



GMS Flash Alert

Immigration Edition

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Netherlands - Changes to Income Requirement for Foreign Workers, Lower Legal Fees

Many people with experience of Dutch immigration procedures are aware of the annual indexation per 1 January of the salary requirement that applies to many immigration programs for skilled labor migrants in the Netherlands. The same indexation is usually also applied to the legal fees tied to immigration applications for highly-skilled migrants and their family members.

In this *GMS Flash Alert*, we provide information on new income/salary requirements and legal fees.

WHY THIS MATTERS

Meeting the salary criterion requirement can make it easier for certain employers to determine beforehand if an employee will qualify for an expedited immigration procedure. Employers that are “Recognized Sponsors” can enjoy expedited immigration procedures for their highly-skilled migrants provided, principally, they satisfy the salary criterion.

An additional upshot of this expedited procedure is that it can allow for more effective international assignment planning, since the average processing time is just two to four weeks from the filing date to arrival date, as long as the required supporting documents are provided. Normally the processing time can take between eight weeks and three months.

Companies that make use of the procedure need to be aware of the new criteria to determine if their employees satisfy the conditions. The new criteria apply to every application filed after 1 January 2019. There is no requirement to adjust the salary if the employee still holds a valid residence permit; but your employee should meet the new requirement if his/her permit is up for renewal.

Context

Dutch-based companies that have acquired official status as “Recognized Sponsor”¹ from the Dutch immigration authorities may benefit from expedited immigration procedures with respect to their so-called qualifying highly-skilled migrants. Because of the expedited processing times and transparent criteria, the highly-skilled migrant procedure is a very popular immigration channel for companies in the Netherlands.

The main requirement is that the employee satisfies the salary requirement which is set for his/her category as noted below.

Update to Salary Criterion for 2019

The salary criterion for these highly-skilled migrants is contained in the Foreign Nationals Employment Act Implementation Decree (*Besluit uitvoering Wet arbeid vreemdelingen*).² This also stipulates that the indicated salaries are to be adjusted annually by ministerial regulation with effect from 1 January on the basis of recent index figures for negotiated wages, as published by Statistics Netherlands.³

The following gross monthly salaries (excluding vacation allowance) apply as of 1 January 2019:

- Highly-skilled migrant 30 years and older: €4,500 (€4,404 for 2018);
- Highly-skilled migrant younger than 30 years: €3,299 (€3,229 for 2018);
- Dutch graduates qualifying for “search year”: €2,364 (€2,314 for 2018).

Following changes in subordinate legislation in March 2015, these amounts now exclude the (mandatory) 8-percent vacation allowance.⁴

The salary criterion is assessed solely in light of the salary received in cash, i.e., the fixed contractual gross salary in cash. Non-cash salary payments and uncertain salary components such as over-time, tips, and benefit payments are therefore excluded. However, expense allowances may be included provided they are guaranteed and regularly paid each month.

It is also important that the salary be paid at least monthly into a bank account held by the employee. The pay-slips must be made available for inspection upon first request by the IND or Labor Inspectorate (“Inspectie SZW”).

KPMG NOTE

Fixed allowances such as a 13th month payment or fixed year-end bonus may only be included in the gross salary if these are laid down in the contract and if these are paid to the highly-skilled migrant on a monthly basis. Although it is uncommon that the 13th month’s salary payment or year-end bonus are paid on a monthly basis, in practice this is the only way it may contribute to the salary calculation.

Applicability of Salary Criterion

Applications that have been filed before 1 January 2019, are subject to the 2018 salary criterion⁵. The 2018 criterion also applies in situations where the Entry and Residence (*Toegang en Verblijf*; TEV) application was filed before 1 January 2019,

but the highly-skilled migrant only arrives in the Netherlands in 2019.

The salary criterion also applies to applications for a residence permit that are filed for “intra corporate transfer” applications under the ICT Directive⁶.

In addition to these residence permit applications, the salary criterion also applies to the following types of applications for a **work permit**:

Short stay by highly-skilled migrants – This program is limited to group employees in a key or specialist position who are employed by a recognized sponsor and work for a maximum of 90 days in the Netherlands within a period of six months.

Application in the context of an intra-group transfer – There are special categories for key positions, knowledge transfer, and trainees. The salary criterion for highly-skilled migrants older than 30 years of age applies to the first two categories. For trainees, the lower criterion for migrants younger than 30 years of age applies.

Highly-skilled migrants resident in another European Union (EU) member state but working in the Netherlands – This program is particularly attractive for employers in the border region, who are thus able to employ highly-skilled migrants although they do not live in the Netherlands.

Decreased Legal Fees

Besides the changes in the salary criterion, the IND has also announced a change in the legal fees. Where the legal fees are usually subject to the same indexation, there is a downward trend for the legal fees for highly-skilled migrants, “intra corporate transfers,” and their families. During the course of 2018 the fees already dropped significantly from €938 to €582 for a highly-skilled migrant or ICT permit application, and the IND has now announced even lower fees.

Effective 1 January 2019, the fee for a “Highly-Skilled Migrant” or “ICT permit” application (first application or extension application) will be €285 and the dependent fee will be €171. The fee that applies to accompanying minors is €57.

FOOTNOTES:

1 See *Flash International Executive Alert* 2013-073, 3 May 2013, a publication of KPMG’s GMS practice. For a copy, please see your usual KPMG GMS contact.

2 For (in Dutch) *Besluit uitvoering Wet arbeid vreemdelingen, Geldend van 29-11-2016 t/m heden*, [click here](#).

3 See (in Dutch) *Staatscourant* 2018 Nr. 67779, “Mededeling van de Minister van Sociale Zaken en Werkgelegenheid van 23 november 2018, 2018-0000186071, over per 1 januari 2019 gewijzigde bedragen in enkele wetten, besluiten en regelingen” under section: I *Besluit uitvoering Wet arbeid vreemdelingen* by [clicking here](#).

4 See GMS [Flash Alert 2015-074](#) (11 June 2015).

5 For prior coverage, see GMS [Flash Alert 2015-149](#) (15 December 2015).

6 See GMS [Flash Alert 2016-133](#) (18 November 2016).

Contact us

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