

# Collective Labour Agreement for Temporary Agency Workers 2017-2019

*September 2019*



## Trade unions and the *Collective Labour Agreement for Temporary Agency Workers*

The terms of this *Collective Labour Agreement for Temporary Agency Workers* are negotiated between the employers' organisations and the trade unions. Temporary agency workers can also influence the *Collective Labour Agreement for Temporary Agency Workers* by joining a union. The trade unions negotiate on behalf of their members. The negotiators involve the members in the process of drawing up the *Collective Labour Agreement for Temporary Agency Workers*. Members have several opportunities to give their opinions. Ultimately, they are also the ones who vote on the result of the negotiations.

**Want to influence your *Collective Labour Agreement for Temporary Agency Workers*? Join a union!**

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### FNV Flex

FNV Flex works to protect the interests of flex workers, such as temporary agency workers. FNV Flex is part of the Netherlands Trade Union Confederation (FNV), the largest trade union federation in the Netherlands, with more than a million members. The FNV makes the Netherlands fairer and stronger, by supporting everyone who has a job, is job-seeking, wants a job or has had a job. For more information, visit [www.fnvflex.nl](http://www.fnvflex.nl).



### CNV Vakmensen

CNV Vakmensen stands up for your interests when it comes to work and income. We do this in every phase of your life; whether you are undergoing vocational training, working, looking for work or enjoying your retirement. As a member, you can count on personal and reliable advice, on professional legal assistance if you need it and on additional services such as help filling in your tax return. For more information visit [www.cnavkmensen.nl](http://www.cnavkmensen.nl) and [www.jeachterban.nl](http://www.jeachterban.nl).



### De Unie, in your best interest

De Unie is an independent trade union with a clear vision: well-being is the new wealth. Your happiness has to come first, also in your work life. With this goal in mind, we enter into agreements with employers and industry organisations. And we offer customised services, for you personally. Our specialists will support you in the areas of work, care, and income: from your very first holiday job through to your retirement. We will answer your questions, get to the bottom of your situation, and be there for you whenever you need help. Check [unie.nl](http://unie.nl) and become a member!



### LBV

LBV is the most innovative trade union that exists at present. LBV is certainly no newcomer to the world of trade unions, for it has already existed for 50 years. LBV also has more than 25 years of experience as a representative of temporary agency workers. LBV is a no-nonsense trade union that can help you with all your questions in the fields of work and income. As a member of LBV, you will have exclusive access to the benefits that LBV can offer you. Are you interested in a reliable and modern trade union? Then surf to: [www.lbv.nl](http://www.lbv.nl) or call **088-2663000**.



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## Collective Labour Agreement for Temporary Agency Workers

The undersigned, namely:

1. Algemene Bond Uitzendondernemingen (ABU – federation of private employment agencies), registered in Amsterdam, party of the one part,
2. a. FNV, registered in Amsterdam,  
b. CNV Vakmensen, registered in Utrecht,  
c. De Unie, trade union for industry and services, registered in Culemborg,  
d. LBV, registered in Rotterdam,  
each party of the other part,

whereas:

- in April 1996, the Joint Industrial Labour Council (*Stichting van de Arbeid*) presented its advisory report on flexibility and security, the *Policy Document on Flexibility and Security, publication number 2/96, 3 April 1996*, to the government. The advisory report described, amongst other things, the future employment law relationship between the private employment agency and temporary agency worker;
- CLA parties in the temporary agency work sector agreed on a covenant as part of the above advice in April 1996, in which agreements were concluded on the legal status, pension and training of temporary agency workers. The covenant should be seen in combination with that part of the advisory report of the Joint Industrial Labour Council concerned with the future employment law relationship between the temporary agency worker and private employment agency;
- following on from the advice of the Joint Industrial Labour Council, the Flexibility and Security Act was introduced on 1 January 1999;
- CLA parties agreed to a five-year CLA as of 1 January 1999, which implemented the agreements in the covenant mentioned above;
- the Joint Industrial Labour Council published the advice *Employment Conditions for Temporary Agency Workers, the relationship between CLAs for temporary agency workers and CLAs for hiring enterprises (Publication number 10/01)* in October 2001;
- CLA parties subsequently introduced the definition of the hirer's remuneration, among other things, in the *Collective Labour Agreement for Temporary Agency Workers*;
- the *Directive 2008/104/EG of the European Parliament and the Council of the European Union of 19 November 2008 on temporary agency work (OJEC 2008, L 327)* in 2012 led to a review of the wage ratio regulation and amendment of Article 8 of the Placement of Personnel by Intermediaries Act (WAADI) on 27 April 2012 (Bulletin of Acts and Decrees 173, 26 April 2012), which has been implemented in this CLA.
- the Work and Security Act will enter into force in phases commencing on 1 January 2015, 1 July 2015 and 1 January 2016;
- the hirer's remuneration must be applied from 30 March 2015 from the first day of the stay at the user company, except in the case of temporary agency workers belonging to a specific group, as agreed by the CLA parties on 12 July 2012 and 30 September 2014.

Agree:

on the *Collective Labour Agreement for Temporary Agency Workers*, consisting of articles, followed by appendices and protocols.

## Chapter 1 Definitions, scope, nature of the Collective Labour Agreement

### Article 1 Definitions

The following definitions apply in this Collective Labour Agreement:

- a. **ABU remuneration:** the remuneration that may apply for the temporary agency worker belonging to one of the specific groups described in article 27 of the CLA;
- b. **work and rest times:** the work and rest times in the meaning of the Working Hours Act;
- c. **prospective temporary agency worker:** the natural person registered by the private employment agency as possibly available for agency work;
- d. **CLA parties:** parties to the *Collective Labour Agreement for Temporary Agency Workers*, namely ABU, FNV, CNV Vakmensen, De Unie and LBV;
- e. **compensation hours:** time off or partial hours, not being holiday hours, awarded pursuant to article 49 of this Collective Labour Agreement. No (reserves for) holiday days, holiday allowance, short-term absence, special leave and public holidays are accrued on compensation hours and no waiting day compensation is owed;
- f. **the CLA:** this Collective Labour Agreement, including all appendices and protocols;
- g. **secondment agreement:** the agency work employment contract without agency clause in phase A, B or C;
- h. **actual wage:** the actual gross amount, excluding holiday allowance, bonuses, allowances, overtime, compensation hours, etc allocated on the basis of time, taking this CLA into account;
- i. **worked week:** each week in which agency work actually takes place;
- Until 2 September 2019, article 1(j) will read as follows:*  
j. **hirer's remuneration:** the rightful remuneration of an employee employed by the hiring company, working in an equal or similar job to that of the temporary agency worker. The hirer's remuneration comprises:

1. only the applicable period wage in the scale;
2. the applicable working hour's reduction per week/month/year/period. Compensation for this may be paid in time and/or money, as the private employment agency sees fit;
3. bonuses for overtime, shifted working hours, irregular hours (including public holiday bonus) and shift bonus;
4. initial wage increase, size and time as determined in the user company's organisation;
5. expence allowance (insofar as the private employment agency is permitted to pay the allowance exempt from wage tax and social security contributions: travelling expenses, pension costs and other costs that are necessary on account of performing the work);
6. period-linked salary amounts, size and time as determined in the hirer's organisation;

*As from 2 September 2019, article 1(j) will be replaced with:*

- j. **hirer's remuneration:** the rightful remuneration of an employee employed by the user company, working in an equal or similar job to that of the temporary agency worker. The hirer's remuneration comprises:



1. only the applicable period wage in the scale;
  2. the applicable working hours' reduction per week/month/year/period. Compensation for this may be paid in time and/or money, as the private employment agency sees fit;
  3. bonuses for overtime, shifted working hours, irregular hours (including public holiday bonus) and shift bonus and working in physically challenging conditions related to the work (including working in low or high temperatures, working with hazardous substances, or dirty work);
  4. initial wage increase, size and time as determined in the higher company's organisation;
  5. expense allowance (insofar as the private employment agency is permitted to pay the allowance exempt from wage tax and social security contributions: travel expenses, boarding house costs and other costs that are necessary on account of performing the work);
  6. period-linked salary amounts, size and time as determined in the user company's organisation;
- k. **registration**: the pre-contractual stage, which may precede the agency work employment contract, in which the temporary agency worker informs the private employment agency that he/she is possibly available for agency work and in which the private employment agency informs the prospective temporary agency worker that it will designate him/her as a possible candidate for future placement;
- l. **payslip**: a written or electronic statement as meant in Section 7:626 Netherlands Civil Code, in accordance with q. of this article;
- m. **assignment**: the agreement between the user company and employment agency, which means that a temporary agency worker is made available to the user company;
- n. **user company**: the third party to whom a temporary agency worker is made available by an employment agency;
- o. **successive employership**: the situation where the temporary agency worker is successively employed by various employers who must reasonably be deemed to be each other's successors due to the work carried out;
- p. **school pupil**: a temporary agency worker undergoing vocational training in relation to the Secondary Education Act (WVO);
- q. **written/in writing**: put down in writing or made available via e-mail or by means of a personalised, secure portal, unless explicitly determined otherwise in this CLA.  
If a personalised, secure portal is used, the temporary agency worker must be able to download the documents made available on it. Furthermore, the temporary agency worker must be informed at least one month in advance of the closure of the portal or the removal of the documents made available on it;
- r. **student**: a temporary agency worker undergoing higher vocational training or university education within the meaning of the Higher and University Education Act (WHW);
- s. **availability**: the temporary agency worker's employment with the user company;
- t. **reversion wage**: 90% of the actual wage in the most recently ended placement, but at least the statutory minimum wage;
- u. **temporary agency work**: the work performed by the temporary agency worker pursuant to the agency work employment contract;

- v. **agency clause:** the condition in the agency work employment contract that stipulates that the agency work employment contract will end by operation of law in the event of the private employment agency's placement of the temporary agency worker with the user company ending at the user company's request (see Section 7:691, subsection 2, of the Netherlands Civil Code);
- w. **temporary agency worker:** the natural person who concludes an agency work employment contract with the private employment agency;
- x. **private employment agency:** the natural person or legal entity that places temporary agency workers at the disposal of (deploys with) user companies;
- y. **agency work employment contract:** the employment contract as meant in Section 7:690 Netherlands Civil Code by means of which one party, the employer, places the other party, the employee, at the disposal of a third party, within the scope of operating the employer's profession or business, to perform work under the third party's supervision and management, pursuant to a contract for professional services, which the third party has concluded with the employer;
- z. **holiday workers:** school pupils, students and other persons following a study programme (including temporary agency workers undertaking a work-and-learn training course (Dual system)), who perform work on a temporary basis during the (summer) holidays of their educational institution and who do not continue to perform work afterwards in the service of the private employment agency;
- aa. **length of stay:** the entire period that a temporary agency worker works for a user company, commencing on the first day of the work for the user company concerned, regardless of the nature of the work and the contract for professional services;
- ab. **waiting day compensation:** the allowance in the form of an increase on top of the actual wage, which has to be allocated on the grounds of article 53(4) of this CLA, in the cases stated in that paragraph;
- ac. **week:** the week begins on Monday at 0:00 and ends on Sunday at 24:00;
- ad. **employers' organisations:** the employers' organisations named in the introduction to this agreement as parties of the other part;
- ae. **employment conditions regulations (AVR):** regulations applying at the client with regard to remuneration and/or other employment conditions, not being a collective labour agreement (CLA) pursuant to the Collective Labour Agreements Act.

## Article 2 Scope

1. This CLA applies to agency work employment contracts between temporary agency workers and a private employment agency, if and insofar as the sum of the agency work wage and salary bill is at least 50% of that private employment agency's total annual wage and salary bill on which social security contributions are due, excluding dispensation on the grounds of article 4 of this CLA.
2. This CLA does not apply to employers who are admitted as members to the Dutch Association of Intermediary Organisations and Temporary Employment Agencies (NBBU). The NBBU's website lists an overview of these members.
3. This CLA does not apply to private employment agencies covered by the scope described in another sector's CLA, unless the private employment agency concerned meets the cumulative requirements stipulated in paragraph 4.

4. Notwithstanding the provisions of paragraph 3 this CLA shall continue to apply to private employment agencies that meet the following cumulative requirements:
  - a. The business activities of the private employment agency consist entirely of placing workers, as referred to in Section 7:690 of the Netherlands Civil Code; and
  - b. The workers (temporary agency workers) of that employer are for at least 25% of the wage and salary bill, or at least of the relevant quantitative criterion (such as working hours) in the CLA concerned, involved in work carried out in some branch of business other than that described in the scope of that other CLA; and
  - c. The employer deploys workers for at least 15% of the total annual wage and salary bill on which social security contributions are due, on the basis of agency work employment contracts with the agency clause referred to in Section 7:691, subsection 2, of the Netherlands Civil Code, as further defined in Annex 1 belonging to Article 5.1 of the *Regulation of the Minister of Social Affairs and Employment and the State Secretary of Finance of 2 December 2005, the Directorate of Social Insurance Schemes, No. SV/FQW/05/96420 in implementation of the Social Insurance (Funding) Act (Wet financiering sociale verzekeringen - the 'Wfsv Regulation')* published in the Government Gazette, number 242 of 13 December 2005. From the date of this decree coming into force, the private employment agency shall be deemed to have fulfilled this criterion, if and insofar as that fulfilment has been determined by the implementing body; and
  - d. The private employment agency is not part of a group that is linked directly or through a general binding statement to the other CLA in question; and
  - e. The private employment agency is not a jointly agreed labour pool.

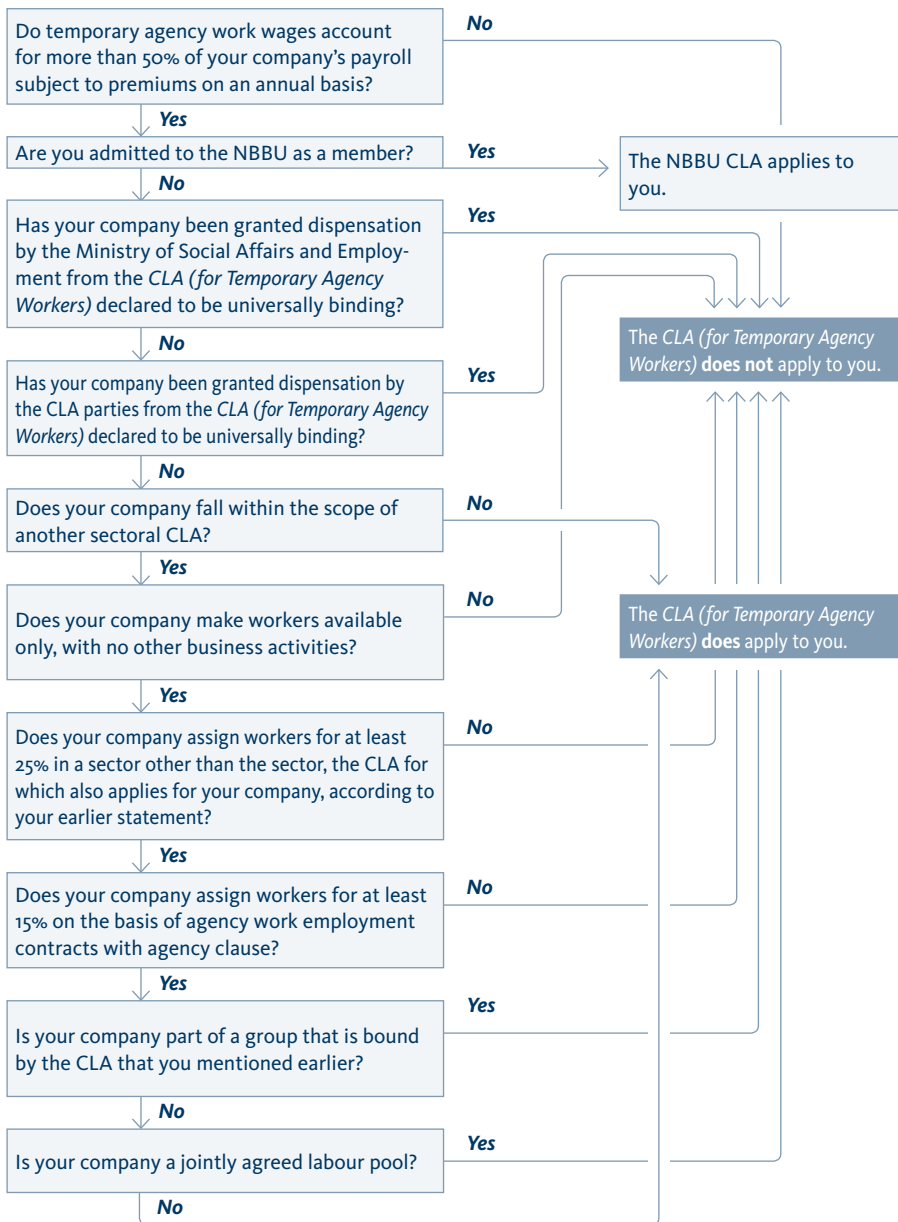
*Notes:*

*Temporary agency workers are employees of the private employment agency and are normally subject to the CLA (for Temporary Agency Workers) to which the private employment agency is subject, either directly or through a declaration that the CLA is universally binding. However, in some cases, private employment agencies are subject to different CLAs. Confusion may then arise about which CLA applies.*

*In order to solve this, the Joint Industrial Labour Council has published a recommendation\*. On the basis of this recommendation, adequate definition and regulation of CLA regulations that apply to temporary agency workers and private employment agencies can take place. Among other things, the recommendation means that a mirror provision of the scope provision in article 2 of the CLA is included in the sectoral CLAs.*

\* *Joint Industrial Labour Council; Working Conditions of temporary agency workers. The relationship between CLAs for temporary agency workers and CLAs of user companies; 17 October 2001; publication No. 10/01.*

**Does the CLA apply to your business? (chart)**  
**No rights can be derived from this chart.**



NB A different regulation applies for private employment agencies active in the construction industry. See article 51 of the CLA.

### Article 3 **Duration**

This CLA is effective from 1 September 2019 up to and including 29 December 2019.

### Article 4 **Dispensation**

1. At the request of parties to another CLA, the CLA parties may grant dispensation in respect of the application of (the provisions of) this CLA, subject to conditions to be set by the CLA parties, which are included in Appendix IX of this CLA. The SNCU's (Foundation for monitoring compliance with the Collective Labour Agreement for Temporary Agency Workers) confirmation of the fulfilment of the CLA (provision) for which dispensation has been requested shall be a precondition for dispensation.
2. A written request stating the reasons for dispensation in respect of (the provisions of) this CLA should be submitted to the Dispensation Committee, at the following address: PO Box 144, 1170 AC Badhoevedorp, or [dispensatiecommissie@abu.nl](mailto:dispensatiecommissie@abu.nl). In this article, written means: 'sent by letter or by e-mail'.
3. The Dispensation Committee decides on behalf of the CLA parties on a dispensation request.

## Chapter 2 **General obligations of the employer and employee**

### Article 5 **Registration**

1. The private employment agency registers natural persons as prospective temporary agency workers.
2. By registering, prospective temporary agency workers indicate to the private employment agency that they are possibly available for agency work and the private employment agency indicates to the prospective temporary agency workers that it considers them to be possible candidates for future placements.
3. Registration does not oblige the private employment agency to offer agency work. Registration does not oblige prospective temporary agency workers to accept any offer of agency work.
4. The prospective temporary agency worker shall provide information about his employment history upon registering\*.
5. Upon termination of the agency work employment contract temporary agency workers continue to be registered with the private employment agency unless the (prospective) temporary agency worker requests that the registration be terminated.

\* *In the CLA, persons are always referred to in the masculine form. This is purely for stylistic reasons.*

### Article 5a **Availability and exclusiveness**

1. The temporary agency worker is free to accept work elsewhere, unless the temporary agency worker has stated that he or she works for the agency, with clear agreements on the days, the (expected) times and (expected) number of hours of work.
2. A temporary agency worker with an agency work employment contract with a continued salary payment obligation (as referred to in Chapter 4, paragraph 4(a) of this CLA) may change the

availability stated on commencement of the agency work employment contract by agreement with the private employment agency. The altered availability must always remain sufficient to enable the private employment agency to make the temporary agency worker available for the agreed working hours for which the continued payment of salary obligation applies. The requested availability must be in reasonable proportion to the agreed working hours for which the continued payment of salary obligation applies, with regard to the (number of) days, the time(s) and the number of hours and with regard to their spread.

#### Article 6 **Conditions of deployment**

1. Before signing the agency work employment contract, the private employment agency gives the temporary agency worker a written copy of the *Collective Labour Agreement for Temporary Agency Workers*. On request the temporary agency worker shall receive a printed version of the CLA.
2. Upon concluding the agency work employment contract, the private employment agency and the temporary agency worker enter into written agreements about the job, working hours and payment, taking this CLA into account.
3. Departures from the *Collective Labour Agreement for Temporary Agency Workers* and the appendices are only permissible:
  - a. insofar as this benefits the temporary agency worker; and
  - b. provided the departure is agreed on in writing when the agency work employment contract is concluded between the private employment agency and temporary agency worker.
4. If requested the temporary agency worker must identify himself to both the private employment agency and the user company.

#### Article 7 **Disclosure of previous employment on offer of agency work**

##### *Successive employership*

1. Every offer the private employment agency makes to the temporary agency worker concerning agency work shall be made subject to the condition set forth in (3).
2. If requested by the private employment agency, prospective temporary agency workers shall be obliged to provide the private employment agency with information on their employment history and the transition allowance paid to them before accepting the agency work offered.
3. If on the grounds of the information referred to in paragraph 2 of this article, the private employment agency could be considered as a successive employer, the private employment agency shall be entitled to withdraw the offer before the agency work commences.
4. The provisions of the Netherlands Civil Code and article 17 of the CLA regarding successive employers do not apply to a private employment agency that could not have foreseen the applicability of those provisions as a result of a temporary agency worker's conscious or otherwise culpable provision of incorrect or incomplete employment history information.

##### *Pension*

5. If a prospective temporary agency worker is offered agency work, and if asked, he is required to report before the acceptance thereof to the private employment agency whether he has met the requirements of participation in the pension as set out in Appendix III.

#### Article 8 **Statement of accumulated rights**

At the request of a temporary agency worker who terminates agency work and deregisters as a prospective temporary agency worker, the private employment agency shall provide a statement of the rights which the temporary agency worker has accumulated in the system of phases; this shall include a statement that the pension participation requirements stipulated in Appendix III have been met if applicable.

#### Article 9 **Relationship between temporary agency worker/user company/employment agency**

1. The temporary agency worker performs his work pursuant to the agency work employment contract with the private employment agency under the user company's supervision and management.
2. The temporary agency worker must comply with reasonable regulations of the private employment agency and user company concerning the performance of this work.
3. The private employment agency must stipulate that the user company shows the same due care in the supervision and management of the temporary agency worker as that shown to the user company's own employees.

#### 4. *Equal treatment*

On the basis of the constitutional principle that everyone in the Netherlands shall be treated equally in similar circumstances, private employment agencies reject discrimination on the grounds of religion, life philosophy, political persuasion, race, gender, nationality, heterosexual or homosexual orientation, marital status, disability, chronic illness or age.

#### Article 10 **Rules of conduct and sanctions**

1. The temporary agency worker must comply with the approved official regulations and rules of conduct of both the user company and private employment agency.
2. The following sanctions, possibly combined, shall apply in the case of undesirable behaviour, irregularities or breaches of the rules of conduct, procedures or instructions on the part of the temporary agency worker, in accordance with the nature and circumstances of the breach in question:
  - a. reprimand;
  - b. suspension, possibly without pay<sup>21</sup>; and/or
  - c. dismissal (with immediate effect if necessary).
3. Suspension with pay stoppage<sup>21</sup> shall be possible in any case if the temporary agency worker may reasonably be deemed to have failed to fulfil his obligations, according to objective criteria, and the failure results in the termination of the placement.
4. In the event of the private employment agency imposing sanctions, as referred to in (2) under a. and b. of this article, the temporary agency worker may appeal to the Disputes Committee for the Temporary Agency Work Sector, as referred to in article 70 of this CLA. In this case accelerated proceedings may take place.<sup>22</sup>
5. The temporary agency worker can request written rehabilitation in these proceedings. In this article, written means: 'sent by letter'.

<sup>1</sup> This is contrary to Section 7:628 of the Netherlands Civil Code, insofar as applicable.

<sup>2</sup> The form and explanation you must submit in connection with the accelerated proceedings before the Disputes Committee for the Temporary Agency Work Sector can be downloaded from the ABU website.

#### Article 11 **Time registration**

1. At the commencement of each placement the private employment agency informs the temporary agency worker how the temporary agency worker should account for the hours he has worked. The time registration is done in writing.
2. The temporary agency worker shall complete the time registration form at the end of each week, indicating the number of normal, bonus and/or overtime hours he has worked in that week. The time registration form shall then be submitted to the user company for approval. The time registration form approved by the user company is then handed in immediately to the private employment agency.
3. If the time registration takes place using a time registration system used by the user company, the private employment agency ensures that the temporary agency worker is given it to inspect and can receive a copy. In the event of a dispute about the time registration form, the private employment agency shall bear the burden of proof with regard to the number of hours the temporary agency worker has worked.

### Chapter 3 **Legal status**

#### Article 12 **Commencement and nature of the agency work employment contract**

1. *Commencement of the agency work employment contract*

Unless agreed otherwise in the agency work employment contract, the agency work employment contract shall be deemed to have been concluded on the date on which the temporary agency worker actually commences the agreed work.

2. *Nature of the agency work employment contract*

Two forms of agency work employment contract may be concluded:

- a. the agency work employment contract with agency clause.

An agency work employment contract with agency clause may be concluded for the duration of the placement and no longer than until the end of phase;

- b. the secondment agreement.

A secondment agreement can be entered into for a fixed period or indefinitely.

#### Article 13 **Deployment phases**

1. *Phase A*

- a. Temporary agency workers work in phase A for as long as they have not worked more than 78 weeks for the same private employment agency.

- b. Phase A lasts 78 worked weeks. Temporary agency workers do not work in phase B (see paragraph (2) of this article below) if they have not worked more than 78 weeks for the same private employment agency.



- c. In phase A, temporary agency workers always work on the basis of an agency work employment contract with agency clause, unless a secondment agreement has been expressly concluded.
- d. The 78 weeks in phase A continue to be counted (only the worked weeks are counted), for as long as there is no interruption of more than six months between two agency work employment contracts. If there is an interruption of more than six months, counting starts again.

