STAATSCOURANT
Officiële uitgave van het Koninkrijk der Nederlanden sinds 1814.
Nr. 32
2 januari
2023

Legal Status (Local Employees) Regulations 2020

Version as amended with effect from 1 January 2023

CHAPTER 1 General provisions

Article 1.1 Definitions

The following definitions are used in these Regulations:
a. *mission:* a diplomatic representation, a consular representation or a permanent representation to an international organisation of the Kingdom of the Netherlands abroad;
b. *head of mission:* the head of a mission;
c. *HDPO:* the director of the Human Resources Department of the Ministry of Foreign Affairs;
d. *employer:* the State of the Netherlands;
e. *employee:* a person employed at a mission on an employment contract subject to local regulations;
f. *family members:* an employee's partner and dependent children;
g. *partner:*
1°. a spouse;
2°. a registered partner; or
3°. a partner with whom an unmarried employee cohabits and runs a joint household, with a view to long-term cohabitation, on the basis of a cohabitation agreement executed by a civil-law notary stating the mutual rights and obligations of the cohabitees in respect of their cohabitation and joint household. Only one person may be deemed to be an employee's partner at any given time. A person deemed to be an employee's partner only loses this status on the day this person ceases to be a partner within the meaning of this point of this article;
h. *dependent children:* the children of an employee or an employee's partner, including adopted children and stepchildren, who are under 18 and for whom the employee bears full financial responsibility or more than half of the financial responsibility;
i. *mission version:* a document laying out detailed regulations, based on these Regulations, specifically for the country in which a mission is located;
j. *occupational health service:* the medical officer or health service designated by the head of mission to assist the head of mission in the provision of occupational health support to employees;
k. *job:* the various duties to be performed by an employee by virtue of and in accordance with the instructions given to the employee by the employer;
l. *salary:* the salary amount referred to in chapter 4, part 1, plus the allowances referred to in part 2 of that chapter;
m. *monthly salary:* the salary amount referred to in chapter 4, part 1 relating to a period of one month, plus the allowances referred to in part 2 of that chapter relating to a period of one month, in so far as these allowances have been awarded for an open-ended period or for a period of at least five consecutive years immediately preceding the end of the employment contract;
n. *local:* in the place where the mission is located;
o. *local regulation:* a peremptory provision of employment law in force locally that is applicable to the employee;
p. *local usage:* what is standard practice locally at the foreign representations of the United States, the United Kingdom, Germany, Canada and the European Union. If there are fewer than three of the aforementioned foreign representations in the place where the mission is located, HDPO will designate one or more other foreign representations established locally, after consultation with the head of mission;
q. *in-house emergency officer:* an employee working at the mission who has been designated by the head of mission to perform the emergency service activities referred to in article 6.8 in addition to their normal duties;
r. *3W:* the director of 3W WorldWide Working (3W *WereldWijd Werken*) at the Ministry of Foreign Affairs.

Article 1.2 Powers

1. The ministers grant power of attorney and authorisation to perform juristic acts and to perform acts that constitute neither a decision nor a juristic act under private law to the Secretary-General and Deputy Secretary-General of the Ministry of Foreign Affairs, HDPO and 3W, in relation to all local employees, and to heads of mission, in relation to local employees working at their mission, pursuant to these Regulations, the regulations based on them, such as the mission versions, and any further instructions.

2. The ministers also authorise the officials referred to in paragraph 1 to record in the competence table that is part of the Ministry of Foreign Affairs' administrative organisation which officials accountable to them are jointly competent to exercise the power of attorney and authorisation.

Article 1.3 Applicable law and regulations

1. Employment contracts and any disputes arising from them are subject to local employment law and – in so far as the following do not conflict with peremptory provisions of that employment law – to these Regulations and the mission version and other regulations adopted pursuant to these Regulations.

2. Provisions contained in or adopted pursuant to these Regulations which conflict with local usage may be declared wholly or partially inapplicable in the mission version.

Article 1.4 Equal treatment

1. The employer may not make a distinction between employees on the grounds of religion, beliefs, political convictions, race, sex, nationality, sexual orientation, civil status, a difference in working hours, or any other grounds whatsoever, unless such a distinction is objectively justified.

2. Any claim under this article is subject to a limitation period of six months.

Article 1.5 Mission version

1. 3W draws up a mission version for the mission or missions in the district served by an embassy, together with the heads of mission of the embassy and any other missions in the district.

2. The mission version contains employment conditions and related provisions such that, in combination with the applicable employment conditions and provisions under these Regulations, it constitutes a total package of employment conditions and related provisions in accordance with local usage.

3. The head of mission at an embassy may, after consultation with the heads of mission of any other missions in the embassy's district, propose an amendment to the mission version to 3W, whenever circumstances warrant this. 3W can also, after consultation with the head or heads of mission involved, take the initiative to prepare an amendment to the mission version.

4. Adoption, amendment or withdrawal of the mission version is carried out by HDPO. HDPO only adopts, amends or withdraws the mission version once the employee participation body at the mission or missions has been given the opportunity by the head or heads of mission concerned to give an advisory opinion. If HDPO deviates from the advisory opinion given by the employee participation body, HDPO must, via the head or heads of mission, notify the employee participation body of this in writing and give sound reasons for doing so.

5. The right to give an advisory opinion as referred to in paragraph 4 does not apply to:
   a. amendments to the annexe to a mission version containing the salary amounts fixed by HDPO or 3W using the instruments devised for this purpose, as referred to in article 4.1, paragraph 5;
   b. thb adoption, amendment or withdrawal of a mission version in connection with an amendment to these Regulations that entails the adoption, amendment or withdrawal of a number of mission versions.

Article 1.6 Disputes committee and courts

1. The Ministry of Foreign Affairs has an independent disputes committee (the LSR Disputes Committee) consisting of a chair, several alternate chairs and several ordinary members. The chair and alternate chairs do not operate under the responsibility of the employer and are members of the Dutch judiciary. The task, working methods and composition of the disputes committee are to be further determined by the Secretary-General of the Ministry of Foreign Affairs in the LSR Disputes Committee Regulations.

2. An employee or ex-employee can submit a dispute with the employer on the application of these Regulations or any regulations based on these Regulations to the disputes committee in writing, stating reasons. The employee or ex-employee will not incur any costs for submitting a dispute to the disputes committee.

3. After examining all the relevant documentation and giving the employee or ex-employee and the

employer the opportunity to be heard, the committee issues a written and reasoned advisory opinion to the employer and sends a copy to the employee or ex-employee.

4. The employer notifies the employee or ex-employee in writing of its decision regarding whether or not to implement the dispute committee's advisory opinion. If the employer decides to deviate from the advisory opinion, sound reasons must be given for doing so.

5. An employee or ex-employee who submits a dispute to the disputes committee may be assisted by an adviser.

6. An employee's or ex-employee's decision to submit a dispute to the disputes committee does not affect the employee's or ex-employee's right to bring the same dispute before a court in the country where the mission at which the employee or ex-employee works or worked is located or before a court in another country.

Article 1.7 Limitation period

Any claim arising from the employment contract between an employee and the employer is subject to a limitation period of five years from the date on which the claim arose, in so far as these Regulations do not provide otherwise.

Article 1.8 Notification of regulations and instructions

1. Regulations governing the legal status of employees and other regulations and instructions which employees must comply with in performing their duties, and amendments to such regulations and instructions, must be communicated to the employee and be deposited for inspection at a place to which the employee has access. The employee may make copies of such regulations free of charge, in so far as this is reasonably necessary.

2. The main points of the regulations and instructions referred to in paragraph 1 are also available in Spanish and French.

3. The employee must be properly informed of any regulations and instructions that are not recorded in writing.

Article 1.9 Hardship clause

The employer can, either at the suggestion of the head of mission or otherwise, exclude the application of articles of these Regulations or deviate from them for the benefit of an employee in so far as their application would be materially unfair in view of the employee's interest in having a strong legal status and good employment conditions.

CHAPTER 2 Start of employment

Article 2.1 Filling vacancies

1. The head of mission notifies the employees at the mission, the partners of staff members posted to the mission and, if relevant, the employees of other missions within the same district and the partners of staff members posted to these missions, of vacancies at the mission entailing an employment contract for an employee and gives them two weeks to submit an application. This two-week time limit may be reduced if, in the opinion of the head of mission, the vacancy must be filled urgently.

2. The announcement of the vacancy includes at a minimum details of the scope and content of the job, requirements as regards qualifications and experience, salary, any special employment conditions and the closing date for applications. The inclusion in the selection procedure of a medical or psychological examination, security screening or any other examination of candidates' trustworthiness or suitability must also be mentioned.

3. The vacancy may be advertised outside the mission or missions referred to in paragraph 1 once it has been established that:
   a. no persons as referred to in paragraph 1 have applied within the time limit referred to in that paragraph; or
   b. the persons referred to in paragraph 1 who applied within the time limit referred to in that paragraph are unsuitable for the vacancy or have withdrawn their candidacy.

4. If an employee and the partner of a staff member posted to a mission are equally suitable, the employee is to be given priority.

5. Notwithstanding paragraphs 1 and 3, in special cases where haste is required and there is not expected to be a suitable candidate among the persons referred to in paragraph 1, the head of mission may simultaneously announce a vacancy internally at the mission or missions referred to in paragraph 1 and advertise it externally. If a person referred to in paragraph 1 and another applicant are equally suitable, the former is to be given priority, without prejudice to the provisions of paragraph 4.

Article 2.2 Medical examination

1. The employer may require a prospective employee to undergo a medical examination if, in the opinion of the employer, the duties of the job to which the employment contract relates necessitate that special requirements be imposed in terms of medical suitability, including protection of the health and safety of the prospective employee and of third parties in relation to the performance of the work concerned.

2. The costs of the medical examination are borne by the employer. The travel and subsistence expenses necessarily incurred by the prospective employee are reimbursed in accordance with chapter 4, part 5.

Article 2.3 Psychological examination

1. A prospective employee may be required to undergo a psychological examination if the employer considers this desirable in view of the nature of the job to be performed.

2. The costs of the psychological examination are borne by the employer. The travel and subsistence expenses necessarily incurred by the prospective employee are reimbursed in accordance with chapter 4, part 5.

3. Paragraphs 1 and 2 apply *mutatis mutandis* to an employee who applies for another job at the mission or another mission.

Article 2.4 Investigation of a prospective employee's trustworthiness and suitability

1. Except in the cases referred to in paragraphs 2 and 4, the employer may require a prospective employee to submit a certificate of conduct as referred to in the Justice System Data Act, or an equivalent certificate issued by the authorities of a country other than the Netherlands.

2. If a job other than a confidential position as referred to in section 1, subsection 1 (a) of the Security Screening Act places special demands on the person who performs it in terms of integrity or responsibility, and if a compelling general interest is served by so doing, the director of the Security, Crisis Management and Integrity Department at the Ministry of Foreign Affairs or a person designated by that director may request judicial data from the Minister of Justice and Security for the purpose of investigating the trustworthiness and suitability of the prospective employee for this job. The prospective employee may be employed in a job of this kind only if no objections to their employment emerge from the investigation. The privacy of the person involved must be adequately protected in the conduct of the investigation referred to in the previous sentence.

3. A person may be employed in a confidential position as referred to in section 1, subsection 1 (a) of the Security Screening Act only if a certificate as referred to in section 1, subsection 1 (b) of this Act has been issued in respect of the person concerned.

4. An investigation as referred to in paragraphs 2 or 3 may be conducted only if the employer is of the opinion that the person concerned is qualified and suitable for the job in question.

5. The costs of obtaining a certificate as referred to in paragraph 1 are borne by the employer.

Article 2.5 Engagement and probationary period

1. An employee is engaged for a fixed period or an open-ended period.

2. Upon engagement, a probationary period may be agreed in writing.

3. If a probationary period has been agreed, either party may terminate the employment contract with immediate effect until this period has elapsed.

4. The probationary period is the same for the employer and the employee and does not exceed two months.

5. Any clause under which the probationary period is not the same for both parties or exceeds two months and any clause under which a new probationary period is entered into that results in a combined probationary period of more than two months is null and void.

6. An employment contract may be entered into with the prospective employee only if that individual is permitted by the local authorities to reside in the country in question and perform the work for the mission.

7. The costs of obtaining a residence or work permit or comparable document are borne by the prospective employee, unless these costs must be wholly or partly borne by the employer in accordance with local regulations or local usage.

Article 2.6 The employment contract

1. The employment contract is entered into in writing in English, French or Spanish; if necessary a translation is added in a language of which the employee has an adequate command. In Belgium and Suriname it is also possible for the employment contract to be entered into in Dutch. The standard contracts provided by 3W must be used.

2. The employment contract must in any event state:
   a. the employee's surname, given names and date of birth;
   b. the starting date of employment;
   c. whether the employment contract is for a fixed or open-ended period; in the former case, the term of validity must be specified;
   d. the agreed probationary period, if any;
   e. the employee's starting salary;
   f. any benefits granted to the employee in the form of board and lodging or other forms of payment in kind, and the associated deductions;
   g. the nature of the work the employee will normally be assigned to do;
   h. the provisions laid down in or pursuant to these Regulations which apply to the employment contract;
   i. that the employment contract is subject to local employment law.

3. The employment contract is subject to these Regulations and any regulations based on them as they read at the time the contract is entered into and as amended at a later date, and on any regulations replacing them.

4. Employees are informed in writing, if possible before employment starts, of the main aspects of their legal status, in a language of which they have an adequate command.

CHAPTER 3 Working hours, holiday and leave

Article 3.1 Working hours, working times and breaks

The following information is included in the mission version, with due observance of local regulations or local usage:
a. a working times arrangement that specifies at a minimum:
   1°. the number of working hours per week for employees;
   2°. a schedule of the start and end of daily working times and, unless this is not in keeping with local regulations and local usage, breaks during the working day;
   3°. the number of days of rest and public holidays when no work is required, except as necessary in the interests of the service for special reasons;
b. provisions concerning the determination of the allowance which employees receive if they perform their duties at times outside the working times arrangement applicable to them.

Article 3.2 Changes to weekly working hours

1. An employee who has worked at a mission for at least one year may request a change in the weekly working hours laid down in the employment contract.

2. The employee must submit such a request to the employer in writing at least four months before the change is intended to take effect. The request must state when the employee would like the change in weekly working hours to take effect, how many hours a week the employee wishes to work and how the employee would like to distribute those hours over the week.

3. The employer grants such requests in so far as they are not contrary to the interests of the service.

4. An employee may submit a new request two years after the employer has granted or rejected a request for a change in weekly working hours.

Article 3.3 Holiday

1. An employee is entitled to a number of hours' holiday in accordance with local regulations and local usage. The number of annual holiday hours is stated in the mission version.

2. An employee who, notwithstanding the applicable working times arrangement, does not perform any duties during a calendar month will not accrue any holiday hours for that calendar month. An employee who, notwithstanding the applicable working times arrangement, only partially performs duties during a calendar month will accrue a proportionate number of holiday hours.

3. Paragraph 2 does not applyif the employee does not perform duties or does so only partially due to:
   a. sickness, in so far as the period during which the employee is prevented from performing duties is shorter than 13 weeks, periods of sickness being added together if they succeed one another at intervals of less than 31 consecutive days;
   b. pregnancy and maternity leave, in so far as the period of leave does not exceed 16 weeks;
   c. holiday.

4. The employer confirms the start and end dates of a period of holiday after consultation with the employee. Barring special circumstances, this consultation and confirmation must be done sufficiently far in advance that the employee has time to make preparations for the holiday.

5. The employer may, if compelling reasons exist for doing so and after consultation with the employee, alter the confirmed period of holiday. The employer must reimburse the employee for the damage incurred by the latter as a consequence of the alteration.

6. If an employee has unused holiday hours when the employment contract ends, the employee is entitled to receive payment for each hour at the rate of the hourly pay the employee earned immediately preceding the end of employment.

Article 3.4 Leave

1. An employee is entitled to leave on public holidays and special leave in accordance with local regulations and local usage.

2. In special cases HDPO may decide to grant more leave on public holidays than required by local regulations or local usage and reduce employees' salary or the number of holiday hours proportionately.

3. After consulting with the employee participation body at the mission, the head of mission specifies annually, in accordance with local regulations and local usage, the public holidays on which employees are entitled to paid leave.

4. The rules governing special leave are included in the mission version.

5. If the mission is closed on a local or Dutch public holiday and the head of mission has not designated that public holiday in that calendar year as a public holiday on which employees are entitled to paid leave, pursuant to paragraph 3, each employee may either deduct the hours of that day from their holiday entitlement or make up the hours at a different time.

