

Posting of Temporary Agency Workers in Europe Country Fact Sheet – The Netherlands

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National Regulation and provisions applicable to posted temporary agency workers

I. Employment and Working Conditions for posted temporary agency workers coming into your country

Element of national regulation	Qualitative information on your country
<p><i>Definition of a posted temporary agency worker according to national legislation and collective labour agreements in the TAW sector.</i></p> <p><i>Does a temporary agency worker posted into your country have the same legal status as a temporary agency worker employed directly? If not please explain.</i></p>	<p><i>See article 67 CLA and appendix IV</i></p> <p><i>In article 67 ABU CLA reference is made to a posted temporary worker: temporary employees who are deployed from abroad by a foreign temporary employment agency to a client in the Netherlands, and whose employment contract is governed by the law of a country other than the Netherlands.</i></p> <p><i>Certain provisions within limited fields of the posting directive indicated in the ABU CLA have been decreed to be compulsorily applicable on the posted agency worker. Within these fields they have the same minimal legal status. E.g. maximum working times, minimum number</i></p>



Element of national regulation	Qualitative information on your country
	of holidays during which the employer has an obligation to pay wage; minimum wages, etc.
<i>Relevant and applicable provisions on equal treatment & equal pay for temporary agency workers. Do these apply to posted temporary agency workers?</i>	Yes, exactly the same provisions are applicable to posted temporary workers.
<i>Maximum work periods per day and per week for posted temporary agency workers. Is night work permitted for posted temporary agency workers? If so how many hours are allowed?</i>	Yes, for all workers Dutch Labour Time Law says: it is allowed to work 10 hours per night (max 5 hours x per 14 days and 22 hours x per 52 weeks).
<i>Minimum rest periods per day and per week for posted temporary agency workers.</i>	Yes, like "normal" agency workers the work and rest periods are the same as is common at the user company. Dutch labour time law provides as a minimum: Per day: 11hours per 24 hours. 1 x per period of 7 x 24 hours the daily rest period may be limited to a minimum of 8 hours. Per week: Or 36 hours per period of 7 x 24 hours. Or 72 hours per period of 14 x 24 hours, with the possibility to split it into periods of a minimum of 32 hours.
<i>Applicable minimum rates of pay hourly, weekly or monthly. Is this decided by a collective agreement or by law? How is it enforced?</i>	The minimum legal rate by law (WML) is per month € 1,524.60 per week € 351.85 or per day € 70.37 since the 1 st of January 2016. Enforced by labour inspectorate. Two options within ABU CLA: from day 1 user pay or a ABU wages according to status, function and related wage scheme. Starting april 2015 the general principle within the ABU CLA will be userpay day 1.
<i>Applicable wage supplements, sick pay, social security, overtime and night work rates & allowances for temporary agency workers.</i>	Wage supplements, sick pay and social security are not covered by the CLA and therefore not applicable for posted workers. If user company pay than overtime and night work rates user company. Otherwise, irregular work time: Depending on the day and the period of the day in which the work is performed, the actual wage is multiplied by a bonus factor between 1.00 and 2.00 Depending on whether or not overtime is worked, the actual wage is increased by an overtime bonus of 1,25 or 1,50. Starting april 2015 the general principle within the ABU CLA will be userpay day 1.
<i>Applicable provisions and legislations on health & safety at work. Whose responsibility is it to ensure</i>	The temporary work agency must ask for relevant information from the user agency, then



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<i>these provisions/laws are enforced (user company or temporary agency)? Which organisation is responsible for the health and safety of the workers?</i>	inform the agency worker before work has commenced about safety and labour conditions. However as factual employer also the user company must instruct the employee properly. But regarding responsibility as to accidents the Labour inspectorate sees the user company as the most important employer, as it has the daily control and relationship with the agency worker.
<i>Minimum paid annual holiday (no. of days, rates) posted temporary agency workers are entitled to.</i>	For each full working month worked, a temporary employee accrues the right to sixteen hours' holiday, or a proportional part thereof, in the case of not having worked a full working month. A posted temporary agency worker is as the contract expires entitled to a financial payment for all of those holiday entitlements, which only limitedly allowed for "normal agency workers".
<i>Main, general provisions of collective labour agreements concluded in the TAW sector that are relevant to posted temporary agency workers</i>	Yes, the large majority of provisions in the ABU CLA.
<i>Specific provisions on posted temporary agency workers in the collective labour agreements in the TAW sector</i>	Yes articles 64, 65, 66, 67 and 68 ABU CLA.

II. Conditions for temporary work agencies to post a temporary agency worker in your country

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<i>Requirement to obtain a license</i>	Every company who places workers at a usercompany to work under their management and supervision is obligated to register as such at the Chamber of Commerce. NEN 4400-2 (Is a certification system for foreign temporary agencies) on voluntary base established by social partners and recognized by government) (NEN 4400-1: system for Dutch companies). Different major CLA's prescribe use of NEN 4400 recognized agencies.
<i>Requirement to establish in the receiving country</i>	No
<i>Mandatory Declarations</i>	No
<i>Sectoral bans for temporary agency work activities</i>	None, but seagoing shipping only under certain conditions. For all agency workers.
<i>Applicable reasons for use of temporary agency</i>	None legal, but some CLA's of user companies/sectors contain restrictions



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<i>work services</i>	
<i>Applicable minimum and maximum length of temporary agency work assignments</i>	None legal, but some CLA's of user companies/sectors contain restrictions
<i>Restrictions on labour contracts to be offered to posted temporary agency workers</i>	None legal, but some CLA's of user companies/sectors contain restrictions
<i>Which services (if any) do you provide for the posted temporary agency workers? Are these workers charged any fees for these services?</i>	None

Additional Information – Useful public sources

<i>Do you know the country of origin of the posted temporary agency workers in your country/organization? If so please give details.</i>	No information available, but most probably posted workers come from Belgium, Germany and Poland.
<i>Useful websites (Labour inspectorate, Ministry of Labour, Trade Union information etc...)</i>	<p>Ministry of Labour http://english.szw.nl/ On Posting of workers: click employment conditions, click Posting of workers Labour inspectorate: http://www.inspectieszw.nl/english/index.aspx</p> <p>Also the ABU has a special website about working in The Netherlands as a agency worker. This page is in Polish, Romanian and Bulgarian. These can be found through:</p> <p>Polish: http://www.abu.nl/pools/informacie-dla-pracownikw-tymczasowych</p> <p>Bulgarian: http://www.abu.nl/bulgaars/home</p> <p>Romanian: http://www.abu.nl/roemeens/pagina-principal</p> <p>Also a summary of the CLA is available in German, English, Polish, Arabian and Turkish. These can be found at: http://www.abu.nl/publicaties/cao</p> <p>CLA police in Dutch and Polish: www.sncu.nl</p>
<i>Contact people from the national social partner associations in the TAW sector</i>	See beginning of document
<i>Relevant publications</i>	



If you have any questions on this factsheet, please contact the European Sectoral Social Partners:

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