## 2. *Phase B*

- a. Temporary agency workers work in phase B once the agency work employment contract is continued after phase A or if a new agency work employment contract is concluded within six months of the completion of phase A with the same private employment agency.
- b. Phase B lasts for a maximum of four years. Temporary agency workers do not work in phase C (see paragraph 3 of this article below) if they have not worked more than four years in phase B and/or no more than six secondment agreements for a fixed period have been concluded with the same private employment agency in phase B.
- c. In phase B, temporary agency workers always work on the basis of a secondment agreement for a fixed period, unless a secondment agreement is expressly concluded for an indefinite period.
- d. The four year period and the six secondment agreements (as referred to under b.) continue to be counted for as long as there is no interruption of more than six months between two secondment agreements. In that case, the interruption is counted. If there is an interruption between two secondment agreements of more than six months, the counting of phase A starts again.
- e. Pursuant to Section 7:668a(9) of the Netherlands Civil Code, and by way of derogation from the provisions of b. of this paragraph, a secondment agreement that is concluded exclusively and predominantly for the training of the temporary agency worker is no longer included in the count of six secondment agreements and/or the four-year period, to the extent that this is necessary in order to complete the training. Temporary agency workers who are receiving training for BKA (occupational qualification as assistant) level 1 are subject to the condition that this BKA course is included on the list of STOOFF as provided in article 27(1) under bullet point 6. The working conditions applying for temporary agency workers in phase B remain in effect in full. The count for pension purposes also continues.
- f. Pursuant to Section 7:668a(10) of the Netherlands Civil Code, and by way of derogation from the provisions of b. of this paragraph, a secondment agreement that is concluded in connection with BBL (Dual system), within the meaning of Article 7.2.2. of the Vocational Training Act, is not included in the count of six secondment agreements and/or the period of four years. The working conditions applying for a temporary agency worker in phase B remain in effect in full. The count for pension purposes also continues.
- g. Pursuant to Section 7:668a(11) of the Netherlands Civil Code, and by way of derogation from the provisions of b. of this paragraph, a secondment agreement with a temporary agency worker who has not yet reached the age of eighteen is not included in the count of six secondment agreements and/or the period of four years, if the average amount of the

work that he performs does not exceed twelve hours per week. The average of no more than twelve hours per week is calculated over the term of the entire secondment agreement. When the temporary agency worker reaches the age of eighteen, the current secondment agreement is included from that time in the count of six secondment agreements and/or the period of four years.

The employment conditions applying for a temporary agency worker in phase B remain in effect in full. The count for pension purposes also continues.

h. *Transitional scheme phase B*

The seventh or eighth fixed-term secondment agreement of a temporary agency worker in phase B that is concluded before 1 July 2015 is terminated by law on the date shown in that secondment agreement, provided that this date precedes 1 July 2016.

i. *Temporary agency workers who have reached pensionable age pursuant to the General Old Age Pensions Act (AOW).*

In determining whether the four-year period referred to in this paragraph or the number of six secondment agreements has been exceeded, for the temporary agency worker who has reached the pensionable age pursuant to the AOW and continues to work beyond that age only the secondment agreements which were entered into after reaching the pensionable age pursuant to the AOW are counted.\*

3. *Phase C*

a. Temporary agency workers work in phase C once the secondment agreement is continued after completion of phase B, or if a new secondment agreement is concluded within six months of the completion of phase B with the same private employment agency.

b. In phase C temporary agency workers always work on the basis of a secondment agreement for an indefinite period.

c. After the expiry of a secondment agreement for an indefinite period, if the work is interrupted for a period of six months or less, the counting of phase B starts again. If there is an interruption of more than six months, the counting of phase A starts again.

d. If a secondment agreement concluded for an indefinite period and terminated other than by a legally valid notice is extended one or more times after an interruption of no more than six months, advance notice shall be required for the termination of that last secondment agreement. 'Legally valid notice' is deemed to have the meaning laid down in article 17(4).

4. The count in the phases continues in the event the temporary agency worker transfer to and is employed at another private employment agency within the same group, unless the new private employment agency demonstrates on the basis of the registration, job application or other facts and circumstances that this occurred at the initiative of the temporary agency worker. The term group is defined as referred to in Article 2:24b DCC.

\* *In principle, the secondment agreement for a definite period terminates by operation of law on the date on which the temporary agency worker reaches the pensionable age pursuant to the AOW. The private employment agency and the temporary agency worker can explicitly deviate from this and*

*agree that the temporary agency worker will continue working beyond the pensionable age pursuant to the AOW. In that case, the provisions in this paragraph apply. This means that for this temporary agency worker, the only secondment agreements which count towards the four-year period or the number of six are those which were entered into after the temporary agency worker reached the pensionable age pursuant to the AOW.*

#### Article 13a **Short-term secondment agreements**

1. Secondment agreements concluded for a term of one (working) day that, except in the case of termination, are then (continually) renewed immediately for the same term, are deemed to have been concluded for at least three hours of temporary agency work per (working) day from the first renewal. In that case, the temporary agency worker at least has the right to remuneration for the amount of three times the actual hourly wage per (working) day from the first renewal.
2. Paragraph 1 of this article does not apply to school pupils, students and holiday workers.
3. Paragraph 1 of this article also does not apply to (temporary agency) work that, by its intrinsic nature, lasts for less than three (successive) hours.<sup>\*1</sup>
4. For secondment agreements concluded for the term of one (working) week that, except in the case of termination, are then (continually) renewed for the same term and are applied at the same user company for which the same or virtually the same work can reasonably be deemed to be performed, after 26 weeks have been worked, the minimum scope of the following (renewed) secondment agreement must be equal to the average scope of the (temporary agency) work per week in the first 26 weeks worked.
5. Paragraph 4 of this article does not apply to school pupils, students and holiday workers.
6. Paragraph 4 of this article also does not apply to (temporary agency) work that, by its intrinsic nature has a changing or smaller scope than the average scope of the (temporary agency) work per week in the past 26 weeks worked. If the intrinsic nature of the (temporary agency) work entails a changing or small scope, a match with the average scope of the temporary agency work in the first 26 weeks worked will be sought as far as possible.<sup>\*2</sup>

<sup>\*1</sup> *Example:*

*The temporary agency worker works as a school lunch supervisor. He works each day between 12.00 and 1.15 p.m. In this case, the work is not fixed at no less than three hours per (working) day, because this is contrary to the nature of the work.*

*The temporary agency worker works as an adult education instructor and works on working days between 8.00 p.m. and 10.00 p.m. In this case too, the work is not fixed at no less than three hours per (working) day, because this is contrary to the nature of the work.*

<sup>\*2</sup> *Example:*

*The temporary agency worker works as a watchman in a museum. He has shifts of four hours. This means that the temporary agency worker works in time periods of four hours. If the average amount of the temporary agency work per week is calculated over the past 26 weeks, this may result in working hours that are not consistent with the time periods of four hours to be worked. The average working hours may*

*amount to ten hours, for example. In determining the amount of the (temporary agency) work, working hours are determined that match the time periods of four hours to be worked. In this case, this means that the working hours are fixed at no less than eight hours and no more than twelve hours.*

**Article 14 Termination of agency work employment contract with agency clause**

1. In the case of an agency work employment contract with agency clause, the temporary agency worker shall be permitted to terminate the agency work employment contract prematurely with immediate effect. At least one working day beforehand, the temporary agency worker shall be obliged to notify the private employment agency of any intention to terminate the contract prematurely, so that the private employment agency can arrange a replacement for the user company.
2. In the case of an agency work employment contract with agency clause, the private employment agency shall notify the temporary agency worker in good time about the approaching expiry of the agency work employment contract, so that the temporary agency worker can make preparations, taking into account the following period of notice:

Duration of placement in worked weeks	Period of notice in calendar days
0 to 12 weeks	0
12 to 26 weeks	5
26 to 52 weeks	10
52 up to and including 78 weeks	14

3. If the private employment agency fails to take into account the (full) period of notice referred to in paragraph 2, it shall be obliged to pay the temporary agency worker an allowance equal to what the temporary agency worker would have earned during that part of the period of notice that was not taken into account. The private employment agency shall be exempt from this obligation if and insofar as it offers the temporary agency worker appropriate work (as determined in article 44 of the CLA) during that part of the period. The private employment agency shall also be exempt from this obligation if and insofar as the temporary agency worker does not accept the suitable work that is offered.
4. Contrary to the provisions of paragraph 2, taking a period of notice into account shall not be required if the employee is incapable for work. In the event of incapacity for work, an agency work employment contract with agency clause shall be deemed to have been terminated at the user company's request, with immediate effect, directly after receipt of the notification referred to in article 53(1) of this CLA.
5. Unless the (prospective) temporary agency worker terminates the registration with the private employment agency, the termination of the agency work employment contract in one of the ways referred to in the preceding paragraphs of this article shall result in a return to the situation referred to in article 5, paragraphs 2, 3 and 4 of this CLA.
6. Any agency work employment contract with agency clause ends by law on the day on which the temporary agency worker reaches the age on which he becomes entitled to state pension (AOW), unless this is expressly departed from in the individual employment contract.

## Article 15 Termination of the secondment agreement

1. A secondment agreement concluded for a fixed period may always be prematurely terminated by the temporary agency worker or the private employment agency as of the next working day, taking into account the terms of notice stipulated here below in (2), unless the possibility of premature termination is expressly excluded in writing in the secondment agreement. Premature termination may only be excluded if the secondment agreement was concluded for three months or longer.
2. a. For the temporary agency worker, the terms of notice referred to in (1) of this article are:
  - in the case of a secondment agreement for a fixed period of up to three months or less: seven calendar days;
  - in the case of a secondment agreement for a fixed period in which the end has not been set on a calendar date and the contract has not yet lasted three months: seven calendar days;
  - in the case of a secondment agreement for a fixed period of more than three months but less than six months: fourteen calendar days;
  - in the case of a secondment agreement for a fixed period in which the end has not been set on a calendar date and the contract has lasted more than three months but less than six months: fourteen calendar days;
  - in the case of a secondment agreement for a fixed period of six months or longer: 28 calendar days;
  - in the case of a secondment agreement for a fixed period in which the end has not been set on a calendar date and the contract has already existed for six months or longer: 28 calendar days.
- b. The term of notice referred to in(1) of this article is one month for the private employment agency.
3. Contrary to the provisions of paragraphs 1 and 2 of this article, each secondment agreement that is concluded for a fixed period under the condition that excludes the continued payment of wages obligation, may be terminated prematurely with immediate effect by either party if the private employment agency invokes the said condition. In that case, the temporary agency worker may terminate the contract immediately, whereas the private employment agency must give three months' notice.
4. A secondment agreement that has been concluded for an indefinite period may be terminated at any time by the temporary agency worker or the private employment agency as of the next working day, taking into account a term of notice of one month, unless a different term of notice is stated in the agency work employment contract. If a longer term of notice is agreed on in the agency work employment contract, that term of notice shall apply to both the temporary agency worker and the private employment agency.
5. Any secondment agreement for a fixed period or indefinite period ends by law on the day on which the temporary agency worker reaches the age on which he becomes entitled to state pension (AOW), unless this is expressly departed from in the individual secondment agreement.

## Article 15a Transitional allowance

1. The provisions of the Netherlands Civil Code concerning the transitional allowance also apply for

private employment agencies, in observance of the provisions of this article.

2. The private employment agency in any event owes the temporary agency worker a transitional allowance at the end of an agency work employment contract that has lasted for at least 24 months if the agency work employment contract:
  - is cancelled by the private employment agency;
  - is dissolved at the request of the private employment agency;
  - is not continued, at the initiative of the private employment agency, following its termination by operation of law;
  - is cancelled by the temporary agency worker as a result of serious attributable action or negligence on the part of the private employment agency;
  - is dissolved at the request of the temporary agency worker as a result of serious attributable action or negligence on the part of the private employment agency; or
  - is not continued, at the initiative of the temporary agency worker, following its termination by operation of law as a result of serious attributable action or negligence on the part of the private employment agency.
3. The private employment agency in any event does not owe the temporary agency worker a transitional allowance at the end of an agency work employment contract that has lasted for at least 24 months if the agency work employment contract:
  - is cancelled by the temporary agency worker, other than as a result of serious attributable action or negligence on the part of the private employment agency;
  - is dissolved at the request of the temporary agency worker, other than as a result of serious attributable action or negligence on the part of the private employment agency;
  - is not continued, at the initiative of the temporary agency worker, following its termination by operation of law, other than as a result of serious attributable action or negligence on the part of the private employment agency;
  - is terminated or is not continued because the temporary agency worker concludes an employment contract, subcontracting agreement and/or an agreement for the provision of services with the user company to which he was last assigned;<sup>1</sup>
  - is terminated or is not continued, because the temporary agency worker, after a placement by another private employment agency with the user company at which he was last employed, is made available for the same work;<sup>2</sup>
  - is terminated or is not continued before the temporary agency worker reaches the age of eighteen and the average amount of the work was no more than twelve hours per week;
  - is terminated or is not continued in connection with the temporary agency worker reaching the age at which he is entitled to the state pension or another age at which pension rights arise for the temporary agency worker; or
  - is terminated or is not continued as a result of serious attributable action or negligence on the part of the temporary agency worker.
4. For the determination of whether the agency work employment contract has lasted for at least 24 months:
  - a. months in which the average amount of the work performed by the temporary agency worker did not exceed twelve hours per week before the temporary agency worker reached

- the age of eighteen are not counted; and
- b. one or more prior agency work employment contracts between the same private employment agency and temporary agency worker that succeeded each other with intervals of no more than six months, are added together.<sup>3</sup> The preceding sentence also applies if the temporary agency worker was successively assigned to different employers who, regardless of whether there is an insight into the capacity and suitability of the temporary agency worker, must reasonably be deemed to be each other's successors in relation to the work performed.
5. If, in the situation referred to in paragraph (4)(b) (concerning successive employership), a transitional allowance was already paid on termination of a previous (agency work) employment contract, this will be deducted from the transitional allowance owed by the private employment agency as a successive employer.

<sup>1</sup> *This is regarded as a termination at the initiative of the temporary agency worker. See the Notes in response to the Report, Parliamentary Documents II 2013/14, 33 818, No. 7.*

<sup>2</sup> *This is regarded as a termination at the initiative of the temporary agency worker. See the Memorandum of Reply, Parliamentary Documents II 2013/2014, 33 818, No. C.*

<sup>3</sup> *The intervals are not counted in the determination of whether the agency work employment contract has lasted for at least 24 months.*

#### Article 16 **Trial periods**

1. A secondment agreement may only include a trial period clause if and insofar as the contract is concluded for a period of more than six months. In that case, the maximum trial period laid down by law shall apply.
2. If the private employment agency and the temporary agency worker conclude or have concluded more than one secondment agreement, no further trial period may be stipulated in a subsequent secondment agreement. As an exception to this, a trial period may be agreed if the secondment agreement is concluded for more than six months and the work performed by the temporary agency worker clearly requires the employee to have different skills or take on different responsibilities. This refers to skills and responsibilities into which the private employment agency cannot reasonably be expected to have acquired sufficient insight during the preceding agency work employment contract(s).

#### *Explanation:*

*The statutory regulation on trial periods in Section 7:652 of the Netherlands Civil Code reads as follows:*

1. *If the parties agree on a trial period, it must be the same for both parties.*
2. *The trial period must be agreed in writing.*
3. *Upon commencement of an agency work employment contract for an indefinite period, a trial period may be agreed on of up to two months.*
4. *No trial period may be agreed if the employment contract is concluded for up to six months.*
5. *On conclusion of a fixed-term employment contract for more than six months, a maximum trial period may be agreed of:*
  - a. *one month, if the contract is concluded for less than two years;*

- b. *two months, if the contract is concluded for two years or more.*
- 6. *If the end of a contract for a fixed period is not fixed on a calendar date, a trial period may be agreed on of up to one month.*
- 7. *Departures from subsections 5 under a. and 6 to the employee's detriment may only be made by means of a collective labour agreement or by means of arrangements made by or on behalf of a competent administrative body.*
- 8. *Every stipulation in which a trial period is agreed is void if:*
  - a. *the trial period is not the same for both parties;*
  - b. *the trial period, other than by means of a collective labour agreement or by means of arrangements made by or on behalf of a competent administrative body, as referred to in subsection 5 under a, is set at more than one month;*
  - c. *the trial period is set at more than two months;*
  - d. *the stipulation is included in a successive employment contract between an employee and the same employer, unless that agreement clearly requires different skills or responsibilities of the employee from those of the previous employment contract;*
  - e. *the stipulation is included in a successive employment contract between an employee and a different employer who must reasonably be regarded as the successor of the previous employer in relation to the work performed; or*
  - f. *the stipulation is included in an employment contract concluded for a maximum of six months.*

#### **Article 17 Successive employership, legal status and remuneration**

1. The private employment agency that is a successive employer must take the temporary agency worker's relevant employment history at the previous employer(s) into account when determining the temporary agency worker's legal status. Relevant employment history is defined as the number of weeks / length of the period in which the temporary agency worker performed what can reasonably be deemed the same or virtually the same work at the previous employer.
2. In any case, the successive employership shall not be deemed to apply if the interruption between the two employment and/or agency work employment contracts has lasted for more than six months.
3. The relevant employment history built up by the temporary agency worker at the previous employer(s) must, in the case of successive employership, be fit in with the phase system as included in the CLA. The counting of periods worked and employment and/or agency work employment contracts starts at the beginning of phase A.<sup>1</sup>
4. If the private employment agency must be deemed a successive employer and the temporary agency worker worked for the previous employer(s) on the basis of an employment and/or agency work employment contract for an indefinite period, which contract is lawfully terminated, contrary to the previous paragraph, it applies that the relevant employment history at the previous employer(s) does not count towards the determination of the temporary agency worker's legal position at the private employment agency, on the understanding that:
  - the temporary agency worker starts in phase A if his relevant employment history at the previous employer(s) amounts to less than 78 weeks worked, whereby the relevant employment history is deducted from the total duration of phase A;



- the temporary agency worker starts at the beginning of phase B if his relevant employment history at the previous employer(s) amounts to 78 weeks or more worked.

For the purpose of this paragraph, valid termination is defined as:

- cancellation of the employment contract by the (previous) employer with the permission of the Public Employment Services;
- immediate cancellation by the (previous) employer on account of urgent cause;
- dissolution of the employment contract by the court;
- cancellation by the (previous) employer during the probationary period;
- termination of the employment contract on grounds of a clause to that effect or by cancellation on grounds of the temporary agency worker reaching the pensionable age pursuant to the AOW;
- cancellation by the receiver in the sense of section 40 of the Bankruptcy Act.

For the purposes of this paragraph, 'lawful termination' does not refer to:

- termination by mutual consent; or
- cancellation by the temporary agency worker.

5. *Temporary agency workers who have reached pensionable age pursuant to the General Old Age Pensions Act (AOW)*<sup>2</sup>

In the event of successive employership for a temporary agency worker who has reached the pensionable age pursuant to the AOW, in deviation from paragraphs 3 and 4 of this article, the temporary agency worker starts in Phase A, whereby the relevant employment history is deducted from the total duration of Phase A, on the understanding that there are always at least 52 weeks remaining in Phase A.

In determining the relevant employment history, only the employment contracts/agency work employment contracts entered into after reaching the pensionable age pursuant to the AOW are counted.

6. A private employment agency who hires out a temporary agency worker who was previously hired out by another company shall, in the classification in the job system, take into account the job grade acquired at this other company insofar as possible. With regard to the temporary agency worker who performs temporary agency work for a private employment agency, which must be seen as successive employer pursuant to the law and the CLA, it applies that the accrual of rights in accordance with the remuneration scheme of the CLA will be continued by this private employment agency.
7. In the event the temporary agency worker transfers to another private employment agency in order to be able to continue his or her activities for the same user company, the legal position of the temporary agency worker will be equal to his or her legal position at the previous private employment agency such in derogation from paragraph 3. The new private employment agency also determines at the moment of transfer the remuneration in accordance with the previous scale, which will take account of the period-linked salary amounts.

*Explanation:*

<sup>2</sup> *With regard to the successive employership referred to in this article, only the number of weeks/the period is counted in which the work performed may reasonably be deemed to have been the same or*

*practically the same. Therefore, the duration of the preceding contract is not actually relevant.*

*Successive employership applies if an employee first performs work for a regular employer and then performs the same or practically the same work pursuant to an agency work employment contract with a private employment agency whereby the previous employer now hires this employee. Except in the case of failing to provide employment history details to the private employment agency (see article 7 of this CLA), the temporary agency worker's period of work with the previous employer (now the user company) shall be counted and continued in the system of phases with the new employer (the private employment agency). The period already worked shall be incorporated in the system of phases (see article 13 of this CLA). In the event of for example, having performed practically the same work for two years for the previous employer, the temporary agency worker will be in phase B at the time of going to work for the private employment agency. In principle, five contracts will still remain in phase B for a maximum period of three and a half years.*

*Successive employership also applies if an employee first performs work for a private employment agency and works for a particular hiring company, and then performs the same or practically the same work for the same user company but through a different private employment agency. Except in the case of failing to provide employment history details to the private employment agency (see article 7 of this CLA), the temporary agency worker's period of work for this user company through the previous private employment agency shall be counted and continued with the new private employment agency. In the event of, for example, having performed practically the same work for five weeks for this user company, the temporary agency worker will be in phase A at the time of continuing to work through the other private employment agency regardless of the phase the temporary agency worker was in with the previous private employment agency. The type of work performed is the essential issue in successive employership and not the legal status that has been accumulated with the previous private employment agency. 73 Weeks still remain of phase A.*

<sup>2</sup> *Examples for temporary agency workers who have reached the age of entitlement to the state pension (AOW):*

- 1. A temporary agency worker has worked for 25 consecutive weeks for his former Employer X in a certain position. He then continues to work in this position but now via the private employment agency Y. When entering into the private employment agency's employment a phase A of 78 weeks applies, 25 weeks of which have already been worked, since private employment agency Y is Employer X's successive employer for 25 weeks. These weeks are incorporated in phase A (78 weeks). The temporary agency worker can therefore still be deployed in phase A for  $(78 - 25 =) 53$  weeks by private employment agency Y.*
- 2. A temporary agency worker has worked for 50 consecutive weeks for his former Employer X in a certain position. He then continues to work in this position but now via the private employment agency Y. When entering into the private employment agency's employment a phase A of at least 52 weeks remains, since private employment agency Y is Employer X's successive employer for 50 weeks. The temporary agency worker can therefore still be deployed in phase A for 52 weeks, regardless of the duration of his employment history.*

3. A temporary agency worker has worked for three consecutive years for his former Employer X in a certain position. He then continues to work in this position but now via the private employment agency Y. When entering into the employment of private employment agency Y, the temporary agency worker starts in phase A, of which 52 weeks still remain.

## **Chapter 4 Job Classification and remuneration**

### **Section 1 Introduction**

*The provisions of this section apply to temporary agency workers who are paid on the basis of the hirer's remuneration or the ABU remuneration.*

#### **Article 18 Remuneration**

Temporary agency workers are paid in accordance with the provisions of(2) of this Chapter (Hirer's remuneration), unless they are subject to the provisions of(3) of this Chapter (ABU remuneration) and the ABU remuneration is applied. Paragraph 4 (Continued payment of wages and suitable work on the loss of temporary agency work) and paragraph 5 (Other remuneration provisions) of this Chapter apply to both temporary agency workers who are paid in accordance with paragraph 2 of this Chapter (Hirer's remuneration) and to temporary agency workers paid in accordance with paragraph 3 of this Chapter (ABU remuneration).

### **Section 2 Hirer's remuneration**

*The provisions of this section apply to temporary agency workers who are paid on the basis of the hirer's remuneration.*

#### **Article 19 Hirer's remuneration from the first day of placement**

1. Temporary agency workers are entitled to the hirer's remuneration from the first day of placement at the user company, unless they belong to one of the specific groups referred to in article 27 of section 3 of this Chapter (ABU remuneration).
2. Temporary agency workers in phase C with a secondment agreement for an indefinite period may also be awarded the hirer's remuneration by the private employment agency, determined in observance of the provisions of this paragraph.
3. The private employment agency's choice to apply the hirer's remuneration rather than the ABU remuneration, will be recorded in writing for each temporary agency worker on commencement of the secondment agreement for an indefinite term in phase C. The choice may not be changed during the entire duration of phase C.\*

\* *Temporary agency workers who cannot be classified in the user company's job grades, as a result of which the hirer's remuneration cannot be applied, shall be paid in accordance with the ABU remuneration for the duration of the placement at the user company, for as long as their jobs cannot be classified (see article 27(3)).*

## Article 20 **Job classification and remuneration**

1. The hirer's remuneration is determined for each assignment. On the application of the hirer's remuneration, the job to be performed by the temporary agency worker will be graded in the job grade applying for the user company before the commencement of the assignment. The grading takes place on the basis of the information provided by the user company (see paragraph 3 of this article).

*Paragraph 2 reads as follows until 2 September 2019:*

2. The hirer's remuneration consists of the following elements, in compliance with the provisions applying in the hiring company:
  - a. only the applicable period wage in the scale;
  - b. the applicable working hours' reduction per week/month/year/period. This can be compensated in time and/or money, as the private employment agency sees fit;
  - c. bonuses for overtime, shifted working hours, irregular hours (including public holiday bonus) and shift bonus;
  - d. initial wage increase, amount and time as determined in the user company's organisation;
  - e. expenses allowance (insofar as the private employment agency is permitted to pay the allowance exempt from wage tax and social security contributions: travelling expenses, boarding house costs, equipment costs and other costs that are necessary on account of performing the work);
  - f. period-linked salary amounts, amount and time as determined in the user company's organisation.

*As from 2 September 2019, article 20(2) will be replaced with:*

2. The hirer's remuneration consists of the following elements, in compliance with the provisions applying in the user company:
  - a. only the applicable period wage in the scale;
  - b. the applicable working hours' reduction per week/month/year/period. This can be compensated in time and/or money, as the private employment agency sees fit;
  - c. bonuses for overtime, shifted working hours, irregular hours (including the public holiday allowance) and shift bonus and working in physically challenging conditions related to the work (including working in low or high temperatures, working with hazardous substances, or dirty work);
  - d. initial wage increase, amount and time as determined in the user company's organisation;
  - e. expenses allowance (insofar as the private employment agency is permitted to pay the allowance exempt from wage tax and social security contributions: travel expenses, boarding house costs, equipment costs and other costs that are necessary on account of performing the work);
  - f. period-linked salary amounts, amount and time as determined in the user company's organisation.
3. The application of the hirer's remuneration is based on the information provided by the user company on the job grade, the amount of the salary, the applicable working hours' reduction, the level of the period-linked salary amount, the amount and time of the initial wage increase, the expenses allowances and the bonuses.

4. The private employment agency provides for a process by which it ensures that the hirer's remuneration is determined correctly.
5. In no case shall the application of the hirer's remuneration be adjusted retroactively, except:
  - in the event of malicious intent or apparent abuse or,
  - if the user company has not demonstrably made efforts to correctly determine the hirer's remuneration, as referred to in paragraph 4 of this Article, or,
  - if the private employment agency has not complied with the provisions of paragraph 6 of this Article in relation to the elements referred to in c., d., e., g., h., i., j., k., l., m. and n.
6. With each placement of a temporary agency worker, the private employment agency is required to confirm the elements listed in a. to n. to the temporary agency worker in writing:
  - a. the expected commencement date;
  - b. the name and contact details of the user company, including any contact person and working address;
  - c. the (general) job title and, if different, the job title according to the user company's remuneration regulations;
  - d. the job grade and scale according to the user company's remuneration regulations;
  - e. the agreed working hours;
  - f. if applicable, the expected termination date of the placement;
  - g. the CLA/remuneration regulations;
  - h. the actual gross (hourly) wage;
  - i. the applicable compensation for the shorter working week (ADV);
  - j. the applicable allowances for overtime and/or changed working hours;

*Paragraph 6(k) reads as follows until 2 September 2019:*

  - k. the applicable allowance for irregular hours (including the public holiday allowance);

*As from 2 September 2019, article 20(6)(k) will be replaced with:*

  - k. the applicable allowance for irregular hours (including the public holiday allowance) and allowances for physically challenging circumstances;
  - l. the applicable shift work allowance;
  - m. the applicable travel expenses allowance;
  - n. other applicable expenses allowances.

