

## 1. WePayPeople and the WAB (Wet Arbeidsmarkt in Balans)

The current service by WePayPeople is based on the Dutch Civil Code, the Wet Allocatie Arbeidskrachten Door Intermediairs (WAADI, the Placement of Personnel by Intermediaries Act) and takes place under the NBBU Collective Labour Agreement for Temporary Employment Agency Workers (NBBU stands for Nederlandse Bond van Bemiddelings- en Uitzendondernemingen, i.e. the Dutch Association of Intermediary Organizations and Temporary Employment Agencies). The Wet Arbeidsmarkt in Balans (WAB, Balanced Labour Market Act) is about to be added to this list. Because active allocation and making workers available on a non-exclusive basis have been sufficiently guaranteed in our work method, the vast majority of our services will remain unaffected and continue as usual. We have provided temporary employment workers before and will keep doing so. However, in addition to our regular temporary employment agreements, we also offer a separate payroll arrangement for all cases - both new and old -where it has been proved beyond a shadow of a doubt that it concerns payrolling.

Our clients will be contacted well before 1 January 2020, the date the WAB comes into effect, to discuss the possibilities and the exact nature of further cooperation.

### 1. Payrolling in the WAB

#### **Payrolling gets its own status within the Act**

Currently, there is no legal difference between payrolling and providing temporary employees. With the WAB, a 'payroll agreement' is added to the Dutch Civil Code and the WAADI which is defined as follows: "The payroll agreement is the temporary employment agreement, where the agreement to perform professional services between the employer and the third party has not come about in the context of matching supply and demand in the labour market and where the employer is only authorized to make the employee available to another person with the approval of the third party".

According to this definition, payrolling is characterized by the fact that (i) the payroll employer does not have an 'allocation function' in the labour market and (ii) the worker is made available exclusively to one

client. Payrolling is the case when both criteria are met.

With payrolling, the agency clause can no longer be relied on and the new - regular- chain rule of three contracts in three years' time applies. Moreover, payroll employees are entitled to the same employment terms and benefits as the 'permanent' employees of the client including - from 1 January 2021 onwards - an 'adequate' pension scheme.

## **2. What else is the WAB about?**

### **Chain rule**

The WAB reduces the duration of the regular chain rule back to three contracts for a definite period of time in three years, where the period between contracts must at least be 6 months. In terms of duration (3 years) and the number of contracts (3 contracts for a definite period of time), this brings the chain rule back to what it was from 1 January 1999 to 1 July 2015. The maximum number of temporary employment agreements remains three.

Through a Collective Labour Agreement (under certain conditions) there is a possibility to reduce the interval of six months to three months.

### **WW (Unemployment Insurance Act) contribution low for permanent and high for flexible contract**

From 2020, the sectors for the Unemployment Insurance Act (WW) contribution will be abolished and a distinction will be made between a low and a high rate for the WW contribution. For employees with a permanent contract, 5% less contribution will be paid than for employees with a flexible contract. It must be noted that the difference in the level of the WW contribution is not only based on the duration of the contract but also on whether or not the employee works a fixed number of hours per week.

Employers who hire their resources directly on a flexible basis will also be hit by the same higher WW contribution. Employers will be required to indicate the nature of the employment agreement on the payslip for employees.

### **Transition compensation**

From the first day of employment, employees will be entitled to transition compensation, rather than after two years. The

transition compensation amounts to one third of the monthly salary for each year of employment, and applies to everyone. This also applies to the number of years in employment for an employment agreement after ten years. These are currently given even more weight in the calculation but from 1 January 2020 they will be taken into consideration in accordance with the new method.

### **Dismissal law**

The WAB sets out the introduction of the so-called accumulation ground in regular dismissal law. This makes it easier for employers to dismiss regular employees. In the event of multiple 'insufficient' grounds for dismissal - which are not serious enough in their own right to dismiss someone - the court may decide – by accumulating the grounds for dismissal (adding them up) - to proceed to dismissal after all.

### **On-call contract**

The employer must call the employee with an on-call contract at least four days in advance in writing or via email.

If the call does not arrive on time, the employee is under no obligation to respond to the call. Within certain collective labour agreements, the notification period may be reduced to 24 hours. If a call is withdrawn again within four days, the on-call worker retains his entitlement to wages over the period for which he was called up. If the on-call contract lasted one year, the employer must make the employee a written or electronic offer for an employment agreement for the number of hours that the worker has worked on average in the preceding year. As long as the employer fails to make this offer, the on-call worker is entitled to wages for this number of hours.

## **3. More information?**

Do you have any questions or would you like more information? Please contact Daniël Meis via [d.meis@wepaypeople.nl](mailto:d.meis@wepaypeople.nl) or call: 020 716 33 84.

