Memo

May 2022

Membership requirements for foreign companies

Membership requirements for foreign companies:

- Chamber of Commerce registration in country of origin;
- Labour Standards Foundation (SNA) certification on basis of 4400-II;
- Foundation for flexible housing standards (SNF) certification (if applicable);
- Anti-discrimination protocol;
- Correct application of the Collective Labour Agreement for Temporary Agency Workers;
- Temporary Agency Work Sector Fund Foundation (SFU) payment (if applicable);
- An internal training policy to guarantee knowledge of the ABU collective labour agreement and Dutch legislation and regulations
- *ABU Fair Employment Code for Migrant Workers* endorsement (if applicable);
- Audited once a year for compliance with the membership requirements.

In addition to the above membership requirements, foreign companies are subject to additional audit points. The assessment of the membership requirements and additional audit points is laid down in the ABU temporary agency work audit document.

Extra audit points for foreign companies

- The objects clause in the trade register is aimed at making personnel available;
- The data and the actual activities of the private employment agency are in accordance with those included in the registration in the Trade Register in the State of Origin;
- There is a contact person in the Netherlands;
- The private employment agency's accounting records are available in the Netherlands;
- The private employment agency complies with specific legislation that applies in the State of Origin to private employment agencies (such as having a permit);
- Temporary agency workers who have an A1 statement must have been insured in the State of Origin for at least one month immediately prior to the secondment;
- The secondment is a maximum of 24 months per temporary agency worker;
- Social security contributions are actually paid in the State of Origin;
- The temporary agency worker is not hired or seconded but works directly at the client;
- There is no question of replacing another, already seconded, temporary agency worker;
- The private employment agency in the State of Origin has a registration number for declarations and payments of social security contributions. The parameters and personal data have been correctly entered in the payroll administration in the State of Origin;
- Declarations of social security contributions are made in accordance with prevailing legislation;
- Declarations are in line with the payroll administration;
- If temporary agency workers have an A1 statement, the declarations of social security contributions in the State of Origin must be made in accordance with legislation and regulations for the entire period that the A1 statement is used;
- Social security contributions are paid in full and on time;
- Every quarter, the private employment agency submits a payment history report issued by the social security institution. Audit, investigation and fine reports and/or information about additional assessments imposed in relation to social security contributions must be submitted if the auditing institution so requests;
- The temporary agency worker may not develop closer ties with the Netherlands than with the State of Origin;
- The employment contract contains agreements about the position, duration, salary and working hours;
- The private employment agency complies with specific legislation in force in the State of Origin with regard to the legal position of temporary agency workers;
- The company must guarantee that the package of employment terms and conditions applicable in the Netherlands is correctly and fully applied unless the terms of employment are more favourable in the State of Origin;

- The company must ensure that a procedure has been established, implemented and maintained for the correct determination of leave rights, taking into account the legal provisions in the State of Origin and the applicable employment conditions in the Netherlands;
- The company must ensure that the accrued and unused applicable leave entitlements are paid out in full upon termination of employment;
- The company must ensure that no all-inclusive wages are applied;
- The company must ensure that deductions from the statutory minimum wage comply with laws and regulations in the State of Origin;
- The company must ensure that allowances for travel, accommodation or food to be incurred in connection with the secondment to the Netherlands are not part of the applicable wage but are paid on top of the applicable wage;
- The company must ensure that untaxed allowances and/or benefits in kind that are applied in the payroll administration in the State of Origin comply with the laws and regulations that apply in the State of Origin;
- The company must ensure that the invoice complies with the legislation applicable in the State or Origin with regard to the invoice requirements.

Before joining ABU membership, your company will undergo a joining audit based on the above membership requirements and additional audit points. The joining audit is carried out by an external, independent certifying agency. You must make an appointment for this yourself with the ABU approved certifying agency. The costs of this joining audit (including the additional audit points) are for your own account.

After becoming a member, your company will be reviewed annually:
- Testing of the standard membership requirements is at the expense of the ABU
- Testing of the additional audit points (as listed above) is at your own expense. You pay this directly to your certifying agency.