In the event of a change in the working conditions during the term of the placement with regard to one of the above elements, the private employment agency is required to confirm this change to the temporary agency worker in writing.

7. If the temporary agency worker works in the construction industry, different remuneration agreements may apply pursuant to article 51 of the CLA.
8. In the event the temporary agency worker who is active for the private employment agency in (virtually) the same position at different clients enters the service of another private employment agency within the same group, the new private employment agency will take account of all work experience gained at the various clients of the private employment agencies within the group when granting a regular wage increase. Such unless the new private employment agency demonstrates on the basis of the registration, job application or other facts and circumstances that this occurred at the initiative of the temporary agency worker. The term group is defined as

referred to in Article 2:24b DCC.

#### **Article 21 Reduction in working hours**

In relation to the application of the hirer's remuneration as referred to in article 20, the temporary agency worker is entitled to the same reduction in working hours per week/month/year/period as that applying for employees of the user company working in the same or equivalent job as the temporary agency worker. The applicable reduction in working hours may, at the private employment agency's discretion, be compensated in time and/or money.

#### **Article 22 Bonuses**

In relation to the application of the hirer's remuneration as referred to in article 20, the temporary agency worker is entitled to the same bonuses for overtime, shifts in hours, irregular hours (including public holidays bonuses) and the shift-work bonus applying for employees of the user company working in the same or equivalent jobs as the temporary agency worker.

#### **Article 23 Initial wage increase**

In relation to the application of the hirer's remuneration as referred to in article 20, the private employment agency is required to apply the same initial wage increase for the temporary agency worker as that applying for employees of the user company working in the same or an equivalent job as the temporary agency worker. The amount of the initial wage increase and the time at which it is paid are the same as those applying at the user company.

#### **Article 24 Work-related expenses and allowances**

In relation to the application of the hirer's remuneration as referred to in article 20, the temporary agency worker is entitled to the same expense allowance(s) as employees of the user company working in the same or an equivalent job as the temporary agency worker, if and insofar as the private employment agency can pay these free of payroll tax and social insurance premiums. This involves travel expenses, board and lodging costs, costs of equipment and other costs necessary for the performance of the job.

#### **Article 25 Period-linked salary increase**

In relation to the application of the hirer's remuneration as referred to in article 20, the private employment agency is required to apply the same period-linked salary increase for the temporary agency worker as that applying for employees of the user company working in the same or an equivalent job as the temporary agency worker. The amount of the period-linked salary increase and the time at which it is paid are the same as those applying at the user company.

#### **Article 26 Mandatory correction in connection with the statutory minimum wage**

If the hirer's remuneration for a full-time working week is less than the minimum wage, a correction of the hirer's remuneration will take place, so that it is no longer in breach of the Minimum Wage and Minimum Holiday Allowance Act.

### Section 3 ABU remuneration

*The provisions of this section apply to temporary agency workers who are paid on the basis of the ABU remuneration.*

#### Article 27 ABU remuneration for specific groups

If the temporary agency worker belongs to one of the following groups, as described in this article, the temporary agency worker may be paid in accordance with the provisions of this paragraph. In that case, the hirer's remuneration does not apply. If the temporary agency worker is working in the construction industry, different remuneration agreements may apply on the basis of article 51 of the CLA.

*Temporary agency workers belonging to the allocation group*

1. This group consists of:

- the long-term unemployed (the criterion here is a period of twelve months of unemployment);
- reintegration target groups (in accordance with the regulations defined by or due to the government, including persons entitled to a benefit on the basis of one or several of the following Acts: Work and Income (Capacity for Work) Act, Invalidity Insurance Act, Invalidity Insurance (Young Disabled Persons) Act, Work and Social Assistance Act, insofar as a limited earning capacity is involved);
- job-seekers who, pursuant to the Participation Act:
  - are dependent on wage cost subsidies, because they are unable to earn 100% of the minimum wage with full-time employment;
  - are capable of earning at the statutory minimum wage level with full-time employment;
  - are considered capable of earning between 101% and 120% of the statutory minimum wage;
- school leavers (persons who have been looking for work for at least three months after completing their study, as well as early school leavers);
- temporary agency workers without a starting qualification (that is, no diploma at senior secondary vocational education (MBO) level 2 at least, or no diploma at senior general secondary education (HAVO) or pre-university (VWO) level), on condition that a qualifying course, as referred to in article 63(11) of the CLA is followed;
- temporary agency workers who are receiving training for BKA (occupational qualification as assistant) level 1, offered by the private employment agency, on condition that this BKA course meets a number of quality standards. STOOFF (Foundation for Training and Development in the Agency work sector) provides a list of the courses that meet these standards;
- people re-entering the labour market (persons who have not been active in the job market for at least three years and who are looking for work);
- holiday workers.

This group also includes the temporary agency workers who are among the special cases and are subject to the conditions described in more detail in article 6 of Appendix II of the CLA.

A skilled temporary agency worker (regardless of their country of origin), working in his own field, cannot be classed as a 'temporary agency worker forming part of the allocation group'.

A temporary agency worker assigned to this group enjoys a wage fixed according to time and, if applicable, an expenses allowance, determined in observance of the provisions of this paragraph and Appendix I of the CLA. However, if the temporary agency worker is assigned to job grade 7

or higher in accordance with the grading method in Appendix I, application of the ABU remuneration is not possible. In that case, the hirer's remuneration applies.

*Temporary agency workers belonging to the transition group*

2. This group consists of temporary agency workers who are guided from job to job. A CLA or social plan agreed with the employers' organisations and/or the employee representation body applies to the employer that the employee is leaving, including a specific reference to this CLA, as well as the use of the ABU remuneration referred to in this paragraph. Temporary agency workers assigned to this group enjoy a wage fixed according to time and, if applicable, an expenses allowance. All this determined in observance of the provisions of this section and Appendix I of the CLA.

*Temporary agency workers belonging to the non-gradable group*

3. This group consists of temporary agency workers who cannot be graded in the job lists of the user company in accordance with article 20 of this CLA. In order to determine whether a temporary agency worker can be graded in the job lists of the user company, the step-by-step plan in Appendix V of the CLA should be followed. This group also includes temporary agency workers who are not directly assigned on commencement of a fixed-term secondment agreement, as a result of which it is not possible to apply the hirer's remuneration. Temporary agency workers assigned to this group enjoy a wage fixed according to time and, if applicable, an expenses allowance, determined in observance of the provisions of this section and Appendix I of the CLA.

*Temporary agency workers with a secondment agreement for an indefinite term in phase C*

4. This group consists of temporary agency workers who work on the basis of a secondment agreement for an indefinite term in phase C. The private employment agency can assign the ABU remuneration and, if applicable, an expenses allowance to temporary agency workers assigned to this group, determined in observance of the provisions of this section and Appendix I of the CLA. The choice to apply the ABU remuneration rather than the hirer's remuneration is recorded in writing at the start of the secondment agreement for an indefinite term in phase C. The choice may not be changed throughout the entire duration of phase C.

**Article 28 The ABU wage structure**

1. The ABU wage structure consists of two parts:
  - a. the salary table with the actual hourly wages for ten job grades, as shown below in paragraph 2 of this article;
  - b. the ABU job list with the aid of which the temporary agency worker is assigned to one of the ten job grades, as described in Appendix I of the CLA.
2. The salary table in euros as at **1 July 2019**:

Job grade	(I)	(II)	(III)	(IV)
	Starting salary Allocation group	Starting salary Indefinite term in phase C Transition group Group non-gradable	Final salary	Period-linked salary increase by job grade
1	€ 9.44*	€ 10.16	€ 12.43	2.1%
2	€ 9.44*	€ 10.62	€ 13.41	2.2%



3	€ 9.44*	€ 11.20	€ 14.57	2.3%
4	€ 11.16	€ 11.78	€ 15.47	2.4%
5	€ 11.66	€ 12.29	€ 16.88	2.5%
6	€ 12.23	€ 13.28	€ 18.62	2.6%
7		€ 14.16	€ 20.76	2.7%
8		€ 15.52	€ 23.36	2.8%
9		€ 17.12	€ 26.35	2.9%
10		€ 18.10	€ 29.43	3.0%

\* The minimum actual hourly wage for job grades 1, 2 and 3 is determined on the basis of the current statutory minimum wage and the normal working hours applying for this CLA.

3. A period-linked salary percentage applies for each job grade (column IV). On the award of a period-linked salary amount, the actual wage of the temporary agency worker is increased by the period-linked salary percentage for the job grade to which the temporary agency worker is assigned. The following system is used for the award of a period-linked salary amount.
  - a. On two reference dates each year, the first Monday in January and the first Monday in July, the question of whether a temporary agency worker qualifies for a period-linked salary amount is considered. The temporary agency worker is entitled to a period-linked salary amount as soon as he:
    - has been employed by the same private employment agency for at least 52 weeks,
    - without an interruption of 26 weeks or more.
 After a period-linked salary amount is awarded, the count of 52 weeks starts again.
  - b. As soon as the temporary agency worker's actual wage is at least equal to the final salary (column III) for the job grade to which the temporary agency worker is assigned, no further awards of period-linked salary amounts will take place. An increase in the actual wage through the award of a period-linked salary amount will never lead to an actual wage that is higher than the final salary for the job grade to which the temporary agency worker is assigned.

#### Article 29 **Rules for application of ABU remuneration for temporary agency workers belonging to the allocation group**

1. Temporary agency workers belonging to the allocation group, who are paid in accordance with the ABU remuneration, are assigned to a job grade at the start of their assignment in accordance with the grading method in Appendix I. The ABU remuneration can only be applied if the temporary agency worker is assigned to job grade 6 or lower. If the temporary agency worker is assigned to job grade 7 or higher, the hirer's remuneration applies and the ABU remuneration cannot be used. If the ABU remuneration is applied, the provisions of this article apply. If the hirer's remuneration must be applied, the provisions of section 2 of this Chapter (Hirer's remuneration) apply.
2. The actual wage is fixed at the level of at least the minimum hourly wage in column I of the salary table in article 28(2) for the job grade to which the temporary agency worker is assigned.
3. By way of derogation from the provisions of paragraph 2 of this article, the actual wage of temporary agency workers who are dependent on wage cost subsidies pursuant to the Participation Act is fixed at the statutory minimum wage.

4. For temporary agency workers who are young handicapped persons within the meaning of Article 1:1 of the Wajong Act, the private employment agency and/or the temporary agency worker may submit a request for wage dispensation\*, within the meaning of Article 2:20 of the Wajong Act, to the Public Employment Services. By way of derogation from paragraph 2 of this article, the actual wage of temporary agency workers who are granted wage dispensation is determined on the basis of the realistic earning capacity in accordance with the aforementioned wage value provision and/or decision. The aim of the CLA parties is permanent placement of a young handicapped person within the meaning of the Wajong Act. The CLA parties will monitor agreements as referred to in this paragraph to determine whether there is advancement to structural work and improvement of the position of the young handicapped person within the meaning of the Wajong Act.
5. The duration of the application of the ABU remuneration is limited to a maximum of 52 weeks worked, except in the case of the application of paragraph 6 of this article. On the completion of the aforementioned period of 52 weeks worked, these temporary agency workers are paid in accordance with the hirer's remuneration, as referred to in section 2 of this Chapter (Hirer's remuneration) of the CLA.
6. An exception to the limitation to 52 weeks worked (as referred to in paragraph 5 of this article) applies for temporary agency workers:
  - a. with no starting qualification (that is, no diploma at senior secondary vocational education (MBO) level 2 at least, or no diploma at senior general secondary education (HAVO) or pre university (VWO) level) who are following a qualifying training course as referred to in article 63(11) of the CLA;
  - b. who are receiving training at BKA (occupational qualification as assistant) level 1; or
  - c. for whom a wage value determination and/or decision has been issued, within the meaning of paragraph 4 of this article.

For these temporary agency workers, the period of 52 weeks worked can be extended to a maximum of 104 weeks worked, or until the training is completed, if earlier. If a temporary agency worker is following a training course, he is entitled to a period-linked salary increase of the actual wage, as referred to in article 28(3). After the extended period of (a maximum of) 104 weeks worked, the temporary agency worker is paid in accordance with the hirer's remuneration, as referred to in section 2 of this Chapter (Hirer's remuneration).

7. The count of 52 weeks worked referred to in paragraphs 5 of this article and 104 weeks worked referred to in paragraph 6 continues after an interruption of two years or less. The duration of the interruption is not counted in the term of 52 or 104 weeks worked. After full utilisation of the term of 52 or 104 weeks worked, the count cannot start again.
8. The hourly wage in column III (final salary) of the job grade to which the temporary agency worker is assigned is the maximum actual wage.

\* *If changes in the Wajong Act have consequences for the income level of a young handicapped person, the CLA parties will open talks on adjustment of this provision.*

**Article 30 Rules for application of ABU remuneration for temporary agency workers belonging to the transition group**

1. Temporary agency workers belonging to the transition group who are paid in accordance with the ABU remuneration are assigned to a job grade at the start of their assignment in accordance with the grading method in Appendix I.
2. The actual wage is fixed at the level of at least the minimum hourly wage in column II of the salary table in article 28(2) for the job grade to which the temporary agency worker is assigned.
3. The duration of the application of the ABU remuneration is limited to a maximum of 52 weeks worked. On the completion of the aforementioned period of 52 weeks worked, these temporary agency workers are paid in accordance with the hirer's remuneration, as referred to in section 2 of this Chapter (Hirer's remuneration).
4. The count of 52 weeks worked referred to in the preceding paragraph continues after an interruption of two years or less. The duration of the interruption is not counted in the term of 52 weeks worked. After full utilisation of the term of 52 weeks worked, the count cannot start again.
5. The maximum actual wage is the hourly wage in column III (final salary) for the job grade to which the temporary agency worker is assigned.

**Article 31 Rules for application of ABU remuneration for temporary agency workers belonging to the non-gradable group**

1. Temporary agency workers who cannot be graded in the wage structure of the user company are assigned to a job grade in accordance with the grading method in Appendix 1 on commencement of the assignment, or, if there is no assignment yet, the secondment agreement.
2. The actual wage is fixed at the level of at least the minimum hourly wage in column II of the salary table in article 28(2) for the job grade to which the temporary agency worker is assigned.
3. The duration of the application of the ABU remuneration is limited to a maximum of the duration of the assignment at the user company in the wage structure of which the temporary agency worker cannot be graded, or the period for which the temporary agency worker performs no work after the commencement of the fixed-term secondment agreement.
4. The temporary agency worker is entitled to a period-linked salary increase in the actual wage in accordance with article 28(3).
5. If the temporary agency worker's job changes and the new job can be graded in the user company's wage structure, the temporary agency worker is entitled to the hirer's remuneration from that time on.
6. The maximum actual wage is the hourly wage in column III (final salary) for the job grade to which the temporary agency worker is assigned.

**Article 32 Rules for application of ABU remuneration for temporary agency workers with a secondment agreement for an indefinite period (and transition from phase B to phase C)**

1. Temporary agency workers with a secondment agreement for an indefinite period in phase C who are paid in accordance with the ABU remuneration are assigned to a job grade in accordance with the grading method in Appendix I.

2. *Transition from phase B to phase C*

After the temporary agency worker is assigned to a job grade within the meaning of paragraph 1 of this article, the actual wage is determined. The temporary agency worker is entitled to at least the average wage that he earned in the twelve months preceding the secondment agreement for an indefinite period in phase B. The calculation of the average wage must be based on:

- a. the actual wage earned in the past twelve months;
- b. plus (any) compensation received in the past twelve months by the temporary agency worker, in time or money, for the working hours reduction applying at the user company pursuant to article 20(2)(b).

If the working hours reduction applying at the user company is compensated in time, the monetary value of this is calculated and processed in the calculation of the average wage.

Periods in which the reversion wage is applied due to the loss of temporary agency work are not included in the calculation of the average wage.

3. On commencement of the secondment agreement for an indefinite period in phase C, the temporary agency worker's actual wage must be fixed at the level of at least the minimum hourly wage in column II of the salary table in article 28(2) for the job grade to which the temporary agency worker is assigned.
4. After 52 weeks worked, in the ABU wage structure, the temporary agency worker is entitled to a period-linked salary increase in the actual wage in compliance with article 28(3).
5. The maximum actual wage is the hourly wage in column III (final salary) of the job grade to which the temporary agency worker is assigned, unless the temporary agency worker is entitled to a higher actual wage pursuant to paragraph 2 of this article.

**Article 32a Regulations for transition from hirer's remuneration to ABU remuneration in phase C**

1. The following applies for temporary agency workers who are already employed on the basis of a secondment agreement for an indefinite period in phase C before 30 March 2015.
2. After consulting the temporary agency worker, the private employment agency will choose, before 30 March 2015, whether to apply the hirer's remuneration (section 2 of this Chapter) or the ABU remuneration (section 3 of this Chapter).
3. If the choice is made to apply the hirer's remuneration, the temporary agency worker will be paid in accordance with the provisions of section 2 of this Chapter from 30 March 2015.
4. If the choice is made to apply the ABU remuneration, the temporary agency worker will be assigned to a job grade in accordance with the grading method in Appendix I and will be paid in accordance with the provisions of section 3 of this Chapter from 30 March 2015.
5. If the ABU remuneration is applied from 30 March 2015, the determination of the actual wage is based on the average wage that the temporary agency worker received in the twelve months prior to the date of 30 March 2015. The calculation of the average wage must be based here on:
  - a. the actual wage earned in the past twelve months;
  - b. plus (any) compensation received during the past twelve months by the temporary agency worker for the working hours reduction applying at the user company pursuant to article 20(2)(b).

If the working hours reduction applying at the user company is compensated in time, the monetary value of this is calculated and processed in the calculation of the average wage.

Periods in which the reversion wage is applied due to the loss of temporary agency work are not included in the calculation of the average wage.

6. If the temporary agency worker is not performing any temporary agency work on 30 March 2015 because no assignment is available, the choice of whether to apply the hirer's remuneration or the ABU remuneration is postponed until the time at which the temporary agency worker is assigned again and performs temporary agency work. In that case, where paragraphs 2 up to and including 5 of this article refer to the date of 30 March 2015, this should be read as the date on which the temporary agency worker is assigned again and performs temporary agency work.

### Article 33 **Mandatory correction in connection with the statutory minimum wage**

If the ABU remuneration for a full-time working week is less than the minimum wage, a correction of the ABU remuneration will take place, so that it is no longer in breach of the Minimum Wage and Minimum Holiday Allowance Act. The provisions of this article do not apply to temporary agency workers as referred to in article 29(4).

### Article 34 **Salaries of young persons**

1. The following different regulations apply for temporary agency workers aged less than 21 and belonging to one of the groups referred to in article 27 of this CLA.
2. The actual wage of temporary agency workers aged less than 21 is calculated by multiplying the hourly wage for the job grades applying to them from the salary table (of article 28(2) of the CLA) by the following percentages:

age 15	30%
age 16	34.5%
age 17	39.5%
age 18	50%
age 19	60%
age 20	80%

3. When determining the actual wage, the age the person will become in a given calendar year is used to determine the age for the whole of that calendar year.

### Article 35 **Wage increase**

1. The minimum hourly wage amounts in the salary table in column I (job grades 1 up to and including 3) concern the statutory minimum wage and are adjusted in the event of an increase in the statutory minimum wage.
2. Each calendar year, in principle before 1 July, the CLA parties shall conduct talks on the adjustment of the (other) amounts shown in the salary table (column I, job grades 4 up to and including 6, column II and III) in article 28(2) of the CLA from 1 July of that year.
3. If an adjustment of the salary table (column I, job grades 4 up to and including 6, columns II and III) is agreed pursuant to paragraph 2 of this article, this will be applied as follows:
  - a. The salary table (column I, job grades 4 up to and including 6, columns II and III) will be

increased by the agreed percentage and

- b. the actual wage of the temporary agency worker will be increased by the agreed percentage from the agreed date.

#### Article 36 **Bonus for irregular working hours**

1. Depending on the day and the period of the day in which the hour worked falls, the actual wage of a temporary agency worker subject to ABU remuneration is multiplied by a bonus factor in accordance with the table below.

At least the following factors will be applied:

##### **Minimum bonus factors table**

<b>time zone</b>	<b>early</b>	<b>normal</b>	<b>late</b>
<b>periode</b>	<b>00.00-07.00</b>	<b>07.00-18.00</b>	<b>18.00-00.00 hrs</b>
Monday	1.50	1.00	1.25
Tuesday	1.50	1.00	1.25
Wednesday	1.50	1.00	1.25
Thursday	1.50	1.00	1.25
Friday	1.50	1.00	1.25
Saturday	1.50	1.50	1.50
Sunday	1.50	1.50	1.50
Public holiday on:			
Monday-Friday	1.50	1.50	1.50
Saturday-Sunday	2.00	2.00	2.00

No more than the following factors will be applied:

##### **Maximum bonus factors table**

<b>time zone</b>	<b>early</b>	<b>normal</b>	<b>late</b>
<b>periode</b>	<b>00.00-07.00</b>	<b>07.00-18.00</b>	<b>18.00-00.00 hrs</b>
Monday	2.00	1.00	1.50
Tuesday	1.50	1.00	1.50
Wednesday	1.50	1.00	1.50
Thursday	1.50	1.00	1.50
Friday	1.50	1.00	1.70
Saturday	1.70	1.70	2.00
Sunday	2.00	2.00	2.00
Public holiday on:			
Monday-Friday	2.50	2.50	2.50
Saturday-Sunday	3.00	3.00	3.00

2. If the private employment agency wishes to apply the bonus factor for irregular hours consistent with the factor applying at the user company in the same circumstances, the private employment agency can submit a request for dispensation from this article to the CLA parties. The CLA parties will make a decision on the request. A request for dispensation must be submitted in writing, stating the reasons, to the Dispensation Committee at the following address: PO Box

144, 1170 AC Badhoevedorp or dispensatiecommissie@abu.nl. For the purposes of this paragraph, 'in writing' means 'sent by letter or by e-mail'.

#### Article 37 **Overtime bonus**

1. Depending on whether overtime is worked, the actual wage of a temporary agency worker subject to ABU remuneration is multiplied by an overtime bonus. Overtime takes place if work is performed in excess of the usual working hours per day or per week in the relevant sector, or the number of hours fixed by regulations or timetables. Overtime immediately following the normal working hours and lasting no more than half an hour is not qualified as such.
  - a. The bonus factor will amount to at least 1.25.
  - b. The bonus factor will amount to no more than 1.50.
2. If the private employment agency wishes to apply the bonus factor for irregular hours consistent with the factor applying at the user company in the same circumstances, the private employment agency can submit a request for dispensation from this article to the CLA parties. The CLA parties will make a decision on the request. A request for dispensation must be submitted in writing, stating the reasons, to the Dispensation Committee at the following address: PO Box 144, 1170 AC Badhoevedorp or dispensatiecommissie@abu.nl. For the purposes of this paragraph, 'in writing' means 'sent by letter or by e-mail'.
3. If the provisions of this article are applied, article 36 does not apply.

#### Article 38 **Bonus report for temporary agency workers with a secondment agreement for an indefinite period**

1. The CLA of the user company may include specific provisions concerning the company or sector specific bonuses relating to serious or special circumstances (other than overtime or irregular hours).
2. The parties to the user company's CLA may request the Remuneration Committee for this CLA to declare the provisions concerning the company or sector-specific bonuses referred to in the preceding paragraph to be applicable to a temporary agency worker with a secondment agreement for an indefinite period in phase C who is paid according to the ABU remuneration.
3. The committee will issue a decision, stating its reasons in writing, within six weeks of the submission of the request. For the purposes of this article, 'in writing' means 'sent by letter or by e-mail'.
4. After the Remuneration Committee has approved the bonus report, the bonus report will be published at [www.sncu.nl](http://www.sncu.nl).
5. After publication, the bonus report applies immediately to new and current assignments. The decision of the Remuneration Committee has no retroactive effect.
6. The Remuneration Committee is formed on a parity basis, comprising three representatives of the employees' side and three representatives of the employers' side, and establishes its own regulations.

#### *Explanation:*

*The Remunerations Committee can be contacted at PO Box 144, 1170 AC Badhoevedorp and by e-mail at [beloning@abu.nl](mailto:beloning@abu.nl).*

### Article 39 **Work-related expenses and allowances**

A temporary agency worker subject to ABU remuneration is entitled to the same work-related expenses and allowances as employees employed by the user company, working in an equal or similar job to that of the temporary agency worker, if and insofar as the private employment agency is permitted to pay the amount(s) concerned exempt from wage tax and contributions. These expenses concern travelling expenses, boarding house costs, equipment costs and other costs that are necessary on account of performing the work.

### Section 4 **Continued payment of wages and suitable employment on the loss of temporary agency work**

*The provisions of this section apply to temporary agency workers who are paid on the basis of the hirer's remuneration or the ABU remuneration.*

#### Section 4a **Continued payment of wages on the (full or partial) discontinuation of the temporary agency work**

*This section contains the provisions applying in the event of full or partial discontinuation of the temporary agency work. Section (4)b contains the provisions applying if the temporary agency worker is going to perform suitable work after the discontinuation of the temporary agency work. Section (4)c contains the provisions applying for the application of the reversion wage for temporary agency workers with an agency work employment contract for an indefinite period in Phase C.*

### Article 40 **Continued payment of wages in phase A**

*Agency work employment contracts with agency clause and secondment agreements with no obligation to continue payment of wages*

1. The private employment agency owes the temporary agency worker employed in phase A only the wages for the period(s) in which the temporary agency worker has actually performed temporary agency work, unless otherwise agreed in writing in the agency work employment contract.
2. The exclusion of the obligation to continue payment of wages referred to in paragraph 1 of this article does not apply in the event of disability if a secondment agreement is concluded in phase A.
3. If the temporary agency worker in phase A:
  - a. is called up for temporary agency work; and
  - b. appears at the time and place agreed with the private employment agency; but
  - c. is not enabled by the user company to commence the temporary agency work,the temporary agency worker is entitled to remuneration in the amount of at least three times the actual hourly wage that the temporary agency worker would have received on the basis of the temporary agency work. In this case, paragraph 1 of this article does not apply.

*Secondment agreement with obligation to continue payment of wages*

4. On the loss of the temporary agency work, the private employment agency owes the temporary agency worker employed in phase A the reversion wage if the temporary agency worker is employed on the basis of a secondment agreement in which the continued payment of wages



obligation is agreed in writing.