CHAPTER 4 Salary and other financial conditions of employment

§ 1 Job evaluation, pay scales and salary

Article 4.1 Job evaluation, pay scales, pay numbers and salary amounts

1. The employer assigns one of the pay scales set out in annexe 1 to each job performed at a mission.

2. Each pay scale consists of 16 pay numbers.

3. An amount, known as the salary amount, is attached to each pay number.

4. Salary amounts must reliably reflect usual local salaries. When salary amounts are fixed, account is taken of the nature and level of the duties to be performed, length of service, experience, other employment conditions and other factors that are typically taken into consideration locally when salaries are fixed.

5. The salary amounts attached to the minimum and maximum pay number of each pay scale are fixed using the instruments devised for this purpose by HDPO.

6. The salary amounts attached to the pay numbers between the minimum and maximum amounts referred to in paragraph 5 are fixed by dividing the difference between the minimum and maximum equally among the 16 pay numbers in the relevant pay scale.

7. The salary amounts are fixed whenever HDPO believes that there is occasion to do so, but in principle once a year.

8. The salary amounts referred to in this article are included in the mission version.

Article 4.2 Adjustments to salary amounts where these amounts are not fixed in the local currency

1. If salary amounts are fixed in a currency other than the local currency, HDPO may, after consultation with the head of mission, adjust them with effect from the first day of the following month if HDPO believes that devaluations, revaluations or other developments are bringing about an undesirable change in the salary amounts compared with usual local salary levels.

2. If a situation as referred to in paragraph 1 arises, the mission version will be amended as soon as possible with retroactive effect from the day referred to in paragraph 1.

Article 4.3 The pay scale, pay number and salary amount applicable to an employee

1. The pay scale applicable to an employee is the pay scale attached to the employee's job in accordance with annexe 1.

2. The salary amount received by an employee is based on the applicable pay scale and pay number. At the start of employment, an employee is assigned the lowest pay number unless there are special circumstances which warrant a higher pay number. In the case of a part-time employment contract, the salary amount is reduced proportionately.

3. No more than once a year, an employee who has not yet reached the highest number in the applicable pay scale may be assigned the next highest pay number in that pay scale if the employer is of the opinion that the employee has performed well.

4. Notwithstanding paragraph 3, the employer may decide in special circumstances to assign an employee a higher pay number than the next highest in the applicable pay scale.

§ 2 Allowances

Article 4.4 Market-related allowance

1. The employer may, after consultation with the head of mission, grant an employee an individual market-related allowance as a supplement to the salary amount, if circumstances in the local labour market are such that this is desirablegiven the specific job requirements.

2. A market-related allowance is granted for a period not exceeding three years. The employer may

extend the allowance for a maximum of three years at a time, after consultation with the head of mission, if the employer believes that there are reasons for doing so.

Article 4.5 Other allowances that are treated as salary

1. An employee is granted allowances supplementing the salary amount if this is in keeping with local regulations or local usage.

2. Provision for the allowances referred to in paragraph 1 is included in the mission version, stating the amount and duration thereof and the conditions under which they are granted.

§ 3 Additional remuneration

Article 4.6 Special remuneration

1. The employer may award an employee additional remuneration for exceptional dedication or excellent job performance. This may take the form of:
   a. a small gift;
   b. extra leave;
   c. a bonus not exceeding one month's gross salary per calendar year;
   d. a higher pay number in the pay scale, if the employee has not yet reached the highest pay number in the applicable pay scale.

2. If it is in keeping with local regulations or local usage to do so, an employee will be awarded a long-service bonus. Provision for this long-service bonus is included in the mission version, stating the amount and duration thereof and the conditions under which it is awarded.

Article 4.7 Emergency service allowance

1. An employee designated as an in-house emergency officer as referred to in article 6.8 is entitled to an emergency service allowance immediately after the end of each calendar year if the employee has performed the emergency service duties to an adequate extent. This allowance is a percentage of the monthly salary for the highest pay number of pay scale 5 at the time of payment at the mission in question, namely:
   a. 8% for a non-specialised in-house emergency officer;
   b. 16% for a specialised in-house emergency officer who has acquired proficiency in first aid.

2. In addition to the allowance referred to in paragraph 1, an in-house emergency officer who has been put in charge of emergency service activities carried out by a group of in-house emergency officers receives an allowance of 10% of the monthly salary for the highest pay number of pay scale 5 at the time of payment at the mission in question immediately after the end of each calendar year in which the employee performed these duties.

3. An employee who performs the duties referred to in paragraphs 1 and 2 for a period of less than twelve months is granted a proportion of the applicable allowance.

4. An employee who performs duties as an in-house emergency officer at times outside the applicable working times arrangement receives overtime pay of 125% of the hourly pay for the highest pay number of pay scale 5. The applicable provisions on overtime in the mission version do not apply to such duties.

5. An employee who has served as an in-house emergency officer for a number of years is entitled to an anniversary bonus. This bonus is a percentage of the monthly salary for the highest pay number of pay scale 5 at the time of payment at the mission in question, namely:
   a. 13% after five years;
   b. 16% after ten years;
   c. 19% after fifteen years and every five years thereafter.

Article 4.7a Stand-by allowance

1. Employees who, in the interests of the service and in accordance with the employer's written instructions, are regularly or fairly regularly required to be on stand-by outside the working times fixed for them in order to perform work immediately upon being called up are granted an allowance for each hour that they are on stand-by.

2. The allowance paid for hours when the employee is on stand-by is a percentage of the hourly pay

to which the employee is entitled and is calculated as follows:
a. 5% for weekday hours, and
b. 10% for hours at weekends or on public holidays, on the understanding these percentages are calculated on no more than the hourly pay applicable to pay number 15 of pay scale 7.

3. Notwithstanding paragraphs 1 and 2, the employer may, after consultation with the employee, choose to compensate the employee by awarding the following amounts of leave: 1.5 hours' leave for stand-by duty of 24 hours on a weekday and 2.5 hours' leave for stand-by duty at the weekend or on a public holiday. Proportionate compensation is awarded for stand-by duty of less than 24 hours.

4. The leave referred to in paragraph 3 may be taken within six months of the date on which it is awarded by the employer. Leave that is not taken is forfeited after expiry of this period, unless the interests of the service prevented the employee from taking the leave, in which case the employee will receive payment in lieu of that leave.

§ 4 Fixing of gross salary and payment of gross or net salary

Article 4.8 Fixing of gross salary

1. An employee's salary is fixed as a gross amount.

2. The contributions to be remitted by the employer that are payable by the employee pursuant to article 5.3, or the amounts to be withheld pursuant to article 5.5, paragraph 2 or article 5.6, paragraphs 1 and 2 (a) are in any event deducted from the gross salary.

Article 4.9 Payment of gross or net salary; local tax liability

1. If salary is not taxable under the Salaries Tax Act 1964, it is paid net. The net salary is calculated by deducting from the salary amount referred to in article 4.8, paragraph 1:
   a. the contributions or amounts referred to in article 4.8, paragraph 2; and
   b. the amount of tax owed locally by the employee on the salary; or
   c. the amount of tax that the employee would owe locally if the local tax authorities levied the tax payable locally on the employee's salary without taking into account any personal deductions the employee or their family members would have been entitled to.

2. The tax owed on the salary locally is remitted by the employer to the local tax authorities.

3. If, following a recommendation by the head of mission or otherwise, HDPO concludes that local circumstances are such that the employee should be responsible for withholding and remitting tax owed locally on salary to the local tax authorities, this will be included in the mission version. In this event, employees are responsible for remitting tax owed locally on their salary to the local tax authorities and, notwithstanding paragraph 1, their salary is paid gross. If so requested by the head of mission or 3W, employees are required to show each year that they have remitted tax owed locally on their salary to the local tax authorities.

4. If an employee is responsible for remitting tax owed locally to the local tax authorities but fails to do so, 3W may decide, notwithstanding paragraph 3, to pay the employee's salary net. In this event, the salaries tax owed locally by the employee, as referred to in paragraph 1, is deducted from the salary referred to in paragraph 3.

5. If salary is paid net on the basis of paragraph 4 but the employee remits tax to the local tax authorities and can show this, the employee will be reimbursed for the amount demonstrably remitted.

6. The head of mission or 3W may provide the competent local authorities with a statement of the salary earned by the employee, as well as of the tax remitted locally on the salary by the employer and other information relevant to the levying of tax.

Article 4.10 Payment of net salary; Dutch tax liability

1. If salary is taxable under the Salaries Tax Act 1964, it is paid net. This net salary is calculated by deducting from the salary amount referred to in article 4.8, paragraph 1:
   a. the contributions or amounts referred to in article 4.8, paragraph 2; and
   b. the amount of tax that the employee would owe locally if the local tax authorities levied the tax payable locally on the employee's salary, without taking into account any personal deductions

the employee or their family members would have been entitled to.

2. Salaries tax owed in the Netherlands is remitted directly to the Dutch tax authorities by the employer.

3. In calculating the amount of salaries tax owed in the Netherlands, the employer takes account of the general tax credit and employment tax credit prescribed in the Salaries Tax Act 1964 or comparable tax credits, by whatever name they are known.

4. If, at the written request of the employee, the employer has decided to disregard the credits referred to in paragraph 3 in the calculation referred to in that paragraph despite the employee being eligible for these credits, both the amount referred to in paragraph 1 and an additional amount, equal to the difference between the amount of salaries tax owed in the Netherlands and the lower amount of salaries tax that would have been owed if the employee had not requested that the credits referred to in the previous sentence be disregarded, will be deducted from the employee's salary as referred to in article 4.8, paragraph 1.

5. If the employer has remitted too much salaries tax to the Dutch tax authorities, the employee is required to cooperate in claiming a refund of the excess tax from the Dutch tax authorities. If the employee fails to cooperate, an amount equal to the excess tax will be withheld from the employee's salary.

Article 4.11 Payment of gross or net salary; double tax liability

1. If salary is taxable both locally and in the Netherlands, article 4.9 applies *mutatis mutandis.*

2. Salaries tax owed in the Netherlands is payable and remitted by the employer.

3. Paragraph 5 of article 4.10 applies *mutatis mutandis*.

§ 5 Official travel and travel for the purposes of training

Article 4.12 Official travel and travel for the purposes of training; general provisions

1. Instructions to undertake an official trip or a trip for the purposes of training are issued by the employer.

2. The starting and ending points of an official trip are decided by the employer.

3. Reimbursements received from third parties of the costs referred to in this part are deducted from the reimbursements to which entitlement exists pursuant to this part.

4. Claims for the costs referred to in this part must be submitted in a manner prescribed by the employer.

5. An employee who fails to submit an expense claim within three months of the trip during which the expenses were incurred forfeits the right to reimbursement.

Article 4.13 Extension of official travel or travel for the purposes of training

1. An employee undertaking an official trip or a trip for the purposes of training may, if necessary in the employer's opinion, arrive at the destination up to 24 hours before the work or training begins in order to acclimatise.

2. If, in the event of an official trip or a trip for the purposes of training, alternative travel arrangements would lead to significant savings for the service, any additional days of travel this entails are deemed to be in the interests of the employer, provided that the employee agrees to any such extended period of travel and continues to perform their duties during the extended period of travel or takes leave in so far as the hours during the extended period of travel would otherwise have been working hours.

3. Should a situation as referred to in paragraph 1 or 2 arise, the additional accommodation and other subsistence costs will be reimbursed in accordance with this part.

4. It is permitted to extend official trips or trips for the purposes of training for private purposes, on condition that:

a. the employee submits a request in writing and the employer approves it before departure;
b. the extension is for a maximum of 72 hours;
c. the extension is at the beginning or end of the trip; and
d. any additional costs for travel and accommodation are borne by the employee and any savings accrue to the employer.

5. Official trips or trips for the purposes of training may not be extended for private purposes if the employee has been given permission to arrive at the destination earlier in accordance with paragraph 1.

Article 4.14 Compensation for delays and loyalty programmes

1. Entitlements to compensation from a travel company on account of delays during official travel or travel for the purposes of training accrue to the employer. The employee must afford the employer the cooperation that can reasonably be expected of the employee in enforcing such claims.

2. Benefits gained from loyalty programmes arising directly from official travel or travel for the purposes of training accrue to the employer, unless the employee, in accordance with the employer's instructions, uses them for subsequent official travel.

Article 4.15 Tickets and bookings

1. Tickets and bookings for overnight accommodation for official travel or travel for the purposes of training must be requested by the employee or, with the prior written permission of the employer, respectively bought or made by the employee as soon as possible, but in any case no later than 21 calendar days before departure. If this is not possible, the employee must explain why in writing to the employer.

2. Tickets are issued or reimbursed for travel on a predetermined date. If special circumstances give cause to do so, the employer may permit the purchase or reimbursement of an undated ticket.

3. The employer can indicate to the employee which facility or facilities should be used for overnight stays.

Article 4.16 Travel costs

1. The employer decides what modes of transport are to be used on official trips and trips for the purposes of training. The costs of travel by public transport, by boat or by air are reimbursed on submission of supporting documents.

2. The following travel costs are also reimbursed:
   a. the cost of transport between the station, port or airport of arrival and the final destination on the outward and return journeys;
   b. airport charges;
   c. porter costs; and
   d. supplements for special trains, costs of seat reservations and sleeper compartments in trains and extra baggage costs, if the interests of the service or the conditions of travel so warrant.

3. In the event of a lengthy official trip or trip for the purposes of training, the employer may give the employee permission to make one or more short visits home. Such a visit does not constitute an interruption of official travel.

4. Travel costs incurred for a visit home are reimbursed on submission of supporting documents, provided that and in so far as the journey is undertaken by public transport, by air or by boat in the lowest fare class, as agreed with the employer.

Article 4.17 Public transport, air, official vehicle or employee's own vehicle

1. Official trips and trips for the purposes of training are to be undertaken by public transport if:
   a. this is possible;
   b. the journey time by public transport is no more than eight hours or the journey time by public transport is more than eight hours but less than one-and-a-half times the journey time by air; and
   c. the employer is of the opinion that travel by public transport would not be unreasonably arduous in the light of special local circumstances or the employee's personal circumstances.

   The journey time is calculated from the employee's place of work to the destination, including the

journey to and from a station or airport and including waiting time (checking-in time).

2. The employee will be provided with a ticket. With the prior permission of the employer, employees may purchase tickets themselves and be reimbursed for the actual cost incurred up to the price of the ticket to which they are entitled on the basis of this article.

3. The employee is entitled to travel abroad by train at the employer's expense in:
   a. first class or equivalent in the case of official travel;
   b. second class or equivalent in the case of travel for the purposes of training;
   c. in so far as a ticket is available for that class.

4. The employer decides, in the light of local circumstances, whether an official trip or a trip for the purposes of training that cannot or, having regard to paragraph 1, need not be undertaken by public transport may be undertaken in an official vehicle, the employee's own vehicle or by air.

5. An employee undertaking an official trip is entitled to travel by air in business class or equivalent at the employer's expense if the total flying time is six hours or more and a ticket for the journey is available in that class.

6. An employee undertaking a trip for the purposes of training is entitled to travel by air in economy class or equivalent at the employer's expense.

7. Notwithstanding paragraph 6, an employee undertaking a trip for the purposes of training with a total flight time of 21 hours or more is entitled to travel at the employer's expense:
   a. in economy plus class or equivalent if a ticket for the journey is available in that class; or
   b. in economy class or equivalent with an optional one-night stopover during the journey. In the case of a one-night stopover, the employee will receive an allowance towards the costs of accommodation.

8. For the purposes of paragraphs 5 and 7, the total flying time of the longest flight will be taken into account.

9. With due regard for paragraphs 5, 6 and 7, the ticket provided to the employee, or the cost reimbursed, will be for a direct flight where available for the journey. If the flying time of a direct flight is more than six hours, the employer may, with due regard for paragraphs 5, 6 and 7, deviate from this if the cost of an indirect flight is at least € 350 less than that of a direct flight and the journey time is at most four hours longer than that of a direct flight.

10. The employer may allow an employee flying in economy class or equivalent to claim the cost of using a business lounge at an airport if there are special reasons for doing so and if the employee submits a reasoned request.

Article 4.18 Hired vehicle or taxi

If, in the opinion of the employer, it is in the interests of the service for an employee to use a hired vehicle or a taxi during an official trip, the associated costs will be reimbursed in full.

Article 4.19 Subsistence costs

1. Subsistence costs are costs necessarily incurred by an employee for meals, accommodation and minor expenses during an official trip or a trip for the purposes of training.

2. Subsistence costs are reimbursed on the basis of the lists of rates for subsistence costs that apply to Dutch civil servants in:
   – appendix 7 *List of rates for subsistence costs on official trips abroad* (*'Tarieflijst verblijfkosten buitenlandse dienstreizen')* of the collective labour agreement for central government (CAO Rijk) for stays outside the Netherlands; and
   – part 10.2 *Official trips in the Netherlands* of the collective labour agreement for central government (CAO Rijk) for stays within the Netherlands.

