Clifford Chance

BRIEFING

Back to Work: Dutch Labour Law Updates Summer 2026

September 2026

Key Sections

NON-COMPETITION CLAUSE

To modernize the legal framework for non-competition clauses, as outlined in the Dutch government's coalition agreement, a draft bill has been submitted to the Council of State. The government intends to submit an updated version of the bill, revised from the 2024 consultation draft, to Parliament before the end of 2026. When submitting the draft bill to the Council of State in summer 2026, the government confirmed the following key changes:

- employers will owe compensation to employees when invoking non-compete restrictions;
- the duration of a non-competition clause will be capped at one year after termination;
- employers will be required to specify the geographical scope of the non-compete restrictions.

SIMPLIFICATION OF STATUTORY LEAVE

A public consultation has been held on a bill to revise the statutory leave system, excluding holiday leave. The proposed *Verlofwet* aims to create a simpler and more accessible framework for employees, while streamlining administrative processes for employers. The draft bill is structured around three categories of leave: 1) parental leave, 2) leave to care for next of kin, and 3) personal leave. Although the *Verlofwet* would replace the Employment and Care Act (*Wet Arbeid en Zorg*) in full, it is not intended to alter employees' existing leave entitlements, including their duration or related benefits.

The draft bill may be amended following the public consultation. Any revised version will be published once submitted to Parliament. Transitional arrangements will be developed further, but the draft bill currently provides that existing leave arrangements in collective labour agreements and employment contracts will be respected. Employers cannot rely on the proposed legislation to amend those arrangements unilaterally.

SELF-EMPLOYED WORKERS

With effect from 31 December 2026, the legal presumption of employment will apply for workers with an hourly rate of EUR 36. The revised Self Employment Act (*Zelfstandigenwet*), as announced by the Dutch government as part of the coalition agreement, is yet to be submitted to Dutch Parliament.

CHANGES TO DUTCH BONUS CAP AND RELATED REQUIREMENTS

Expected as of 1 January 2027:

- The Dutch bonus cap of 20% (subject to exemptions) will apply to Identified Staff/Material Risk Takers (MRTs) only, i.e. persons whose activities materially affect the risk profile of the institution. All other staff will no longer be subject to the 20% bonus cap.

In addition, the following rules/requirements will also apply or be relevant to Identified Staff/MRTs only:

- The rule that at least 50% of the variable remuneration must be based on non-financial criteria.
- The requirement to disclose the total variable remuneration in the management report.

- The requirement to apply a 5-year lock-up to financial instruments awarded as part of personnel's fixed remuneration.

The relaxation of the bonus cap will also enable a more flexible approach towards retention bonuses and severance payments awarded to staff not being Identified Staff/ MRTs. Financial undertakings that currently are not yet required to identify Identified Staff/ MRTs will need to do so based on own internal criteria that reflect how risk is managed within the relevant financial undertaking. For financial undertakings that are (also) CRD or IFD firms, the need for such selection already follows from existing regulations.

FLEXWET

The Dutch government has adopted the Flexwet, offering further employment protection to flexible workers, including on-call workers and temporary staff. To this end, as per 1 January 2028:

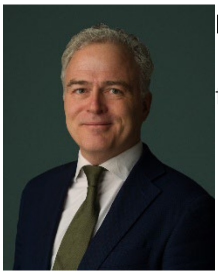
- zero-hour contracts will be abolished; and
- an extended period of 36 (rather than 6) months will need to be observed to ensure subsequent temporary employment contracts do not ultimately convert into a permanent contract.

Changes aimed at eliminating possible differences in employment packages between agency workers and the hiring company's own employees in similar positions will be enacted as of 1 January 2027.

STATUS OF IMPLEMENTATION OF EU DIRECTIVE ON PAY TRANSPARENCY

The formal implementation bill was submitted to Parliament in May 2026. Based on this draft, the envisaged date of entry into force remains 1 January 2027 in the Netherlands, whereby the reporting obligation for employers with 150 or more employees will first apply in 2028. The Dutch government has indicated that it will publish additional guidance and practical tools to support employers with the implementation.

In this context, a draft decision (*Ontwerpbesluit*) has recently been published, intended to provide further clarification on the definition of "pay". Notably, this draft decision departs from the implementation bill by proposing to align the definition of pay with the tax-based concept of pay. This approach has attracted considerable criticism, and it remains uncertain whether the draft decision will be adopted in its current form.



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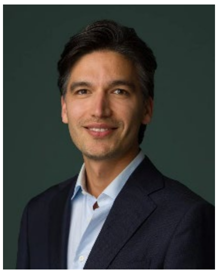

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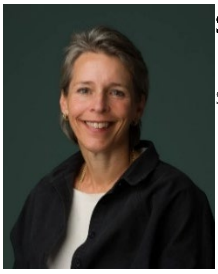

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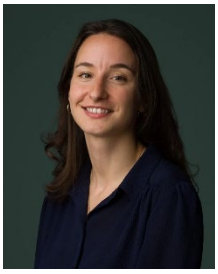

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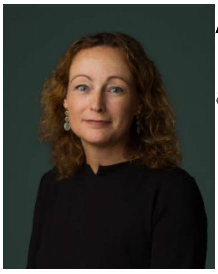

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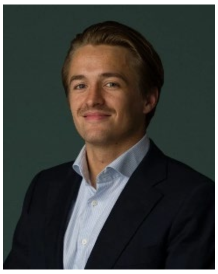

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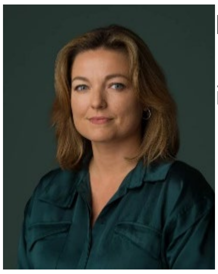

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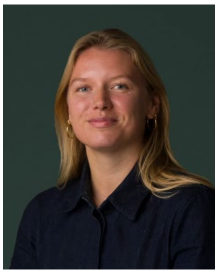

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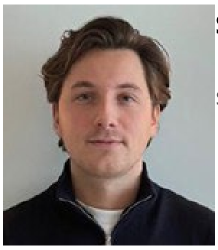

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