5. In the event of a new placement for a lower number of hours than those contained in the secondment agreement with an obligation to continue payment of wages, the temporary agency worker is entitled to the reversion wage for the number of hours in which no work is performed in a new assignment, on condition that the temporary agency worker remains available to perform suitable work for the entire number of hours included in the secondment agreement. The temporary agency worker is entitled to wages in compliance with the provisions of article 45 or 46 for the hours in which he performs suitable work.

#### Article 41 **Continued payment of wages in phase B**

1. On the loss of the temporary agency work in a secondment agreement in phase B, the reversion wage applies.
2. If, by way of departure from article 13(1)(a) and 13(1)(b), a temporary agency worker is employed in phase B without full utilisation of phase A, the private employment agency has the right to exclude the obligation to continue payment of wages referred to in article 40(1) for 26 weeks, or for as much less as the temporary agency worker was already employed in phase A by the same private employment agency. The aforementioned exclusion of the obligation to continue payment of wages does not apply in the event of disability.
3. If the private employment agency makes use of the possibility referred to in the preceding paragraph of this article and the temporary agency worker:
  - a. is called up for temporary agency work; and
  - b. appears at the time and place agreed with the private employment agency; but
  - c. is not enabled by the user company to commence the temporary agency work,the temporary agency worker is entitled to remuneration in the amount of at least three times the actual hourly wage that the temporary agency worker would have received on the basis of the temporary agency work. In this case, paragraph 2 of this article does not apply.
4. In the event of a new assignment for a lower number of hours than those contained in the secondment agreement in phase B, the temporary agency worker is entitled to the reversion wage for the number of hours in which no work is performed, unless paragraph 2 of this article applies, on condition that the temporary agency worker remains available to perform suitable work for the entire number of hours included in the secondment agreement. The temporary agency worker is entitled to wages in compliance with the provisions of article 45 or 46 for the hours in which he performs suitable work.

#### Article 42 **Continued payment of wages in phase C**

1. On the loss of temporary agency work in a secondment agreement in phase C, the reversion wage applies, in observance of the provisions of article 47.
2. In the event of a new assignment for a lower number of hours than those contained in the secondment agreement, the temporary agency worker is entitled to the reversion wage for the number of hours in which no work is performed, in observance of the provisions of article 47. The temporary agency worker must then remain available to perform suitable work for the total number of hours included in the secondment agreement. The temporary agency worker is

entitled to wages in compliance with the provisions of article 45 or 46 for the hours in which he performs suitable work.

#### **Article 43 Cessation of obligation to continue payment of wages**

The obligations to continue to pay wages referred to in articles 40(4), 41 and 42 cease if the temporary agency worker has cancelled his registration with the private employment agency or has informed it or shown by other means that he is no longer available for the full agreed duration of the temporary agency work. These obligations also cease if the temporary agency worker has refused a reasonable offer of suitable replacement work.

#### **Section 4b Suitable employment and adjustment of actual wage**

*This section contains the provisions that apply if the temporary agency worker performs suitable work after the loss of the temporary agency work. Section (4)a contains the provisions that apply in the event of the full or partial loss of the temporary agency work without suitable work being performed. Section (4)c contains the provisions that apply for the application of the reversion wage for the temporary agency worker with an agency work employment contract for an indefinite period in phase C.*

#### **Article 44 Suitable employment and reassignment<sup>1</sup>**

##### *Suitable employment*

1. If, during the term of a secondment agreement in which the obligation to continue payment of wages is explicitly agreed, the temporary agency work is lost because the placement is terminated, the private employment agency has the obligation to seek suitable replacement temporary agency work and to offer this to the temporary agency worker for as long as the secondment agreement continues. The temporary agency worker is required to accept a reasonable offer of suitable replacement temporary agency work.
2. In order to determine the suitable work for which the temporary agency worker qualifies, the temporary agency worker's last job paid in accordance with the hirer's remuneration will be graded in the ABU job list as included in Appendix 1 of this CLA on the loss of the temporary agency work. For a temporary agency worker who was last paid in accordance with the ABU remuneration, the job grade in which he was last employed will be considered. Suitable employment is then deemed to be the work included in the same job grade in the ABU job list as that to which the temporary agency worker was assigned in accordance with the foregoing. Suitable employment is also deemed to be the work included in one or two job grades lower in the ABU job list.

The work must also meet one of the following conditions:

- a. the average working hours for the work per week/month/period are equal to the agreed working hours; or
- b. the work has a lower average number of working hours per week/month/period than the agreed working hours, provided that the hours in which no work is performed are paid in accordance with article 40(5) (if applicable), 41(4) or 42(2) of this CLA; or
- c. the work has a higher average number of working hours per week/month/period than the agreed working hours, with a maximum of four hours per week in total. The principles of good

employership and good employeeship shall be observed in the case of an increase. The working hours shall not exceed the customary working hours per day, per week or those set by regulation or timetable in the relevant sector. The private employment agency and the temporary agency worker shall record the increase agreed in relation to this paragraph in writing. If the working hours in relation to this paragraph have already been adjusted by four hours, the private employment agency is not authorised to adjust the working hours again. If the working hours in relation to this paragraph have already been increased by less than four hours, the private employment agency is authorised to increase the working hours again if the temporary agency work is again lost in a later period, until the maximum of four hours is reached.<sup>2</sup>

#### *Reassignment interview*

3. In order to facilitate swift reassignment, the following procedure will be followed. If the assignment is terminated during a current secondment agreement and the temporary agency work is lost as a result:
  - a. a reassignment interview will be conducted as soon as possible after the date on which the work will end becomes known.
  - b. In this interview, opportunities, wishes and possibilities regarding the work in the temporary agency worker's own/similar/related job will be raised by both sides.
  - c. Wishes and possibilities concerning the local/regional limits within which an assignment can be made will also be discussed.
  - d. If it is established that there are few possibilities for reassignment in the temporary agency worker's own job or a similar/related job in the near future, it will be established whether other suitable work is available.
  - e. Whether the temporary agency worker is willing or able to follow additional training (or retraining or upgrading courses), or whether other provisions that could facilitate reassignment are possible and/or desirable, will also be established here.
  - f. The conclusions of this interview will be recorded in writing.

#### *Suitable employment on new loss of temporary agency work*

4. If suitable employment is determined in a current secondment agreement as a result of the application of paragraph 2 of this article, in a later period in which the temporary agency work is lost, the suitable employment shall not lie at a lower level than that established pursuant to paragraph 2 of this article on the first occasion.

#### *Cessation of obligation to offer suitable employment*

5. The obligations to offer suitable replacement temporary agency work referred to in this article cease if the temporary agency worker has cancelled his registration with the private employment agency or has informed it or shown by other means that he is no longer available for the full agreed duration of the temporary agency work. These obligations also cease if the temporary agency worker has refused a reasonable offer of suitable replacement work.

#### *Termination of secondment agreement with consent of the Public Employment Services*

6. The private employment agency can apply to the Public Employment Services for permission to terminate the secondment agreement for commercial reasons if there are reasonable grounds for this and it would not be possible or logical<sup>3</sup> to reassign the temporary agency worker within a reasonable term (with the aid of vocational training or otherwise). For the determination of

the reasonable term referred to in this paragraph, phase A is treated as eighteen months worked (provided that it has been completed in full). Interruptions in phase B of no more than six months are also counted.

#### *Disputes*

7. Disputes concerning the interpretation of this article, in particular with regard to the interpretation and application of the term 'suitable employment' and the details and application of the reassignment process may be submitted to the Disputes Committee by both the private employment agency and the temporary agency worker pursuant to articles 69 and 70 of the CLA.

<sup>\*1</sup> See also Protocol B.

<sup>\*2</sup> *Explanation of article 44(1) and 44(2):*

*A number of objective criteria are included with regard to the offer and acceptance of suitable employment within the meaning of article 44(1) and 44(2) of the CLA. On the offer and acceptance of suitable employment, the individual circumstances of the temporary agency worker and the possibility of the private employment agency offering alternative work must also be taken into account. As the personal and business circumstances can differ in each case, no general regulation can be provided that can apply for everyone.*

*Circumstances that may play a role include care tasks that the temporary agency worker may have, the age of the temporary agency worker, the health of the temporary agency worker, the availability of the temporary agency worker's own transportation, travelling times, employment history in the present job and if necessary, offering a transitional scheme (in time or money). (NB This is not an exhaustive list). The temporary agency worker may only reject a proposal if its acceptance cannot reasonably be required of him.*

<sup>\*3</sup> *A reasonable term is defined as the term equal to the statutory notice period referred to in Section 7:672, subsection 2, of the Netherlands Civil Code.*

*The following statutory notice periods apply for a secondment agreement which, on the day of termination:*

- *has lasted less than five years: 1 month;*
- *has lasted 5 years or longer, but less than 10 years: 2 months;*
- *has lasted 10 years or longer, but less than 15 years: 33 months;*
- *has lasted 15 years or longer: 4 months.*

*If the temporary agency worker has an occupational disability, the statutory notice period is 26 weeks (regardless of how long the employment relationship has lasted.)*

#### **Article 45 Adjustment of actual wage for suitable employment on application of the hirer's remuneration**

1. Temporary agency workers who:
  - have a current secondment agreement in phase A, B of C and
  - will perform suitable work in compliance with article 44 of the CLA, for which they will be paid the corresponding hirer's remuneration,

will be assigned to the job grade applying for the suitable work to be performed at the user company. The actual wage will be determined here in accordance with this job grading, in compliance with article 20(2) of the CLA.

2. If the job to be performed by the temporary agency worker cannot be graded in the wage structure at the user company in compliance with article 20 of the CLA, the ABU remuneration will be applied. The temporary agency worker will then be graded in the ABU wage structure, as included in article 28(2) of the CLA, on the grounds of the suitable work to be performed. The actual wage will be determined here according to this job grading.
3. If there is a new assignment for a lower number of hours than that agreed in the secondment agreement, the temporary agency worker is entitled to the actual wage, as provided in this article, for the hours worked. With regard to the number of hours in which no work is performed, the provisions of article 40(1) or 40(5) (if applicable), or of article 41(4) or article 42(2) of the CLA apply.
4. The following applies for temporary agency workers employed on the basis of a secondment agreement for an indefinite period in phase C, in addition to the provisions of paragraphs 1 up to and including 3 of this article:
  - a. The actual wage in phase C must at least amount to the reversion wage. The provisions of article 47 also apply here.
  - b. If and for as long as the actual wage in a new placement amounts to less than the last actual wage applying in the previous placement, the temporary agency worker is entitled to a supplement to the actual wage for a maximum of the first thirteen weeks of that new placement, in the form of a personal bonus of up to 100% of the last actual wage applying in the previous placement. For the purposes of the application of this, several placements are treated as a single new placement for as long as they do not last for thirteen weeks in total, counted from the first placement in the series.

#### Article 46 **Adjustment of actual wage for suitable employment on application of ABU remuneration**

1. Secondment agreement in phase A

A temporary agency worker who:

- has a current secondment agreement in phase A and
- will perform suitable work in compliance with article 44 of the CLA and for which he will be paid the appropriate ABU remuneration,

will (again) be graded in the ABU wage structure, as included in article 28(2) of the CLA, on the basis of the suitable work to be performed. The actual wage will be determined here in accordance with the new job grade.

2. Secondment agreement in phase B

A temporary agency worker who:

- has a current secondment agreement in phase B and
- will perform suitable work in compliance with article 44 of the CLA and for which he will be paid the appropriate ABU remuneration,

will (again) be graded in the ABU wage structure, as included in article 28(2) of the CLA, on the basis of the suitable work to be performed. The actual wage will be determined here in accord-

ance with the new job grade. The new actual wage must at least equal the actual wage received before the loss of the temporary agency work.

3. Secondment agreement in phase C
  - a. A temporary agency worker who:
    - has a current secondment agreement in phase C and
    - will perform suitable work in compliance with article 44 of the CLA and for which he will be paid the appropriate ABU remuneration,will (again) be graded in the ABU wage structure, as included in article 28(2) of the CLA, on the basis of the suitable work to be performed. The actual wage will be determined here in accordance with the new job grade. The new actual wage must at least amount to the reversion wage. The provisions of article 47 of the CLA also apply.
  - b. If the temporary agency worker will perform suitable work at the level of the job grade to which he was assigned on commencement of the secondment agreement for an indefinite period in phase C, he is again entitled to the actual wage for this. This concerns the actual wage determined on commencement of the secondment agreement for an indefinite period in phase C, plus any period-linked salary amount and/or initial wage increases.
  - c. If and for as long as the actual wage in a new placement amounts to less than the last actual wage applying in the previous placement, the temporary agency worker is entitled to a supplement to the actual wage for a maximum of the first thirteen weeks of that new placement, in the form of a personal bonus of up to 100% of the last actual wage applying in the previous placement. For the purposes of the application of this, several placements are treated as a single new placement for as long as they do not last for thirteen weeks in total, counted from the first placement in the series.
4. If there is a new placement for a lower number of hours than that agreed in the secondment agreement, the temporary agency worker is entitled to the ABU remuneration, as provided in this article, for the hours worked. With regard to the number of hours in which no work is performed, the provisions of article 40(1) or 40(5) (if applicable), or of article 41(4) or article 42(2) of the CLA apply.

#### **Section 4c Limited application of reversion wage in phase C**

*This section contains the provisions that apply for temporary agency workers with a secondment agreement for an indefinite period in phase C. The reversion wage may be applied for this temporary agency worker for a limited extent only, as provided for in this section.*

#### **Article 47 Limited application of reversion wage for temporary agency workers with a secondment agreement for an indefinite period in phase C**

1. The private employment agency may apply the reversion wage for temporary agency workers with a secondment agreement for an indefinite period in phase C to a limited extent only, in accordance with the provisions of this article.

*Loss of the temporary agency work*

2. On the loss of the temporary agency work, the private employment agency may reduce the actual wage to the reversion wage on a maximum of two occasions.

### *Performance of suitable work*

3. If the temporary agency worker is to perform suitable work in a new placement after the loss of the temporary agency work, the private employment agency may reduce the actual wage to the reversion wage on one occasion only.
4. In total, the private employment agency may reduce the actual wage to the reversion wage on two occasions only. If the reversion wage has already been applied once, thereafter the private employment agency may apply the reversion wage only due to the loss of the temporary agency work.
5. When the private employment agency has applied the reversion wage twice (on the last occasion due to the loss of the temporary agency work), the temporary agency worker who is to perform suitable work in a new placement at least has the right to the actual wage applying for him, as received before the latest loss of temporary agency work performed. This arises from the fact that the private employment agency may apply the reversion wage only once for the performance of suitable work.
6. At least 26 weeks must lie between each reduction of the actual wage to the reversion wage. If 26 weeks have not yet passed, the private employment agency is not authorised to adjust the actual wage to the reversion wage again.
7. By way of derogation from the above provisions, the private employment agency is authorised to adjust the reversion wage again if:
  - a. the temporary agency worker performed suitable work after the loss of his temporary agency work as a result of which the actual wage increased in compliance with paragraph 5 of this article, and
  - b. the temporary agency work is then lost again – within 26 weeks or otherwise.
8. By way of derogation from the above provisions, the private employment agency is also authorised to reduce the actual wage to the reversion wage again on the loss of the temporary agency work or a new placement in compliance with the provisions of paragraphs 2 up to and including 7 of this article, if the temporary agency worker's actual wage rose after an earlier application of the reversion wage and the actual wage then exceeded the actual wage applying on commencement of the secondment agreement for an indefinite period in phase C, plus the total of the period-linked salary increases awarded and the initial wage increase(s) that took place in the intervening period.
9. The actual wage for the performance of suitable work, on application of the ABU remuneration, must always amount to at least the actual wage shown in column II of the salary table in article 28(2) for the job grade to which the temporary agency worker is assigned.
10. On application of the hirer's remuneration, the actual wage for the performance of suitable work must always amount to at least 90% of the first actual wage determined in phase C, plus the period-linked salary increases awarded and the initial wage increase(s) in phase C.
11. Previous applications of the reversion wage after 31 December 2012 are counted for the purposes of the application of this article.

### *Explanation:*

*Step by step, the regulation of article 47 for temporary agency workers with a secondment agreement for an indefinite period in phase C entails the following:*

- *On the loss of the temporary agency work, the reversion wage applies. The actual wage for the performance of suitable work in a new placement should also at least equal the reversion wage.*
- *Application of the reversion wage means a reduction of the actual wage (as determined in the last placement) by a maximum of 10%.*
- *Unlimited application of the reversion wage is not permitted.*
- *On the loss of the temporary agency work, the private employment agency may reduce the actual wage to the reversion wage on two occasions only.*
- *If the temporary agency worker is to perform suitable work, the private employment agency may reduce the actual wage to the reversion wage on one occasion only.*
- *In total, the private employment agency may reduce the actual wage to the reversion wage on two occasions only.*
- *If the reversion wage has already been applied once (due to the loss of the temporary agency work or the performance of suitable work in a new placement), thereafter the private employment agency may apply the reversion wage only due to the loss of the temporary agency work.*
- *If the private employment agency has already applied the reversion wage twice, on his next placement the temporary agency worker is at least entitled to the actual wage that he received before the loss of the temporary agency work. This is because the private employment agency may only apply the reversion wage once due to the performance of suitable work.*
- *At least 26 weeks must lie between each adjustment of the actual wage to the reversion wage.*
- *If the temporary agency worker enters the underutilisation period after:*
  - *the private employment agency has already applied the reversion wage on two occasions, and*
  - *his wage has increased due to the performance of suitable work in a new placement because the reversion wage may be applied only once on the performance of suitable work,**the private employment agency is authorised to apply the reversion wage again, regardless of whether 26 weeks have passed in the meantime.*
- *If:*
  - *the temporary agency worker's actual wage has increased after the reversion wage has already been applied once,*
  - *with the actual wage rising above the actual wage that applied on commencement of the secondment agreement for an indefinite period in phase C,*
  - *plus the sum of the period-linked salary amounts awarded and the initial wage increase(s) that have taken place in the meantime,**the private employment agency is again authorised to apply the reversion wage in accordance with article 47 (i.e. on a maximum of two occasions in the case of underutilisation and a maximum of one occasion on the performance of suitable work, with a maximum of twice in total).*
- *On the application of the ABU remuneration, the actual wage for the performance of suitable work must always amount to at least the actual wage shown in column II of the salary table in article 28(2) for the job grade to which the temporary agency worker is assigned.*
- *On application of the hirer's remuneration, the actual wage for the performance of suitable work must always amount to at least 90% of the first actual wage determined in phase C, plus the period-linked salary amounts and initial wage increase(s) awarded in phase C.*



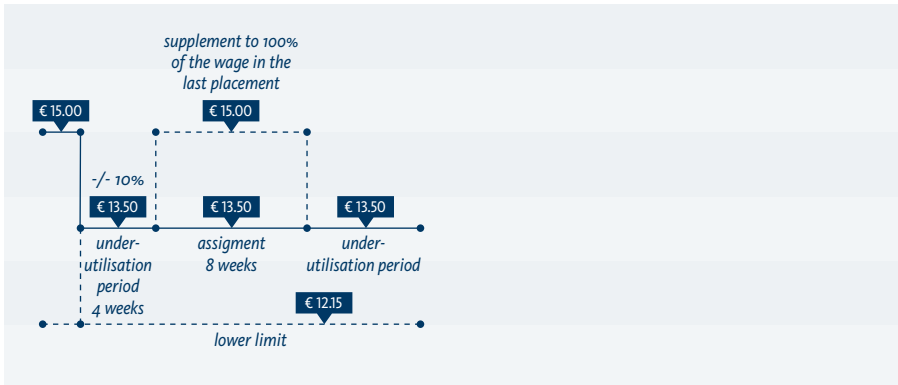
*Example 1:*

**Situation 1**

*A temporary agency worker enters the underutilisation period and had an actual wage of €15 per hour during the last placement. The wage in the underutilisation period amounts to €13,50 (90% of €15).*

*After four weeks, the temporary agency worker is placed in a lower job group than the one to which he was assigned at the start of his secondment agreement. The wage amounts to a minimum of €13,50. Pursuant to article 45(4)(b) or article 46(3)(c) of the CLA, this is supplemented to 100% of the actual wage in the last placement for the first 13 weeks.*

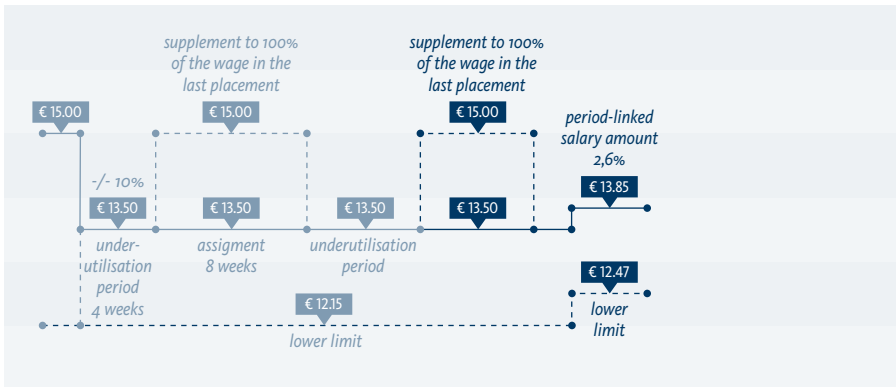
*After eight weeks, the temporary agency worker enters the underutilisation period again. The actual wage may not be reduced by 10% because 26 weeks have not passed. The reversion wage therefore amounts to €13,50.*



## Situation 2

After 10 weeks, the temporary agency worker starts work again, once again in a lower job group than the one to which he was assigned at the start of his secondment agreement. His wage once again amounts to at least €13.50. Pursuant to article 45(4)(b) or article 46(3)(c) of the CLA, this is supplemented to 100% of the actual wage in the last placement for the first thirteen weeks. Because a supplement was paid in eight weeks during the first placement, five of the thirteen weeks still remain.

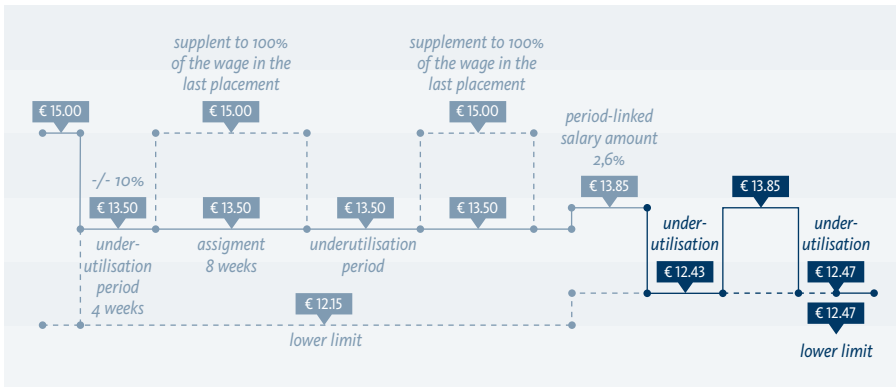
After 24 weeks, the temporary agency worker receives a period-linked salary amount of 2.6% on the basis of the CLA. If the actual wage then amounts to €13.50, the wage then becomes €13.85 (€13.50 plus 2.6%).



### Situation 3

After 30 weeks, the temporary agency worker again enters the underutilisation period. The employer now once again has the possibility of reducing the actual wage to the reversion wage. The reversion wage now amounts to €12.47 (90% of €13.85).

The temporary agency worker is placed again, once again in a lower job group than the one to which he was assigned at the start of his secondment agreement. The actual wage must now amount to at least €13.85. If the temporary agency worker enters the underutilisation period again, the employer once again has the possibility of reducing the actual wage to the reversion wage, regardless of whether 26 weeks have passed. The reversion wage now amounts to €12.47.



### Example 2:

A temporary agency worker enters the underutilisation period and had a wage of €15 per hour during the last placement. The wage in the underutilisation period amounts to €13.50.

The underutilisation period for the temporary agency worker is 29 weeks. The wage throughout the underutilisation period amounts to €13.50. This may not be reduced further because there is no change in the situation. If the temporary agency worker is placed again, the wage pursuant to article 45(4)(a) or article 46(3)(a) is at least the reversion wage, i.e. €13.50. In this case too, there is an obligation to supplement the wage to 100% pursuant to article 45(4)(b) or article 46(3)(c) of the CLA.

After the period in which the temporary agency worker has been placed for 30 weeks, he again enters the underutilisation period. The actual wage may again be reduced by 10%. This is now possible because more than 26 weeks lie between the first and the second reduction. The reversion wage amounts to €12.15.

Article 48 **This article has been deleted**

## **Section 5 Other remuneration provisions**

*The provisions of this section apply to temporary agency workers who are paid on the basis of the hirer's remuneration or the ABU remuneration.*

### **Article 49 Compensation hours**

1. The private employment agency may agree in writing with the temporary agency worker that compensation hours are to be awarded instead of payment of the bonus for irregular working hours owed to him. The private employment agency may also agree in writing with the temporary agency worker that compensation hours will be awarded to him instead of payment for the overtime and overtime bonuses.
2. At the private employment agency's own discretion, these compensation hours may be accrued in time or in money. With accrual in time, the hours worked are multiplied by the applicable bonus factor and in the number of free hours accrued is calculated in this way. With accrual in money, the temporary agency worker accrues the countervalue in money of the accrued hours, multiplied by the applicable bonus factor. He can deploy this amount at a later date to take up free time, insofar as the countervalue in money of the accrued hours is sufficient at the time they are taken.
3. In principle, the compensation hours accrued in this way are always paid out in time, which means that the temporary agency worker uses the hours accrued to take up free time. As soon as the temporary agency worker has not acquired an entitlement to actual wage for a period of six weeks, the compensation hours are paid out to the temporary agency worker.
4. The private employment agency shall provide the temporary agency worker with a written statement of his compensation hours at least once a month.

### **Article 50 Conversion of employment conditions**

1. The private employment agency and the temporary agency worker may agree in writing that part of the wage in proportion to time, as well as holiday exceeding statutory requirements, bonuses as referred to in article 20(2)(c) or articles 36 and 37 and compensation hours as referred to in article 49 may be converted into tax-free reimbursements or tax-free benefits in kind in relation to extraterritorial costs.
2. The conversion of the wage into tax-free reimbursements or tax-free benefits in kind is permitted subject to observance of the following restrictions and conditions:
  - a. Conversion of wage into tax-free reimbursements or tax-free benefits in kind in relation to extraterritorial costs is only permitted for double accommodation costs, transport costs from and to the place of residence in the country of origin and extra costs for living expenses.
  - b. Mandatory provisions must be taken into account for conversion of wage.
  - c. Conversion of wage is only permitted if and insofar as allowed for tax purposes.
  - d. The amount of the tax-free reimbursements or the amount of the tax-free benefits in kind which the private employment agency wishes to pay or provide tax-free must be stated on the payslip.
  - e. Conversion of wage into tax-free reimbursements or tax-free benefits in kind must be agreed on in advance in writing with the temporary agency worker and laid down in (a supplement

to) the agency work employment contract. The supplement to the agency work employment contract will also include which tax-free reimbursements or tax-free benefits in kind the temporary agency worker is converting wage into and the agreed time period.