3. The allowance for subsistence costs comprises:
   a. an hourly component: an allowance for minor expenses equal to 1.5% of the amount for other costs specified in the list of rates for each hour of travel;
   b. an accommodation component: reimbursement of the actual costs of accommodation up to the maximum amount per night specified in the list of rates. If no supporting document can be submitted to demonstrate that accommodation costs were incurred at an establishment

intended for the purpose, an amount of € 11.34 will be reimbursed for each night's accommodation up to a maximum of four nights per trip;
   c. a breakfast component: an allowance for breakfast equal to 12% of the amount for other costs specified in the list of rates for each period between 06.00 to 08.00 during the trip;
   d. a lunch component: an allowance for lunch equal to 20% of the amount for other costs specified in list of rates for each period between 12.00 and 14.00 during the trip;
   e. a dinner component: an allowance for dinner equal to 32% of the amount for other costs specified in the list of rates for each period between 18.00 and 21.00 during the official trip.

4. The meal allowances may only be claimed if costs were incurred for meals at an establishment intended for that purpose.

5. If a supporting document is submitted for the costs of accommodation and breakfast that does not show which part of the costs were for accommodation and which part for breakfast, the costs shown on the document will be reimbursed as long as they do not exceed the sum of the accommodation component and the breakfast component.

6. There is no entitlement to reimbursement of subsistence costs:
   a. for travel of less than four hours' duration;
   b. for the air travel portion of a journey, with the exception of costs necessarily and demonstrably incurred for meals on board;
   c. for a visit home as referred to in article 4.16, paragraph 3, with the exception of the parts of the journey that relate to travel between the places of temporary stay and permanent residence.

7. The employer may grant a lower allowance for subsistence costs than under the rules referred to in paragraph 3 if an employee undertakes frequent official trips and if the employer deems that this is warranted in view of the nature of the work or the travel conditions.

8. If an employee is away on an official trip lasting more than 60 days in order to perform temporary duties at or from a specific location, entitlement to reimbursement of subsistence costs relating to the employee's temporary stay at or near this location will, in any event as of the 61st day of the trip or earlier if the employer considers this appropriate, consist of the following amounts:
   a. half of the allowances referred to in paragraph 3;
   b. reimbursement of actual accommodation costs, not exceeding the amount for the accommodation component referred to in paragraph 3.

9. If an employee can provide supporting documents demonstrating that due to special circumstances reimbursement under the rules referred to in paragraph 2 is insufficient to cover subsistence costs incurred during an official trip, the employer may allow the employee to claim some or all of the additional costs.

Article 4.20 Benefits in kind provided by the employer

1. If during a trip an employee incurs costs for employer-provided overnight accommodation, these costs will be reimbursed. If the employer-provided accommodation is not used, there will be no entitlement to reimbursement of costs incurred for accommodation elsewhere.

2. Reimbursement cannot be claimed for the cost of meals if, during a trip, the employer has provided an opportunity to take meals either free of charge or for payment, unless the employee was unable to make use of this opportunity and can demonstrate this.

Article 4.21 Reimbursement of other costs relating to official travel or travel for the purposes of training

1. An employee who undertakes an official trip or a trip for the purposes of training lasting at least seven days, including days spent in transit, is eligible for reimbursement of the costs necessarily incurred to launder clothes the employee expects to wear again during the trip.

2. An extension of the period of travel for private purposes as referred to in article 4.13, paragraph 4 is not taken into account for the purposes of paragraph 1.

3. An employee who undertakes an official trip or a trip for the purposes of training is eligible for reimbursement of the costs of vaccination and medication prescribed by the occupational health service in so far as such costs are not reimbursed under health insurance or otherwise.

4. The costs incurred for work-related national and international telephone calls in connection with a

trip will be reimbursed on submission of supporting documents.

Article 4.22 Clothing costs

1. If climatic conditions or other special circumstances in a country that will be visited in the course of an official trip or a trip for the purposes of training differ significantly from those in the country where the employee works, the employer may grant an allowance to the employee towards the demonstrably and, in the opinion of the employer, necessarily incurred costs of special clothing and equipment.

2. The allowance is equal to half of the costs necessarily incurred. The maximum allowance for each calendar year is € 453.78, consisting of € 226.89 for locations with a tropical climate and € 226.89 for locations with a polar climate.

Article 4.23 Costs related to sickness, accident or the loss, theft of or damage to luggage

1. If an employee demonstrably incurs necessary costs during an official trip or a trip for the purposes of training as a result of sickness or an accident, the employer can set an amount for the reimbursement of these costs.

2. If an employee demonstrably incurs necessary costs as a result of the loss, theft of or damage to luggage the employee needed to take on the official trip or trip for the purposes of training, the employer can set an amount for the reimbursement of these costs. The maximum amount reimbursed for the costs of the loss, theft of or damage to luggage is € 2,268.90 per trip.

§ 6 Reimbursement of other costs

Article 4.24 Reimbursement of hospitality and other costs

1. If an employee carries out hospitality activities at the request of the employer and incurs costs in doing so, these costs will be fully or partially reimbursed in accordance with the applicable rules at the mission on the reimbursement of hospitality costs. These costs will be charged to the designated budget for hospitality activities at the mission in question.

2. An employee will receive reimbursement or a contribution not referred to in these Regulations if this is in keeping with local regulations or local usage.

3. Provision for reimbursements or contributions as referred to in paragraph 2 is included in the mission version, along with details on the amount and duration thereof and the conditions under which they are granted.

Article 4.24a Homeworking allowance

1. An employee who works from home with their manager's permission is entitled to a homeworking allowance if the employee:
   a. works exclusively from home that day and for a period of at least four hours;
   b. is not eligible under local law or under another arrangement provided by the employer for a comparable allowance or a tax exemption in connection with the costs of working from home on that day; and
   c. is not eligible for an allowance or public transport pass for travel between home and work or a meal allowance on that day.

2. The homeworking allowance per day is equal to 10% of the gross hourly pay corresponding to the highest pay number of pay scale 7 that applies on the date of payment at the mission where the employee works.

3. If an employee does not claim the homeworking allowance within six months after the month in which they worked from home, entitlement to the homeworking allowance will lapse.

Article 4.25 Indemnification

1. The employer may provide fair indemnification to an employee, except in the cases referred to in paragraph 2.

2. If an employee becomes permanently disabled or dies in the course of carrying out their duties at the mission or during an official trip, as a consequence of an occupational sickness or work-related

accident as referred to in article 5.10, paragraph 3, the employer will, on request, award a one-off payment to the employee or, as the case may be, to the employee's surviving partner or dependent children in accordance with paragraphs 3 to 7.

3. In the event of permanent disability the payment is not more than 3 times the gross salary amount applicable at the mission concerned to the maximum pay number of pay scale 7, multiplied by 12. In the event of death the payment is 1.5 times the gross salary amount applicable at the mission concerned to the maximum pay number of pay scale 7, multiplied by 12.

4. The payment is inclusive of any payments made under insurance policies taken out or reimbursed by the employer.

5. The payment is paid net and is grossed up for the purposes of the applicable local or Dutch tax law. Chapter 4, part 4 applies *mutatis mutandis*.

6. The amount of the payment to be awarded in the event of permanent disability depends on the degree of disability and is determined, subject to the above-mentioned maximum, in accordance with the criteria of the American Medical Association's Guides to the Evaluation of Permanent Impairment (AMA Guides).

7. In the event of death, the payment referred to in paragraph 3 may be increased by the employer as it considers reasonable and fair if a life insurance policy taken out on the life of the employee does not pay out because the death is a consequence of an act of war or the like directly connected with the performance of duties for the employer. An act is deemed to be an act of war or the like if the event leading to the accident is normally uninsurable.

§ 7 Setoffs and payments

Article 4.26 Setoffs

Amounts owed by the employee to the employer may be set off against amounts owed by the employer to the employee.

Article 4.27 No payment if duties not performed

No salary or other payments are owed in respect of a period during which the employee has not performed the stipulated work in so far as these Regulations or the mission version do not provide otherwise.

Article 4.28 Currency; fixing and payment

1. An employee's financial entitlements under these Regulations are fixed and paid in the usual local currency unless these Regulations determine otherwise.

2. Notwithstanding paragraph 1, financial entitlements may be fixed or paid entirely or partly in a different currency if HDPO considers there are reasons for doing so.

3. If an entitlement is fixed in one currency and paid in another, it will be converted on the basis of the exchange rate for payments to third parties applied at the time of payment by the Director of the Financial and Economic Affairs Department of the Ministry of Foreign Affairs.

4. Payments under these Regulations are made in the country where the mission is located.

5. The salary amount referred to in article 4.3, paragraph 2 is paid monthly. The frequency and dates of other payments, such as allowances, are included in the mission version.

CHAPTER 5 Social provisions, occupational health support, sickness and pregnancy

§ 1 Social provisions

Article 5.1 General

The obligatory and standard social provisions that are applicable are laid down in the mission version.

§ 2 Employees to whom the local social security system is applicable

Article 5.2 Registration with the local social security authorities

1. If the participation of the employee in the local social security system is compulsory or if participation is possible and HDPO considers it advisable, 3W must arrange for the registration of the employee with the local authorities.

2. The employee will arrange for registration as referred to in paragraph 1 instead of the employer if this is in keeping with local regulations or local usage.

Article 5.3 Payment of contributions to the local social security authorities

1. The contributions owed under the local social security system are paid by the employee or the employer in accordance with local regulations or local usage.

2. The contributions owed are remitted by 3W to the local authorities concerned, unless it is in keeping with local regulations or local usage for the employee to do so, in which case the employee remits them.

§ 3 Employees to whom the Dutch social security system is applicable

Article 5.4 Registration with the Dutch social security authorities

If the Dutch social security system is applicable to an employee, 3W arranges for the registration of the employee with the relevant authorities in the Netherlands.

Article 5.5 Payment of contributions to the Dutch social security authorities

1. The employer's and employee's contributions and national insurance contributions that are payable are remitted by 3W to the relevant authorities in the Netherlands.

2. The amount that the employee would pay in social insurance contributions if the local social security system were applicable is withheld from the employee's salary.

3. The amounts referred to in paragraph 2 are fixed on the start date of employment and fixed anew every year on 1 January.

§ 4 Employees to whom neither the Dutch nor the local social security system is applicable

Article 5.6 General

1. If the employee is unable to participate in either the local or the Dutch social security system, the amount that the employee would have to pay in social insurance contributions if the local social security system applied is withheld from the employee's salary.

2. If the situation referred to in paragraph 1 occurs, the mission version may provide that:
   a. notwithstanding paragraph 1, none or only part of the amount that the employee would have to pay in social insurance contributions if the local social security system applied is to be withheld from the employee's salary;
   b. all or part of the amount which the employer would pay in social insurance contributions if the local social security system applied to the employee is to be paid to the employee.

   The mission version also stipulates to what extent the employee and any surviving dependants may still claim old age pension, surviving dependants and invalidity provisions under chapter 9.

§ 5 Occupational health support

Article 5.7 General provisions and computer glasses

1. The head of mission is responsible for the occupational health support provided to employees. The head of mission is assisted by the occupational health service in providing such support.

2. The head of mission, after consulting with the employee participation body at the mission, designates an occupational health service and then notifies the employees accordingly.

3. Employees, either individually or collectively, may be given instructions by or on behalf of the

occupational health service on how to maintain, restore and improve their own fitness to work. Employees are required to follow such instructions, with the exception of instructions to undergo an invasive medical procedure.

4. The head of mission may pay a contribution towards the cost of buying computer glasses if an eye examination shows that the employee needs computer glasses to perform their duties.

Article 5.8 Medical examination

1. An employee may consult the occupational health service directly about work-related health problems. An employee may also request the employer to arrange for an examination by or on behalf of the occupational health service. The cost of the consultation and examination are borne by the employer.

2. The employer may instruct an employee to submit to a medical examination by the occupational health service:
   a. if, in the employer's opinion, there are good grounds for doubting that the employee is in a good state of health;
   b. if the employee has proved to be no longer fully fit to perform their duties and it is necessary to ascertain whether this is due to medical factors and, if so, whether the employee may be deemed fit to perform a different job; or
   c. to ascertain whether a situation exists as referred to in article 5.12 (a), (b), (c), (d), 2° or 3°.

   The employee is required to cooperate with such a medical examination.

3. The employer may suspend any employee whose physical or mental condition is determined, by means of an examination as referred to in paragraphs 1 or 2, to be such that the continued performance of duties by the employee is not in the interests of the employee, of the service or of third parties involved in the performance of those duties.

§ 6 Medical expenses

Article 5.9 Contribution towards medical expenses

1. If HDPO is of the opinion that the applicable social security system provides insufficient cover, or none at all, for necessary medical expenses in the country in which the mission is located, and:
   a. if the employee takes out a health insurance policy locally, the employee will be granted a contribution towards the premium; or
   b. if the employer takes out a health insurance policy locally, the premium will be deducted from the employee's salary, with the exception of a contribution towards medical expenses to be granted to the employee, in accordance with local regulations and local usage.

   The amount of the contribution towards medical expenses and any further conditions are laid down in the mission version.

2. The health insurance policy referred to in paragraph 1 is a policy that provides cover solely for medical expenses incurred in the country where the mission is located and possibly also for medical expenses incurred in another country where the amount reimbursed is not higher than if the medical expenses had been incurred in the country where the mission is located. The insurance referred to in the previous sentence is chosen on the basis of what is most economical for Dutch central government, while at the same time making reasonable allowance for the employee's interest in having adequate insurance and for local conditions and local usage.

3. Medical expenses for which reimbursement is not received pursuant to paragraph 1 are not eligible for reimbursement by the employer.

4. If HDPO is of the opinion that the applicable social security system provides insufficient cover, or none at all, for necessary medical expenses in the country in which the mission is located, and that there is no reasonable possibility of taking out an insurance policy as referred to in paragraph 1, the employee will be granted a contribution towards medical expenses necessarily incurred in the country in which the mission is located, in accordance with local regulations and local usage, if the employee is not entitled to reimbursement of these costs on other grounds. If such a situation arises, further conditions and rules concerning this matter will be included in the mission version. The mission version can provide that a contribution in respect of medical expenses will be deducted from the employee's salary.

5. An employee is entitled to a contribution in accordance with paragraphs 1 or 4 for family members

if the family member's income from employment or a business in the calendar year in question does not exceed the employee's salary.

6. An employee must submit a request for a contribution pursuant to paragraph 4 within six months of the end of the calendar year to which the request relates. If the employee fails to do so, the right to a contribution will be forfeited.

7. The head of mission may determine that an employee is to receive an advance on the contribution referred to in paragraph 4.

8. A part-time employee is entitled to a proportionate part of the contribution payable under paragraphs 1, 4 and 5 to a full-time employee.

9. The head of mission may permit the employee, following the end of the employment contract, to continue participating at the employee's own expense in the health insurance policy taken out by the employer, provided that the insurer allows this. The previous sentence applies *mutatis mutandis* to the members of the employee's family. The head of mission may set conditions for such participation.

Article 5.10 Reimbursement of medical expenses in the event of a work-related accident or occupational sickness

1. If the sickness that has caused an employee to be unfit to work has arisen from a work-related accident or an occupational sickness, the employer will reimburse all medical expenses that the employee continues to bear that the employer considers to have been necessarily incurred in the country in which the mission is located.

2. If a work-related accident takes place during an official trip outside the country of the mission where the employee works, the employer will also reimburse medical expenses necessarily incurred outside the country in which the mission is located.

3. The following definitions apply for the purposes of this article:
   a. occupational sickness: a sickness that is largely due to the nature of the duties that an employee is instructed to perform or to the special circumstances in which they must be performed and that is not significantly attributable to the employee's fault or carelessness;
   b. work-related accident: an accident that is largely due to the nature of the duties that an employee is instructed to perform or to the special circumstances in which they must be performed and that is not significantly attributable to the employee's fault or carelessness.

§ 7 Sick pay

Article 5.11 Continuation of salary payment in the event of sickness

1. Employees who are not fit to perform their duties due to sickness receive their full salary or a percentage of their salary, in accordance with local regulations or local usage, for a given period, with effect from the first day on which they are unfit to perform their duties.

2. The mission version specifies whether sick employees receive their full salary or a percentage of their salary and for how long.

3. If an employee does not work the same number of hours each week, the salary for the purpose of paragraph 1 is considered to be the average salary the employee earned over the thirteen calendar weeks immediately before becoming unfit to work due to sickness.

4. For the purpose of determining the period referred to in paragraph 1, periods of unfitness for work due to sickness will be added together if they succeed one another at intervals of less than 31 days.

5. Employees who during their sickness are able to perform their duties in part or to perform other available and suitable duties wholly or in part receive their full salary for the number of hours that they perform or offer to perform those duties.

6. The provisions to which an employee is entitled due to sickness pursuant to the applicable social security system are deducted from the entitlement referred to in paragraph 1.

