Legislation Pension Agreement published
All pension plans in the Netherlands require change!

The final legislative proposal of the Pension Agreement has been published
Ever since the start of the financial crisis in 2008, a redesign of the Dutch pension system has been the subject of discussions and negotiations. In 2019, the Cabinet and social partners have agreed upon a wide range of measures in the Pension Agreement. On 30 March 2022, minister Carola Schouten (Pensions) offered the elaboration of this agreement to the House of Representatives in the form of the ‘Future of Pensions Act’. The corresponding draft legislative proposal had previously been submitted for consultation. The final legislative proposal largely remained the same and has only been amended on certain details.

The aim of this legislative proposal is to adapt the Dutch pension system to our way of living and working in the 21st century. Allowing pensions to more directly adapt to economic developments creates the perspective of pension benefits with purchasing power. This leads to a more transparent and personal pension system.

The most important point: all employees will have a (defined contribution) plan with a flat contribution rate
The legislative proposal states that, after a transitional phase, pensions will only be accrued in a defined contribution plan with an age-independent contribution rate. The accrual will be based on the contribution and no longer on the accrual of a guaranteed or defined benefit. The employee’s pension benefit consequentially becomes more uncertain, but it is expected that this will offer a perspective of pension benefits with purchasing power. The abolition of the uniform contribution system (“doorsneesystematiek”) also ends the existing distribution of pension accrual between younger and older employees. The maximum contribution rate for old-age pension and for partner’s pension on or after the retirement date will amount to 30% of the pensionable salary and will apply until 2037. In addition, to offer compensation to employees, an extra 3% contribution can be provided until 2037.

The new legislation also means the end of the actuarial interest rate and the problems surrounding funding ratios. In the period until implementation, a funding ratio of 90% will be the lower limit for pension funds, 95% will be the minimum “target funding ratio” for the conversion to the new system and indexation will be allowed with a funding ratio upwards of 105%. The goal is for the legislation to take effect as from 2023, with a transition period until 2027. To attain that goal, both the House of Representatives and the Senate will have to approve the legislative proposal in 2022, which will be ambitious given the scope of the legislative proposal.

All pension plans in the Netherlands need to be adjusted
The new pension legislation is particularly intended for (industry-wide) pension funds, but effectively it means that all Dutch pension plans must be adjusted. An insured average-pay plan will no longer be permitted. Until 2027, employers that currently have such a pension plan in place can transition to a defined contribution plan with an increasing contribution structure to ease the eventual transition to the new pension system.
Given the complexity and the high transition costs that will result from the change for employers with an existing (age-dependent) contribution structure, transitional arrangements have been created. As a transitional arrangement, participation in a defined contribution plan with an increasing contribution structure that is currently in place is allowed to continue indefinitely for existing employees. These contribution percentages are bound by maximum contribution percentages, ranging from 19% to 40%. These transitional arrangements will be evaluated in 2037.

The major disadvantage of the transitional arrangement is that employers, for decades, will be forced to simultaneously have two pensions plans. This implies an increase in operational costs and a less transparent package of employment conditions. In addition, this means that older employees are less likely to change employers. In our opinion, this negatively affects the labor mobility of this group of employees.

**A new dependents’ pension**

In addition to redesigning the pension intended for the employees themselves, the dependents’ pension will be redesigned. This redesign represent a major step in the simplification of the dependents’ pension. First of all, a uniform concept of partner applies, which currently still differs from one pension plan to another. In addition, the dependents’ pension will be based on a percentage of the current (full) pensionable salary. This percentage is capped at 50% for the partner’s pension and at 20% for the orphan’s pension. Despite the simplification, this change is expected to lead to increasing costs for most employers.

**What does the legislative proposal mean for you as an employer?**

Due to this new legislation, all pension plans in the Netherlands, including yours, must be adjusted! Despite the generous transitional period for existing pension plans, there are various reasons for switching sooner to the flat defined contribution plan. Think of the financial aspect (a rising contribution burden for existing employees), a change in the employment conditions package, and the expiration of your current financing agreement. In addition, every employer is obliged to draw up a transition plan if the transitional arrangements won’t be used. Depending on the type of pension provider, this has to be done by 1 January 2025 in case of a pension fund being the provider, or by 1 October 2026 in case of an insurer or a premium pension institution being the provider.

The legislative proposal has now been published, but the big question is: and now what? On 12 April 2022, we organized a webinar during which we will answer this question. You can look it back here.

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