- f. After conversion, the wage may not be less than the statutory minimum wage applicable for the temporary agency worker.
- g. Conversion of wage, holiday exceeding statutory requirements, bonuses as meant in article 20(2)(c) (to the extent that this concerns the bonuses for irregular working hours and overtime) or articles 36 and 37 and compensation hours as meant in article 49, is limited to a maximum of 30% of the actual wage.
- h. Tax-free reimbursements allocated in the scope of this arrangement are limited to the costs actually incurred. A tax-free benefit in kind allocated in the scope of this arrangement shall be valued at market value.
- i. No reserves will be made on the converted part of the wage as meant in articles 53(4), 55, 56, 57 and 58 of this CLA. These are the reserves for holiday allowance and the right to holidays, waiting days, special leave, short-term absenteeism and public holidays which are related to the wage. The foregoing means that the reserves are only accrued on the reduced wage.
- j. Insofar as applicable no pension is accrued on the converted part of the wage.
- k. The conversion of part of the wage does not affect the basis of the overtime bonus and the bonus for irregular working hours.
- l. The converted wage and the value of the holiday exceeding statutory requirements that the temporary agency worker converts into tax-free reimbursements or tax-free benefits in kind will not exceed 81% of the amount of extraterritorial costs which the private employment agency wishes to pay or provide tax-free. The percentage of 81% does not apply to the conversion of bonuses as meant in article 20(2)(c) (insofar as this concerns the bonuses for irregular hours and overtime), or articles 36 and 37 and compensation hours as referred to in article 49.

#### Article 51 **Temporary agency workers working in the construction industry**

1. The *Collective Labour Agreement for Temporary Agency Workers* does not apply to private employment agencies that supply workers for a sum exceeding 50% of the annual wage bill to employers in the sense intended by the *Collective Labour Agreement for the Construction and Infrastructure Industries*.
2. The first paragraph does not apply if the private employment agency is a member of the ABU and/or NBBU, or if and to the extent that the private employment agency has been exempted from the *Collective Labour Agreement for the Construction and Infrastructure Industries* which has been decreed to be compulsorily applicable. In such case, paragraph 3 shall continue to apply in full.
3. Temporary agency workers who are deployed with a user company covered by the scope of the provisions of the *Collective Labour Agreement for the Construction and Infrastructure Industries* are covered by a different package of employment conditions; these divergent conditions are described in greater detail in articles 7 up to and including 16 of Appendix II of the *Collective Labour Agreement for Temporary Agency Workers*. A specific pension scheme applies for temporary agency workers in the construction industry.

## Chapter 5 Health and safety

### Article 52 Private employment agency's obligations concerning health and safety

Before the commencement of the work for the user company, the private employment agency is obliged to inform the temporary agency worker of any (professional) qualifications that are required for the work to be commenced and of any health and safety risks the work may involve and how to deal with them.

### Article 53 Incapacity for work

#### *General*

1. The temporary agency worker is required to notify the private employment agency and the user company on the first day of incapacity of work and as soon as possible, in any case before 10 a.m. The notification must state the address where the employee is being treated and the correct contact details.

#### *Agency work employment contract with agency clause*

2. The agency work employment contract with agency clause ends when incapacity for work takes effect pursuant to article 14(4) of this CLA. If there is a case of this and the temporary agency worker is entitled to a benefit pursuant to the Sickness Benefits Act, the private employment agency shall supplement this benefit as follows:
  - for the first 52 weeks of incapacity for work, up to 91% of the income from benefits. The benefit and the supplement together are at least equal to the minimum wage for the temporary agency worker and do not exceed the maximum daily wage in accordance with the Social Insurance (Funding) Act;
  - for the 53<sup>rd</sup> up to and including the 104<sup>th</sup> week of incapacity for work, up to 80% of the income from benefits.
3. The first two days of incapacity for work apply as waiting days pursuant to the Sickness Benefits Act whereby the temporary agency worker is not entitled to any benefit.
4. One waiting day of the two waiting days will be compensated. This compensation is effected by a bonus on the actual wage. The amount of this bonus is included in article 61(6) of this CLA.
5. For the supplements on the benefit referred to in paragraph 2 pursuant to the Sickness Benefit Act the private employment agency can take out insurance or other provisions. To cover this insurance or provision, a percentage may be deducted from the temporary agency worker's wage. This percentage is set forth in article 61(5) of this CLA.

#### *Secondment agreement*

6. For the temporary agency worker with a secondment agreement the provisions of Section 7:629 of the Netherlands Civil Code apply insofar as the stipulated work was not performed because he or she was unable to do so due to sickness, pregnancy or childbirth. If and insofar as the secondment agreement continues, the temporary agency worker is entitled to wage during his incapacity for work:
  - for the first 52 weeks of the incapacity for work the temporary agency worker is entitled to

91% of the applicable wage, whereby the minimum entitlement is the statutory minimum wage and the maximum entitlement is the maximum daily wage.

- for the 53<sup>rd</sup> week to the 104<sup>th</sup> week the temporary agency worker is entitled to 80% of the applicable wage, whereby the minimum entitlement is the statutory minimum wage and the maximum entitlement is the maximum daily wage.
7. The first day of incapacity for work applies as a waiting day, whereby the temporary agency worker is not entitled to payment of wage.

## **Chapter 6      Work and holidays**

### **Article 54      Work and rest times**

1. The work and rest times of temporary agency workers shall be equal to the normal work and rest times in the user company's organisation. A different working pattern may be agreed for temporary agency workers.
2. The work duration per day/week/period of the temporary agency worker shall not exceed the limits that apply to the user company on the grounds of the law and/or the user company's CLA. Nor shall the temporary agency worker's rest periods be shorter than the rest periods that apply to the user company on the grounds of the law and/or the CLA.
3. On commencing work at the user company's organisation, a written agreement is concluded with the temporary agency worker on the work times that will apply for the work, after which the agreement forms an integral part of the agency work employment contract.

*Article 55 will read as follows until 1 January 2018:*

### **Article 55      Holidays**

#### *General*

1. For each full working month worked, a temporary agency worker accrues the right to sixteen hours' holiday, or a proportional part thereof, in the case of not having worked a full working month.
2. The private employment agency may draw up holiday regulations.
3. The private employment agency is obliged to grant holidays to any temporary agency worker whose entitlement is sufficient, in such a way that the temporary agency worker need not work for three consecutive weeks or three separate weeks.
4. The private employment agency is obliged to grant the remaining days off in accordance with the temporary agency worker's entitlement to them, except insofar as its holiday rules determine otherwise.
5. At the temporary agency worker's request, the private employment agency shall compensate the holidays in excess of the statutory entitlement in money.

#### *Agency work employment contract with agency clause*

6. For the accrual of the sixteen hours' holiday per month, the temporary agency worker with an agency work employment contract with agency clause receives a supplement for holidays ex-

pressed in a percentage of his actual wage. This percentage is set forth in article 61(1) of this CLA. This is increased by the waiting day compensation in accordance with article 53(4) of this CLA.

7. The supplement referred to in paragraph 6 is not paid every week as part of the weekly payment but is reserved.
8. If the temporary agency worker takes holidays and the agency work employment contract continues, the actual wage will be paid out from the reserve insofar as the reserve is sufficient.

#### *Secondment agreement*

9. Temporary agency workers with a secondment agreement are entitled to continued payment of the actual wage during their holidays insofar as the right to holidays has been accumulated pursuant to paragraph 1 of this article.
10. The entitlement to holiday hours in phase C, both the statutory minimum and the (extra) holiday exceeding statutory requirements, expires five years after the last day of the calendar year in which the entitlement arose. The same applies to the holiday hours for which the entitlement arose in 2012.
11. If applicable, the following applies in supplement to paragraphs 6, 8 and 9 of this article. The actual wage is supplemented with the compensations that the temporary agency worker would have received on grounds of the ABU remuneration or hirer's remuneration if he had worked during the leave period. The compensations referred to here do not include any expense allowance(s).

*From 1 January 2018, Article 55 will be replaced by:*

#### Article 55 **Holidays**

##### *General*

1. For each full working month worked, a temporary agency worker accrues the right to 16  $\frac{2}{3}$  hours' holiday, or a proportional part thereof, in the case of not having worked a full working month.
2. The private employment agency may draw up holiday regulations.
3. The private employment agency is obliged to grant holidays to any temporary agency worker whose entitlement is sufficient, in such a way that the temporary agency worker need not work for three consecutive weeks or three separate weeks annually.
4. The private employment agency is obliged to grant the remaining days off in accordance with the temporary agency worker's entitlement to them, except insofar as its holiday rules determine otherwise.
5. At the temporary agency worker's request, the private employment agency shall compensate the holidays in excess of the statutory entitlement in money.

##### *Agency work employment contract with agency clause*

6. For the accrual of the 16  $\frac{2}{3}$  hours' holiday per month, the temporary agency worker with an agency work employment contract with agency clause receives a supplement for holidays expressed in a percentage of his actual wage. This percentage is set forth in article 61(1) of this CLA.



This is increased by the waiting day compensation in accordance with article 53(4) of this CLA.

7. The supplement referred to in paragraph 6 is not paid every week as part of the weekly payment, but is reserved.
8. If the temporary agency worker takes holidays and the agency work employment contract continues, the actual wage will be paid out from the reserve insofar as the reserve is sufficient.

#### *Secondment agreement*

9. Temporary agency workers with a secondment agreement are entitled to continued payment of the actual wage during their holidays insofar as the right to holidays has been accumulated pursuant to paragraph 1 of this article.
10. The entitlement to holiday hours in phase C, both the statutory minimum and the (extra) holiday exceeding statutory requirements, expires five years after the last day of the calendar year in which the entitlement arose. The same applies to the holiday hours for which the entitlement arose in 2012.
11. If applicable, the following applies in supplement to paragraphs 6, 8 and 9 of this article. The actual wage is supplemented with the compensations that the temporary agency worker would have received on grounds of the ABU remuneration or hirer's remuneration if he had worked during the leave period. The compensations referred to here do not include any expense allowance(s).

#### **Article 56 Holiday allowance**

1. Temporary agency workers are entitled to a holiday allowance of 8% of the actual wage over the worked days, holiday days and public holidays.
2. Temporary agency workers who take a holiday of at least five consecutive working days shall, if they request the private employment agency to do so, be paid the accrued sum in holiday allowance prior to the first week of June as set forth in article 60(2) of this CLA.

#### **Article 57 Short-term absenteeism, special leave and birth leave**

1. Short-term absenteeism and special leave mean a brief period calculated fairly, in which a temporary agency worker is prevented from working:
  - a. either as a result of the fulfilment of an obligation imposed by law or an authority, without any financial compensation, which obligation cannot be fulfilled in the temporary agency worker's own time; or
  - b. as a result of very special personal circumstances.
2. To be granted short-term absenteeism or special leave in the case referred to in paragraph 6 of this article, the temporary agency worker must, if possible, notify the private employment agency of the absence or leave at least one day beforehand. Other short-term absenteeism or special leave shall be taken in consultation, subject to the provisions of paragraph 7 of this article.

#### *Agency work employment contract with agency clause*

3. For short-term absenteeism, special leave and birth leave, temporary agency workers with an

agency work employment contract with agency clause receive a supplement, expressed as a percentage of the actual wage plus the waiting day compensation. This percentage is set forth in article 61(2) of this CLA.

4. The supplement referred to in paragraph 3 is not paid every week as part of the weekly payment but is reserved. If the temporary agency worker, taking the provisions of this article into account, takes short-term absenteeism or special leave and the agency work employment contract continues, the actual wage will be paid from the reserve.

#### *Secondment agreement*

5. Temporary agency workers with a secondment agreement are entitled to continued payment of the actual wage, as if they had worked the normal or average number of hours, provided the provisions, meant in paragraph 2 of this article, are observed by the temporary agency worker.
6. Temporary agency workers with a secondment agreement are granted special leave in the following cases:

a. For the employee to take out a marriage licence	one day
b. For the employee's wedding/registered partnership	two days
c. For the wedding/registered partnership of:	
■ a child, stepchild, foster child or grandchild	one day
■ brother or sister (including brother-in-law and sister-in-law, half-brother/sister, stepbrother/sister and foster brother/sister)	one day
■ a parent or parent-in-law	one day
d. Paragraph 6(d) has been deleted	
e. In the event of the death of:	from the day of the death
■ the employee's spouse or partner	until the day of the funeral or
■ a child living at home	cremation
f. In the event of the death of:	one day and moreover to at-
■ one of the parents (including parents-in-law, step-	tend the funeral or cremation a
■ one of the employee's grandparents or his spouse's	second day. If the employee has
■ a child not living at home or related by marriage	to organise funeral: the time as
■ a brother or sister	under e.
g. For the 25 <sup>th</sup> year of service or wedding anniversary	one day
h. For the 40 <sup>th</sup> year of service or wedding anniversary	two days
i. For the 25 <sup>th</sup> , 40 <sup>th</sup> or 50 <sup>th</sup> wedding anniversary of the	one day
parents, grandparents or parents-in-law	

7. Besides the cases referred to in paragraph 6, the private employment agency may, on request, grant special paid or unpaid leave to a temporary agency worker working under a secondment agreement, if the private employment agency believes the leave is justified under the circumstances.
8. Following delivery on the part of the partner or the person whose child is acknowledged by the

temporary agency worker, the temporary agency worker will be entitled to birth leave for a period of four weeks calculated from the first day after delivery. Birth leave amounts to one time the weekly working hours.

*Agency work employment contract with agency clause*

If the temporary agency worker takes birth leave and the agency work employment contract continues to apply, the wage referred to in Section 1.2 of the Work and Care Act will be paid from the provision that has been accrued. If the provision is insufficient, it will be supplemented by the private employment agency.

*Agency work employment contract without agency clause*

If the temporary agency worker takes birth leave, he or she will be entitled to the wage referred to in Section 1.2 of the Work and Care Act.

**Article 58 Generally recognised public holidays**

1. For the purposes of this CLA, the following days are considered to be generally recognised public holidays, provided they do not fall on a Saturday and/or Sunday: New Year's Day, Easter Monday, Ascension Day, Whit Monday, Christmas Day and Boxing Day, King's Birthday or the day designated instead, and Liberation Day in anniversary years.

*Agency work employment contract with agency clause*

2. With regard to the continued wage payment made to temporary agency workers with an agency clause, the private employment agency must choose one of the following options for its entire company for public holidays on which the temporary agency worker does not work:
  - a. Temporary agency workers receive a supplement for generally recognised public holidays, expressed as a percentage of their actual wage, plus the waiting day compensation. This percentage is set forth in article 61(3) of this CLA. The supplement is not paid every week as part of the weekly payment but is reserved. When a generally recognised public holiday occurs and the temporary agency worker does not work on that day on account of that public holiday and the agency work employment contract continues, the actual wage shall be paid from the reserve; or
  - b. the temporary agency worker shall be entitled to continued payment of the actual wage on public holidays on which the temporary agency worker has not worked on account of that public holiday.

The private employment agency shall notify the temporary agency worker in writing as to its choice. If it does not follow from the agency work employment contract whether the public holiday falls on a day that is normally designated as a working day, this is established by evaluating whether there is a consistent work pattern on the grounds of which the temporary agency worker would have to work on the day on which the public holiday falls. There is a consistent work pattern in any case if the temporary agency worker was scheduled to work or actually worked on the relevant day in the week in a period of thirteen consecutive weeks immediately prior to the public holiday in question.

3. A choice for continued payment in accordance with option b. of the previous paragraph obliges the private employment agency to apply it for the duration of at least one year. If the choice is changed

the rights acquired by the temporary agency worker must be settled in accordance with the arrangement which these rights were derived from.

#### *Secondment agreement*

4. The temporary agency worker with a secondment agreement shall be entitled to continued payment of the actual wage on public holidays on which the temporary agency worker has not worked on account of that public holiday.
5. If it does not follow from the secondment agreement whether the public holiday falls on a day that is normally designated as a working day, this is established by evaluating whether there is a consistent work pattern on the grounds of which the temporary agency worker would have to work on the day on which the public holiday falls. There is a consistent work pattern in any case if the temporary agency worker was scheduled to work or actually worked on the relevant day in the week in a period of thirteen consecutive weeks immediately prior to the public holiday in question.

#### **Article 59 Holiday workers**

1. The regulations for holiday workers may only be applied in the period from 1 June to 1 September.
2. The regulations for holiday workers mean that the following derogating employment conditions apply:
  - a. Holiday workers are entitled to 13 1/3 hours' holiday for each month, or a proportional part thereof in the case of not having worked a full working month. For the accumulation of this right, the holiday worker working pursuant to an agency work employment contract with agency clause receives a supplement for holidays as set forth in article 61(4) of this CLA.
  - b. Holiday workers are not entitled to the reserves for short-term absenteeism and special leave and public holidays as referred to in articles 57 and 58 of this CLA.

### **Chapter 7 Payment of reserves**

#### **Article 60 Payment of reserves and holiday allowance**

##### *A. Holiday allowance, short-term absenteeism and special leave, public holidays*

1. The reserves referred to in articles 57 and 58 of this CLA that have not yet been paid shall be paid automatically to the temporary agency worker in the first week of June\*.
2. The holiday allowance referred to in article 56 of this CLA, to which the temporary agency worker has accumulated entitlement pursuant to this CLA, shall be paid automatically to the temporary agency worker in the first week of June of each year, without detriment to the provisions of paragraph 3 of this article.
3. If and insofar as the agency work employment contract ends in phase A and is not followed immediately by a new agency work employment contract, the as yet unpaid reserves, as referred to in articles 57 and 58, and the holiday allowance, as referred to in article 56 which the temporary agency worker has accumulated entitlement to pursuant to this CLA, shall be paid automatically to the temporary agency worker.
4. If and as soon as a temporary agency worker in phase A has not been entitled to receive the actual wage for a period of six weeks, at least any as yet unpaid reserves as referred to in articles

57 and 58, and the holiday allowance, as referred to in article 56, to which the temporary agency worker has accumulated entitlement pursuant to this CLA, shall be paid automatically to the temporary agency worker.

5. If and as soon as a temporary agency worker has completed phase A with the private employment agency and has entered phase B, any as yet unpaid reserves, as referred to in articles 57 and 58, shall be paid automatically to the temporary agency worker in accordance with paragraph 3 of this article, but not the holiday allowance referred to in article 56.
6. If the above-mentioned reserves and holiday pay are paid out, a payslip will be provided.

B. *Holidays*

7. For the duration of the agency work employment contract, temporary agency workers shall not be permitted to waive their holiday entitlement in return for compensation without prejudice to the provisions of article 55(5).
8. Temporary agency workers who are still entitled to holidays when the agency work employment contract expires shall be entitled to a financial payment for those holiday entitlements.
9. The remaining claim to holidays will be paid out in the last week of each calendar year to the temporary agency worker, unless the agency work employment contract continues into the new calendar year.
10. If an agency work employment contract with agency clause is followed by a secondment agreement, the reserve for holidays will be converted into a proportionate claim to holidays with continued payment of wage.
11. At the time of converting the reserves for holidays into an entitlement to holidays, as referred to in paragraph 10 of this article, the private employment agency shall issue the temporary agency worker with a written statement that clearly indicates the amount that has been converted.
12. If the payment referred to in paragraphs 8 and 9 of this article is made, the private employment agency shall be obliged to issue the temporary agency worker with a statement that indicates the period over which the employee still has an entitlement to holidays at the end of the agency work employment contract.
13. Temporary agency workers who conclude a new agency work employment contract with either the same or a different private employment agency, shall still be entitled to unpaid holidays from that private employment agency during the period over which they were still entitled to holidays according to the statement referred to in paragraph 12 of this article.

C. *Payment of reserves for temporary agency workers who have reached the age on which they become entitled to state pension (AOW)*

14. For temporary agency workers who have reached the age on which they become entitled to state pension (AOW), contrary to the provisions of this CLA stated under a., b., c. and d. of this paragraph, the private employment agency may agree, in consultation with the temporary agency worker that remuneration in respect of the following working conditions may be paid to the temporary agency worker in money, on a weekly/monthly/periodic basis. This applies on the understanding that in such cases payment will be made in respect of all the working conditions stated below:

- a. five days off in excess of the statutory holiday entitlement (article 55);
- b. reserve for short-term absenteeism (article 57);
- c. holiday allowance (article 56);
- d. public holidays (article 58), if and insofar as the company sets aside a reserve for this and, in so doing, has chosen the option in article 58(2)(a) of this CLA.

\* *If wages are not paid during the first week of June, because payment takes place monthly or every several weeks, the reserves will be paid at the payment moment that falls nearest the first week of June.*

*Explanation of paragraphs 7 up to and including 10:*

*On the grounds of Section 7:640 of the Netherlands Civil Code, as long as the agency work employment contract continues, no financial payment may be made for an outstanding reserve for holidays. However, a holiday reserve may be used to continue wage payments during a holiday. Moreover, a financial payment for the holiday reserve will be made if the agency work employment contract ends, unless the temporary agency worker leaves the reserve in order to take paid holidays in a subsequent agency work employment contract. If the agency work employment contract switches from phase A to phase B, the holiday reserve shall be converted into a proportionate entitlement to the continued payment of holidays.*

*Explanation to paragraphs 12 and 13:*

*On the grounds of Section 7:641 of the Netherlands Civil Code, when a financial payment is made for remaining holiday entitlements at the end of the employment contract, employees must be given the opportunity of taking unpaid leave from the new employer for the duration of the holidays for which a financial payment was received at the end of the previous employment contract. Paragraphs 12 and 13 are the interpretation of this for the agency work employment contract.*

#### **Article 61 Percentages of reserves, deductions and waiting day compensation**

1.
  - a. The percentage referred to in article 55(6), of this CLA is 10.87% for 2019.
  - b. In the event of a departure on the grounds of article 60(14) and article 64, paragraph 2 from the rule referred to in article 55(6), of the CLA, the percentage for the holiday reserve in 2019 shall be 8.70% and 2.17% of the actual wage shall be paid out in money on a weekly/monthly/periodic basis.
2. The percentage referred to in article 57(3) of this CLA is 0.60% for 2019.
3. The percentage referred to in article 58(2) under a. of this CLA is 2.61% for 2019.
4. The percentage referred to in article 59(2) of this CLA is 8.30% for 2019.
5. For 2019, the percentage referred to in article 53(5) of this CLA is 0.58% and 1.33% for the premium contribution groups Private Employment Agencies I and Private Employment Agencies II respectively.
6. For 2019, the percentage referred to in article 53(4) of this CLA is 0.71% and 1.16% for the premium contribution groups Private Employment Agencies I and Private Employment Agencies II respectively.
7. The table below includes the applicable percentages of the remaining term of the CLA:

Article	2017	2018	2019
Article 61(1)(a) reservation holiday days	10.43%	10.92%	10.87%
Article 61(1)(b) reservation statutory holiday	8.70%	8.73%	8.70%
Article 61(1)(b) payment of holiday exceeding statutory requirements	1.74%	2.18%	2.17%
Article 61(2) short-term leave and special leave	0.60%	0.60%	0.60%
Article 61(3) generally recognised public holidays	2.61%	3.06%	2.61%
Article 61(4) holiday workers	8.33%	8.30%	8.30%
Article 61(5) Private Employment Agencies I	0.58%	0.58%	0.58%
Article 61(5) Private Employment Agencies II	1.33%	1.33%	1.33%
Article 61(6) Private Employment Agencies I	0.71%	0.71%	0.71%
Article 61(6) Private Employment Agencies II	1.16%	1.16%	1.16%

8. The calculation method for the reserves is included in article 5 of Appendix II to this CLA.

## Chapter 8 Pension

### Article 62 Pension scheme

1. There is a pension scheme for temporary agency workers aged 21 or older. A distinction is made between a Basic Scheme and a Plus Scheme, depending on the number of weeks that a temporary agency worker has been employed.
2. The Basic Scheme is a defined contribution scheme for which the premium contribution as at 1 January 2008 is 2.6% of the gross wage.
3. The Plus Scheme is a defined contribution scheme with a retirement age of 67 (65 until 1 January 2015) and provides for the formation of a pension capital for purchasing a retirement pension and/or partner's pension. The premium contribution made available for forming the pension capital is expressed as a percentage of the pension basis according to the graduated rates shown below.

Age group	Pension contributing 2017	Pension contributing 2018	Pension contributing 2019
21-24	4.40%	4.20%	4.20%
25-29	5.40%	5.10%	5.10%
30-34	6.60%	6.30%	6.30%

35-39	8.00%	7.60%	7.60%
40-44	9.80%	9.30%	9.30%
45-49	11.90%	11.40%	11.40%
50-54	14.60%	13.90%	13.90%
55-59	18.10%	17.20%	17.20%
60-64	22.50%	21.30%	21.30%
65-66	26.50%	25.60%	25.60%

The pension basis is determined on an hourly basis by the gross hourly wage of the temporary agency worker, less the hourly franchise.

- The Stichting Pensioenfonds voor Personeelsdiensten is responsible for implementing the scheme. The bye-laws and regulations of this foundation are determinative for the rights and obligations of temporary agency workers and companies.
- The pension scheme is further specified in Appendix III of this CLA.

## Chapter 9 Vocational training

### Article 63 Vocational training

- Vocational training means any form of structured activity intended to enable (prospective) temporary agency workers to obtain, maintain, expand or deepen their knowledge and/or skills. Training does not mean the performance, in return for pay (other than an allowance), of productive work that is not largely intended to expand the individual's knowledge and skills.
- Vocational training is intended to strengthen the temporary agency worker's employment position and is job and/or job-market related. The training course takes place on the basis of consultation between the temporary agency worker and the private employment agency.

#### *Training expenditure obligation*

- Private employment agencies are obliged to spend 1.02% of the gross wage owed to temporary agency workers in phase A in the year concerned on training temporary agency workers. For the purposes of this article gross wage means: the wage for the hours normally worked, the wage for irregular working hours (i.e. the hours in different day and time zones), the waiting day compensation, the reserves that have been paid out for holidays, special leave, short-term absenteeism and public holidays and the holiday allowance. For the purposes of this article, gross wage does not mean the wage for overtime, travelling time and grossed-up allowances.
- The private employment agency can choose to implement the training expenditure obligation of 1.02% at company level fully or partially under its own management or to pay the means involved fully or partially to STOOFF (Foundation for Training & Development in the Agency work sector).
- If the private employment agency implements the training expenditure obligations at company level fully or partially under its own management, it must include the expenditure on training in the last calendar year and how this expenditure took place in a specific section in the annual account or in an audit report. The private employment agency is obliged to provide the specific section in the annual account or audit report to the Stichting Naleving CAO voor Uitzendkrachten (SNCU) before 1 July each year.



6. Training costs mean:
  - the direct wage costs of temporary agency workers, payable by the private employment agency, who follow study programmes during working hours (lost labour costs);
  - the direct and indirect expenses involved in providing or organising (internal and external) study programmes, including the costs of the personnel involved in this;
  - any other expenses, including the costs paid to educational institutions, travelling and accommodation expenses and study-cost allowances.
7. A structured activity means an activity that meets the following conditions:
  - any training must last at least three hours;
  - a supervisor must be present at the training course; where effective training is possible through an interactive system, at least distance supervision must be available, in the form of a helpdesk, for example;
  - after the activity, the training course is evaluated with the temporary agency worker by or on behalf of the private employment agency.
8. If the temporary agency worker and/or the private employment agency so desire, they shall consult each other with regard to creating a detailed programme for a personal development plan (P.D.P.).
9. If the temporary agency worker is offered a training course, the parties shall agree in writing with regard to such training course and set out the study objectives and extent of the training course, amongst other things.

