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Legal Matters

- **Employment**
- **Family Law**
- **Renting a house or an apartment**
- **Buying a house or an apartment**
- **Corporate Law**

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Employment

Newcomers who start working in the Netherlands are often confronted with various matters concerning Dutch labour law. The laws which cover labour and employment in the Netherlands are diverse. Dutch legislation covers key areas such as trial periods, holidays, notice and dismissal, minimum wages, health and safety and equal treatment.

Employees in the Netherlands are relatively well protected by the rules of the Dutch Labour Law. However, expats cannot always rely on all the legal safeguards that have been created for Dutch residents. This depends on whether or not Dutch law is applicable. In principle, the expat's personal contract will determine the specific conditions. Therefore it is essential to establish a solid, expat-friendly employment contract.

For an expat, it is advisable to contact a specialized lawyer for the following matters:

- The review of employment contracts;
- Determining which law is applicable to the employment contract;
- Collective Labour Agreement (CAO);
- Salary claims;
- Redundancy proceedings and settlements, severance payments;
- Unemployment insurance benefit (WW);
- Employee sickness issues.

It is always advisable to consult a lawyer before making any major decision with regard to signing a contract, dismissal or changing employers. In any case, be sure to ask for a comprehensive explanation of the Dutch law concerning the abovementioned.

Family Law

In the past, people had roughly two choices concerning the status of a relationship: you were either married or lived together informally. Nowadays most countries, including the Netherlands, also offer the possibility of entering in a registered or civil partnership. In case of breach of such formal relationships it is – in general –

necessary and certainly advisable to contact a specialized lawyer in order to dissolve the marriage/ partnership or end the informal relationship in an appropriate manner. Expats who find themselves in such a situation, may be confronted with questions such as: which law is applicable in the dissolution of my relationship, is it possible and advisable to start the procedure in the Netherlands or in my home country? Often, questions will also arise concerning which assets are community property or whether or not those assets need to be financially and/or economically divided in case of a nuptial agreement, maintenance, etcetera.

Due to the amount of possible questions, it is in the expat's own interest to contact a specialized (Dutch) lawyer who can inform expats (and their spouses) about the possibilities to establish this in a manner that meets their needs.

A notary plays an important role in drafting and executing a last will. A will is needed in cases where a testator wishes to derogate from the statutory provisions on succession. A non-Dutch national who wishes to draw up a will in the Netherlands would be well-advised to consult with a Dutch notary.

When married in the Netherlands, (foreign) spouses have an automatic and general 'community of property'. Assets and liabilities become a single whole. It is possible to avoid a statutory community of property by entering into a marriage settlement. A notary can also formalize the expat's private relationship with a civil partnership contract.

Because of the important advisory and statutory task in this respect, non-Dutch nationals would be well-advised to seek the assistance of a Dutch notary.

Renting a house or an apartment

When renting a property in the Netherlands, a tenant has several rights that he should take notice of. Similar to the protection of an employee in labour law, the Dutch Tenancy Law offers tenants considerable protection. Consequently, several clauses in tenancy contracts do not bind the tenant, while they do bind the letter. To





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prevent discussions, it is wise to have a tenancy contract checked by a specialized lawyer before signing it. The Dutch law protects tenants against attempts by the landlord to terminate a tenancy contract. A landlord can only terminate a tenancy contract once this has been approved of by a judge. The only exception to this rule is the short term tenancy contract, however, there are strict and limited rules for the use of such a contract. Expats are often offered a short term contract, so they are urgently advised to check if the content of the document is legally sound.

In the Netherlands, tenants are also well protected regarding tenancy rates. Expats – their foreign employers, that is – are often willing to pay a substantial amount of rent. However, if it is questionable whether or not the property is worth paying such a substantial rent, one has the possibility to request a legal committee to assess the situation. There are strict rules concerning rent prices, as long as you remain under a certain price limit (*'liberalisatiegrens'*). Once the rent surpasses the price limit, the rules no longer apply and consequently the tenant and letter are free to determine a price. Within the first six months after the tenancy contract has taken effect, it is possible to request a legal committee to determine whether or not the rent surpasses the price limit. If it does, the committee can have it corrected. When the six month period has expired, it is no longer possible to have the rent assessed and it will be assumed that you belong and will remain in the expensive rent category.

It is advisable for expats to contact a specialized lawyer in order to learn more about one's rights and the legal do's and don'ts concerning renting a house.

Buying a house or an apartment

When buying property in the Netherlands, the buyer has several rights which should be taken into account. According to Dutch law, the purchase of real estate is bound by legal formalities.

Sales contract

The purchase of a house or an apartment must be laid down in a contract in order to be legally valid. A verbal offer is not binding. Therefore, it is important that agreements regarding the purchase of a house or an apartment are drawn up in a contract as precisely as possible. A notary can assist you with this.

Cooling off period

When you have bought a property, you are given three days during which you are allowed to reconsider your purchase. This period of reflection starts the day after you receive the purchase contract which has been signed by both parties: the buyer and the seller. The cooling off period is meant to prevent one from making a rash or ill-considered decision which could bring about significant financial consequences.

Buying an apartment

When buying an apartment, other rules apply. When an apartment is purchased, one comes to own a specific part of the total object or apartment building. In order to learn about your rights as an apartment owner and the use of common facilities (elevator, stairs and garden), you can contact the association of owners (VVE). Therefore it is important to know if an organised (and active) association of owners exists for your apartment building.

Hidden defects

As a buyer, you may expect the house which you have purchased to contain all the aspects required for normal use. Unfortunately, hidden defects could appear after moving into a house or apartment. Dutch law protects the buyer against certain instances of hidden defects. It is advisable for expats to contact a specialized lawyer in order to learn more about your rights, hidden defects and the legal formalities concerning the purchase of a house.

Corporate Law

In the event that an expat will have to deal with matters concerning Dutch Corporate Law, an attorney or notary could be of assistance. Attorneys and notaries can help you with their knowledge concerning all the aspects of commercial law and they have international networks at their disposal which can support expats with similar questions world wide. They assist stakeholders, managers, shareholders, supervisory boards, works councils, client councils and participation councils as well as local and national ministries and other institutions.

If an expat requires information about corporate law, it is advisable to contact a specialized lawyer or notary. ■



Expat Centre Leiden

The Expat Centre Leiden provides a warm welcome to expats who live and work in the Leiden region. The Expat Centre will help you find answers to questions about the issues you will deal with when settling in Leiden.

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