



## A] Introduction

For Expats in The Netherlands, it can be relevant to have insight into Dutch corporate pension coverage. Due to new legislation about especially flex work pension claims, confusion can quickly arise. In order to create oversight, we will now explain the essence.

## B] 3 Pillars

The Dutch pension system consists of three Pillars:

- Pillar 1 : State Pensions
- Pillar 2 : Workplace Pensions
- Pillar 3 : Private Pensions & Private Assets

As of now we will only focus on Pillar 2.



## C] Are There Existing Obligations?

In The Netherlands it is quite usual that there are national mandatory pension plans for many branches of the economy. These plans are often called 'Branch Pension Fund/BPF'.\*

In case of such a mandatory pension plan, all employers and employees within that branch have in general the legal obligation to participate.

Thus many companies and employees participate in these plans.

\* On a national level collective employee working conditions and pensions are regulated by two *different* type of rules:

**1] The Central Labor Agreement** called 'CAO' mentions general working conditions in a certain branch of the economy. It is created by unions and can be declared generally binding for the whole branch by law.



**2] The legal basis for a mandatory BPF** is the national law called 'Wet BPF 2000' plus an Executing Ruling by the national government.

### D] Corporate Coverage

If there is not such a mandatory coverage, companies can create their own collective pension plan\*.

By means of using one of the following providers:

- An Insurance Company;
- A Pension Premium Institution (PPI);
- A General Pension Fund (APF).

\* In this situation this is not mandatory. There is no obligation for the company to get a pension plan. Even though it is very usual to have one and rather odd not to.



### E] Flexible Contracts & Pension Coverage

Corporate pension coverage is linked to the *employee* having an *employee agreement*. But like many regular employees, Expats often have a *flexible contract* or a *project contract*. What does this mean for the corporate pension coverage within the Dutch context?

We will now focus on the most common types of flexible contracts and related pension options. As we aim to provide oversight for Expats, we will only mention the essence.

### F] Secondment Of A Temporary Worker/'Uitzendkracht'

#### **Type Of Contract**

This type of flexible contract called '**uitzendovereenkomst**' means that the *employer* hires and *employee* in order to be seconded to *another organization called third party* and to work over there in a flexible capacity.

The employee will work under '*guidance and supervision*' of that third party.

This contract has an '**Uitzendbeding**' which means that the employer has at any time the power to end the employment or to end it directly when the project has ended. Which provides total flexibility.

## Pension Coverage

The seconded employee between the age of 21-67 participates in the mandatory Branch Pension Fund Called StIPP.

The pension coverage starts after the employee has worked there for 26 weeks. Then the employee first participates in the *Basic Plan* for maximum one year after which he enters the *Plus Plan*.



A] **The Basic Plan** is i.e. investment based. The annual old age pension claim amounts to 4% of the pensionable gross wages. There is no own contribution for the employee. This 4% is very basic and according to our judgement not a real pension claim.

B] **The Plus Plan** is also i.e. investment based. The annual old age pension claim amount to a percentage of the gross pensionable wages which percentage increases with age. The employer annually pays 8% premium and the employee has a mandatory (tax deductible) own contribution of 4% of his pensionable gross wages.

Due to the modest annual Basic Plan/Plus Plan pension claim, many participants will have the option to invest additional premium into a separate Private Dutch Pension Plan called 'Lijfrente' with tax benefits. If you can and need to invest for old age, always good to use all tax benefits!



For all details about the StIPP: <https://www.stippensioen.nl/landing-engels>

## G] Sending A Temporary Worker/'Detacheren'

### Type Of Contract

The only difference with the option as explained under F] is that there is no 'uitzendbeding'.

Which means that there is still the situation that the employer sends his employee to a third party to work over there under the guidance and supervision of that third party. But the employer does not have the option to at any given moment end the contract.

This type of flexible contract is often used when an employer likes to use highly skilled specialists for a certain project. The contracts ends after a certain determined period or when the project ends.

### Pension Coverage

These type of flexible employees also have the legal obligation to join the StiPP. The fact that there is no 'uitzendbeding' does not prevent that.

### H) Sending A Temporary Worker/'Payrolling'

#### Type Of Contract

Payrolling also provides flexible work solutions. The essential difference with the previous two versions of flexible work is that the employer does not select the employee. The third party selects the employee and then the employer takes care of all payroll obligations regarding this employee who will only work for that third party.

So the employer formally hires the employee but the employee has been selected by the third party, will only work for the third party and works under the guidance and supervision of the third party. Thus the employer is the 'formal' employer but not the 'real' employer.



### Pension Coverage

In the past the mandatory StiPP participation applied equally. Due to new nation legislation in 2020 called 'WAB', this will change as of 2021.

The new law has as goal to provide to these flex workers a pension claim that is as of 2021 at least equal to the pension claim as presented to the regular employees of the branch they are working in. Thus to end the current situation that their StiPP pension claim is much less.

As of 2021 the pension coverage has to be:

- At least equal to the coverage as offered to the regular employees in that branch **or**
- The employee has to participate in the collective pension plan of the payroll company which has to meet at least all these conditions:
  - 1] The coverage has to start at the first day of employment;

- 2] There has to be an Old Age and Next of Kin Pension Coverage;
- 3] The premium that is paid by the payroll organization has to be at least equal to the average premium as paid by employers to the Dutch Pension Funds.\*

The payroll organization can and probably will charge these (much) higher pension coverage costs to the hiring third party.

Thus the result is that as of 2021 the pension claim will improve substantially.

As it often will not be efficient for the employer to join all the pension funds in each branch in which they work, it is likely that they will create their own collective corporate pension plan.

\* The StiPP Plus Plan annual premium amounts to 12%. The mentioned 'at least equal pension premium' amounted in 2020 to 14,6% of a in general much higher pension base.



## 1] Sending A Temporary Worker/Contracting'

### **Type Of Contract**

The client gives a company a certain project to implement which the company does while using its own employees and under the guidance and oversight of the employer.

Thus the client has no involvement with the employees. The employer has the obligation to provide the agreed upon results and uses his own employees as he sees fit.

This variation of flexible work is often used for projects. If a certain situation qualifies as contracting is determined by the facts.

In case of contracting the labor conditions of the employees are determined by the employer's regime. There can be a national Central Labor Agreement called 'CAO' or a company regalement.

### **Pension Coverage**

This is determined by the existing corporate pension plan of the employer. This might be a mandatory Branch Pension Fund (BPF) or a collective pension plan for the company only. There is no connexion with the StiPP.

## J] Pension Coverage For Flexible Worker In A Certain Branch

It often happens that an employee who has a flexible contract and thus has to participate in the StiPP Pension Fund is working in a certain branch of the economy that has its own general labor contract and branch pension fund commitments.

In this situation you have to check the exact legal obligations and exemptions in all related legislation. Which is not always that easy as the obligation to participate in one branch does not always match the exemption from participation in another branch.

Advisable to check these aspects *before* the work starts as this prevents complex corrections afterwards.





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