#### *Extra training endeavours*

10. At the private employment agency's initiative the temporary agency worker from the time that he starts phase B or C can be considered once every five years for acknowledgement of competences.
11. In consultation between the temporary agency worker without a starting qualification (that is, no diploma at senior secondary vocational education (MBO) level 2 at least, or no diploma at senior general secondary education (HAVO) or pre-university (VWO) level) and the private employment agency it can be agreed that the temporary agency worker shall receive qualificative training offered by the private employment agency. Qualificative training is understood to mean a course that provides the temporary agency worker with a starting qualification after completion of the course. If the temporary agency worker has completed the qualificative training successfully, the temporary agency worker is entitled to an extra period-linked salary amount, as well as the regular period linked salary amount ensuing from the CLA as meant in article 28 of the CLA.

#### *Repayment scheme*

12. The private employment agency is authorised to reach a reasonable repayment arrangement with the temporary agency worker in those cases when the temporary agency worker does not successfully complete the training and is to blame or the agency work employment contract is terminated before the training has been completed at the initiative of or due to the fault of the temporary agency worker.

Article 64 **Temporary agency workers who do not reside permanently in the Netherlands**

This article, concerning the different characteristics of the working conditions of temporary agency workers who do not reside permanently in the Netherlands, has been agreed by the CLA parties to bring the working conditions of the temporary agency workers who do not reside permanently in the Netherlands more into line with their needs and their specific working pattern. Upon concluding the agency work employment contract, the private employment agency is obliged to enter into consultations with each temporary agency worker who does not reside permanently in the Netherlands about the provisions of this article on the alternative form of their working conditions.

1. The provisions of this CLA apply fully to temporary agency workers who do not reside permanently in the Netherlands, however, on the understanding that, in accordance with the provisions of the following paragraphs of this article, the rights and obligations arising from those CLA provisions can be given shape in an alternative manner. The basic principle hereby is that the value of the working conditions given shape in an alternative manner for these temporary agency workers is the same as that of the working conditions for the temporary agency workers who reside permanently in the Netherlands. References in this article to 'temporary agency workers' are references to 'temporary agency workers who do not reside permanently in the Netherlands', unless expressly determined otherwise. The provisions of this article therefore do not apply to the temporary agency workers who reside permanently in the Netherlands.
2. Contrary to the working conditions arising from the provisions of this CLA represented under a., b., c. and d. of this paragraph, the private employment agency may agree, in consultation with the temporary agency worker, that remuneration in respect of these working conditions may be paid to the temporary agency worker in money, on a weekly/monthly/periodic basis. This applies on the understanding that in such cases payment will be made in respect of all the working conditions stated below (except in the case of application of paragraph 3 of this article):
  - a. five days off in excess of the statutory holiday entitlement (article 55);
  - b. reserve for short-term absenteeism (article 57);
  - c. holiday allowance (article 56);
  - d. public holidays (article 58), if and insofar as the company sets aside a reserve for this and, in so doing, has chosen the option in article 58(2) under a. of this CLA.
3. Contrary to the provisions of paragraph 2 of this article, the private employment agency is permitted to agree with the temporary agency worker to only increase the actual wage by the proportional value in money of the working conditions referred to under b., c. and d. of paragraph 2 of this article on the understanding that, in respect of holidays in excess of the statutory entitlement, the normal reserve system of article 55 of this CLA may be adopted, if required.
4. If and insofar as not already applicable on the grounds of article 63(1), of this CLA, the training referred to in that article for temporary agency workers shall in any case be deemed to include the activities concerned with facilitating the stay and the work of the temporary agency worker.
5. If required, the private employment agency shall enable the temporary agency workers to take a day off on alternative public holidays (i.e. not one of the generally recognised public holidays

referred to in article 68 of this CLA), provided the private employment agency is notified to that effect in good time.

6. The private employment agency is permitted to pay the wage partly in kind, in observance of the restrictions included in article 50 of the CLA.
7. The private employment agency is obliged to provide the temporary agency worker with appropriate and clear health and safety instructions.

**Article 65      Set-offs against the payable wage pertaining to temporary agency workers who do not reside permanently in the Netherlands**

1. References in this article to 'temporary agency workers' are references to 'temporary agency workers who do not reside permanently in the Netherlands'.
2. Set-off of penalties is only permitted with respect to court-imposed and administrative penalties.
3. If and insofar as this does not already ensue from Appendix II of this CLA, each separate set-off of a penalty against the wage must be specified in writing. The private employment agency provides the temporary agency worker with a list of the possible set-offs, in the national language of the temporary agency worker.

**Article 66      Deductions\* from the payable wage pertaining to temporary agency workers who do not reside permanently in the Netherlands**

1. References in this article to 'temporary agency workers' are references to 'temporary agency workers who do not reside permanently in the Netherlands'.
2. The temporary agency worker is authorised to grant the private employment agency a written power of attorney to make the payments he owes in his name from his payable wage. This power of attorney may be withdrawn at all times.
3. Deductions from the wage to be paid out for housing costs and transport costs from and to the place of residence in the temporary agency worker's country of origin are based on actual costs.
4. The costs of the relevant activities that the private employment agency performs for the benefit of social guidance provided to the temporary agency worker and the administration pertaining to the temporary agency worker's work and stay in the Netherlands may not be deducted from the wage.
5. If and insofar as this does not already ensue from Appendix II of this CLA, each separate deduction from the wage must be specified in writing. The private employment agency provides the temporary agency worker with a list of the possible deductions, in the national language of the temporary agency worker.

\* *'Deductions' means a deduction in the meaning of section 7:631 of the Netherlands Civil Code, which specifies that the employee can authorise the employer to make a deduction from the wage, so that the employer can make a payment in the name of the employee. This written authority can be withdrawn. Take note: section 7:631 of the Netherlands Civil Code mentions a number of **statutorily** obligatory deductions that **cannot** be revoked by the employee. They relate to the payment of premiums for the accrual of pension, among other things.*

**Article 67 Additional rules for temporary agency workers who do not reside permanently in the Netherlands**

These rules apply to temporary agency workers who are recruited outside the Netherlands by or on the instructions of the private employment agency and/or are housed in the Netherlands with the aim of having them perform work in the Netherlands.

1. References in this article to 'temporary agency workers' are references to 'temporary agency workers who do not reside permanently in the Netherlands'.
2. If the private employment agency provides housing and the temporary agency worker accepts this, the private employment agency shall ensure that the temporary agency worker is provided with accommodation at the actual cost in accordance with the legal requirements. The use of accommodation by the temporary agency worker cannot be made mandatory by the private employment agency or be made a requirement for placement. The CLA parties advise the temporary agency worker during the first sixteen weeks that the temporary agency worker is employed in the Netherlands to make use of the accommodation offered by the private employment agency. The private employment agency shall inform the temporary agency worker about the possibility of registering with the Municipal Personal Records Database (GBA).
3. Accommodation offered by the private employment agency to the temporary agency worker must satisfy the uniform accommodation standards as described in Appendix VII of this CLA, if:
  - a. the private employment agency makes a deduction from or a set-off against the wage of the temporary agency worker for the purpose of the accommodation of the temporary agency worker, or
  - b. the private employment agency has concluded an agreement with the temporary agency worker on the use or the rent of the accommodation.
4. The private employment agency shall ensure proper information is provided about transport from and to the country of origin, as well as from and to the hiring company. The private employment agency may offer transport it organises itself, which must satisfy the legal requirements. The temporary agency worker cannot be required to accept this transport unless the private employment agency has serious reasons for requiring this. If there are serious reasons and the housing is located such that the temporary agency worker must have his own transport in order to ensure his own mobility for social comings and goings, the private employment agency will ensure access to alternative transport, insofar as this can be reasonably expected of it.
5. The following applies with regard to the temporary agency worker's home-work travel:
  - a. If the temporary agency worker does not utilise the transport organised by the private employment agency but uses his own transport instead, a travel expense reimbursement as referred to in article 20(2)(e) and article 24 or 39 of the CLA may apply.
  - b. If the temporary agency worker utilises the transport organised by the private employment agency, a reasonable personal contribution for the transport may be agreed between the private employment agency and the temporary agency worker if no travel expense reimbursement in the sense of article 20(2)(e) and article 24 or 39 of the CLA applies.
  - c. If a travel expense reimbursement in the sense of article 20(2)(e) and article 24 or 39 of the CLA applies for the temporary agency worker's use of his own transport, but the temporary agency worker utilises the transport organised by the private employment agency, this

transport organised by the private employment agency is free of charge for the temporary agency worker.

6. The private employment agency shall make an effort to provide proper social guidance on the (health) care for temporary agency workers living in provided accommodation, with due observance of article 66(4) of this CLA.
7. If the private employment agency charges the temporary agency worker costs for the use of accommodation, in the absence of this temporary agency worker the private employment agency does not charge another temporary agency worker costs for the use of the same accommodation in the same period.
8. If the agency work employment contract ends, the private employment agency offers the temporary agency worker a reasonable period to leave the residence. The reasonable period becomes longer if:
  - a. uncertainty arose during the agency work employment contract concerning the end of the agency work employment contract;
  - b. the period in which the temporary agency worker worked for the private employment agency was longer.

In addition, the duration of the reasonable period depends on the possibilities of returning to the country of origin.

9. A reasonable period in the case of an agency work employment contract with agency clause exists in any case if the private employment agency, with regard to the forthcoming end of the accommodation, observes at least the periods as specified in article 14(2) of this CLA.
10. The private employment agency is obliged to offer health insurance to the temporary agency worker.
11. Each offer of the private employment agency to conclude any insurance (for example, health, liability, household contents, accident and/or repatriation insurance) between the temporary agency worker and an insurer is accompanied by sufficient information for the temporary agency worker on the usefulness and necessity of the insurance in question. The following applies with respect to this offer:
  - a. The temporary agency worker is never obliged to accept an insurance offer.
  - b. Periodic payments of the insurance premium to the insurer made by the private employment agency on behalf of the temporary agency worker can only take place after a written authorisation by the temporary agency worker. In that case the private employment agency will endeavour to ensure that the temporary agency worker receives a copy of the policy, with report of the nominal premium within a reasonable period after entering into the insurance, either directly from the insurer or via the private employment agency.
  - c. The private employment agency is obliged to inform the temporary agency worker on the possible voluntary continuation of the insurance after the end of the agency work employment contract.
12. If the temporary agency worker accepts the offer of health insurance, he may authorise the private employment agency to periodically make payments on his behalf to the health insurer to cover the nominal premium. In that case the private employment agency will make every effort to ensure that the temporary agency worker receives a copy of the policy, with report of the nominal premium, or proof of termination of health insurance within two weeks after entering

into and ending the health insurance, respectively, either directly from the insurer or via the private employment agency.

13. The private employment agency shall ensure that the agency work employment contract and the associated documents are available in Dutch as well as in the language of the temporary agency worker.
14. The private employment agency shall provide the temporary agency worker with extra information relating to this CLA, the Working Hours Act and possibly other subjects.
15. After 26 worked weeks the private employment agency shall inform the temporary agency worker about the possibilities of following a Dutch language course and shall facilitate the course where possible. The language course falls under training as referred to in article 63, paragraphs 1 up to and including 9 of this CLA.
16. If the private employment agency provides help with completing forms, such as the T-form (tax refund form), and the application for care benefit, only the temporary agency worker is the direct beneficiary of the refund. The refund is only deposited in the temporary agency worker's bank account.
17. The private employment agency cannot oblige the temporary agency worker to make cash payments to the private employment agency.

#### **Article 68 Temporary agency workers with a foreign employment contract (WagwEU)**

In accordance with the provisions of article 2 of this CLA and the Terms of Employment Posted Workers in the European Union Act (WagwEU), in the fields indicated below the provisions of this CLA that have been decreed to be compulsorily applicable, also apply to temporary agency workers who are deployed from abroad by a foreign private employment agency to a user company in the Netherlands, and whose employment contract is governed by the law of a country other than the Netherlands. The fields concerned are:

- maximum working times and minimum rest periods;
- minimum number of holidays during which the private employment agency has an obligation to pay wage;
- minimum wages, including payments for overtime and not including additional company pension schemes;
- conditions for placing temporary agency workers, in particular for private employment agencies;
- health, safety and hygiene at work;
- protective measures with regard to employment conditions and circumstances for children, young persons and pregnant employees or employees who have recently given birth;
- equal treatment of men and women.

Appendix IV applies to this employment agreement.

## **Chapter 11 Disputes Committees**

### **Article 69 Dealing with complaints in the private employment agencies**

Temporary agency workers shall first consult with the private employment agency's branch manager

on any complaints or disputes with regard to the agency work employment contract. The private employment agency shall take a decision within fourteen days. If the temporary agency worker does not agree with the decision he may put his dispute to the Disputes Committee.

#### Article 70 **Disputes Committee**

1. There is a Disputes Committee for the Temporary Agency Work Sector. The Committee consists of seven members and six deputy members. The employers' organisations and the ABU each appoint three members and three deputy members. Vacancies are filled by the party who appointed the resigning member. The employers' organisation and the ABU appoint the seventh member and chairman together.
2. Private employment agencies and temporary agency workers can institute a dispute about the implementation or application of this CLA, in English or Dutch.
3. The Committee regulates its working manner in its regulations. These also regulate the composition of the Committee to deal with a dispute.
4. The regulations apply without detriment to the statutory provisions for arbitration.
5. The regulations determined shall in any case regulate that:
  - a. the chairman shall in any case form part of the Disputes Committee;
  - b. the Committee deals with a dispute with 3, 5 or 7 (deputy) members;
  - c. the number of employees' and employers' members shall be equal in number.
6. The members and deputy members of the Disputes Committee as well as any secretary that the Committee may appoint shall observe confidentiality with regard to the facts and circumstances which they become aware of in the Committee. The same applies with regard to the way votes are cast in the Committee.
7. The claimant shall owe a court registry fee of €49 (exclusive of VAT). The Disputes Committee may stipulate in its decision that a sum in costs must be paid. The sum of the costs may not exceed the apportionment of the costs awarded by the court (sub-district sector) in a similar case.
8. Before starting to adjudicate in a case, the Disputes Committee may require a deposit from the parties, in some circumstances, the amount of which shall be determined by the Disputes Committee, taking into account the provisions of the preceding paragraph and with regard to the rules on free legal aid in accordance with the law.
9. The Disputes Committee shall send an overview of its decisions to parties to this CLA each year. The anonymity of the parties involved in the disputes shall remain safeguarded.
10. The Disputes Committee's secretariat is based at the office of the ABU.
11. The Disputes Committee for the Temporary Agency Work Sector can be contacted by post at PO Box 144, 1170 AC Badhoevedorp and by e-mail at geschillen@abu.nl.

#### Article 71 **Consultation, objections and appeal procedure concerning job classification**

##### *Consultation*

1. Temporary agency workers who believe their job has been incorrectly graded may submit an objection. The temporary agency worker must first consult with the member of the private employment agency workforce who graded the job, within three weeks of receiving notice of the relevant grading. Upon request, the private employment agency employee will provide the

temporary agency worker with a written grading decision. The private employment agency will send this decision to the temporary agency worker within six weeks after the request. The grading decision will inform the temporary agency worker of the body to which objections may be submitted and time period in which this must be done.

#### *Objections*

2. Temporary agency workers who disagree with the grading decision after the consultation referred to in paragraph 1 may submit an objection to this decision. To this end, within three weeks of receiving the grading decision, the temporary agency worker must submit a written objection to the management or the department of the relevant private employment agency that the management has designated. A submitted objection must contain the grounds for the temporary agency worker's view that the job has been incorrectly graded. The receipt of the objection will be confirmed in writing.

The private employment agency's management or the department designated by the management shall obtain information on the grading from the branch and temporary agency worker concerned. The management or the department designated by the management for that purpose must take a decision on the basis of this information within three weeks of the date of the objection. The decision on the objection shall inform the temporary agency worker of the possibility of submitting an appeal and of the body to which an appeal may be submitted. If it emerges that the job was incorrectly graded, the private employment agency shall, if necessary, adjust the actual wage in accordance with the correct job classification. Any such adjustment in remuneration shall be with retroactive effect to the date of the contested job classification.

#### *Appeal procedure*

3.
  - a. Within six weeks of receipt of the decision of the management or the department designated by the management for that purpose, the temporary agency worker may submit a written appeal to the Job Classification Committee established by the CLA parties, which is located at the ABU's offices.
  - b. The Job Classification Committee consists of three members, namely a (deputy) member nominated by the ABU, a (deputy) member nominated by the employees' organisations that are party to this CLA and a chairman that they appoint. If, in the view of one of the members of the Committee, he or she has too close a relationship with the temporary agency worker who filed the appeal, a deputy member of the Committee will take his or her place.
  - c. The Committee shall draw up its own regulations.
  - d. The Committee shall first use the information provided by the temporary agency worker and the private employment agency to assess whether the submitted appeal is admissible. If the appeal is admissible, the Job Classification Committee shall present a written decision within three months of receipt of the notice of appeal.  
If it emerges that the job was incorrectly graded, the private employment agency shall, if necessary, adjust the actual wage in accordance with the correct job classification. Any such adjustment in remuneration shall be with retroactive effect to the date of the contested job classification. A decision taken by the Committee is binding on the private employment agency and the temporary agency worker.
4. In this article, written means: 'sent by letter or e-mail'.



*Explanation:*

*The Job Classification Committee can be contacted by post at PO Box 144, 1170 AC Badhoevedorp and by e-mail at [functieclassificatie@abu.nl](mailto:functieclassificatie@abu.nl).*

## **Chapter 12      Other/final**

### **Article 72      Facilities for employees' organisations**

1. The employees' organisations, party to this CLA, shall be given the opportunity provided the corporate management is notified in good time:
  - a. to use notice boards in the companies for:
    - displaying notifications of a business and informative nature with regard to own business or their own sector;
    - publishing the names of representatives or contact persons of the employees' organisation(s);
    - announcing meetings of the employees' organisation(s);
    - publishing brief reports of these meetings;
    - nominations of members of the Works Council.A copy of the messages and announcements to be placed on the notice board shall be presented to the corporate management in good time, to enable the corporate management, on the basis of well-founded reasons for those concerned, to postpone the publication of the aforementioned messages and/or announcements until further consultation has been possible with those concerned or the employers' organisation(s).
  - b. to use a meeting room in the agency for meetings of the official body of the union and, in general, for maintaining contacts with members of employees' organisations in the agency, providing the corporate management is requested in good time to make the aforementioned meeting room available. In principle the meeting room shall be used outside or immediately after normal office hours.
2.
  - a. The representative of an employees' organisation is a person working in the company who holds an administrative or representative function in connection with his union, and who has been designated as such in writing to the corporate management by the employees' organisation concerned. In this article, written means: 'designated by letter or e-mail'.
  - b. The representative of an employees' organisation is entitled to a maximum of four days leave with pay per year in order to attend meetings of employees' organisations.
  - c. An employee who is a member of an employees' organisation shall not be disadvantaged due to this fact by the employment agency.
  - d. In the case of a violation – also ascertained by the Works Council – of the agreement referred to under c. of this paragraph, the employee concerned may notify the employees' organisation's management to that effect. If consultations between the corporate management and paid managers of the employees' organisation concerning the alleged violation of the agreement referred to under c. of this paragraph fail to lead to solutions that are acceptable to the parties, one or both of the parties may present the matter for arbitration to the

Disputes Committee referred to in article 70 of this CLA.

3. a. The temporary agency worker, after informing the private employment agency, shall be given the opportunity at least once a year to request the private employment agency to pay union contributions to the employees' organisation. The trade union concerned must provide the private employment agency with information on how much the trade union membership fee is.
- b. If and insofar as the temporary agency worker's wage is legally sufficient, the private employment agency shall pay the aforementioned trade union membership fee to the trade union or the temporary agency worker in accordance with the information the trade union provides, insofar as tax facilities exist for making such a payment. A similar sum shall then be deducted from one of the temporary agency worker's gross wage components referred to under c. of this paragraph, as the private employment agency sees fit.
- c. Gross components shall mean: gross wage, gross reserve for holiday exceeding statutory requirements, holiday pay, gross overtime bonus and such like.
- d. The private employment agency is only obliged to pay the trade union membership fee for the period in which an agency work employment contract exists between the temporary agency worker and the private employment agency (or has existed in the case of payment in arrears).

#### Article 73 **Evaluation and termination of the Collective Labour Agreement provisions**

1. The CLA parties shall enter into negotiations with each other no later than 4 November 2017 about the establishment of a new CLA or the extension of this CLA.
2. In the negotiations about the establishment of a new multi-annual CLA or the extension with any amendments of the current CLA, the parties shall only make proposals for amending the set of regulations on the basis of grounds derived from the evaluation, on the assumption that, in principle, the parties intend to agree on a similar set of regulations for a further period of five years.
3. If no CLA party has terminated the provisions of this CLA, by registered letter no later than three months before the end of the term, or if in the case of termination at the time of the expiry of the aforementioned provisions of this CLA no new CLA has been concluded, these provisions shall be automatically extended. The duration of this extension is one year.

#### Article 74 **Interim amendment and termination\***

1. If, with respect to:
  - a. the temporary agency work sector;
  - b. the labour market;
  - c. politics;
  - d. the laws and regulations that are the basis of the *Collective Labour Agreement for Temporary Agency Workers*; and/or
  - e. the immediate socio-political environment of temporary work,changes occur such that the CLA parties can no longer reasonably be deemed to be bound by the provisions of this CLA, the CLA parties shall consult with each other immediately about the amendments to be made. In that case, the CLA can be terminated by each CLA party in the

absence of consensus.

2. Each of the CLA parties is also authorised to cancel the CLA before 1 January 2017, if the CLA parties cannot reach agreement on the following protocol agreements as laid down in the CLA accords of 30 September 2014 and September 2015:
  - a. creation of a CLA database;
  - b. structural solution regarding the use of short-term recurring secondment agreements and their misuse;
  - c. assessment-dependent period-linked wage increases.
3. Interim cancellation is also always possible if consensus is not reached on the (annual) adjustment of the ABU wage structure, as referred to in article 35(2) of the CLA.
4. In all cases, a notice period of three months applies.

#### Article 75 **Observance**

1. The CLA parties have established the SNCU.
2. The SNCU's charter and regulations have been laid down in the *Collective Labour Agreement Social Fund for the Temporary Agency Work Sector*.
3. The SNCU must ensure that the provisions of this CLA are generally and fully observed and is authorised by the CLA parties to do everything to that end that may be advisable and necessary.
4. The private employment agency is obliged to demonstrate, in the manner indicated in regulations to be drawn up by the SNCU for that purpose, that the provisions of the *Collective Labour Agreement for Temporary Agency Workers* are strictly observed.

#### Article 76 **Further provisions**

A change in the rules that apply in the user company's business shall only be binding for the private employment agency from the time that the user company informs the private employment agency of the change or from the time that the private employment agency could reasonably have taken note of the change.

#### Article 77 **Nature of the Collective Labour Agreement provisions**

The provisions of this CLA are so-called minimum provisions.

## Appendix I Job classification

### Explanation:

The method for assigning a temporary agency job to a job group in the ABU wage structure is based on the principle of 'analytical comparison'.

This is performed with the aid of two tools.

### 1. ABU job matrix

The ABU job matrix included in the Appendix contains a list of all ABU reference jobs, sorted by **job group** and **discipline**.

The following disciplines are distinguished:

- a. Financial & Administrative
- b. Secretarial
- c. Personnel & Organisation (P&O)
- d. ICT
- e. Facilities
- f. Catering
- g. Commerce
- h. Logistics
- i. Production & Technology
- j. Care & welfare

### 2. The *Job classification handbook for temporary agency workers*

This book contains about 155 reference jobs with a job profile for each job. Each job profile is valued and graded in a job group on that basis.

### 3. Aid to finding the most appropriate reference job profile

The *Job classification handbook for temporary agency workers* is available via the ABU website and the websites of the employees' organisations.

The handbook contains about 155 reference jobs, but in temporary agency work practice, a far larger number of job titles are used.

In order to facilitate the search for the right reference job, an aid has been produced in the handbook. The first column of the aid lists a large number of reference jobs that frequently occur in temporary agency work practice, in alphabetical order, for each field of work. The second column contains frequently used alternative job names in each field of work. The third column shows the accompanying ABU job level.

### 4. Job classification procedure

1. The temporary agency worker is graded on the basis of the work that he or she is to perform.
2. This work, the job, consists of the activities, responsibilities and powers assigned to the temporary agency worker.

3. The job is assigned to one of the groups of the ABU job matrix, which forms part of this CLA.
4. The job is graded by means of an analytical comparison of the job with the reference jobs in the ABU job matrix, based on the job information provided by the user company. A further explanation of this is provided in the *Job classification handbook for temporary agency workers*.
5. The private employment agency will notify the temporary agency worker in writing, in a dated grading decision of the job group to which the temporary agency worker is assigned and which reference job applies. A format for this is included in the *Job classification handbook for temporary agency workers*.
6. If the temporary agency worker's job changes, the job will be regraded in accordance with the above procedure.
7. The private employment agency will conduct regular interviews with the temporary agency worker, in which the question of whether the job content is consistent with the work will be discussed.
8. If the temporary agency worker observes that the work assigned to him is not consistent with his job grade, he can notify the private employment agency of this. The private employment agency will investigate whether the work assigned to the temporary agency worker is consistent with his job grade within two weeks. If this is not the case, the job will be regraded in accordance with the above procedure. Any adjustment in the remuneration will take place retroactively to the time of the contested grading of the job.
9. The temporary agency worker can submit an objection to the grading of his job. The procedure for consultation, objections and appeals is described in article 71 of this CLA.

