employer and the third party was not entered into with a view to matching supply and demand in the labour market, and whereby the employer will only be authorised to second the employee with the third party's permission.

### **Section 40 Bankruptcy Act**

1. Employees in service of the bankrupt debtor may give notice to terminate their employment agreement and, vice versa, the liquidator ('curator') may give notice to terminate their employment agreement, always with due observance of the agreed or statutory notice periods, on the understanding, however, that the employment agreement may be terminated in any event with six weeks' notice.
2. The wages and premiums relating to the employment agreement that fall due as of the day of the declaration of bankruptcy are estate debts.
3. The present article applies accordingly to commercial agency agreements.

### **Section 16 Minimum Wage and Minimum Holiday Allowance Act**

1. Notwithstanding the stipulations of the second, third, and fourth paragraph, a public-law regulation or collective labour agreement can stipulate that the employee is not entitled to holiday allowance or is entitled to a holiday allowance that is lower than the holiday allowance specified in Section 15.
2. If the sum of the wage to which the employee has gained entitlement on 1 June of any one year for the previous time period of one year, and the holiday allowance, to the extent that the employee has gained entitlement to a holiday allowance over that time period, is under 108% of the amount to which the employee is entitled over that time period as the minimum wage, the employee will for that time period also be entitled to a holiday allowance equalling the amount by which the 108% exceeds the aforementioned sum.

3. To the extent that the employee for a time period as specified in the second subsection has gained entitlement to benefits under the Sickness Benefits Act, Chapter 3, Section 2, subsection 1 of the Work and Care Act, and the Unemployment Insurance Act during the employment, the employee will be entitled to a holiday allowance on these benefits, whereby the amount of the holiday allowance and the benefits must add up to at least 108% of the amount to which the employee is or would be entitled to in benefits over this time period under the Sickness Benefits Act, Chapter 3, Section 2, subsection 1 of the Work and Care Act, and the Unemployment Insurance Act, as calculated based on the minimum wage.
4. If Section 15, fourth subsection, is applied, the employee will over a time period as specified in the second paragraph be entitled to a holiday allowance to an amount that, when added up to the wage or benefits under the Sickness Benefits Act, Chapter 3, Section 2, subsection 1 of the Work and Care Act, and the Unemployment Insurance Act, to which the employee has gained entitlement over that time period or could have become entitled, is not lower than the sum of the minimum amount specified in Section 15, fourth subsection, and the minimum wage, and the benefits under the Sickness Benefits Act, Chapter 3, Section 2, subsection 1 of the Work and Care Act, and the Unemployment Insurance Act calculated based on the minimum wage, to which the employee is or would have been entitled over that time period.
5. If the wage agreed between the employer and employee exceeds three times the minimum wage, it can be decided through a written agreement that the employee is not entitled to a holiday allowance or is entitled to a lower holiday allowance. Section 15, second subsection applies correspondingly.
6. If the employer is under an obligation towards his employees to apply a public-law regulation or collective labour agreement, or generally binding provisions from a collective labour agreement, while derogating from Section 15 based on the first subsection, and also has employees for whom he does not have that obligation, he can derogate from Section 15 in the same way for the latter employees, through a written agreement.
7. If the employee is entitled to wage over a period during which he does not perform work, benefits under the Sickness Benefits Act, Chapter 3, Section 2, subsection 1 of the Work and Care Act, and the Unemployment Insurance Act, by which the wage is lowered as per that stipulation will be considered wage payable by the employer for the application of this Section.

### Section 1:2 Work and Care Act

1. Unless stipulated otherwise, wage is for the purpose of this act defined as follows: time-based remuneration payable by the employer to the employee for stipulated work.
2. For the application of this act, the average wage that the employee could

have earned over a certain time period if he had not had exercised the right to leave provided by this act will also be considered wage if the wage is not calculated based on a time period.

### Section 4:2 Work and Care Act

1. After the spouse, registered partner, person with whom the employee lives together without being married or the person whose baby the employee acknowledges as his own, has given birth, the employee will be entitled to paid birth leave for a period equalling one working week over a period of four weeks from the first day after the birth.
2. If the employment contract or public-law appointment is terminated before the birth leave has been taken in full, the employee will, if he enters into a new employment contract or accepts a new public-law appointment, be entitled to the part of the leave that he has not yet taken while working for the new employer, under observance of this chapter.
3. If the employment contract or public-law employment is terminated, the employer is required to issue the employee, at his request, with a statement showing the remaining birth leave to which the employee is entitled.

# ABU

## Empolyees' organisation

### **LBV**

Strevelsweg 700/612  
3083 AS Rotterdam  
Tel: 088 - 266 30 00  
[www.lbv.nl](http://www.lbv.nl)

## Employers' organisation

### **ABU**

Postbus 144  
1170 AC Badhoevedorp  
[www.abu.nl](http://www.abu.nl)

*You can also down load the CLA for Temporary Agency Workers as an app.*