Article 5.12 Article 5.12 Limitation of pay entitlement

No entitlement to salary as referred to in article 5.11 exists:
a. if the sickness has been feigned or has in any event been exaggerated to such an extent that unfitness for work due to sickness cannot be presumed;
b. if the employee has caused the unfitness for work due to sickness intentionally or through gross negligence, unless the employee cannot be held responsible for this owing to the mental state of the employee;
c. if the unfitness for work due to sickness occurs within six months of the medical examination referred to in article 2.2 and it also transpires that the employee provided incorrect information about their state of health or concealed information as a result of which the declaration of fitness to perform the duties of the relevant job was wrongly issued, unless the employee can show that they acted in good faith;
d. during a period that the employee:
   1°. refuses to submit to a medical examination by or on behalf of the occupational health service or, after being given notice of such an examination, fails to attend without a valid reason;
   2°. fails without a valid reason to undergo, or to continue to undergo, medical treatment or fails to obey the instructions given by the treating physician, other than instructions to undergo an invasive medical procedure;
   3°. acts in a way that hinders or delays recovery;
   4°. works either for themselves or for third parties during the period of unfitness to work due to sickness, unless the occupational health service considers this to be desirable in the interests of recovery;
   5°. fails to return to work and resume their duties at the time and to the extent determined by the occupational health service, unless the employee has given a reason recognised as valid by this service or the employer;
   6°. refuses, without good grounds, to accept an offer of work which is suitable and which the occupational health service believes the employee is capable of performing.

§ 8 Pregnancy and birth

Article 5.13 Provisions in the case of pregnancy and birth

1. Female employees are entitled to paid pregnancy and maternity leave in connection with giving birth.

2. The applicable social security provisions to which the employee is entitled due to her pregnancy and maternity leave are deducted from the entitlement referred to in paragraph 1.

3. If an employee does not work the same number of hours each week, her salary for the purpose of paragraph 1 will be considered to be the average salary she earned over the thirteen calendar weeks immediately preceeding the day on which pregnancy leave starts.

4. The employee must notify the employer of:
   a. the date as of which she intends to take pregnancy leave no later than four weeks in advance; this notification must be accompanied by a certificate from a doctor or a midwife indicating the expected date of the birth;
   b. the birth no later than seven days after it takes place.

5. The duration of pregnancy and maternity leave, which is at least 16 weeks in total, and the periods in which such leave may be taken are determined with reference to local regulations and local usage and are included in the mission version.

Article 5.14 Employee who is breastfeeding

1. An employee who is breastfeeding and has notified the employer of this will, until her child is nine months old, be given the opportunity to interrupt her work to breastfeed her child or to express breast milk for a maximum of one hour per day. The maximum duration of the interruptions for an employee with a part-time employment contract is a proportionate part of the maximum applicable to an employee with a full-time employment contract.

2. The employee concerned determines the timing and duration of the interruptions referred to in paragraph 1 after consulting with the employer.

3. The interruptions referred to in paragraph 1 are treated as work time for which the employee retains her entitlement to salary.

Article 5.15 Prohibition of termination of an employment contract during pregnancy

1. The employer may not terminate an employment contract of an employee during pregnancy, during pregnancy and maternity leave or during a period of six weeks after the employee has returned to work following such leave, unless such termination is unrelated to her pregnancy, to the birth of her child, to the consequences thereof or to her breastfeeding the child. The employer bears the burden of proving that the termination of an employment contract is not related to the employee's pregnancy, to the birth of her child, to the consequences thereof or to her breastfeeding the child.

2. If the employer terminates an employment contract contrary to paragraph 1 the employee may:
   a. annul the termination of her employment contract within two months of termination by sending written notification to this effect to the head of mission; or
   b. invoke article 8.9.

3. Any claim in connection with an annulment as referred to in paragraph 2 (a) is subject to a limitation period of six months from the date on which termination took effect.

CHAPTER 6 Other rights and obligations

§ 1 Obligations and prohibitions

Article 6.1 Good conduct as an employee and oath or affirmation

1. Employees are obliged to perform the duties arising from their employment contract conscientiously and diligently and to conduct themselves in a manner befitting a good employee. Employees must at all times be conscious of the fact that they work at a representation of the Kingdom of the Netherlands abroad.

2. As soon as possible after employment starts, an official designated by the employer for that purpose administers to the employee the following oath or affirmation:
   I swear/promise allegiance to the King, the Constitution and the other laws of the State.
   I swear/affirm that I made no gift or promise to anyone in order to obtain my position, nor will I make any gift or promise to that end.
   I swear/affirm that I will accept no gift or promise from anyone in order to do or to omit to do anything in the course of my duties, and that I will conduct myself as befits a good employee, that I will carry out the instructions given to me and that I will not reveal matters which come to my knowledge in the course of my duties and which I know or should know are secret or confidential in nature to anyone other than persons to whom I am obliged to communicate them by law or by virtue of my official duties.
   So help me God Almighty!
   or
   This I affirm and promise.

3. If the employee does not have Dutch nationality, the first sentence of the oath or affirmation is omitted.

4. An employee swears the oath or makes the affirmation only if this is necessary, in the opinion of the employer, in view of the job to be performed.

Article 6.2 Reporting obligation

1. Employees who are unable to perform their duties on account of sickness or for other reasons must report this at the earliest possible opportunity and in the manner stated in the mission version.

2. If circumstances or changes occur which affect or may affect the rights and duties established by these Regulations or by the mission version, the employee must notify the employer accordingly in writing without delay, no later than seven days after the date on which the circumstance or change occurs.

Article 6.3 Outside work and acting as a contractor

1. An employee who performs or intends to perform any outside work that could touch on interests of the service in so far as those interests relate to the employee's performance of duties is obliged to notify the employer in a manner to be determined by the latter.

2. The employer keeps a record of the information referred to in paragraph 1.

3. An employee is forbidden to perform outside work as a result of which, in the opinion of the employer, the proper performance of the employee's duties or the proper operation of the mission in so far as it relates to the employee's performance of duties, cannot reasonably be ensured.

4. An employee is forbidden to take part, directly or indirectly, in tendering and contracting for public services, unless the consent of the employer has been obtained. The employer may issue instructions regarding tendering and contracts for other persons.

Article 6.4 Rewards, donations and promises of third parties

Employees acting in an official capacity are forbidden to demand, request or accept rewards, donations or promises from third parties, other than with the approval of the employer.

Article 6.5 Official workclothes and wearing of insignia

1. An employee is required to wear official workclothes and insignia if this is prescribed by the employer and to do so in the prescribed manner.

2. Official workclothes are replaced by the employer once they exhibit wear and tear.

3. An employee is responsible for maintaining and cleaning official workclothes and bears the costs of this, unless such costs are fully or partly borne by the employer in accordance with local regulations or local usage.

4. Official workclothes remain the property of the employer. Employees must hand in their official workclothes to the employer when their employment contract ends or if the employer so requests.

5. An employee, when wearing official workclothes, is forbidden to wear badges or other insignia unless they have been provided or prescribed by the government of the Netherlands or unless the employer has given permission for them to be worn.

Article 6.6 Place of residence

An employee is obliged to reside in or near to – and if necessary to move to – the place where the mission is located if this is deemed necessary by the employer to ensure the employee's proper performance of duties.

Article 6.7 Instructions to perform other duties

The employer may require an employee temporarily to perform duties other than those the employee usually performs, provided that the employee can reasonably be instructed to perform such work.

Article 6.8 In-house emergency service

1. The head of mission draws on the assistance of one or more employees appointed by the head of mission as in-house emergency officers, for the purpose of taking effective measures to enable employees to move quickly to a place of safety or take other appropriate measures and for the purpose of minimising damage to health whenever a situation arises in which there is a direct threat to safety or health.

2. At a minimum, the following forms of assistance are provided:
   a. first aid;
   b. fire control, firefighting and accident prevention;
   c. raising the alarm in emergencies and evacuating all employees and other people at the mission.

3. An employee who is appointed as an in-house emergency officer is entitled to an emergency service allowance as referred to in article 4.7.

§ 2 Staff residences

Article 6.9 Staff residences; general provisions

The conditions that apply when a staff residence is made available to an employee, including the

division of the maintenance costs and the manner in which availability of the residence is terminated, are specified in the mission version.

Article 6.10 Use of staff residences by surviving family members

1. After the death of the employee, the surviving family members may continue, during the month in which the employee died and for the following three months, to occupy the staff residence in which they lived with the employee. This period may be shortened if the employer considers it necessary in the interests of the service. In such a case the said family members will be given fair compensation.

2. If a charge was payable by the employee for the use of the staff residence, the surviving family members will pay 50% of this charge for the period during which they continue to occupy the staff residence.

§ 3 Training

Article 6.11 Mandatory training

1. Employees may be instructed to undergo training in the interests of the service, in so far as this can reasonably be required of them.

2. An employee who undergoes training pursuant to paragraph 1 is fully reimbursed for the necessary costs of training.

3. An employee who undergoes training pursuant to paragraph 1 may be granted paid training leave.

4. An employee who undergoes training pursuant to paragraph 1 is required to repay the amount reimbursed for training costs if, due to the employee's own fault or actions, the employee achieves an unsatisfactory result or does not complete the training course.

5. If employment is terminated during training, the amount reimbursed for training costs may be reclaimed. If employment is terminated within two years after the successful completion of training, 1/24th of the amount reimbursed may be reclaimed for each month remaining before the end of the two-year period, unless:
   a. the termination of employment is not due to the employee's fault or actions;
   b. the employee enters the service of another Dutch central government body within a month after the termination of employment; or
   c. after the termination of employment, the employee is entitled to benefit as referred to in chapter 9.

Article 6.12 Training on the employee's initiative

1. Employees who take the initiative to undergo training may at their request be fully or partially reimbursed for the necessary costs of training or granted paid training leave, if training is the interests of the service.

2. Article 6.11, paragraphs 4 and 5 apply *mutatis mutandis*.

§ 4 Introductory interviews, staff interviews and assessments

Article 6.13 Introductory interviews

1. Within a month after the employee enters into employment or is assigned to a new job, or within a month after a new manager starts work, an introductory interview takes place between the employee and the manager.

2. In the introductory interview, clear agreements are made about the duties that the employee is expected to perform and the way in which the employee and the manager will work together.

Article 6.14 Staff interviews

1. At least once a year, a staff interview takes place between the employee and the manager.

2. At a minimum, the following matters are discussed during the staff interview: the tasks performed and to be performed, knowledge, skills and competences to be developed, integrity, a safe and

supportive working environment, diversity and inclusion, the employee's potential and career, mobility and other working conditions.

Article 6.15 Assessments

If the employer considers it desirable or the employee so requests, the employee's performance is assessed in conformity with the guidelines established by the employer.

§ 5 Reorganisation

Article 6.16 Developing a plan of action

1. If an alteration that would affect the legal status of five or more employees is to be made to the organisation of a mission, or if the mission is to be closed, the employer will draw up a plan of action covering the various stages of the reorganisation process.

2. The plan of action describes at a minimum:
   a. the nature of and reasons for the planned reorganisation;
   b. the current and planned organisational structure of the mission;
   c. the current and planned staffing level;
   d. an overview of the jobs to be eliminated, the jobs that will remain unchanged, the jobs that will be changed and the new jobs;
   e. the main impact of the planned reorganisation on policy, finance and staffing;
   f. the planned measures to limit the impact on staffing in so far as they deviate from part 6 of this chapter;
   g. anticipated elements of the reorganisation process worthy of special note;
   h. the planned times at which the employee participation body at the mission and the employees involved will receive updates.

Article 6.17 Adopting the plan of action

The employer adopts the plan of action after the head of mission has consulted with the employee participation body at the mission.

Article 6.18 General provisions

1. In this part, a job loser means:
   a. an employee with a fixed-term or open-ended employment contract:
      1°. whose contract has been terminated by the employer as a result of the job ceasing to exist; or
      2°. who has been notified orally or in writing by the employer that the contract is expected to be terminated as a result of the job ceasing to exist;
   b. an employee with a fixed-term employment contract who was hired before the announcement of the reorganisation which led to the job ceasing to exist and:
      1°. whose contract was not renewed by the employer as a result of the job ceasing to exist; or
      2°. who has been notified orally or in writing by the employer that the contract is not expected to be renewed as a result of the job ceasing to exist.

   A job loser who is informed by the employer that, on reflection, the employment contract will not be terminated as a result of the job ceasing to exist will no longer be considered a job loser from then on.

2. All allowances, contributions and other amounts provided for in this part are paid gross or net in accordance with the rules as they apply on the day of payment.

3. If, on the basis of local regulations or otherwise, any entitlement already exists on other grounds to a contribution, allowance or payment for the costs referred to in this part, only the amount by which the contribution, allowance or payment on the basis of this part exceeds the aforesaid entitlement is awarded.

Article 6.19 Support finding a job or setting up a business

1. Wherever possible, the employer provides a job loser with support in finding a new job.

2. At the job loser's request, the employer issues a letter of recommendation that describes the job loser's job performance.

3. A job loser is granted up to five working days' special paid leave for job interviews and activities relating to setting up a business.

Article 6.20 Article 6.20 Priority in the event of job vacancies

1. Notwithstanding article 2.1, the head of mission must first notify any vacancies entailing an employment contract solely to any job losers employed at the mission or at other missions in the same country.

2. A job loser who expresses interest within two weeks in a vacancy as referred to in paragraph 1 that:
   a. is equivalent or virtually equivalent to the job loser's current job will be eligible for that job; or
   b. is not equivalent or virtually equivalent to the job loser's current job will be eligible for that job if it is suitable for the job loser and the job loser satisfies the job requirements or will be able to do so within three months.

   This two-week period may be reduced to one week in special cases where haste is required and no suitable candidate is expected to be found among the job losers.

3. If more than one job loser expresses interest in a timely manner in a vacancy as referred to in paragraph 1 and satisfies the job requirements or will be able to do so within three months, the most suitable candidate will be selected. The employer may deviate from this rule in special cases.

Article 6.21 Termination

1. The employment contract of a job loser who is not employed in a different job is terminated with effect from the date on which the job ceases to exist, unless the employment contract is for a fixed term and automatically ends on that date. In special cases the employer may set a later date.

2. If a job loser is employed in another job for fewer hours than the job loser is currently employed to work, the employment contract is terminated in respect of the additional hours with effect from the date on which the job ceases to exist unless the employment contract is for a fixed term and automatically ends on that date. In special cases the employer may set a later date.

3. The termination of the employment contract can be postponed for, in principle, up to six months, if a job loser is given the opportunity to perform similar work at another mission or another unit of the employer in the Netherlands to which the tasks in question have been transferred, at the job loser's own request and with the consent of the job loser's head of mission and the head of mission of the other mission concerned or the director concerned. Such a request will be granted only if the local authorities in the country in question permit the job loser to live there and perform the work in question. The performance of the duties in question is deemed official travel within the meaning of articles 4.12 to 4.23.

Article 6.22 Redundancy payment in the event of reorganisation

1. Notwithstanding article 8.3, paragraph 1, second sentence, if the employer terminates a job loser's employment contract as a result of the job loser's job ceasing to exist, the transition redundancy payment is a month's salary for each year the employment contract or successive employment contracts have been in effect.

2. Notwithstanding article 8.3, paragraph 1 (b), a job loser who terminates their employment contract is awarded a transition redundancy payment amounting to half a month's salary for each year the employment contract or successive employment contracts have been in effect. A job loser who partially terminates their employment contract is entitled to the transition redundancy payment for the number of hours for which the employment contract has been terminated.

3. If a job loser does not accept an offer of continued employment for a reduced number of hours or on a lower scale and the employment contract is subsequently terminated in full, the job loser will be compensated in accordance with paragraph 1.

Article 6.23 Contribution towards outplacement costs

1. At the job loser's request, the employer may grant a contribution towards the cost of an outplacement programme for help in finding a new job with a different employer.

2. Costs are reimbursed on submission of the contract with and the invoice from a professional job placement agency.

3. A job loser is eligible for this contribution if the outplacement programme begins no sooner than 12 months before the date with effect from which the employer has terminated the employment contract or expects to do so and no later than six months after the date on which the employment contract ends.

Article 6.24 Contribution towards training costs

1. Notwithstanding article 6.12, at the request of a job loser who undergoes training that increases the job loser's chances of finding a new job with a different employer or of setting up a business, the employer may grant a contribution towards the training costs.

2. The contribution is paid on submission of an invoice from a recognised educational institution.

3. A job loser is eligible for this contribution if the training begins no sooner than 12 months before the date with effect from which the employer has terminated the employment contract or expects to do so and no later than six months after the date on which the employment contract ends.

4. Job losers who, due to their own fault or actions, achieve an unsatisfactory result or do not complete the training course are required to repay the contribution. Job losers who terminate their employment contract or do not complete the training course due to finding another job at the mission or elsewhere, as a result of which there is no longer any need to complete the training course, are not required to repay the contribution.