## 1. Job matrix

Discipline ABU Job grade	Financial & Administrative	Secretarial	Personnel & Organisation	ICT	Facilities
1	- Filing clerk				- Cleaner A
2	- Mail room assistant - Administrative assistant A	- Clerk			- Cleaner B - Canteen worker - Steward
3	- Administrative assistant B - Invoice control clerk	- Telephonist - Receptionist/telephonist A			- Porter - Warden - Security officer A
4	- Administrative assistant C	- Receptionist/telephonist B - Secretary A			- Ground steward(ess) - Club porter - Hotel concierge - Security officer B
5	- Debtor & creditor accounts clerk	- Secretary B		- Help desk assistant	- Specialised security officer
6	- Financial accounts clerk - Payroll administration clerk - Insurance acceptance officer	- Secretary C	- Personnel accounts clerk	- System control assistant	- Security team leader
7	- Actuarial accountant	- Secretary D	- Human resources officer	- Systems administrator A - Application manager - Webmaster	- Facility service coordinator
8	- Commercial analyst - Assistant controller	- Management assistant	- Human resources officer	- Systems administrator B - Application programmer	
9	- Head of financial accounts - Actuarial analyst	- Head of Secretariat	- P&O adviser	- Application developer	
10	- Controller		- Head of P&O		

Catering	Commercial	Logistics	Production & Technology	Care & Welfare
- Washer-up - Kitchen assistant A - Party catering preparation assistant	- Shelf filler	- Packer - Driver's mate (Loader/Unloader) - Warehouse assistant A - Mail deliverer	- Domestic assistant - Production worker - Agricultural harvest worker	
- Company restaurant worker - Waiting assistant - Kitchen assistant B - Party catering assistant	- Cashier - Call centre worker A	- Fork-lift truck driver - Order picker - Storage shed worker - Warehouse worker B - (Mail) sorter - Mail carrier	- Assistant mechanic - Agricultural crop worker	- Home help
- Waiting assistant - Cook, simple dishes - Foreman, dishwashing kitchen - Party catering service assistant - Barkeeper A - Hotel bookings assistant	- Call centre worker B - Sales assistant (retail trade) - Administrative assistant, sales office	- Warehouse worker C - Van driver/courier	- Machine operator - Machine welder	- Nursing assistant
- Host/Hostess - All-round party catering assistant - Barkeeper B - Front office hotel worker	- Call centre worker C - Customer service assistant - Counter assistant	- Truck driver	- Crane operator - Maintenance mechanic A - CNC machinist	- Nursing assistant - Nursing home help
- Hotel receptionist - Independent chef - All-round service assistant	- Sales office assistant A - Call centre supervisor	- Dispatch worker/freight planner	- Maintenance mechanic B - Bench worker - Draftsman - Plumber - Welder	- Doctor's assistant - Nurse
- Chef, small restaurant - Service chef	- Complaints officer - Sales office assistant B - Sales representation assistant	- Warehouse team leader	- Electrician - Allround CNC machinist	- Specialised nursing home help - Nurse MBO-V - Group supervisor
- Fast food restaurant manager - Sous-chef	- Sales representative		- Draftsman/machine builder - Machine building coordinator - Maintenance technician	- GP support assistant - Nurse HBO-V - Care coordinator
- Hotel desk manager	- Account manager - Buyer		- Maintenance coordinator - Sales engineer	- Intensive care nurse - Physiotherapist - Laboratory analyst
- Hotel/restaurant manager	- Sales manager		- Head of production - Design engineer - Product engineer	- Head of physiotherapy
	- Product manager		- HSE consultant	

## Appendix II Additional remuneration provisions

### Implementing provisions

1. The hourly remuneration payment is made in cash or by giro at the end of each week/month/period together with the payment for any bonuses. The minimum wage owed is paid via giro.

*Article 2 will read as follows until 1 February 2018:*

#### 2. Payslip

The private employment agency is obliged to provide the temporary agency worker with a statement for every financial wage payment and at least on a monthly basis in writing or electronically. On request the temporary agency worker shall receive the payslip in writing. The payslip shall include the following details:

- a. the wage amount;
- b. the components of the wage;
- c. the deductions from the wage amount;
- d. the gross hourly wage;
- e. the number of hours worked;
- f. the bonuses paid on the hourly wage specified per bonus type (both in percentages and in euros) and hours;
- g. the cumulative reserves for the period in question;
- h. the total of the cumulative reserves;
- i. the private employment agency's name;
- i. the employee's name;
- k. if possible: the user company's name and place of registration;
- l. the scale in the CLA, if applicable;
- m. if possible the scale in the user company's CLA;
- n. the wage paid;
- o. the statutory minimum wage and minimum holiday pay applicable for the employee in this period;
- p. an explanation of abbreviations used;
- q. any further deductions. If other wage deductions besides taxes and social security contributions are made, this shall only take place in consultation with the temporary agency worker and shall be stated on the payslip.

*From 1 February 2018, Article 2 will be replaced by:*

#### 2. Payslip

The private employment agency is obliged to provide the temporary agency worker with a statement for every financial wage payment and at least on a monthly basis in writing or electronically. On request, the temporary agency worker shall receive the payslip in writing. The payslip shall include the following details:

- a. the wage amount;
- b. the components of the wage;
- c. the deductions from the wage amount;



- d. the gross hourly wage;
  - e. the number of hours worked;
  - f. the bonuses paid on the hourly wage specified per allowance type (both in percentages and in euros) and hours;
  - g. the cumulative reserves for the period in question;
  - h. the total of the cumulative reserves;
  - i. the private employment agency's name;
  - i. the employee's name;
  - k. if possible: the user company's name and place of registration;
  - l. the scale in the CLA, if applicable;
  - m. if applicable, the scale in the user company's CLA/remuneration regulations;
  - n. the wage paid;
  - o. the statutory minimum wage and minimum holiday pay applicable for the employee in this period;
  - p. an explanation of abbreviations used;
  - q. any further deductions. If other wage deductions besides taxes and social security contributions are made, this shall only take place in consultation with the temporary agency worker and shall be stated on the payslip.
3. Prior to the commencement of each placement, temporary agency workers are notified in writing of whether they will be paid in accordance with the hirer's remuneration or the ABU remuneration. They also receive written confirmation showing, if applicable, the job group at the user company (in the case of the application of the hirer's remuneration) or in the ABU job matrix (in the case of the application of the ABU remuneration), as well as the actual wage awarded.
  4. At the end of the employment relationship, the private employment agency undertakes to provide the temporary agency worker with a statement indicating, if applicable, the job group in which the temporary agency worker was placed at the user company (in the case of the application of the hirer's remuneration) or in the ABU job matrix (in the case of the application of the ABU remuneration) and the number of weeks for which the person worked for the private employment agency concerned. The statement will generally correspond with the written statement described in article 8 of the CLA.

*Article 4a will enter into force on 1 April 2018*

**Determination of the hourly wage and/or ADV compensation (in cash)**

- 4a. On the basis of the information obtained from the user company or on the basis of the available authorised information on the user company's CLA, the private employment agency determines the hirer's remuneration for the period wage and ADV remuneration elements in the following way.

The information provided by the user company or the available authorised information on the user company's CLA serves as the point of departure.

Authorised information on the user company's CLA is information provided by joint parties to the relevant hiring CLA to the joint parties to this *CLA for Temporary Agency Workers*. This

information concerns the determination of the hourly wage and the ADV or ADV compensation in cash. The Parties to the *CLA for Temporary Agency Workers* make this information available.

Only if that information does not provide clarity and certainty on how the hourly wage or the ADV compensation in cash should be determined does this CLA provide for the following established calculation method in order to then determine the hirer's remuneration correctly with regard to these elements.

1. *Period wage*

- a. Has an hourly wage or hourly wage definition been recorded in the CLA or the working conditions regulations (AVR) of the user company?
- b. If so, then the hourly wage for the fixed job grade must be determined on the basis of the hourly wage or the hourly wage definition applied at the user company.
- c. If not, the hourly wage for the fixed job grade must be calculated as follows.

$$\frac{\text{Monthly wage}}{4.35 * \text{Normal Working Hours (NWA)}}$$

- d. The private employment agency must determine whether the user company's CLA or AVR provides for normal working hours that differ for each shift schedule. In that case, the private employment agency must base the determination of the hourly wage for the temporary agency worker on the normal working hours for the shift schedule in which the temporary agency worker is employed.

If the temporary agency worker is placed in a different shift/working schedule with different normal working hours, the hourly wage is determined again, on the basis of the normal working hours for the new shift/working schedule. The reversion wage (Section 4a of Chapter 4 of this CLA) does not apply here unless the temporary agency worker is made available for proportionally fewer hours in the new shift/working schedule than in the previous shift schedule.

2. *The applicable ADV*

- a. Has ADV been laid down in the form of paid leave in the user company's CLA or AVR?
- b. If not, the normal working hours apply directly and ADV compensation in time or money is not at issue.
- c. If so, the private employment agency may choose to compensate the ADV in time or cash.
- d. If the private employment agency pays ADV compensation in cash, the following question is at issue or the following question must be answered.
- e. Has an ADV percentage been laid down in the user company's CLA or AVR, or does that CLA or AVR have a calculation method with which the value of the ADV can be determined unambiguously?
- f. If so, that percentage or calculation method must be applied to determine the value of the ADV compensation in cash.

- g. If not, the private employment agency must calculate the ADV compensation in cash as follows.

**Calculation on the basis of the ADV in days**

$$\frac{\text{ADV days per year}}{254}$$

**Calculation on the basis of the ADV in hours**

$$\frac{\text{ADV hours per year}}{254 * (\text{NWA}/5)}$$

*Explanation*

- *With this calculation method, it is assumed that it must be possible to base the ADV compensation in cash on the workable days. Public holidays and short-term leave/special leave days are not regarded as workable days, but holiday days are.*
- *The application of the calculation method means that the temporary agency worker who is entitled to ADV compensation in cash also receives this compensation for the holiday days that he or she takes up or for which he or she is paid.*

*Article 5 will read as follows until 1 January 2018:*

**Calculation method for reserves**

5. a. The percentage referred to in article 55(6) of the CLA is calculated as follows. The number of days off (24) allocated on a full-time annual basis is divided by the number of workable days in a given calendar year. The number of workable days is obtained by adding the number of days leave (24) allocated on a full-time annual basis, the number of Saturdays, Sundays and the number of public holidays that do not fall on a Saturday or Sunday in a given year and then deducting this sum from the number of calendar days in a given year. The division is expressed as a percentage, arithmetically rounded off to two decimal places.
- b. The percentage referred to in article 58(2)(a) of the CLA is calculated as follows. The number of public holidays that do not fall on a Saturday or a Sunday is divided by the number of workable days in any given calendar year. The number of workable days is obtained by adding the number of days leave (24) allocated on a full-time annual basis, the number of Saturdays, Sundays and the number of public holidays that do not fall on a Saturday or Sunday in a given year and then deducting this sum from the number of calendar days in a given year. The division is expressed as a percentage, arithmetically rounded off to two decimal places.
- c. The percentage referred to in article 59(2) of the CLA is calculated as follows. The number of days off (20) allocated on a full-time annual basis to holiday workers is divided by the number of workable days for holiday workers in a given calendar year. The number of workable days for holiday workers is obtained by adding the number of days off (20) allocated on full-time basis to holiday workers, as well as the number of Saturdays and Sundays in any year and then deducting this sum from the number of calendar days in a given year. The division is expressed as a percentage, arithmetically rounded off to two decimal places.
- d. The percentages referred to in article 61(1)(b) of the CLA are calculated as follows. The number of days off (20) to be granted annually to a temporary agency worker working full time is divided by the number of workable days in any calendar year. The number of days off exceeding the statutory requirements (4) is divided by the number of workable days in any

calendar year. The number of workable days is obtained by deducting the number of days off granted annually on the basis of full time work (24) as well as any Saturdays, Sundays and public holidays, not falling on a Saturday or Sunday, in any year from the number of calendar days in any year. The division is expressed as a percentage arithmetically rounded off to two decimal places.

*On 1 January 2018, Article 5 will be replaced by:*

#### **Calculation method for reserves**

5. a. The percentage referred to in article 55(6) of the CLA is calculated as follows. The number of days off (25) allocated on a full-time annual basis is divided by the number of workable days in a given calendar year. The number of workable days is obtained by adding the number of days off (25) allocated on a full-time annual basis, the number of Saturdays, Sundays and the number of public holidays that do not fall on a Saturday or Sunday in a given year and then deducting this sum from the number of calendar days in a given year. The division is expressed as a percentage, arithmetically rounded off to two decimal places.
- b. The percentage referred to in article 58(2)(a) of the CLA is calculated as follows. The number of public holidays that do not fall on a Saturday or a Sunday is divided by the number of workable days in any given calendar year. The number of workable days is obtained by adding the number of days off (25) allocated on a full-time annual basis, the number of Saturdays, Sundays and the number of public holidays that do not fall on a Saturday or Sunday in a given year and then deducting this sum from the number of calendar days in a given year. The division is expressed as a percentage, arithmetically rounded off to two decimal places.
- c. The percentage referred to in article 59(2) of the CLA is calculated as follows. The number of days off (20) allocated on a full-time annual basis to holiday workers is divided by the number of workable days for holiday workers in a given calendar year. The number of workable days for holiday workers is obtained by adding the number of days off (20) allocated on full-time basis to holiday workers, as well as the number of Saturdays and Sundays in any year and then deducting this sum from the number of calendar days in a given year. The division is expressed as a percentage, arithmetically rounded off to two decimal places.
- d. The percentages referred to in article 61(1)(b) of the CLA are calculated as follows. The number of days off (20) to be granted annually to a temporary agency worker working full time is divided by the number of workable days in any calendar year. The number of days off exceeding the statutory requirements (5) is divided by the number of workable days in any calendar year. The number of workable days is obtained by deducting the number of days off granted annually on the basis of full-time work (25) as well as any Saturdays, Sundays and public holidays, not falling on a Saturday or Sunday, in any year from the number of calendar days in any year. The division is expressed as a percentage arithmetically rounded off to two decimal places.

#### **Remuneration Committee and application of minimum wage**

6. Further to article 27(1) of the CLA, a temporary agency worker may also be assigned to the allocation group in the case of:

- special situations (e.g. specific seasonal work);
- (locally) different or disrupted labour relations (in any case as a result of the broader application of the Minimum Wage and Minimum Holiday Allowance Act (WML) where that is not possible pursuant to the CLA).

Column 1 of the recruitment table may only be applied in the aforementioned cases at the request of one of the CLA parties and subject to a decision to that effect by the joint Remuneration Committee referred to in Appendix VI of the CLA. There must be a demonstrable interest in applying column 1 of the recruitment table. The aforementioned Remuneration Committee shall present a written decision, with reasons, within six weeks. In any cases not covered by the provisions of these regulations, the CLA parties shall apply these regulations reasonably and fairly. The aforementioned decisions of the Remuneration Committee shall be made public.

### **Divergent employment conditions for temporary agency workers working in the construction industry\***

*The provisions here below are an elaboration of the provisions of article 51 of the CLA.*

*References below to articles of the Collective Labour Agreement for the Construction Industry are references to the decision of 4 April 2016, declaring provisions of the CLA for the Construction Industry to be universally binding, published in the Government Gazette of 7 April 2016 No. 18112.*

7. a. The provisions of this CLA likewise apply to temporary agency workers who are deployed to a user company that falls within the scope of the provisions of the *Collective Labour Agreement for the Construction and Infrastructure Industries* (hereafter: the construction company). By way of supplement to this, a divergent package of employment conditions applies for those temporary agency workers.
- b. The *Collective Labour Agreement for the Construction and Infrastructure Industries* includes provisions on construction site jobs and executive, technical and administrative jobs. This division also applies to temporary agency workers deployed in these different jobs.
- c. Temporary agency workers who are deployed to construction companies as referred to in paragraph a. of this provision are further defined as skilled workers or newcomers.

#### *Skilled workers in a construction site job*

8. A skilled worker in a construction site job is defined as a temporary agency worker who:
  - a. follows a study programme as referred to in articles 42b and 42c of the *Collective Labour Agreement for the Construction and Infrastructure Industries* pursuant to a professional practice training agreement (BPVO); or
  - b. is in possession of a diploma or practical certificate from a course as referred to in article 42a of the *Collective Labour Agreement for the Construction and Infrastructure Industries*; or
  - c. follows vocational education as an adult in the construction industry; or
  - d. has performed a total of twelve months construction work within a period of two years for the purpose of the *Collective Labour Agreement for the Construction and Infrastructure Industries*.

tries (immediately preceding the commencement of the agency work, or - as soon as this is the case - while performing the agency work in the construction industry).

9. The hirer's remuneration shall be applied for skilled workers in a construction site job. This also applies for temporary agency workers belonging to one of the exception groups, as referred to in article 27.
10. Contrary to the provisions of this CLA, the following supplementary employment conditions from the *Collective Labour Agreement for the Construction and Infrastructure Industries* shall apply for skilled workers in a construction site job:
  - Article 26(a)(1), 26(a)(2), 26(a)(3), 26(a)(7) and 26(a)(8), (extra leave days for older employees and four-day working week for construction site workers aged 55 or more);
  - Article 34 (stand-by service), with the exception of the reference in paragraph 8 to article 89;
  - article 35(a)(4) (first sentence);
  - Article 45 performance bonus, as follows:
    - A skilled worker who is placed in a company or on an object at which a performance bonus applies is also entitled to that performance bonus;
    - With an increase in the guaranteed wage, other than on the basis of assignment to a higher job grade, this increase may not be deducted from the results of the agreed performance bonus and the like;
  - Article 51 (travelling time allowance), with the exception of the references to the driver's bonus in paragraph 2 and paragraph 4;
  - Article 7 (foreign employees).
11. The obligation to continue paying wages, as referred to in Section 7:628 of the Netherlands Civil Code, does not apply in the case of skilled workers in a construction site job, if unfavourable weather conditions in accordance with article 73 of the *Collective Labour Agreement for the Construction and Infrastructure Industries* prevents the work from continuing. In this case, the private employment agency supplements the unemployment benefit received pursuant to section 18 of the Unemployment Insurance Act (WW) to make it up to 100% of the applicable period wage in the scale.

#### *Skilled workers in executive, technical and administrative jobs*

12. A skilled worker in an executive, technical and administrative job is:
  - a. in possession of a vocational training diploma of at least level 2 in a construction field; or
  - b. has performed a total of twelve months executive, technical and administrative work within a period of two years, for the purposes of the *Collective Labour Agreement for the Construction and Infrastructure Industries* (immediately preceding the commencement of the agency work or - as soon as this is the case - while performing the agency work in the construction industry).

Newcomers are employees who are deployed to a company that falls within the scope of the provisions of the *Collective Labour Agreement for the Construction and Infrastructure Industries* and who are not covered by the definition of a skilled worker as described above.

13. The hirer's remuneration applies for skilled workers in executive, technical and administrative jobs. This also applies for temporary agency workers assigned to one of the exception groups referred to in article 27.

14. Contrary to the provisions of the CLA, the following supplementary employment conditions from the *Collective Labour Agreement for the Construction and Infrastructure Industries* shall apply for skilled workers in executive, technical and administrative jobs:
  - article 26(b)(1), 26(b)(2), 26(b)(5), 26(b)(9) and 26(b)(10) (four-day working week for skilled workers in executive, technical and administrative jobs aged 55 and above);
  - article 7 (foreign employees).

#### *Newcomers*

15. The hirer's remuneration also applies with regard to newcomers in both construction site jobs and executive, technical and administrative jobs. This also applies for temporary agency workers assigned to one of the exception groups as referred to in article 27, who receive the ABU remuneration on those grounds. However, the applicable reduction in working hours does not apply for these newcomers.

#### *Terms of Employment Posted Workers in the European Union Act (WagwEU)*

16. This appendix likewise applies to temporary agency workers who are deployed from abroad by a foreign private employment agency to a user company in the Netherlands that falls within the scope of the provisions of the *Collective Labour Agreement for the Construction and Infrastructure Industries*, and whose employment contract are governed by the law of a country other than the Netherlands.

*\* The parties to the Collective Labour Agreement for the Construction and Infrastructure Industries themselves made new agreements and amended earlier agreements on the use of temporary agency workers at employers in the construction and infrastructure industries. They subsequently notified the parties to the Collective Labour Agreement for Temporary Agency Workers about these agreements and the obligations of employers in the construction and infrastructure industries when using temporary agency workers as set down in article 6 of the Collective Labour Agreement for the Construction and Infrastructure Industries.*

## **Appendix III Pension**

### **Basic Scheme**

1. Temporary agency workers who
  - a. have worked at least 26 weeks for one private employment agency but do not fulfil the requirements for participation in the Plus Scheme as formulated below; and
  - b. are aged 21 or older (counting from the first of the month when they turn 21);shall participate in the Basic Scheme.
2. For the calculation of the period of 26 weeks as meant in paragraph 1(a), each week in which work is actually performed for the same employer is also counted. Weeks in which no work is performed are not considered, regardless of the reason for not working. In addition, in the case of successive employership the relevant previous employment (both within the meaning of

article 1(o) and article 17 of the CLA) with the previous employer is taken into consideration for the calculation of the period.

3. For the application of the provisions of paragraph 1(a), temporary agency workers who change employer after meeting the reference requirement as meant under a. need not fulfil the reference requirement again, unless there has been an interruption of 52 weeks or longer between two agency work employment contracts. If the break between two agency work employment contracts is 52 weeks or longer, in order to be designated as participant in the Basic Scheme the temporary agency worker will again have to have worked at least 26 weeks for a single private employment agency.
4. For the application of the provisions in the definition of paragraph 1 under a., the counting of the period in which the temporary agency worker has performed agency work at least 26 weeks for a single private employment agency is deemed to have started at the earliest 26 weeks before the mandatory participation, namely 1 January 2004.
5. The Stichting Pensioenfondsvoor Personeelsdiensten is responsible for implementing the Basic Scheme.
6. The Basic Scheme is a defined contribution scheme for which the premium contribution as of 1 January 2008 is 2.6% of the gross wage. The Basic Scheme has a retirement age of 67 and provides for the formation of a pension capital for purchasing a retirement pension and/or partner's pension. For the purposes of this article, gross wage is defined as: the wage for the hours normally worked, the wage for irregular hours (i.e. the hours in different day and time zones), the waiting day compensation, the reserves for holidays<sup>1</sup>, special leave, short-term absenteeism and public holidays, the holiday allowance<sup>2</sup> and the personal allowance as referred to in article 45(4)(b) and article 46(3)(c).
7. Every private employment agency is obliged to pay the premium contributions to the Stichting Pensioenfondsvoor Personeelsdiensten, as determined on the basis of that fund's Implementing Regulations.
8. The premium contribution payment obligation referred to in the preceding paragraph applies for each day on which the temporary agency worker, covered by the pension scheme referred to in paragraph 1 of this article, has worked in agency work.
9. The complete Basic Scheme has been laid down in the Basic Scheme rules and regulations of the Stichting Pensioenfondsvoor Personeelsdiensten<sup>2</sup>.

<sup>1</sup> *Insofar as accrued once the reference requirements as meant in (1) of this article have been satisfied.*

<sup>2</sup> *The regulations and further information on the Basic Scheme have been published on the pension fund's website (StiPP - Stichting Pensioenfondsvoor Personeelsdiensten): [www.stippensioen.nl](http://www.stippensioen.nl).*

### **Plus Scheme**

10. Temporary agency workers who
  - a. are aged 21 or older (counting from the first of the month when they turn 21); and
  - b. worked in more than 78 weeks for the same private employment agency; or
  - c. participated in 52 weeks in the Basic Scheme in the service of one or more private employment agencies, without an interruption of 52 weeks or longer shall participate in the Plus Scheme.



11. For the calculation of the period of 78 weeks as meant in paragraph 10(b), each week in which work is actually performed for the same private employment agency is counted. Weeks in which no work is performed are not considered, regardless of the reason for not working. In addition, in the case of successive employership the relevant previous employment (both within the meaning of article 1(o) and article 17 of the CLA) with the previous employer is taken into consideration for the calculation of that period.
12. Temporary agency workers who participated in the Plus Scheme but no longer fulfil the conditions of paragraph 10(b) or 10(c) under a new agency work employment contract continue to participate in the Plus Scheme, unless there is an interruption of 26 weeks or more between the two agency work employment contracts.
13. For the application of the provisions in the definition of paragraphs 10(b) and 10(c), temporary agency workers who change employer after meeting the reference requirement as meant in paragraph 10(b) and/or 10(c). need not fulfil the reference requirement once again, unless there has been an interruption of 26 weeks or longer between two agency work employment contracts. If the interruption between the two agency work employment contracts is 26 weeks or longer but shorter than 52 weeks, the temporary agency workers need not fulfil the reference requirement from paragraph 1(a) once again, so that they are designated as participants in the Basic Scheme. If the interruption is 52 weeks or longer, the temporary agency workers will again have to have worked at least 26 weeks for one employer in order to be designated as participants in the Basic Scheme.
14. The Stichting Pensioenfonds voor Personeelsdiensten is responsible for implementing the Plus Scheme.
15. The Plus Scheme is a defined contribution scheme with a retirement age of 67 that provides for the formation of a pension capital for purchasing a retirement pension and/or partner's pension. The premium contribution made available for forming the pension capital is expressed as a percentage of the pension basis according to the graduated rates shown below.

Age group	Pension contributing 2017	Pension contributing 2018	Pension contributing 2019
21-24	4.40%	4.20%	4.20%
25-29	5.40%	5.10%	5.10%
30-34	6.60%	6.30%	6.30%
35-39	8.00%	7.60%	7.60%
40-44	9.80%	9.30%	9.30%
45-49	11.90%	11.40%	11.40%
50-54	14.60%	13.90%	13.90%
55-59	18.10%	17.20%	17.20%
60-64	22.50%	21.30%	21.30%
65-66	26.50%	25.60%	25.60%

The pension basis is determined on an hourly basis by the gross hourly wage of the temporary agency worker, less the hourly franchise. For the purposes of this article, gross wage is defined as: the wage for the hours normally worked, the wage for irregular hours (i.e. the hours in differ-

ent day and time zones), holidays<sup>1</sup>, special leave, short-term absenteeism and public holidays, the holiday allowance<sup>1</sup> and the personal allowance as referred to in article 45(4)(b) and article 46(3)(c).

16. In the event of incapacity for work in accordance with the provisions of the Work and Income (Capacity for Work) Act, pension accrual in proportion to the applicable percentage of incapacity for work shall continue on a non-contributory basis in accordance with the level of the premium contribution deposit at the time incapacity for work commenced.
17. In the event of the employee's death during the employment, the pension scheme includes provisions for risk insurance for the partner's pension over the future period of service.
18. The CLA parties involved in the ABU and NBBU CLAs have agreed that the flat-rate premium in 2014 shall be a maximum of 12% of the pension basis. Every private employment agency is required to pay these premium contributions in accordance with the requirements stipulated for this in the Implementing Regulations.
19. The premium contribution payment obligation referred to in the preceding paragraph applies for each day on which the temporary agency worker, covered by the pension scheme referred to in paragraph 10 of this article, has worked in agency work.
20. The private employment agency is entitled to deduct a percentage of the pension premium contributions from the temporary agency worker's wage, if and as soon as the temporary agency worker is covered by the pension scheme. The size of the deduction shall not exceed one-third of the flat-rate premium contribution referred to in paragraph 18.
21. The complete Plus Scheme has been laid down in the Plus Scheme rules and regulations of the Stichting Pensioenfonds voor Personeelsdiensten<sup>2</sup>.

<sup>1</sup> *Insofar as accrued once the reference requirements as meant in paragraph 10 of this article have been satisfied.*

<sup>2</sup> *The regulations and further information on the Plus Scheme have been published on the pension fund's website: [www.stippensioen.nl](http://www.stippensioen.nl).*

#### **Appendix IV Matrix Temporary agency workers with a foreign employment contract (WagwEU)**

The matrix below shows which provisions of the CLA apply, either in full or after amendment, to the employees referred to in article 68 of the CLA.

