

ABU Fair Employment Code for Labour Migrants 1 January 2023

The *ABU Fair Employment Code for Labour Migrants* applies for ABU members (referred to below as 'members') who mediate for labour migrants (hereinafter referred to as international staff). In addition to the statutory requirements and the *Collective Labour Agreement for Temporary Agency Workers* (referred to below as 'the CLA'), the Code offers extra security for this group of employees.

With this code, the Federation of Private Employment Agencies (ABU) aims to contribute towards more certainty for international staff, increasing the quality standards of service, fair competition and a level playing field in the sector. The use of payment under an A1 certificate of coverage and contracting is contrary to these objectives. For that reason, the ABU rejects the use of these forms of employment. Members will be notified of this.

The code forms part of the ABU Company rules as a mandatory membership criterion. In signing this code, members who provide agency services for international staff declare that they will comply with the code and that they are available for inspection of compliance with it. The ABU has the right to dismiss members that do not comply with this code.

1. Health and safety

Health and safety: the health and safety of labour migrants has the highest priority. In addition to laws and regulations, during the coronavirus pandemic, members apply the guidelines of the current *ABU Coronavirus Safety Protocol for Labour Migrants*.

2. Recruitment and selection

Members and their recruitment agencies ensure a transparent recruitment process via the application of the guidelines of the enclosed *ABU Fair Recruitment Charter*. The charter is based on the Fair Recruitment Code of the International Labour Organisation (ILO) and is supplemented with extra guidelines.

3. Contract

Members ensure that:

- a. The agency work employment contract and the accompanying documents are available both in Dutch and in the language of the international staff member's country of origin, and;
- b. If international staff are offered both a job and accommodation, a separate agency work employment contract and a separate accommodation agreement must be signed. This condition (3b) applies as of 1 April 2023.

4. Remuneration

International staff and Dutch temporary agency workers receive equal pay for equal work, in accordance with the CLA.

5. Registration

Under the *Wet Basisregistratie Personen (BRP, Personal Records Database Act)*, international staff are responsible for correct registration as residents or non-residents. Members encourage international staff to register as residents in the BRP by following the four guidelines below:

- a. Members actively inform international staff about the differences between Registration of Non-Residents (RNI) and registration as residents in the BRP before they come to the Netherlands;
- b. Members actively notify international staff of the possibility of submitting a request to the municipal authority for registration as a resident in the municipal BRP after arrival in the Netherlands;
- c. Members request municipal authorities to enable registration in the BRP at the location of the international staff accommodation;
- d. Members actively notify international staff who are new to the Netherlands and starting with registration as non-residents of the possibility of submitting a request to the municipal authority for registration as a resident, four months after the issue of the citizen service number (BSN) and the registration as a non-resident.

6. Accommodation

Members actively inform international staff about the following accommodation options in the Netherlands:

- a. The international staff member arranges accommodation personally, at his or her own initiative.
- b. The international staff member asks the employer to facilitate accommodation.
If the international staff member chooses this option, only accommodation certified by the Stichting Normering Flexwonen (Foundation for Flexible Housing Standards, SNF) can be offered. In addition, the following requirements apply for members:
 1. Members actively inform international staff that accommodation facilitated by the employer is intended for a maximum period of three years (short-stay and mid-stay);
 2. Members actively inform international staff about the SNF complaints procedure;
 3. Members may charge international staff for the use of accommodation. These charges may not exceed the actual costs of the accommodation. Pursuant to the Labour Market Fraud (Bogus Schemes) Act, employees may deduct no more than 25% of the minimum wage of the employee for accommodation. If the international staff member wishes the costs of the accommodation to be deducted from his or her wages, he or she requests this of the employer via a written authorisation.