Article 6.25 Training leave

1. At the request of a job loser who begins training as referred to in article 6.24 before the date on which the employment contract ends, the employer may grant paid training leave, until that date, of up to 20% of the job loser's normal working hours. In special cases the employer may grant more leave.

2. If the employer considers that it is not in the interests of the service to grant leave as referred to in paragraph 1, the job loser is granted one hour's gross pay for every hour of leave not granted for that reason, subject to a maximum of twice the full-time equivalent of the job loser's gross monthly salary.

Article 6.26 Contribution towards the costs of setting up a business

1. At the request of a job loser who sets up a business, the employer may grant a contribution towards the costs of doing so. Requests must include a concise business plan and an estimate of the startup costs.

2. To be eligible for this contribution the job loser must begin setting up a business no sooner than 12 months before the date with effect from which the employer has terminated the employment contract or expects to do so and no later than six months after the date on which the employment contract ends.

Article 6.27 Contribution amounts

The total sum of the contributions referred to in articles 6.23, 6.24 and 6.26 must not exceed four times the full-time equivalent of the job loser's gross monthly salary.

Article 6.28 Contribution towards removal and refurbishment costs

1. A job loser who, on account of accepting a new job or setting up a business, relocates within the country where the mission is based or to another country to avoid an increase of more than an hour in the daily commuting time is on request granted a contribution towards removal and refurbishment costs amounting to twice the full-time equivalent of the job loser's gross monthly salary.

2. A job loser is eligible for this contribution if the job loser relocates no sooner than 12 months before the date with effect from which the employer has terminated the employment contract or expects to do so and no later than six months after the date on which the employment contract ends.

Article 6.29 Allowances in the event of employment in another unit of the employer

1. A job loser whose employment contract has been or is expected to be terminated by the employer due to the job ceasing to exist and who relocates to another city in order to start a job at another unit of the employer is entitled to the allowances referred to in paragraphs 2 to 6. This eligibility lapses if the job loser has not moved to the vicinity of the other unit within six months after starting the new job.

2. A job loser receives an allowance for the cost of:
   a. having household effects packed, unpacked and transported over land or water in a 40-foot container by a removal firm designated by 3W. If a container of this kind is not used, the allowance relates to a maximum volume of 60 m^3;
   b. insurance covering the household effects transported at the employer's expense, up to a maximum value of € 2,500 per m^3.

3. If a job loser starting work in a new job and any family members do not yet have a home in the vicinity of the location of the unit concerned, the job loser will be reimbursed for temporary housing costs incurred for three months, up to a maximum of 25% of the gross monthly salary for the new job.

4. For the removal:
   a. four days' special paid leave is granted;
   b. the following costs incurred by the job loser, the job loser's partner and any dependent children are reimbursed:
      1°. the cost of travel by air or public transport, up to a maximum equal to the cost of an economy class airfare;
      2°. the cost of travel using the job loser's own vehicle at a rate of € 0.19 per kilometre, up to a maximum equal to the cost of travel in accordance with 1°.

5. A job loser is granted a contribution towards the cost of refurbishing the new home in the vicinity of the location of the unit concerned amounting to 12% of the full-time equivalent of the job loser's gross annual salary in the new job.

6. If the costs associated with relocation are demonstrably and substantially higher than the above-mentioned contributions and allowances, an interest-free prepayment of up to three times the full-time equivalent of the job loser's gross monthly salary in the new job may be provided at the job loser's request. This amount is to be repaid in 24 equal monthly instalments.

7. The exchange rate applicable at the time is used to calculate the allowances referred to in paragraphs 2 and 4 that are paid in currencies other than euros.

8. Article 6.28 does not apply for the purposes of this article.

Article 6.30 Internal candidate status

An ex-employee whose employment contract has been terminated by the employer due to the job ceasing to exist is given the opportunity for up to one year after the date on which the employment contract ends to apply as an internal candidate for vacancies entailing an employment contract at the mission where the ex-employee worked or at another mission in the same country, in accordance with article 2.1.

CHAPTER 7 Prohibition of entry, suspension, compensation, dereliction of duty and disciplinary penalties

Article 7.1 Prohibition of entry

An employee may be prohibited by the head of mission from entering official rooms or buildings or from working or residing there.

Article 7.2 Suspension

1. Employees who have been deprived of their liberty pursuant to a statutory measure are automatically suspended, unless such deprivation of liberty is the result of a measure taken in the interests of public health.

2. The employer may suspend the employee if criminal proceedings have been instituted against the

employee or if, in the employer's opinion, it is for some other reason in the interests of the service to suspend the employee.

3. The employer determines whether an employee is to be suspended on full salary or whether all or part of the salary is to be withheld.

Article 7.3 Compensation

An employee may be required to pay full or partial compensation for damage suffered by the employer in so far as the employee is seriously at fault.

Article 7.4 Dereliction of duty

1. Employees who fail to fulfil the obligations imposed on them or are guilty of some other dereliction of duty may be penalised by the employer.

2. Dereliction of duty includes both breaking a rule and doing something which a good employee in the same circumstances should refrain from doing or omitting to do something which a good employee in the same circumstances should do.

Article 7.5 Disciplinary penalties

The following disciplinary penalties may be imposed for dereliction of duty:
a. a written reprimand;
b. limitation of holiday entitlement, up to a maximum of one-third of the hours to which the employee is entitled in a calendar year;
c. partial or full withholding of salary, up to a maximum amount of half a month's salary;
d. assignment of a salary amount in the employee's pay scale attached to a pay number that is at most two pay numbers below the one applicable to the employee, for a period of up to two years;
e. suspension of the award of a higher pay number for a period of up to four years;
f. suspension for a fixed period with all or part of the employee's salary withheld;
g. dismissal in accordance with chapter 8.

CHAPTER 8 End of an employment contract

§ 1 End of an employment contract and redundancy payment

Article 8.1 Employment contract for a fixed period; automatic termination; premature termination

1. If the employment contract is entered into for a fixed term, it will end automatically when this period expires. Prior notice of termination is not necessary in this case.

2. If, in the absence of an objection from either party, the employment contract is renewed after the expiry of the period referred to in paragraph 1, it will be deemed to have been entered into once again under the same conditions that previously applied and for the same period subject to a maximum of one year on each renewal.

3. Notwithstanding the provisions of paragraph 1, a fixed-term contract may also be ended prematurely in accordance with article 8.2.

Article 8.2 Termination of an open-ended employment contract

1. An employment contract entered into for an open-ended period may be terminated by notice.

2. The employee must give at least one month's notice.

3. The employer must give the following period of notice:
   a. if the employment contract has been in effect for less than five years on the day notice of termination is given: one month;
   b. if the employment contract has been in effect for five years or more on the day notice of termination is given: two months.

4. For the purposes of paragraph 3, the duration of the employment contract is calculated on the basis of the period to which one or more employment contracts with the employer relate, to the extent that the contracts were entered into for duties at one and the same mission and the intervals between contracts do not exceed 31 days.

5. Before terminating an employment contract by notice without the consent of the employee, the employer must seek the advice of 3W.

6. In these Regulations the termination of an employment contract by a court or other body at the request of the employer or the employee is equated with the termination of an employment contract by the employer or the employee.

Article 8.3 Redundancy payments

1. An employee whose employment contract ends is entitled to a one-off redundancy payment as compensation for the disadvantageous consequences of termination of employment, the transition redundancy payment, unless:
   a. a fixed-term employment contract has automatically expired, and the employee has rejected an offer from the employer for a successive employment contract subject to the same, comparable or better employment conditions;
   b. the employee has terminated the employment contract for a reason other than a seriously culpable act or omission by the employer;
   c. the employer has terminated the employment contract due to a seriously culpable act or omission by the employee;
   d. the employment contract has automatically expired or been terminated by the employer or the employee, and the employee is subsequently entitled to supplementation of old age pension as referred to in article 9.4 or payments made under an insurance policy taken out by or on behalf of the employer or a similar provision made by or on behalf of the employer to ensure the accrual of an old age pension as referred to in article 9.3, paragraph 1; or
   e. the employment contract has been terminated after the period referred to in article 8.4, paragraph 1 because the employee is partly or wholly unfit to perform their duties due to sickness.

   The transition redundancy payment amounts to half a month's salary for each year the employment contract or successive employment contracts have been in effect.

2. Without prejudice to paragraph 1, an employee whose employment contract ends is entitled to a one-off redundancy payment to make provision for their old age pension, the old age pension redundancy payment. The old age pension redundancy payment amounts to half a month's salary for each year the employment contract or successive employment contracts have been in effect without an insurance policy or comparable provision to ensure the accrual of old age pension as referred to in article 9.3, paragraph 1 having been taken out or made and without entitlement to supplementation of old age pension as referred to in article 9.4, paragraph 1 having been accrued.

3. The transition redundancy payments and old age pension redundancy payment referred to in paragraphs 1 and 2 are determined proportionately for part of a year of service. Article 8.2, paragraph 4 applies mutatis mutandis to the calculation of the duration of the employment contract. An employee whose employment contract partially ends is entitled to the payments referred to in paragraphs 1 and 2 for the number of hours for which the employment contract has ended.

4. The number of monthly salaries to which the transition redundancy payment referred to in paragraph 1 amounts must not exceed the number of full calendar months between the date of termination and the pension date as referred to in article 9.1, paragraph 1 (d).

5. If a transition redundancy payment or an old age pension redundancy payment as referred to in paragraph 1 or 2 has already been made for a part of the duration of the employment contract or successive employment contracts, this period will not count towards the payment referred to in paragraph 1 or 2.

6. For the purposes of this article and notwithstanding article 1.1 (m), monthly salary means: the monthly salary referred to in article 1.1 (m) as paid on average over the 12-month period immediately preceding the date on which employment ends. For the purposes of this article any general retroactive adjustment of salary amounts and related amounts decided on or after the date of termination is disregarded.

7. Articles 4.8 to 4.11 apply mutatis mutandis to fixing and paying the transition redundancy payments and old age pension redundancy payments referred to in paragraphs 1 and 2.

8. If local regulations require that, notwithstanding paragraph 1, a one-off redundancy payment be made, this redundancy payment will be converted into a monthly amount after disbursement, using the formula referred to in article 9.1, paragraph 2. This monthly amount will be deducted

from the monthly supplement referred to in chapter 9.

9. If for reasons other than compliance with local regulation, and notwithstanding paragraph 1, a one-off redundancy payment is made in the case of termination of employment, the employee who chooses to receive this redundancy payment forfeits the right to supplementation as referred to in chapter 9.

§ 2 End of an employment contract due to sickness, retirement, death or a compelling reason

Article 8.4 Termination of an employment contract due to sickness

1. The employer may not, during a period specified in the mission version, terminate an employment contract with an employee who is partly or wholly unfit to perform their duties due to sickness, unless the termination is unrelated to the sickness and its consequences. The period referred to in the previous sentence is determined in accordance with local regulations or local usage. The employer bears the burden of proving that termination of an employment contract is unrelated to the employee's sickness and its consequences.

2. An employment contract may not be terminated due to sickness unless the sickness has been diagnosed by means of a medical examination by or on behalf of the occupational health service.

3. For the purpose of determining the date on which an employment contract may be terminated in accordance with the provisions of paragraph 1, periods of partial or total unfitness for work due to sickness that are separated by intervals of less than 31 days are added together.

4. If the employer terminates an employment contract contrary to the provisions of paragraph 1, the employee may:
   a. annul the termination within two months thereof by sending written notification to that effect to the employer; or
   b. invoke article 8.9.

5. Paragraph 1 does not apply to termination during the probationary period.

6. Any claim in connection with annulment as referred to in paragraph 4 (a) is subject to a limitation period of six months following the date on which termination took effect.

Article 8.5 End of an employment contract upon reaching the age of retirement

The employment contract ends on the first day following the day on which the employee reaches the age of retirement specified in the mission version. The age of retirement is set in accordance with local usage, but subject to a minimum age of 60 years and a maximum age of 67 years.

Article 8.6 End of an employment contract due to death

1. The death of the employee ends the employment contract. From the day after the death of the employee, no further salary is paid.

2. On the death of an employee, the surviving partner will as soon as possible be paid a lump sum equal to the monthly salary referred to in article 8.3, paragraph 6. In the absence of a surviving partner, the lump sum will be paid to the dependent children of the deceased.

3. If the deceased has no surviving partner or dependent children, the lump sum referred to in paragraph 2 may be used in whole or part to cover the costs of the employee's final illness and funeral expenses, if the estate of the deceased is insufficient for these purposes.

Article 8.7 End of an employment contract when an employee is missing

1. If an employee is missing and, considering all the circumstances, it can be regarded as certain that the employee is dead, the employee will be deemed to have died on a date to be determined by the employer. In such a case article 8.6 applies *mutatis mutandis*.

2. Article 8.6, paragraph 2 does not apply if there is good reason to believe that the employee is absent without leave.

Article 8.8 Termination of an employment contract for a compelling reason

1. Either the employer or the employee may terminate the employment contract with immediate effect for a compelling reason, while at the same time notifying the other party of the reason.

2. Any party that terminates the employment contract with immediate effect without a compelling reason, or without at the same time notifying the other party of the compelling reason, is required to pay damages.

3. The damages referred to in paragraph 2 are equal in amount to the salary fixed in monetary terms for the period for which the employment contract would have remained in effect if the provisions regarding termination had been respected.

4. For the purposes of paragraph 1, compelling reasons are circumstances that make it impossible reasonably to require that the employment contract remain in effect. Compelling reasons are deemed to be present if, for example, one of the parties shows flagrant disregard for the terms of the employment contract.

5. Any claim pursuant to this article is subject to a limitation period of six months following the date on which termination took effect.

§ 3 Manifestly unreasonable termination

Article 8.9 Manifestly unreasonable termination

1. If the employer's termination of the employment contract is manifestly unreasonable, regardless of whether the applicable provisions have been complied with, the employer is obliged to pay the employee fair compensation.

2. Termination of the employment contract by the employer will be deemed manifestly unreasonable in, for example, the following circumstances:
   a. if no reasons are given or the reason given is a pretext or false;
   b. if, taking into account the redundancy provisions made for the employee and the opportunities for the employee to find other suitable work, the consequences of termination for the employee outweigh the employer's interest in termination;
   c. if termination takes place solely because the employee refuses to perform assigned duties due to a serious conscientious objection;
   d. if termination is contrary to article 5.15 or article 8.4.

3. Paragraph 1 does not apply to termination during the probationary period, or to lawful termination for a compelling reason or due to serious dereliction of duty.

4. Any claim pursuant to this article is subject to a limitation period of six months following the date on which termination took effect.

§ 4 Special obligations of the employer upon termination of an employment contract

Article 8.10 Employer's declaration

1. An employee who so requests must be given an employer's declaration on termination of the employment contract. The employer's declaration states the nature of the work performed and the duration of the employment contract.

2. At the express request of the employee, the employer's declaration will also state how the employee performed the duties assigned and how the employment contract was ended.

CHAPTER 9 Old age pensions, surviving dependants' benefits and invalidity benefits

§ 1 General provisions

Article 9.1 Definitions

1. The following definitions apply for the purposes of this chapter:
   a. supplement: the amount consisting of the difference between:
      1°. the supplementation ceiling and

2°. the amount of the provisions referred to in this chapter to which the employee is entitled on other grounds;

b. supplementation ceiling: the maximum supplement which may be granted pursuant to article 9.4, paragraph 2, article 9.6, paragraph 1, article 9.7, paragraph 1 and article 9.8, paragraph 2;

c. qualifying period for supplementation: the period during which an employee was entitled to receive salary from the employer, including the period during which the employee was entitled to an invalidity benefit supplement as referred to in article 9.8, with the exception of the period during which an insurance policy as referred to in article 9.3 was in effect. Part of a month will be rounded up to a full month. A proportionate part of the period during which the employee was entitled to salary on the basis of a contract for part-time employment will be counted. The period during which the employee was entitled to salary on the basis of an employment contract that started more than a month after the employee's pension date will not be counted. The qualifying period for supplementation is 40 years at most, unless the mission version provides for an age of retirement of 66 or 67 years, in which case the qualifying period for supplementation is at most 41 or 42 years respectively;

d. pension date: the first day following the day on which the employee or ex-employee reaches the age of retirement referred to in article 8.5;

e. qualifying salary: the salary amount, calculated over a period of one year, belonging to the pay scale and the pay number which last applied to the employee, for which purpose the salary amount is taken to be that which applies to the pay scale and the pay number at the moment of payment, on the understanding that if the salary amount referred to above is less than the salary amount previously applicable, the latter is treated as the qualifying salary until the salary amount at the moment of payment is equal to or higher than the salary amount previously applicable. This amount is increased by the allowances referred to in chapter 4, part 2 (as at the moment of payment), calculated over a period of one year, in so far as such allowances were granted for an open-ended period or for a period of at least five consecutive years immediately preceding the termination of the employment contract. If on the date of payment of the supplement major changes have been made to the system of pay scales and pay numbers that most recently applied to the employee, 3W must reasonably and fairly reposition the employee's most recent salary amount within the structure in use at that moment for the purposes of calculating the qualifying salary.