General	Article 1	Definitions
	Article 59	Holiday workers
	Article 64	Temporary agency workers who do not reside permanently in the Netherlands
	Article 67	Additional rules for temporary agency workers who do not reside permanently in the Netherlands
	Article 68	Temporary agency workers with a foreign employment contract (WagwEU)
	Article 75	Observance
	Appendix IV	Matrix Temporary agency workers with a foreign employment contract (WagwEU)
	Appendix V	Non-gradable jobs
Appendix VII	Housing Standards	
Maximum working times and minimum rest times	Article 11	Time registration
	Article 54	Work and rest times
	Article 57	Short-term absenteeism and special leave
Minimum number of holidays	Article 55	Holidays
	Article 56	Holiday allowance
Minimum wage	Articles 19, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 39, 46, 49, 50, 51	
	Appendix I	Job classification
	Appendix II	Additional provisions remuneration
Conditions for the provision of workers	Article 6	Conditions of deployment
Health, safety and hygiene at work	Article 9	Relationship temporary agency worker/user company/private employment agency
	Article 52	Private employment agency's obligations concerning health and safety
Equal treatment of men and women	Article 9, paragraph 4	Equal treatment
<b>Article</b>	<b>Applicable sections</b>	
<i>Article 1 Definitions</i>	In full, with the exception of: 'as meant in article 7: 626 Netherlands Civil Code' under l; 'see Section 7:691 Netherlands Civil Code' under v.; 'as meant in 7:690 Netherlands Civil Code' under y.	

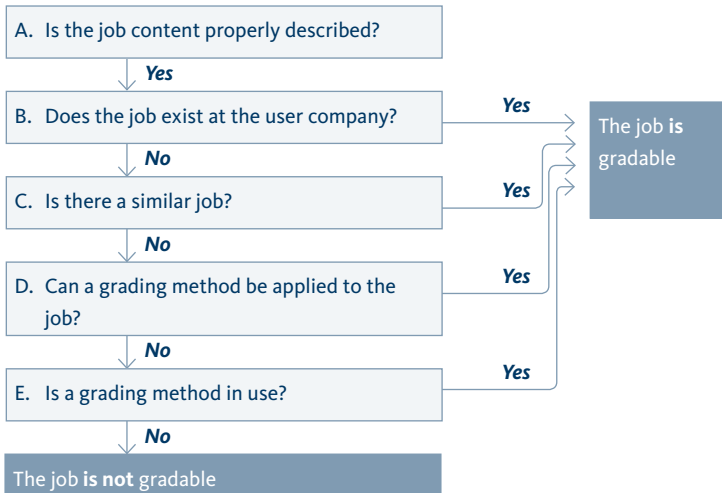
<p><i>Article 6 Conditions of deployment</i></p>	<ul style="list-style-type: none"> <li>■ Paragraph 2 with text amended as follows: ‘The private employment agency and the temporary agency worker make agreements set forth in writing, regarding the job, working hours and payment, taking into account the Collective Labour Agreement provisions and appendices summarised in this appendix (if the hirer’s remuneration applies, then the agreements described in this paragraph will be concluded taking the arrangements that apply in the hirer’s organisation into account)’.</li> <li>■ Paragraph 3: Divergences from the summarised provisions and appendices of the <i>Collective Labour Agreement for Temporary Agency Workers</i> are only permissible if they benefit the temporary agency worker and provided the divergences are agreed on in writing between the private employment agency and temporary agency worker.</li> </ul>
<p><i>Article 9 Relationship temporary agency worker/user company/private employment agency</i></p>	<ul style="list-style-type: none"> <li>■ Paragraphs 3 and 4</li> </ul>
<p><i>Article 11 Time registration Job classification</i></p>	<p>In full Articles 20(1), 29(1), 30(1), 31(1), 32(1) (with the exception of ‘in phase C’)</p>
<p><i>Hirer’s remuneration</i></p>	<ul style="list-style-type: none"> <li>■ Article 19 in full with the exception of: Paragraph 2 with exception of ‘in phase C’ Paragraph 3 with exception of ‘in phase C’ and the last sentence as follows: ‘The choice may not be changed during the entire duration of the secondment agreement for an indefinite period.’</li> <li>■ Articles 20, 21, 22, 23, 24, 25 and 26</li> </ul>
<p><i>ABU remuneration</i></p>	<ul style="list-style-type: none"> <li>■ Article 27 paragraph 1, 2, 3 and 4 (with the exception of ‘in phase C’ and the last sentence as follows: ‘The choice may not be changed during the entire duration of the secondment agreement for an indefinite period.’)</li> <li>■ Articles 28 (paragraph 2 with the exception of end salary and paragraph 3(b)), 29 (with the exception of paragraph 8), 30 paragraphs 1 up to and including 4, 31 paragraphs 1 up to and including 5, 33, 34</li> <li>■ Article 32 paragraphs 1 up to and including 4: Paragraph 1 with the exception of ‘in phase C’; Paragraph 2 with the exception of ‘in phase B’; Paragraph 3 with the exception of ‘in phase C’.</li> </ul>

<i>Article 51 Temporary agency workers working in the construction industry</i>	In full with the exception of the last sentence in paragraph 3
<i>Wage increase</i>	<ul style="list-style-type: none"> <li>■ Article 20(2)(d) and article 23</li> <li>■ Article 35 in full</li> </ul>
<i>Period-linked salary amounts</i>	<ul style="list-style-type: none"> <li>■ Article 20(2)(f) and article 25</li> <li>■ Article 28(3)(a) in full</li> </ul>
<i>Bonuses irregular working hours</i>	<ul style="list-style-type: none"> <li>■ Articles 20(2)(b) and 22</li> <li>■ Article 36(1) minimum bonus factors table only, (2)</li> </ul>
<i>Overtime bonus</i>	<ul style="list-style-type: none"> <li>■ Article 20(2)(b) and 22</li> <li>■ Article 37 with the exception of the last sentence in paragraph 1(b)</li> </ul>
<i>Other bonuses</i>	<ul style="list-style-type: none"> <li>■ Article 38 in full with the exception of paragraph 6</li> </ul>
<i>Compensation hours</i>	<ul style="list-style-type: none"> <li>■ Articles 20(2)(e)</li> <li>■ Articles 24 and 39 in full</li> </ul>
<i>Article 49 Work-related expenses and allowances</i>	In full
<i>Article 50 Conversion of employment conditions</i>	In full
<i>Article 52 Private employment agency's obligations concerning health and safety</i>	In full
<i>Article 54 Work and rest times</i>	In full
<i>Article 55 Holidays</i>	<ul style="list-style-type: none"> <li>■ Paragraph 1</li> <li>■ Temporary agency workers are entitled to continued payment of the actual wage during their holidays, insofar as the right to holidays has been accumulated pursuant to paragraph 1, of this article. Temporary agency workers who are still entitled to holidays when the agency work employment contract expires shall be entitled to a financial payment for those holiday entitlements.</li> <li>■ Paragraph 5</li> </ul>
<i>Article 56 Holiday allowance</i>	In full
<i>Article 57 Short-term absenteeism and special leave</i>	<ul style="list-style-type: none"> <li>■ Paragraph 1 with addition of: 'The temporary agency worker shall be entitled to continued payment of the actual wage in these cases.'</li> </ul>

<i>Article 58 Generally recognised public holidays</i>	<ul style="list-style-type: none"> <li>■ Paragraph 1</li> <li>■ Paragraph 2 as follows: 'The temporary agency worker shall be entitled to continued payment of the actual wage on public holidays on which the temporary agency worker has not worked on account of that public holiday.'</li> </ul>
<i>Article 59 Holiday workers</i>	<ul style="list-style-type: none"> <li>■ Paragraph 1</li> <li>■ Paragraph 2 as follows: 'The provisions of this appendix likewise apply to holiday workers, however, on the understanding that, contrary to article 35, paragraph 1 of the Collective Labour Agreement, they shall be entitled to 13 1/3 hours' holiday for each full working month they have worked or a proportional part thereof in the case of not having worked a full working month.'</li> </ul>
<i>Article 64 Temporary agency workers who do not reside permanently in the Netherlands</i>	<ul style="list-style-type: none"> <li>■ Paragraph 1</li> <li>■ Paragraph 4</li> <li>■ Paragraph 5</li> <li>■ Paragraph 7</li> </ul>
<i>Article 67 Additional rules for temporary agency workers who do not reside permanently in the Netherlands</i>	In full
<i>Article 68 Temporary agency workers with a foreign employment contract (WagwEU)</i>	In full
<i>Article 75 Observance</i>	Paragraphs 1 and 2
<b>Appendix I</b> Job classification	In full Foreign diplomas recognised at EC level comparable to the diplomas referred to in the Collective Labour Agreement will be recognised. Contact the International Credential Evaluation expertise centre of the SBB, <a href="http://www.s-bb.nl">www.s-bb.nl</a> .
<b>Appendix II</b> Additional remuneration provisions	In full with the exception of article 2. Article 2 as follows: 'For any wage payment the temporary agency worker will be provided with a written or electronic specification of the gross wage amount, as well as the amount of the gross hourly wage, the number of hours worked and the bonuses paid on the hourly wage specified as to bonus type and hours.'

<b>Appendix IV</b> <i>Matrix Temporary agency workers with a foreign employment contract (WagwEU)</i>	In full
<b>Appendix V</b> <i>Non-gradable jobs</i>	In full
<b>Appendix VII</b> <i>Housing standards</i>	In full

**Appendix V Non gradable jobs**



The ABU remuneration now applied for the temporary agency worker, in compliance with articles 27(3) and 31 of the CLA.

**Appendix VI Overview of committees *Collective Labour Agreement for Temporary Agency Workers***

*Disputes Committee*

Pursuant to article 70 of the CLA, the Disputes Committee handles disputes presented by temporary agency workers and private employment agencies on the interpretation/application of the *Collective Labour Agreement for Temporary Agency Workers*.

The Disputes Committee for the Temporary Agency Work Sector can be contacted by post at PO Box 144, 1170 AC Badhoevedorp and by e-mail at geschillen@abu.nl.

*Job Classification Committee*

Pursuant to article 71 of the CLA, the Job Classification Committee handles objections from tempo-

rary agency workers concerning classification of a job.

The Job Classification Committee can be contacted by post at PO Box 144, 1170 AC Badhoevedorp and by e-mail at [functieclassificatie@abu.nl](mailto:functieclassificatie@abu.nl).

#### *Remuneration Committee*

The Remuneration Committee pursuant to article 38 of the CLA, handles bonus reports from parties to other CLAs.

The Remuneration Committee can be contacted by post at PO Box 144, 1170 AC Badhoevedorp and by e-mail at [beloning@abu.nl](mailto:beloning@abu.nl).

#### *Dispensation Committee*

The Dispensation Committee:

- pursuant to article 4 of the CLA handles dispensation requests from the Collective Labour Agreement for Temporary Agency Workers filed by parties to another CLA;
- pursuant to articles 36 and 37 of the CLA handles dispensation requests from private employment agencies concerning application of the regulation concerning irregular working hours and overtime bonus.

The Dispensation Committee can be contacted by post at PO Box 144, 1170 AC Badhoevedorp and by e-mail at [dispensatiecommissie@abu.nl](mailto:dispensatiecommissie@abu.nl).

## **Appendix VII      Housing standards**

1. The administration of the private employment agency has a current overview of all housing locations and the number of persons per location.
2. The permitted types of accommodation are:
  - a. normal house;
  - b. hotel/guest house;
  - c. housing unit in a complex of buildings;
  - d. chalet/unit;
  - e. housing in a recreational area.
3. The housing locations specified above under a. (normal house) and c. (housing unit in a complex of buildings) must have at least 12 m<sup>2</sup> usable area\* per person. The other housing locations specified under b. (hotel/guest house), d. (chalet/unit) and e. (housing in a recreational area) must have at least 10 m<sup>2</sup> enclosed living space per person.
4. The inspection authority can assess the safety and hygiene at the housing location.
5. The housing location must have at least:
  - a. one toilet per eight people;



- b. one shower per eight people;
  - c. 30 litres of refrigeration/freezer space per person;
  - d. cook tops, at least four burners, if more than eight persons, then one burner per two persons, if more than 30 persons, at least 16 burners;
  - e. six litres of fire extinguishing agent.
6. An information card is hung in the housing location in the national language of the residents, which contains at least:
    - a. emergency telephone number 112;
    - b. telephone numbers of own care provider, regional police and the fire brigade;
    - c. brief ground rules for the housing facility;
    - d. evacuation plan and emergency procedure;
    - e. contact details of the (internal or external) manager of the housing location.
  7. A person is available 24 hours per day in case of emergencies.
  8. Should the inspection authority come across a locked bedroom during an inspection of the housing location, it can order a re-inspection of the housing location.
  9. The fire extinguisher(s) present at the housing location is/has been approved and the approval is valid. The fire extinguisher must display clear instructions. There is a fire extinguisher within five metres of the cooking area. A fire blanket is also present near the cooking area.
  10. Functioning smoke and CO alarms are installed at the prescribed location in the housing location.

### **Recommendations**

Private employment agencies are advised to implement the following matters:

- draw up a smoking, drinking and drug use policy;
- draw up a policy on order and tidiness in and around the housing location;
- the possibility of expanding the cooking facility with an oven or a microwave; and
- draw up privacy regulations.

\* *The rules for calculating the usable area are described in NEN 2580.*

### **Appendix VIII *This appendix has been deleted***

### **Appendix IX Dispensation scheme *Collective Labour Agreement for Temporary Agency Workers***

The CLA parties have implemented the advice of the Joint Industrial Labour Council (Stichting van de Arbeid) to preferably have parties organise dispensation from an industry-wide CLA themselves. On

2 April 2007, the CLA parties introduced a dispensation article in the *Collective Labour Agreement for Temporary Agency Workers*, the current article 4:

#### Article 4 **Dispensation**

1. At the request of parties to another CLA, the CLA parties may grant dispensation in respect of the application of (the provisions of) this CLA, subject to conditions to be set by the CLA parties, which are included in Appendix IX of this CLA. The SNCU's (Foundation for monitoring compliance with the Collective Labour Agreement for Temporary Agency Workers) confirmation of the fulfilment of the CLA (provision) for which dispensation has been requested shall be a precondition for dispensation.
2. A written request stating the reasons for dispensation in respect of (the provisions of) this CLA should be submitted to the Dispensation Committee, at the following address: PO Box 144, 1170 AC Badhoevedorp, or [dispensatiecommissie@abu.nl](mailto:dispensatiecommissie@abu.nl). In this article, written means: 'sent by letter or by e-mail'.
3. The Dispensation Committee decides on behalf of the CLA parties on a dispensation request.

#### **I. Composition of the Dispensation Committee**

The Dispensation Committee consists of at least four members, supported by an independent secretary. Two members are appointed in any case by the Algemene Bond Uitzendondernemingen (ABU - Federation of Private Employment Agencies) and two members are appointed in any case by the joint parties on the side of the employees. The secretary and his deputy, if necessary, are appointed by the ABU.

#### **II. Method of handling**

1. Parties who submit a request for dispensation must submit it in writing to the Dispensation Committee. The Dispensation Committee can be contacted at PO Box 144, 1170 AC Badhoevedorp or at [dispensatiecommissie@abu.nl](mailto:dispensatiecommissie@abu.nl).  
The submission of the request must include the CLA for which dispensation is requested, the reasons for the dispensation, reasons in respect of the equivalence to the *Collective Labour Agreement for Temporary Agency Workers* and the details of all CLA parties involved.
2. The Dispensation Committee is free to determine whether parties must submit further written documents.
3. The Dispensation Committee shall take a written decision, stating reasons, within eight weeks of the date of receipt of the complete file of the dispensation request.
4. If necessary, the Dispensation Committee can extend the period as specified in paragraph 3 of this article once by four weeks.

#### **III. Evaluation criteria for the dispensation request**

The Dispensation Committee checks a dispensation request against the following criteria:

1. The dispensation request must have been submitted jointly by parties to a different legally valid CLA;
2. The parties requesting dispensation must be sufficiently independent of each other, as formulated in the Assessment Framework for Declaring CLA provisions Universally Binding, date of

effect: 01/01/1999; as last amended in the Government Gazette 2010, 13489;

3. The CLA for which dispensation is sought has been concluded on the side of the employees with at least two different parties who are directly involved in the ABU Collective Labour Agreement, or two different parties who are affiliated with the same employees' organisations as those to which trade unions involved in the ABU Collective Labour Agreement are affiliated;
4. The CLA for which dispensation is requested may not be in conflict with the law;
5. The CLA for which dispensation is proposed must be at least equivalent to the *Collective Labour Agreement for Temporary Agency Workers*;
6. Reasons must be given for the request.

#### **IV. Decision to grant dispensation**

1. The dispensation is granted for no more than the duration of the CLA or the duration of the provision(s) that are submitted for dispensation. The duration of the dispensation is further limited by the duration of the *Collective Labour Agreement for Temporary Agency Workers* in force at that time.
2. Dispensation is only granted under the condition of inspection by the SNCU of fulfilment of the CLA submitted for dispensation.

In this appendix written means: 'sent by letter or by e-mail'.

#### **Protocols**

Protocol A *This protocol has been deleted*

Protocol B **Collective Redundancy (Notification) Act (protocol for article 44 of the CLA)**

The CLA parties consider as follows:

- article 44 of the CLA stipulates that for the duration of an agency work employment contract for a definite or indefinite period, the private employment agency is obliged to offer suitable substitute employment in the event of the cessation of the contract for the hiring of professional services;
- article 44 further stipulates that for the aforementioned reassignment the private employment agency must take into account a period of at least one month, which may ultimately increase to three months, depending on the length of service of the agency work concerned;
- the private employment agency shall only be entitled to request a dismissal permit, if it has become apparent after this period that the reassignment of the person concerned is impossible;
- the parties would like to prevent the aforementioned waiting period from being combined with the waiting period of one month referred to in Section 5a, subsection 1 of the Collective Redundancy (Notification) Act (WMO).

The CLA parties note that from 1 January 1999 the Collective Redundancy (Notification) Act shall be supplemented with Section 6a, which reads:

*'If the notification is supported by a statement from the employees' organisations with an interest in this matter that they have been consulted and that they agree, requests shall be accepted for processing immediately.'*

The CLA parties establish that the obligation of the legal affairs department of the Public Employment Services, to take into account the period referred to in Section 5a, subsection 1, of the Collective Redundancy (Notification) Act shall be at issue, if an employer intends to terminate, on one or more dates within a period of three months, the employment of at least twenty employees in a working area.

The working areas of the Public Employment Services generally cover a province. A private employment agency usually has more than one branch in a province. Branches are generally financially and economically independent units of the private employment agency.

The size of the working area of the Public Employment Services on the one hand and the organisation of private employment agencies on the other means that a situation could occur in which dismissal permits requested by branches within the three-month period referred to in Section 3, subsection 1, of the Collective Redundancy (Notification) Act result in the mass redundancy referred to in the Collective Redundancy (Notification) Act, without the relationship in the proposed dismissals existing that the Act assumes. The figure of twenty could occur because branches request permits in a case in which no structural reduction in the number of contracts for professional services in a hirer's organisation has taken place. On reaching the figure of twenty, the legal affairs department of the Public Employment Services shall put aside any dismissal permit requests that are still pending for a period of one month.

In the aforementioned case, the private employment agency would have to take into account the waiting period of one month referred to in Section 5a, subsection 1, of the Collective Redundancy (Notification) Act, in addition to the reassignment period referred to in article 44 of the CLA.

The CLA parties believe that this double waiting period would not be advisable in such a case. In such a case, they agree that the employees' organisations will, in principle, immediately issue a statement of consultation, as referred to in Section 6a of the Collective Redundancy (Notification) Act. This does not affect the fact that, in situations in which employees' organisations believe that the private employment agency is attempting to circumvent the principle of the Collective Redundancy (Notification) Act, a statement of this kind will not be automatically provided and that they will enter into discussions with the private employment agency with a view to being consulted about the mass redundancy.

The CLA parties also believe it is advisable for the parties to be able to calculate in advance what the approximate wage costs will be of mass redundancy. To this end, they agree on the following.

- In the event of a user company, i.e. an employer, as referred to in Section 1 of the Collective

Redundancy (Notification) Act, terminating the contract(s) for professional services for a group of more than twenty temporary agency workers all at once, the private employment agency shall report the fact to the employees' organisations concerned with this CLA, at a time that would enable consultation to still have an effect on the decisions that have to be taken.

- If it emerges that the private employment agency is not able to reassign all the temporary agency workers affected and a group of twenty or more temporary agency workers in phase C remain, the employees' organisations shall, in principle, issue the statement referred to in Section 6a. of the Collective Redundancy (Notification) Act so that the private employment agency need not take the waiting period referred to in Section 5a, subsection 1, of the Collective Redundancy (Notification) Act into account. In that case, the private employment agency shall owe the employees concerned an allowance in accordance with what is known as the sub-district court formula (in which the correction factor C is one), from which shall be deducted the wage costs for the period from the date of the notification to the commencement date of redundancy in which the temporary agency worker affected has not worked and nevertheless received a wage payment. The basis for calculating the allowance in accordance with the sub-district court formula is the actual wage that the temporary agency worker has received in the thirteen weeks prior to the end of the most recently terminated placement, plus the structural allowances for irregular hours, shifted working hours and the shift bonus.

This does not affect the fact that the employees' organisations and private employment agencies may negotiate about a different allowance if they believe grounds exist for doing so. In that case, they shall issue a statement afterwards pursuant to Section 6a. of the Collective Redundancy (Notification) Act.

In a case of mass redundancy as referred to here, the private employment agency shall not be obliged to take into account the waiting period referred to in article 44(6) the CLA, provided the agency has made the attempts at reassignment referred to in article 44(3) of the CLA.

In a case of mass redundancy, the private employment agency may agree with the relevant employees' organisations to depart from the provisions of article 15(4) of the CLA, subsections 2 and 4 of Section 672, Book 7 of the Netherlands Civil Code, or from the provisions laid down in the individual employment contract. This agreement is reported as a CLA.

Moreover, in the aforementioned agreement, the private employment agency may agree to depart from the provisions on the legal status and periods of interruption stipulated in articles 13 and 17 of the CLA and in Sections 7:691 and 7:668a of the Netherlands Civil Code (insofar as this constitutes a so-called statutory provision that can only be contracted out of in a CLA). This applies to employees whose employment contract was terminated within the scope of the aforementioned mass redundancy and who subsequently started working for the same employer again.

Protocol C      ***This protocol has been deleted***

## Protocol D      **Agreements**

**Draft Agreement 12 July 2012, Pension Agreement 22 May 2013, CLA Agreement 30 September 2014, Agreement on amendments to CLA (Collective Labour Agreement) 10 September 2015**

### *Supplement Sickness Benefits Act*

The Parties wish to make agreements as of 1 January 2017 on aligning arrangements for supplementing the obligation to continue paying wages in the event of sickness for secondment agreements with arrangements for the agency work employment contracts with agency clause, under the condition of budget neutrality.

### *General Old Age Pensions Act (AOW)*

The Working Beyond State Pension Age Act (Wet doorwerken na de AOW-gerechtigde leeftijd) took effect on 1 January 2016 and makes changes to a number of labour-law rules with regard to employees who receive a state pension. The Collective Labour Agreement parties agree to implement these rules in this CLA accordingly after they are adopted as law.

### *Assessment-related remuneration system*

Before 1 January 2016, a system is being elaborated for assessment-related increases in remuneration as an alternative to the fixed periodic wage rise.

### *One CLA with the NBBU*

In December 2015 the parties to the ABU-CLA will consult with the NBBU on the results of the internal procedure with the NBBU members concerning support for a single Collective Labour Agreement for Temporary Agency Workers.

### *Sustainable employability and reintegration of people 65 and over*

Before 1 January 2017, the Collective Labour Agreement parties will address the topic of sustainable employability and reintegration of the group of people 65 and over.

### *Evaluation of SFU foundations*

The SFU foundations will be asked to provide information on the functioning of the foundations before 1 January 2016. Based on this fact-finding, the Collective Labour Agreement parties will assess the effectiveness and efficiency of the foundations in the spring of 2016.

### *Information on hirer's remuneration*

The Collective Labour Agreement parties want to realise a database with information on CLA hourly wages. This database should contribute to accurate information provision for the application of the hirer's remuneration. In this research, the Collective Labour Agreement parties focus on facilitating the hirer's remuneration.

### *Youth wages*

The parties will consult with each other on the system for youth wages in order to make changes as of 1 January 2017.

### *Short contracts*

Before 1 January 2017 a structural solution will be sought that can introduce more balance between certainty and flexibility of short contracts and counter the abuse of these contracts.

### *Monitoring (remuneration in) Phase C*

In the summer of 2016, the ABU will report the results of the monitoring of both the use of Phase C contracts and the remuneration for these (ABU and/or hirer's remuneration) to the Collective Labour Agreement parties.

### *Training expenditure obligation*

There are differences in insight and interpretation in the practice of applying the training expenditure obligation (article 43/63). The parties will consult on this before 1 January 2017.

### *Reducing social charges in the private employment agency sector*

The parties are working together to lobby (among others, the SER, in the context of advice on the Unemployment Act) for the prospect of reductions in social security charges for the private employment agency sector before 1 January 2017.

### *Wajong*

Private employment agencies play a role in assisting young disabled people finding employment. It is very important to employers' organisations that the position of young disabled persons be improved, preferably resulting in structural employment. The Collective Labour Agreement parties will monitor whether there is structural employment and improvement of the position of young disabled persons. The ABU will provide figures on the results of intermediary activities for this target group at the end of 2015.

### *Employment security*

The Collective Labour Agreement parties want to increase the employment security and advancement of the group of long-term temporary agency workers in Phase A and temporary agency workers with changeable employment patterns.

The Collective Labour Agreement parties are aiming to earmark one million euros for this during the remaining term of the SFU-CLA (2013-2014) and are asking STOOFF to work out an elaboration. The position of the temporary agency worker should be the focus of this elaboration and cooperation will be sought with the Public Employment Services and municipalities. STOOFF is being asked to inform the Collective Labour Agreement parties about the results in the autumn of 2015.

### *3rd year on unemployment benefits*

Following the advice from the Labour Foundation dated 11 July 2014, the Collective Labour Agreement parties will consult on the upcoming changes in and restructuring of the unemployment benefit to allow better combining of agency work and security.

## **Pension**

### *Future of pension facility for temporary agency workers in Phase A*

In the period until 1 July 2017 the Collective Labour Agreement parties will be investigating the possibility of an alternative to the Basic Pension scheme. The Basic Pension is not tenable for the longer term as a pension scheme that results in acceptable pension accrual at a responsible cost level for temporary agency workers in Phase A. To this end, the Collective Labour Agreement parties will look for an alternative to the current Basic Pension, both in the pension world and outside of it. Before 1 July 2016, the Collective Labour Agreement parties must have reached agreement on that alternative.

### *Deductible and setting of 2015 premium for the PlusPension*

The parties to the ABU-CLA for Temporary Agency Workers have agreed that no adjustments are needed in 2015 to either the hourly deductible or the premium for the PlusPension scheme. The pension premium for the PlusPension scheme will remain capped at 12%, therefore. The parties will report this to the board of the Stichting Pensioenfonds Personeelsdiensten (StiPP).





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