- c. In the event of local and regional shortages of accommodation for international staff, members ask government authorities and SNF accommodation parties to realise more housing.
 - d. If required, members refer international staff to alternative accommodation channels for long-stay accommodation in the region.
 - e. Once the agency work employment contract ends, there is a transition period of four (4) weeks in which the temporary agency worker must leave the accommodation he or she rents from the employer. The rent will remain the same as the rent during employment. The temporary agency worker pays the rent weekly.
7. Fines and compensation for damage
The settlement of fines via the pay slip is permitted only in relation to judicial and administrative fines payable by the international staff. Settlement of other types of fines is not permitted. International staff who cause damage to property of the employer or the landlord with malicious intent or through gross negligence may be held liable for the damage suffered. The compensation for damage may not exceed the actual costs of repair of the damaged object.
 8. Information
International staff are actively informed about working and living in the Netherlands before signing contracts and pre-contracts in the country of origin. Members and their recruitment agencies follow the guidelines of the enclosed *ABU Fair Recruitment Charter* for that purpose.
 9. Language and integration
Members refer international staff to the possibilities available for following language courses via the municipal authority.
 10. Guaranteed income
Temporary agency workers who come to the Netherlands for work with that private employment agency for the first time and are recruited by that private employment agency or on the instructions of that private employment agency by a third party outside the Netherlands, shall be entitled during the first two months to at least an amount equal to the full-time minimum (youth) wage, regardless of the duration of the contract and the number of hours worked.
 11. Complaints
Members offer international staff an opportunity to submit complaints to the member via an accessible complaints procedure. In the event of complaints concerning the application of the guidelines of this code and the accompanying *Fair Recruitment Charter*, international staff may also make use of the [ABU complaints procedure](#).

This Fair Employment Code replaces the Fair Employment Code of 16 December 2020.

ABU Fair Recruitment Charter for Labour Migrants

This charter ensures a transparent and fair recruitment process for labour migrants (hereinafter referred to as international staff). The principles of this charter are based on the fundamental principles of the General Principles and Operational Guidelines for Fair Recruitment of the International Labour Organization (ILO), supplemented by additional guidelines by the ABU. Together with their recruitment agencies, members who arrange placements for international staff declare their commitment to the guidelines by signing this charter.

ILO General Principles and Operation Guidelines for Fair Recruitment

Members and their recruitment agencies endorse the General Principles and Operational Guidelines of the International Labour Organization (ILO). In the process for recruitment of international staff, they follow the ILO guidelines below:

1. Recruitment fees for international staff are not permitted. Related costs are not permitted unless the CLA provides otherwise in some respects.
2. The job-seeker is informed in a transparent, efficient and comprehensible manner in the language of his or her country of origin.
3. Internationally recognised working standards, human rights, laws and regulations and collective agreements of the countries of recruitment, passage and employment are respected in the recruitment process.
4. Recruitment of international staff follows from labour market demand and must not serve as a means of displacement or reduction of working standards, wages and working conditions.
5. The conditions relating to placement are communicated to the job-seeker in a transparent, comprehensible, accurate and verifiable manner.
6. Job-seekers are informed about the work and the job title, the necessary skills and competencies, the working conditions and the working and residential locations. This information is communicated in a timely manner before departure from the country of origin.
7. The consent of the job-seeker to the conditions relating to recruitment and deployment is given voluntarily, with no form of pressure, misleading and/or force.
8. The right of the international staff to free movement within a country will be respected. International staff have the freedom to cancel their contracts and leave the country. International staff also have the freedom to change employers without the consent of the employer or the recruitment agency. Contracts and identity documents of international staff may not be confiscated, destroyed or kept.
9. International staff must have access to complaints procedures and dispute settlement in cases of alleged abuse of their rights during the recruitment process.
10. The personal data and privacy of the international staff will be protected.
11. Promises made during the recruitment process with regard to working and residential conditions will be kept.
12. Private employment agencies and hiring companies must clearly coordinate their own part-responsibilities. The protection of the international staff must be adequately guaranteed in that process.

Information

In addition to the mandatory application of the aforementioned guidelines, ABU members and their recruitment agencies provide written or digital information for job-seekers, in the language of the country of origin, on the following matters:

13. Working and living in the Netherlands on the basis of the ABU information videos on the following themes: working via an ABU private employment agency, accommodation, registration, wages, agency work employment contract and illness.
14. The work that the job-seeker intends to perform in the Netherlands and the skills and competencies required for this.
15. The gross wage and the minimum number of hours to be worked.
16. The accommodation possibilities and conditions. If the international staff member asks the private employment agency to facilitate accommodation, information must be provided on the regular costs, facilities and general conditions of the use or rental of the accommodation.
17. The obligation to contract health insurance in the Netherlands. Members make international staff an offer of health insurance and inform them of the costs and conditions of the insurance. Members inform the international staff that the offer is not mandatory.
18. The possibilities for and costs of transportation from the country of recruitment to the Netherlands and back.
19. The contents of the *ABU Fair Employment Code for Labour Migrants* and this charter.