2. To determine the amount referred to in paragraph 1 (a) 2° of the provisions referred to in this chapter to which entitlement exists on other grounds, use will be made of the formulas adopted by the Secretary-General of the Ministry of Foreign Affairs if it is necessary to:
   a. convert a one-off payment into a periodic payment;
   b. convert a periodic payment into a periodic payment made at different intervals or into a one-off payment.

   Where necessary, this calculation must take into account the average life expectancy in the relevant country or region according to the table in the most recent available version of the United Nations' Demographic Yearbook. The calculation must also take account of the statutory interest rate for non-commercial transactions published by De Nederlandsche Bank N.V.

Article 9.2 Obligations of the employee, ex-employee or surviving dependant

1. The employee, ex-employee or surviving dependant is obliged to provide the employer in good time with all the information that is necessary for the proper implementation of the provisions of this chapter. An employee, ex-employee or surviving dependant who does not do so forfeits all rights under this chapter and is liable for any damage sustained by the employer.

2. An ex-employee or surviving dependant is obliged to provide the employer with written proof of life in January of each year. If and for as long as the person referred to in the first sentence does not submit such proof, the employer may suspend payment of the supplement until such proof has been received.

3. Where an old age pension, surviving dependant's benefit, invalidity benefit or supplement has not been fixed or has not been fixed correctly because the employee, ex-employee or surviving family member entitled to it has not fulfilled the relevant obligations or has not done so correctly or in good time, the employer is not liable.

4. If an employee, ex-employee or surviving dependant does not receive social security benefits due to that person's failure to comply with a provision which under the applicable social security system was a requirement for receiving an old age pension, or a payment upon death, sickness or invalidity, then that person will not be entitled to a supplement under the provisions of this chapter.

5. If social security benefits are reduced or are granted later due to contravention of a provision as referred to in paragraph 4, the amount of benefits not granted will be deducted from the supplementation ceiling.

6. Paragraphs 4 and 5 do not apply if the employee, ex-employee or surviving dependant cannot reasonably be faulted for the contravention of the provision.

§ 2 Old age pensions, surviving dependants' benefits and invalidity benefits

Article 9.3 Old age pensions, surviving dependants' benefits and invalidity benefits; general provisions

1. Where local regulations or local usage so require, the employer must locally take out insurance or make comparable provision to ensure the accrual of an old age pension and provide cover in the event of death. In that case the employer must deduct part or all of the premium from the employee's salary in accordance with local regulations or local usage. The nature of the insurance or provision and the percentage of the premium withheld from the employee's salary are specified in the mission version.

2. The employer takes out insurance locally for the employee that provides cover in the event of invalidity, if local regulations or local usage so require. In such a case the second and third sentences of paragraph 1 apply *mutatis mutandis*.

§ 3 Supplementation of old age pensions

Article 9.4 Supplementation of old age pensions; general provisions

1. If during the period of the employment contract no insurance is in effect and no comparable provision is made to ensure the accrual of an old age pension, as referred to in article 9.3, paragraph 1 (i), the ex-employee will be entitled to supplementation of old age pension if the employment contract was in effect for at least seven years. The term 'employment contract' is deemed to include the following for the purposes of this article:
   a. before 1 January 2005: multiple employment contracts that succeeded one another at intervals of no more than 31 days;
   b. from 1 January 2005 onwards: multiple employment contracts that succeeded one another at intervals of no more than six months.

2. The supplementation ceiling for the supplement referred to in paragraph 1 is an amount equal to:
   a. for the period of the employment contract before 1 January 2005: 1.75% of the qualifying salary multiplied by the qualifying period for supplementation;
   b. for the period of the employment contract after 1 January 2005: 1.5% of the qualifying salary multiplied by the qualifying period for supplementation.

3. For the purposes of this article, the provisions referred to in article 9.1, paragraph 1 (a) (2°) are in any event deemed to be all the provisions under social insurance legislation to which the employee is entitled:
   a. unless the employee has paid for such provisions solely on a voluntary basis without any contribution from the employer;
   b. unless and in so far as the entitlement was accrued outside the period of the employment contract.

   The provisions referred to in the first sentence are deemed to include a transition redundancy payment as referred to in article 8.3, paragraph 1, in so far as the employee received this payment on the grounds of local regulations or for another reason notwithstanding article 8.3, paragraph 1 (d) and (e) or paragraph 4.

4. The supplement referred to in paragraph 1 is granted to an ex-employee with effect from the pension date or, if a new employment contract is concluded immediately following the pension date, with effect from the date that the employment contract is terminated, but not if the ex-employee is under 60 years of age. Entitlement ends on the first day of the month following the month in which the ex-employee dies.

§ 4 Supplementation of surviving dependants' benefits

Article 9.5 Supplementation of surviving dependants' benefits; general provisions

1. On the death of an employee or of an ex-employee who was receiving a supplement to invalidity

benefits as referred to in article 9.8 or a supplement to old age pension as referred to in article 9.4, if no insurance providing cover in the event of death as referred to in article 9.3, paragraph 1 has been taken out, any surviving partner or any child who was the employee's or ex-employee's dependant at the time of the employee's or ex-employee's death will be entitled to a supplement to surviving dependants' benefits. This entitlement lapses if the partner or dependent child is culpable for the death of the employee or ex-employee.

2. The total supplementation ceiling for entitlements under article 9.7, or 9.6 and 9.7 jointly, must not exceed the supplementation ceiling referred to in article 9.4, paragraph 2, which applied to the employee or would have applied to the employee on the pension date if the employment contract had continued without change. If necessary, the entitlements under article 9.7 will be reduced proportionately.

3. Only a partner who has been married to, in a registered partnership with or cohabiting, as referred to in article 1.1 (g), with an employee for at least one year on the last day of the employee's employment contract is entitled to a supplement under this part.

4. If the employee or ex-employee's marriage, registered partnership or cohabitation agreement, as referred to in paragraph 3, ends other than as a result of the death of the employee or ex-employee, the partner will cease to have any entitlement under this part.

Article 9.6 Supplementation of surviving partners' benefits

1. The supplement to surviving dependants' benefits for the partner referred to in article 9.5, paragraph 1 equals 70% of the supplementation ceiling referred to in article 9.4, paragraph 2, on the understanding that in such a case the calculation is based on the qualifying period for supplementation which would have applied for the employee or ex-employee on the pension date if the employment contract had continued until that date.

2. If the partner was more than 10 years younger than the employee or ex-employee, the supplement for the surviving partner is reduced by 2.5% for each entire year that the age difference exceeded 10 years. This reduction does not apply if, on the date of death of the employee or ex-employee, the surviving partner had been the partner of the employee or ex-employee for at least five years.

3. For the purposes of this article, the provisions referred to in article 9.1, paragraph 1 (a) 2° are deemed to include at least:
   a. surviving dependants' benefits to which entitlement exists under the applicable social security system;
   b. other surviving dependants' benefits to which the employer has contributed in any way.

4. The supplement referred to in paragraph 1 is granted to the surviving dependant with effect from the first day of the month following the month in which the employee or ex-employee died. The provision of the supplement ends:
   a. on the first day of the month following the month in which the period during which the supplement was paid is equal to the period of employment, but no sooner than five years after the death of the employee or ex-employee. The second sentence of article 9.4, paragraph 1 applies *mutatis mutandis*;
   b. on the first day of the month following the month in which the surviving dependant dies;
   c. on the first day of the month following the month in which the surviving dependant enters into a new marriage, registered partnership or cohabitation agreement with a partner as referred to in article 1.1 (g).

Article 9.7 Supplementation of orphan's benefits

1. Without prejudice to article 9.5, paragraph 2, the supplementation ceiling that applies to the supplement to surviving dependants' benefits for dependent children, as referred to in article 9.5, paragraph 1, equals 14% of the supplementation ceiling referred to in article 9.4, paragraph 2. If there is no partner on the date of the employee's or ex-employee's death, the percentage referred to in the previous sentence is 28%.

2. For the purposes of this article, the provisions referred to in article 9.1, paragraph 1 (a) 2° are deemed to include at least:
   a. orphans' benefits to which entitlement exists under the applicable social security system;
   b. other orphans' benefits to which the employer has contributed in any way.

3. The supplement referred to in paragraph 1 is granted to a child as referred to in that paragraph

with effect from the first day of the month following the month in which the employee or ex-employee dies. The provision of the supplement ends:
a. on the first day of the month following the month in which the child reaches the age of eighteen years;
b. on the first day of the month following the month in which the child dies.

§ 5 Supplementation of invalidity benefits

Article 9.8 Supplementation of invalidity benefits; general provisions

1. If an employee's employment contract is terminated due to sickness and the employee is not covered at that time by invalidity insurance as referred to in article 9.3, paragraph 2 and, subsequent to the termination of employment, is unfit to perform any other suitable employment, the employee is entitled to supplementation of invalidity benefits.

2. The supplementation ceiling for the supplement referred to in paragraph 1 equals the qualifying salary, multiplied by the percentage of the salary received by the employee under article 5.11, paragraph 2 immediately before the termination of employment, but at most by:
   a. 70% if the termination of employment referred to in paragraph 1 took place before 1 January 2005;
   b. 60% if the termination of employment referred to in paragraph 1 took place on or after 1 January 2005.

3. For the purposes of this article, the provisions referred to in article 9.1, paragraph 1 (a) 2° are deemed to include at least:
   a. all provisions to which the employee is entitled by virtue of the termination of the employment contract, including in any event those under the applicable social security system;
   b. other invalidity benefits to which the employer has contributed in any way; and
   c. any income from or in connection with employment or a business to which the employee is entitled.

4. The supplement referred to in paragraph 1 is granted to the ex-employee with effect from the day after the termination of employment as referred to in paragraph 1. The provision of the supplement ends on the date on which:
   a. the ex-employee is deemed capable of performing other suitable employment;
   b. the ex-employee's employment contract would otherwise have ended due to the employee reaching retirement age;
   c. the ex-employee dies; or
   d. the supplement has been paid for a period equal to the period of employment, subject to a minimum period of five years. The second sentence of article 9.4, paragraph 1 applies *mutatis mutandis*.

5. Paragraph 4 (d) does not apply if the invalidity is, in the opinion of the employer, largely due to the nature of the duties which the employee was instructed to perform or to the special circumstances in which they had to be performed and is not attributable to the employee's fault or actions.

6. For the purposes of this article, employment is suitable if:
   a. in the opinion of the employer, given the ex-employee's health and other circumstances, the latter can reasonably be expected to try to obtain that position of employment and, if given the opportunity, accept it; and
   b. the salary associated with that employment is equal to or greater than the supplement referred to in paragraph 1.

Article 9.9 Supplementation of invalidity benefits; medical examination

1. An ex-employee who receives a supplement to invalidity benefits is medically examined by the occupational health service once every two years to determine whether that ex-employee is still unfit to work. The employer may decide to have the ex-employee medically examined, as referred to in the previous sentence, more or less often than once every two years.

2. The employer may instruct an ex-employee receiving a supplement to invalidity benefits to submit to a medical examination if at that moment, in the employer's opinion, there are good grounds for doubting that the ex-employee is still unfit to work.

3. During any period in which the ex-employee does not cooperate with regard to the medical examination referred to in paragraphs 1 and 2, no entitlement to a supplement exists, unless the

ex-employee cannot reasonably be faulted for failing to cooperate.

4. The costs of the medical examination referred to in paragraphs 1 and 2 are borne by the employer. The travel expenses incurred by the ex-employee in connection with this article are reimbursed in accordance with chapter 4, part 5, on the understanding that, if the ex-employee has moved since the first day of the condition leading to the termination of employment to a different place than where the mission is located, the amount paid out will not be any higher than it would have been if the ex-employee had not moved.

§ 6 Payment of supplements

Article 9.10 Fixing and payment of supplements

1. Articles 4.8 to 4.11 and 4.28 apply *mutatis mutandis* to fixing and paying supplements. 3W may, in individual cases, deviate from article 4.28, paragraph 5.

2. A supplement to be paid periodically, as referred to in article 9.4, paragraph 1, article 9.6, paragraph 1, article 9.7, paragraph 1, and article 9.8, paragraph 1 is set by the employer as a fixed amount which will remain unchanged for a period not exceeding 12 months. Early adjustment of that amount is possible if the employer believes that this is necessary due to special circumstances.

3. The supplement is paid monthly by the employer to the person entitled. If special circumstances necessitate this, the employer may modify the intervals at which the supplement is paid, where necessary in accordance with article 9.1, paragraph 2.

4. Notwithstanding paragraph 3, the employer may fix and pay a supplement as a one-off payment upon or after the termination of the employment contract at the written request of an employee or an ex-employee who may or may not already be receiving a supplement referred to in chapter 9. The employee's or ex-employee's request for commutation must be honoured unless the employer is of the opinion that this is contrary to compelling interests of the service.

5. The amount of the one-off payment is calculated using the formulas established by HDPO for this purpose, which in any event take account of the following:
   - the supplementation ceiling applicable to the person concerned;
   - the provisions referred to in this chapter to which the person concerned is entitled on other grounds and which are deducted from the supplementation ceiling;
   - the age of the person concerned;
   - the civil status of the person concerned;
   - the pension date referred to in the mission version;
   - a table showing the average life expectancy for the relevant country or region.

6. Paragraph 4 may be applied *mutatis mutandis* by the employer to an employee or ex-employee who is not yet receiving a supplement and whose employment contract or successive employment contracts has/have lasted for 15 years or less, if the mission where the person concerned is or was most recently employed has been closed or is scheduled to close within six months and no employees are or will be employed in that country after the closure.

7. Notwithstanding article 9.1, paragraph 1 (e), the qualifying salary for an employee or ex-employee to whom neither paragraph 4 nor paragraph 6 applies is determined as follows. From 1 January of the year following that in which pay scales were last fixed for the closed mission, the salary amount referred to in article 9.1, paragraph 1 (e) is to be adjusted by the employer in each case by reference to the rate of inflation in the country where the mission was located, subject to a maximum of 15%. If the inflation rate exceeds 15% HDPO may decide to fix the adjustment level at more than 15%. The inflation rate is based on data from the Economist Intelligence Unit (EIU).

8. If special costs are incurred as a result of the payment of a supplement, these may be deducted from the supplement.

CHAPTER 10 Transitional and final provisions

Article 10.1 Transitional provision concerning social plans

Any social plan that applies to an employee or ex-employee on the date of entry into force of these Regulations will continue to apply to that employee or ex-employee and articles 6.16 to 6.30 of these Regulations will not apply.

Article 10.2 Entry into force

These Regulations enter into force on 1 January 2020.

Article 10.2a Transitional provisions concerning one-off redundancy payments

1. Article 8.1 concerning one-off redundancy payments is repealed in the various mission versions.

2. Notwithstanding paragraph 1, in the following mission versions article 8.1 is not repealed but will be amended as soon as possible with due observance of article 8.3 of these Regulations and local regulations:
   – the Mission Version for Costa Rica 2020;
   – the Mission Version for Hong Kong 2020;
   – the Mission Version for Israel 2020;
   – the Mission Version for Italy 2020;
   – the Mission Version for Peru 2020;
   – the Mission Version for the United States of America 2020.
   Until article 8.1 of these mission versions has been amended, the provisions of that article relate only to a one-off transition redundancy payment as compensation for the disadvantageous consequences of termination of employment as referred to in article 8.3, paragraph 1 of these Regulations and not to a one-off old age pension redundancy payment to make provision for old age pension as referred to in article 8.3, paragraph 2 of these Regulations.

3. Notwithstanding paragraph 1, article 8.1 is not repealed in the Mission version for Australia 2020.

4. Notwithstanding paragraph 1, in the Mission version for Libya 2020 article 8.1 is not repealed but article 8.1a concerning one-off redundancy payments.

Article 10.3 Short title

These Regulations are to be cited as: Legal Status (Local Employees) Regulations 2020.

These Regulations are to be published in the Government Gazette with the explanatory notes and annexes.

