

THE NETHERLANDS
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1. Are there any laws that govern a layoff of employees? If so, what do the laws require?

Under the Civil Code (Boek 7: Labour Contract), any termination of a labour agreement must comply with the rules of the Civil Code in addition to any contractual conditions. Sometimes a collective labour agreement applies. Additionally, usually a permit of the Governmental Labour Office (UWV Werkbedrijf) is required *before* the agreement can be terminated. In most of the cases the period of termination is between one and 6 months (after permission for termination is received), depending on the conditions in the contract and the period of time the employee has worked.

For the layoff of 20 or more employees, the Informing mass layoff Act (Wet melding collectief ontslag) applies. It requires the employer to inform the following bodies of the proposed layoff: the Governmental Labour Office, the branch, and the relevant Labour Unions. The Governmental Labour Office will *not* start the above-mentioned proceedings for permission to fire layoff employees until one month after this information has been conveyed.

2. Are there any formal requirements for terminating an employee or groups of employees?

See answer above referring to the issuance of a permit by the Governmental Labour Office. Official notice for termination is to be given after permission of the Governmental Labour Office is received, to be sent by Registered Letter

3. Are there special legal requirements for a layoff caused by redundancy in the workforce?

No.

4. Are there employment laws that laid-off employees can use to challenge their inclusion in the layoff?

There are no special laws for this purpose. Any employee can challenge his inclusion in court (Subdistrict Court).

5. What sanctions or penalties may be imposed against employers for violating any of the requirements mentioned in Nos. 1-4 above?

They risk that the agreement is not terminated and thus, the continuation of their obligation to furnish wages.

6. What are the one or two most common mistakes that employers make that lead to liability for a layoff?

The most common mistake is not requesting a permit for a layoff.

7. What other employment issues are likely to arise from a layoff in your jurisdiction that you have not addressed in your answers to the previous questions?

There are a few Acts which are relevant for a layoff. First, the Adaptation of Working Hours Act (Wet Aanpassing Arbeidsduur) requires that an employee who has served at least for one year can request his employer adjust the working hours or days. The request may only be denied for good reasons which can be tried by the court. The Partial Unemployment Act (Wet deeltijd WW) creates the possibility for the employer in times of redundancy to ask for permission to partly terminate the agreement with (a group of his) employees. Under this Act, the employees will receive a benefit to compensate the income loss they suffer.

Apart from termination after a permit is received, it will be possible to ask the subdistrict court to dissolve the employment contract. Usually some compensation has to be paid. It is worth noting that this method is not often used for a mass layoff, though.

Lastly, Information by the Ministry of Social affairs and Employment has a lot of information about employment relations in the Netherlands in the English language can be found on the following webpage: http://english.szw.nl/index.cfm?rubriek_id=391970&hoofdmenu_item_id=14631.