The Hague, 13 November 2019

Y. Brandt
Secretary-General
For the Minister of Foreign Affairs
For the State of the Netherlands

ANNEXE 1: JOBS AND PAY SCALES

cleaning staff	scale 1
catering staff	scale 1
garden maintenance staff	scale 1
messenger	scale 2
security guard	scale 1
senior security guard	scale 2
facilities officer	scale 3
senior facilities officer	scale 4
driver	scale 3
senior driver	scale 4
receptionist/telephone operator	scale 4
secretary/administrative assistant	scale 5
senior secretary/administrative assistant	scale 6
records officer	scale 5
senior records officer	scale 6
general affairs/accounting officer	scale 5
senior general affairs/accounting officer	scale 6
general affairs officer	scale 6
senior general affairs officer	scale 7
consular affairs officer	scale 6
senior consular affairs officer	scale 7
interpreter/translator	scale 7
press and cultural affairs/economic affairs officer	scale 7
senior press and cultural affairs/economic affairs officer	scale 8
policy officer	scale 9
senior policy officer	scale 10

NOTES TO THE LEGAL STATUS (LOCAL EMPLOYEES) REGULATIONS 2020

General

The Ministry of Foreign Affairs (BZ) consists of the Ministry in The Hague and the diplomatic, consular and permanent representations of the Kingdom of the Netherlands abroad (the missions). Around 1,040 staff members posted from the Ministry of Foreign Affairs and other central government ministries work at the missions abroad. The missions also have some 2,300 local employees, who work for the Ministry of Foreign Affairs, other ministries and a number of other organisations. Their contribution to the missions' work is essential. These Regulations apply to employees engaged locally by the Minister of Foreign Affairs and other ministers on behalf of the State of the Netherlands. With regard to locally engaged employees who work at a mission but have an employment contract with another organisation, these Regulations will be declared applicable *mutatis mutandis* by those organisations wherever possible.

Unlike staff members posted to the mission from the Netherlands for a number of years, local employees are usually recruited in the country where the mission is located and the majority of them are nationals of that country. Most perform administrative or other support jobs at the mission. Increasingly, though, local employees work as policy officers. There are various reasons for engaging local employees. They are familiar with the language, culture and customs of the country and often have strong local networks. They can also ensure continuity at the missions since, unlike staff members posted from the Netherlands, they do not move from post to post at regular intervals. Moreover, posting staff members from the Netherlands involves substantial costs for removal, home furnishings and international schooling for children which are not incurred when local employees are taken on.

Local employees have a different legal status from that of staff members posted from the Netherlands. The legal status of local employees is governed by the employment law of the country where the mission they work at is located, in other words, by the law of the country where they live and work. If the employer's regulations conflict with provisions of local employment law with which the employer must comply, the local provisions prevail. Local employees are recruited and hired by the mission itself and most new employees already live in the country where the mission is located. Employment conditions for local employees are determined by the employer and based on a number of regulations. Some of those regulations apply to all local employees, while others apply to a particular country and are specified in mission versions. The employment conditions of all local employees, irrespective of their nationality, are aligned not only with local employment law but also with local usage, which means they are consistent with standard practice locally at the foreign representations of the United States, the United Kingdom, Germany, Canada and the European Union. These are known as 'marker organisations'.

Country-specific employment conditions for local employees are laid down in the mission version for that country, taking into account the employment conditions that marker organisations in that country offer employees. The aim is to offer a package of employment conditions that is in keeping with the practice of the marker organisations. Salary amounts are adjusted annually in line with the average pay rise at marker organisations in the country in question. This process is referred to as the short pay review. The underlying philosophy is that a mission should, as far as possible, act as a local employer that treats its employees the same way that comparable organisations in the same place treat their employees. As a rule, Dutch legislation does not apply abroad. Exceptions can occur, for example as a result of treaties that declare Dutch tax law or Dutch social insurance law applicable to local employees of the Dutch state.

However, the principle of conformity with the practice of the marker organisations is not applied across the board because the Dutch state aims to be an exemplar employer for its local employees worldwide. This is reflected, for example, in the supplementation scheme, which serves as a safety net for all employees and applies where the employer has not introduced a provision in conformity with the practice of the marker organisations. Under this scheme, supplements are provided in cases where an employee becomes unfit to work, retires or dies, and the applicable social security entitlements do not provide a sufficient level of income.

Before 1 January 2020 a body of regulations applied to local employees, including the Foreign Service Regulations (RDBZ), the Legal Status (Local Staff) Regulations 2005 (Rrlok 2005) and the country-specific mission versions for local employees.

With the introduction of the Public Servants (Standardisation of Legal Status) Act, this body of regulations was repealed on 1 January 2020. From that date the Legal Status (Local Employees)

Regulations 2020 (LSR 2020) replaced the Rrlok 2005, with few policy changes. In other words, the LSR 2020 does not introduce changes to the substance of the employment conditions that apply to local employees. All mission versions were likewise repealed as of 1 January 2020 and replaced from the same date by new mission versions that are also unchanged in substance.

Chapter 1 General provisions

Article 1.1 Definitions

This article contains definitions of a number of terms as they are used in these Regulations. Some definitions require further explanation.

Mission

A mission is a representation of the Kingdom of the Netherlands abroad, specifically an embassy, a permanent representation to an international organisation, a consulate, a consulate-general, a viceconsulate, a consular agency, a temporary diplomatic mission or other representation that is comparable in the opinion of the Minister of Foreign Affairs.

Employer

The employer is the State of the Netherlands. For most employees, the Minister of Foreign Affairs acts as their employer on behalf of the State of the Netherlands. For a limited number of employees, other ministers act as employer on behalf of the State of the Netherlands.

Employee

An employee is a person engaged by or on behalf of a minister on behalf of the State to perform tasks at a mission subject to local regulations.

Family members

An employee's partner and dependent children are family members for the purposes of the Regulations provided they live in a joint household with the employee. An employee cannot derive any financial rights, such as a contribution towards health insurance premiums, from these Regulations for family members who do not or no longer live in a joint household with the employee, but instead live in a separate household elsewhere. A child who is studying and living away from home, for example in student housing or on campus, is thus no longer regarded as a family member for the purposes of the Regulations.

Partner

A partner is a spouse, a registered partner or a partner with whom an unmarried employee cohabits and maintains a joint household on the basis of a cohabitation agreement executed by a civil-law notary. Only one person may be deemed to be an employee's partner at any given time. In countries where it is permitted to have more than one partner, the employee should indicate at the start of the employment who the designated partner is for the purposes of the Regulations. Once the employee has made this decision a different partner may not subsequently be designated, unless the partnership is formally dissolved, for example in the case of death, divorce or termination of the cohabitation agreement.

Dependent children

A dependent child is a child, stepchild or adopted child of the employee or the employee's partner who is under 18 and for whom the employee bears more than half of the financial responsibility. This is the case if the employee contributes more than half of the costs of maintaining the child. The costs of maintenance include expenditure on food, accommodation, clothing, holidays, transport, insurance (for example health insurance), education, pocket money and membership fees.

Occupational health service

The employer is responsible for the provision of occupational health support to employees. After consulting the employee participation body at the mission, the head of mission designates an occupational health service to assist in providing that support. As a rule, the head of mission designates a reputable and reliable local organisation or doctor to fulfil that role.

Salary

Salary is the salary amount fixed for the employee, as referred to in chapter 4, part 1, plus the allowances referred to in chapter 4, part 2, namely the market-related allowance (article 4.4), the stand-by allowance (article 4.4a) and the other allowances supplementing salary (article 4.5) referred to in the mission version, such as a thirteenth-month bonus or a holiday allowance. Allowances that are not referred to in or based on chapter 4, part 2, such as an accommodation allowance, a transport allowance, a child allowance or a study allowance, are not treated as salary.

Monthly salary

Monthly salary is the salary amount for a period of one month fixed for the employee, plus the market-related allowance (article 4.4), the stand-by allowance (article 4.4a) and the other allowances supplementing salary (article 4.5) referred to in the mission version. However, to be regarded as part of the monthly salary, these allowances must have been granted permanently (such as a thirteenth-month bonus, a holiday allowance or a Ramadan allowance) or paid for a continuous period of at least five years. For the purposes of calculating the redundancy payment, monthly salary is defined differently; see the explanatory note to article 8.3.

Local regulation

A local regulation is a peremptory provision of employment law in force in the country where the mission at which the employee works is located and that is applicable to the employee. In other words, a local regulation is a provision of local employment law with which the employer must comply. This excludes provisions from which any employer may deviate, provisions that do not apply to diplomatic or consular representations and provisions that do not apply to Dutch missions on the grounds of bilateral treaties.

Local usage

Local usage means standard practice with regard to primary, secondary and tertiary employment conditions at comparable employers in the place where the mission is located. Comparable employers – known as marker organisations – are the foreign representations of the United States, the United Kingdom, Germany, Canada and the European Union. The package of employment conditions as a whole should correspond as closely as possible to the average conditions of employment at the five marker organisations. Ideally, the average employment conditions for the place where a mission is located should be based on those at all five marker organisations. In practice, however, it may be the case that not all five marker countries have missions there or that a marker organisation there does not engage local employees or has not provided sufficient information about its employment conditions. In that case, the marker organisation in question is not considered and the average employment conditions package is based on the conditions at the remaining three or four organisations. If there are fewer than three marker organisations in the place where the mission is located, HDPO will designate one or more additional marker organisations, after consultation with the head of mission. These will be representations of likeminded Western countries with which the Netherlands wishes to align itself, such as Australia, Sweden and Denmark.

3W

3W WorldWide Working is a shared service organisation that provides a full range of support services to people who live, travel or work abroad on behalf of central government. 3W is responsible for many of the tasks discussed in these Regulations including: drawing up and amending mission versions (article 1.5), registering an employee with the competent local or Dutch authorities and remitting social security contributions for an employee locally or in the Netherlands (articles 5.2 to 5.5) and advising on dismissals (article 8.2).

Article 1.2 Powers

A very limited number of local employees are engaged on behalf of the State by a minister other than the Minister of Foreign Affairs. These ministers grant power of attorney and authorisation in relation to those employees to the Secretary-General, Deputy Secretary-General, head of the Human Resources Department, 3W and heads of mission who are accountable to the Minister of Foreign Affairs. This allows these officials to perform juristic acts and acts that constitute neither a decision nor a juristic act under private law on behalf of the relevant minister in relation to the employees in question. In doing so these officials must take into account these Regulations, any regulations based on them, such as the mission versions, and any further instructions issued by or on behalf of the relevant minister.

The ministers authorise the officials mentioned above to record in the competence table that is part of the Ministry of Foreign Affairs' administrative organisation which officials accountable to them are jointly competent to exercise the power of attorney and authorisation.

This ensures that in practice most decisions are made and most acts are performed by the heads of mission and 3W for all local employees, contributing to efficiency and equal treatment. This applies for instance to calculating salaries and calculating and remitting social insurance contributions and tax. Major decisions – such as the start date of employment, special remuneration, suspension and dismissal – are always taken with the approval of the minister for whom the employee works.

Article 1.3 Applicable law and regulations

Local employees' employment contracts and any disputes arising from them are subject to local employment law. They are also subject to the employer's regulations, including the present Regulations and the mission version, in so far as these do not conflict with peremptory provisions of local law. In the case of a conflict, local peremptory law prevails.

Some provisions in these Regulations may conflict with local usage (in other words, standard practice at the marker organisations in the place where the mission is located). In such cases HDPO can declare the conflicting provisions wholly or partially inapplicable in the mission version.

Article 1.4 Equal treatment

Under this article the employer may not discriminate, directly or indirectly, between employees on the grounds of religion, beliefs, political convictions, race, sex, nationality, sexual orientation, civil status, a difference in working hours or on any other grounds whatsoever. The employer can make a distinction if it is objectively justified.

Direct discrimination involves the direct application of the prohibited criterion or the characteristic with which it is inseparably connected. For example, a provision or employment condition may not apply specifically to employees of Dutch nationality. Similarly, during Ramadan the employer may not distinguish between Muslim employees who are participating in Ramadan and other employees in terms of their working hours. All things being equal, the same working hours must apply to all employees working at the mission. The employer may, however, allow a practising Muslim to work fewer hours during Ramadan and make up the hours later or deduct the hours from their holiday entitlement.

Indirect discrimination is when the prohibited criterion is not applied directly. Instead, a different criterion that has the same end result is applied. An example would be making a distinction between the hourly rates of pay for part-time and full-time employees. Since more women than men generally work part-time, such a distinction would lead to the indirect discrimination of women and is therefore prohibited. However, making a distinction is permitted if it is objectively justified, for example in order to protect the rights of pregnant women.

Article 1.5 Mission version

These Regulations are general regulations that apply worldwide. As circumstances differ from country to country, it is necessary to lay down specific employment conditions for each country. These employment conditions are set out in the mission version. To ensure uniformity within a single country in which there are two or more missions, a single mission version is drawn up for all the missions within the district served by an embassy. A district is the territory of the state or states served by an embassy.

3W is primarily responsible for the proper implementation of these Regulations and the mission versions, as well as their application in practice. 3W fulfils this responsibility by drawing up the mission version together with the head of mission at the embassy and, if there are multiple missions within the district served by the embassy, after consultation with the other heads of mission. In principle, 3W takes the initiative to draw up or amend a mission version. Under paragraph 3, the head of mission can propose an amendment after consulting with the heads of any other missions in the district.

Under paragraph 4, the mission version and any amendments to it are adopted by HDPO. Before HDPO can adopt the mission version, the employee participation body at the mission must be given the opportunity by the head of mission to give its opinion on the mission version or the amendment. If a single mission version has been drawn up for multiple missions, all the employee participation bodies concerned must be given the opportunity by their heads of mission to give an advisory

opinion. HDPO will give serious consideration to advisory opinions rendered by employee participation bodies. If HDPO deviates from an advisory opinion, sound reasons for doing so must be given in writing.

This right to give an advisory opinion does not apply to amendments HDPO or 3W makes to the annexe to a mission version containing the salary amounts fixed by HDPO or 3W using the instruments devised for this purpose, as referred to in article 4.1, paragraph 5 of these Regulations. HDPO deviates from those instruments only in very exceptional circumstances. In practice, such circumstances are always known to HDPO, so it would be of little use to obtain an advisory opinion from the employee participation body. In addition, obtaining an advisory opinion delays the adoption of the new pay scales and, as a result, the payment of the salary and supplementation increases. Employee participation bodies may notify HDPO in writing if they believe that there are very exceptional circumstances which, in their opinion, warrant deviating from the instruments used for determining salary amounts. HDPO will provide a written, well-reasoned response to such a notification. Nor does the right to give an advisory opinion apply to the adoption, amendment or withdrawal of a mission version in connection with an amendment to these Regulations that entails the adoption, amendment or withdrawal of a number of mission versions. For example, this will be the case if these Regulations provide that an article will be repealed from all mission versions because the matter addressed in that article will henceforth be regulated by these Regulations in the same way for all local employees. In such a case, the Locally Employed Staff Council (LESC) will have already issued an advisory opinion on the matter to the Secretary-General.

Article 1.6 Disputes committee and courts

An employee or ex-employee can bring a dispute with the employer before a court of the employee's or ex-employee's own choosing. Since local employment law applies, it makes sense for an employee or ex-employee to bring court proceedings in the country where the mission at which the employee or ex-employee works or worked is located. After all, a local court has the best knowledge of local law. Moreover, bringing proceedings in the Netherlands would, for most employees or ex-employees, entail major financial and practical obstacles. The costs of engaging a Dutch lawyer, Dutch court fees, necessary translations into and from Dutch and travel to and from the courtroom in the Netherlands would be prohibitive for many.

The employer, however, prefers to settle disputes with employees or ex-employees in mutual consultation. That is why the Ministry of Foreign Affairs has an independent disputes committee (the LSR Disputes Committee). The LSR Disputes Committee consists of members of the Dutch judiciary as independent chair and alternate chairs, members representing the employer, and members representing employees and ex-employees who are nominated by the Locally Employed Staff Council. All members are appointed by the Secretary-General of the Ministry of Foreign Affairs. An employee or ex-employee can submit a dispute with the employer about the application of these Regulations or regulations based on these Regulations to the disputes committee in writing, stating reasons, free of charge. After examining the case file and giving the employee or ex-employee and the employer the opportunity to be heard, the committee issues a written and reasoned advisory opinion to the employer and sends a copy to the employee or ex-employee. The employer then notifies the employee or ex-employee in writing of its decision regarding whether or not to implement the dispute committee's advisory opinion. If the employer deviates wholly or in part from the advisory opinion, sound reasons must be given for doing so. Throughout this procedure the employee or ex-employee may be assisted by, for instance, a legal adviser or family member.

If the employee or ex-employee does not agree with the employer's decision, the employee or ex-employee can bring the dispute before a court in the country where the mission at which the employee or ex-employee works or worked is located or before a court in another country.

Article 1.7 Limitation period

This article provides that claims arising from an employment contract become barred five years from the date on which the claim arose, unless these Regulations specify a different limitation period for a specific type of claim. A limitation period shorter than five years is specified in the following articles. The right to reimbursement of costs incurred in connection with official travel as referred to in article 4.12 *Official travel and travel for the purposes of training; general provisions* lapses three months after the end of the trip.

Claims brought under the following articles become barred after six months:
- Article 1.4 Equal treatment
- Article 5.9 Contribution towards medical expenses
- Article 5.15 Prohibition of termination of an employment contract during pregnancy

- Article 8.4 Termination of an employment contract due to sickness
- Article 8.8 Termination of an employment contract for a compelling reason
- Article 8.9 Manifestly unreasonable termination.

Article 1.8 Notification of regulations and instructions

It is essential that all employees have the opportunity to familiarise themselves with the regulations and instructions that apply to them. This is why paragraph 1 provides that employees have a right to information about their legal status and the instructions that apply to them. Written regulations must be deposited for inspection at a place to which employees have access. Employees must also be able to make copies free of charge if necessary and reasonable. Oral rules and instructions must be clearly communicated to employees.

To ensure that employees who do not have an adequate command of English are able to understand the regulations and instructions applicable to them, paragraph 2 stipulates that in any event a translation of the main points of the regulations and instructions must be available in a language that is used locally in international communications.

Extensive and up-to-date information about local employees' legal status is provided on 3W's Rijksportaal pages. These Regulations, the current mission versions for all missions worldwide, and the current pay scales that apply to those mission versions can be found there. The information available also includes a brochure on how the salaries of local employees are determined, the evaluation report drawn up by Mr Koekkoek on the system for determining salaries and the report by an external expert on job comparisons for local staff.

Article 1.9 Hardship clause

These Regulations are general regulations that apply equally to all employees. It would therefore be unrealistic to expect that they could cover in detail all conceivable situations that could occur anywhere in the world. This is why it is necessary to provide that in special cases or categories of cases a decision that supplements or differs from the rules laid down in these Regulations may be taken for the benefit of an employee. As a rule, proposals to apply this article are initiated by the missions or 3W. However, the power to take the decision is reserved to HDPO with regard to employees engaged by the Minister of Foreign Affairs. For employees engaged by another minister, the decision is taken by or on behalf of that minister after seeking advice from HDPO.

Chapter 2 Start of employment

Article 2.1 Filling vacancies

The general rule for filling vacancies is that a vacancy for a local employee must be announced internally before it is advertised externally. The vacancy is announced to all employees at a mission and the partners of all staff members posted to the mission as well as to all employees of any other missions within the same mission district and the partners of staff members posted to those missions. Those interested then have two weeks to submit an application.

The announcement of the vacancy should clearly describe the job concerned, the job requirements, any special employment conditions (for example, whether the work is temporary or permanent) and the relevant pay scale. Other matters to be mentioned are whether a medical examination, psychological examination, security screening or any other assessment of the prospective employee's trustworthiness or suitability form part of the selection process. If it is apparent from the selection process that an employee and a partner of a staff member posted to the mission are equally suitable for the job, the employee is given priority over the partner.

If no suitable internal candidates apply within the two-week period following the announcement of the vacancy, the head of mission can advertise the vacancy externally. This period can be shortened if the head of mission considers that the vacancy needs to be filled as a matter of urgency. In such a case, the shorter period and the reason for it are made known when the vacancy is announced internally. In special cases, the head of mission can, notwithstanding paragraph 1 and 3, simultaneously announce a vacancy internally at the mission or missions referred to in paragraph 1 and advertise it externally. This may be done only if the head of mission cites good grounds demonstrating that haste is required and that a suitable candidate is not expected to be found among either current employees or the partners of staff members posted to the mission. If nonetheless a local employee or the partner of a staff member posted to a mission does apply and is found suitable, the employee or partner is to be given priority over another applicant who is equally suitable. If a local employee and the partner of a

staff member posted to a mission are equally suitable, the employee is given priority under paragraph 4.

Article 2.2 Medical examination

If the duties of a job mean that special requirements must be imposed in terms of medical suitability to protect the health and safety of the prospective employee and of third parties in relation to the performance of the work concerned, the employer can require a prospective employee to undergo a medical examination at the start of employment. This applies to drivers and security guards for example. The employer can also require that a prospective employee undergo a medical examination in countries where serious diseases that can be transmitted through normal contact, such as open tuberculosis, are prevalent. This does not imply that a prospective employee may be tested for HIV/AIDS, as HIV infection can only result from direct contact between an HIV-infected person's bodily fluids (blood, vaginal fluids, semen, breast milk) and the bodily fluids of another person.

In specific cases the employer can seek the advice of the mission's medical officer or HDPO's medical adviser.

All costs of the medical examination, including any travel and subsistence expenses incurred by the prospective employee, are borne by the employer.

Article 2.3 Psychological examination

In some cases, the demands made by a particular job may make it desirable to carry out a psychological examination beforehand. For example, some jobs may require an ability to work under considerable pressure. A 'standard' selection procedure may not always reveal whether a prospective employee possesses such characteristics. If a psychological examination is to take place, all costs of the examination, including the travel and subsistence expenses incurred by the prospective employee, are borne by the employer. This article is also applicable to an employee who applies for another job at the mission or another mission.

Article 2.4 Investigation of a prospective employee's trustworthiness and suitability

Prospective employees must be screened prior to employment to assess their trustworthiness. How trustworthiness can best be assessed depends on the nature of the job and local circumstances. For example, prospective employees who have recently been resident in the Netherlands and were resident there for a long time can be required to submit a certificate of conduct as referred to in the Justice System Data Act. Other prospective employees can be required to produce a similar certificate issued by an authority of the country where they have recently been resident, if this is possible locally.

In some cases, however, screening must be more thorough. This is the case where the job places particular demands on an employee in terms of integrity or responsibility or the job is a confidential position. In such cases, prospective employees may be employed only if the screening does not reveal any reasons why they should not be allowed to perform the job in question.

Finally, paragraph 4 of this article provides that such a screening may be carried out only after it has been established that the prospective employee is qualified and suitable for the job in question.

All costs of the investigation, including any travel and subsistence expenses incurred by the prospective employee, are borne by the employer.

Article 2.5 Engagement and probationary period

Paragraph 1 provides that employees are employed for a fixed period or an open-ended period. Prior consent must be obtained from 3W to conclude an open-ended employment contract with a person engaged locally to work for the Minister of Foreign Affairs. It is reasonable to assume that the other ministers will seek 3W's advice in comparable cases.

Paragraph 2 provides that a probationary period may be agreed in writing at the start of the employment contract. A probationary period does therefore not apply automatically.

Paragraph 3 provides that the employment contract may be terminated with immediate effect during the probationary period (in other words not just at the end of the period) without the need to give notice. Both the employer and the employee have this right. Moreover, under certain circumstances the employment contract may even be terminated before the probationary period has actually started, or while the employee is on sick leave. No reason needs to be given for termination during the

probationary period. Termination during the probationary period is prohibited only if it occurs on discriminatory grounds. A female employee may not be dismissed because she is pregnant. However, if she fails to perform satisfactorily, her employment contract may be terminated during her pregnancy for this reason.

Paragraph 4 provides that the probationary period must be the same for the employer and the employee, and may not exceed two months.

Paragraph 5 provides that the probationary period is null and void if it is not the same for each party or exceeds two months. As a consequence, in such a case there is no probationary period at all. If a probationary period of less than two months has been agreed, a new probationary period can be agreed during the first period, provided that the total of the probationary periods does not exceed two months. If the total exceeds two months, the second probationary period is null and void.

An employee may enter into and remain in the employment of a mission only if that employee is allowed under local law to reside in the country concerned and work at that mission. For the sake of clarity, a provision to this effect has been included in paragraph 6. The costs of fulfilling the necessary legal requirements to remain in the country concerned (for instance, obtaining a residence permit or the nationality of that country) and to work at the mission (for instance, obtaining a work permit) are, in principle, borne by the employee. These costs are borne by the employer only in so far as this is required by local law or the majority of the marker organisations also bear these costs. This is reflected in paragraph 7. In special cases, the employer may bear these costs entirely or in part pursuant to the hardship clause, for example where employees lose their jobs as a result of a reorganisation or mission closure and are subsequently hired by a mission in another country.

Article 2.6 The employment contract

The employment contract is entered into in writing in English, French or Spanish. If necessary, mission management provides a translation in a language of which the employee has an adequate command. Only in Belgium and Suriname, where Dutch is an official language, can the employment contract be entered into in Dutch. The standard contracts provided on Rijksportaal by 3W must be used, unless local peremptory employment law requires the parties to deviate from these model contracts. 3W provides standard employment contracts in English, French and Spanish.

Paragraph 2 sets out which information the employment contract must in any event contain. This includes its duration, the nature of the work, the salary and that the contract is subject to local employment law.

Paragraph 3 contains a dynamic incorporation clause providing that the regulations in force (including these Regulations and the mission version), all future amendments to them, and any regulations replacing them apply to local employees and to their individual employment contracts.

Chapter 3 Working hours, holiday and leave

Article 3.1 Working hours and breaks

The mission version specifies the working hours of full-time employees, in other words the number of hours that they work on average each week. It also states on what days and at what times employees should work and sets out the rest periods or breaks which should be observed and whether or not these breaks are paid. Breaks may be dispensed with only where they are not required under local law and are not in keeping with the practice of most marker organisations.

The working hours of staff members posted to missions from the Netherlands are determined by their employment conditions, which are based on the Dutch labour market and are thus unrelated to the employment conditions that apply to local employees and are based on those of the marker organisations. The number of hours to be worked weekly by employees will therefore almost never be identical to that of staff members posted from the Netherlands. The same is true of holiday entitlement, public holidays and the possibility of acquiring entitlement to compensatory leave. Naturally, the working hours must be fixed at a mission in such a way that the smooth running of the mission is guaranteed in all circumstances.

The mission version also specifies the number of days off and public holidays on which employees are not required to work, except where this is necessary in the interests of the service for special reasons. The basic principle is that employees need not work on compulsory local public holidays. In addition, they need not work on a number of public holidays officially recognised in the Netherlands, when the mission is closed. The standard policy in this connection is that the total number of days off

for public holidays should correspond to the number granted by the majority of the marker organisations. If the number of Dutch public holidays when the mission is closed and no duties can be performed brings the total above the average of the marker organisations, the excess should be deducted from the holiday entitlement. It is also possible for employees to make up the time off by working longer hours on other days. Alternatively, a larger number of public holidays than the average entitlement at the marker organisations may be specified in the mission version if a proportionate reduction in the employee's salary is made to bring it below that of the average salary for local employees at the marker organisations (see article 3.4, paragraph 2).
Finally, the mission version should contain provisions on compensation for employees who work at times outside the working hours applicable to them. Such provisions should be based on the overtime compensation granted by the majority of the marker organisations. The provisions should specify what is meant by overtime and how overtime is compensated. One option is to provide time off in lieu plus an allowance for each hour of overtime (for example, one hour's overtime confers entitlement to one hour's leave plus 25% of the hourly pay). Another option is to provide financial compensation only (for example, one hour's overtime confers entitlement to 125% of the hourly pay).

Article 3.2 Change to weekly working hours

Under this article employees who have worked at a mission for at least one year may request the employer to reduce or increase the hours they are contracted to work each week. Paragraph 3 provides that the employer should grant the request unless this would be contrary to the interests of the service. An increase in the number of working hours may not be in the interests of the service if, for example, the mission's operational budget is insufficient, there is not sufficient work or the increase would lead to expansion of the mission's staff establishment. Nor would such an increase be in the interests of the service if the employee has underperformed or is in poor health. A request to reduce the number of working hours could be refused if, for example, it would be difficult to find someone else to work the vacant hours or there would be rostering problems.

Article 3.3 Holiday

Under paragraph 1, employees are entitled to a certain amount of annual holiday. The number of hours' holiday to which an employee is entitled annually depends on local peremptory employment law and on the practice of the majority of the marker organisations. Paragraph 2 provides that holiday entitlement stops accruing or accrues proportionately if an employee does not work at all or works fewer hours than specified in the working times arrangement that applies to the employee, as the case may be. Paragraph 3 gives an exhaustive list of exceptions to the rule, namely absence due to sickness, holiday and pregnancy and maternity leave. After thirteen weeks of absence or partial absence due to sickness, holiday entitlement will stop accruing (or will start to accrue in proportion to the employee's reduced working hours, as the case may be). For the purpose of determining the period of 13 weeks, periods of sickness that succeed one another at intervals of less than 31 days are combined. In the case of absence or partial absence due to pregnancy and maternity leave, holiday entitlement will stop accruing (or will start to accrue in proportion to the employee's reduced working hours, as the case may be) only after sixteen weeks.

Different rules concerning holiday can be included in the mission version. For example, rules could be included on the maximum number of unused holiday hours' that may be carried forward to the following year. Here too, the arrangement should correspond to that of the majority of marker organisations. Paragraph 5 provides that the employer can, if there are compelling reasons, alter the holiday period agreed with an employee. If the employee suffers damage as a result, the employee is entitled to compensation. Paragraph 6 provides that employees who have unused holiday entitlement when their employment contract ends are entitled to receive payment in lieu.

Article 3.4 Leave

Paragraph 1 provides that an employee's entitlement to leave on public holidays and to special leave is equal to that of employees of the marker organisations. Paragraph 3 provides that each year the head of mission consults with the mission's employee participation body and then selects the public holidays on which employees are entitled to paid leave. The maximum number of public holidays per calendar year on which employees are entitled to paid leave is fixed in the mission version. This is the number of public holidays on which the marker organisations' employees are entitled to paid leave, and includes at least all compulsory local public holidays. If any public holidays coincide with each other or fall at the weekend, and as a result the number of public holidays fixed in a given calendar year falls short of the maximum, the public holidays that coincide with each other or fall at the weekend may not be taken on another day or added to the employee's holiday entitlement. As regards public holidays, see also the notes on article 3.1. Under paragraph 2 the mission version may, in special cases, provide for more paid leave on public holidays than is compulsory locally or is usually

granted by the marker organisations. In such cases, the salary amount or number of holiday hours specified in the mission version is reduced proportionately. Entitlement to special leave can also be laid down in the mission version. Examples of special leave are short periods of paid leave for moving house, marriage, childbirth and the death of relatives by blood or marriage.

Chapter 4 Salary and other financial conditions of employment

§ 1 Job evaluation, pay scales and salary

Article 4.1 Job evaluation, pay scales, pay numbers and salary amounts

Annexe 1 to these Regulations lists a number of common jobs and their pay scales. The salary structure for employees consists of 10 pay scales. The listed jobs are known as benchmark jobs. In other words, they have been defined by HDPO in such a way as to give a general idea of the job content and job-related factors by which the pay scale is determined. Each job at a mission which corresponds largely or fully with the job description of a benchmark job is given the same classification as the benchmark job, irrespective of the job title. Jobs that do not correspond largely or fully with a benchmark job are assigned to a pay scale using the instruments for determining the pay scale of the jobs listed in annexe 1. Each employee is informed in writing by the employer about the duties of the job. This is generally done by means of a job information form. For this purpose the employer can make use of the instruments and the benchmark jobs described there.

Under paragraph 2, all pay scales have the same number of pay numbers (also called 'increments'), namely 16. Paragraph 3 provides that a specific salary amount is associated with each pay number.

Paragraph 4 provides that the salary amounts should reliably reflect the salary paid by comparable employers (the marker organisations) to their employees for comparable work. Marker organisations are the representations of the United States, the United Kingdom, Germany, Canada and the European Union (see also the notes on article 1.1, under 'Local usage'). The salary amounts are fixed in an objective manner using the instruments devised for this purpose by HDPO (for details see the brochure 'Fixing the pay of local staff').
Under paragraph 7 and 8, new pay scales are fixed in the mission version whenever a pay review so warrants, but in principle once a year. When new pay scales are fixed, the mission version has to be amended (see also the notes on article 1.5). This means that the employee participation body at the mission may give its opinion on the new pay scales.

Article 4.2 Adjustments to salary amounts where these amounts are not fixed in the local currency

Under article 4.28, the basic principle is that financial entitlements under these Regulations should be fixed and paid in the same currency used by the majority of the marker organisations. In most cases, this will be the local currency. However, exchange rate volatility may make it necessary for the marker organisations to fix or pay all or part of the salaries in a non-local currency, specifically in a hard currency such as the American dollar or the euro. In such cases, a pay review may conclude that due to a substantial devaluation or revaluation of the local currency the salary amounts no longer reliably reflect local pay levels at a given time (in other words, they are too high or too low). This article enables HDPO to take corrective action in the short term, in anticipation of a formal revision of the pay scales in the mission version (see the notes on article 4.1), by adjusting the salary amounts so that they are once again in line with the usual local pay levels. Salary amounts adjusted in this way are subsequently fixed by HDPO after the employee participation body at the mission has been given the opportunity to advise the head of mission on the matter.

Article 4.3 The pay scale, pay number and salary amount applicable to an employee

Each pay scale has a minimum and a maximum, separated by 14 pay numbers or increments. Each pay number has a corresponding salary amount. In principle, an employee starts at the lowest pay number on the applicable pay scale. However, an employee may be placed on a higher pay number on the basis of knowledge and experience.

Paragraph 3 provides that an employee who performs well may be awarded an increment, no more than once a year. This entails a move to the next highest pay number in the pay scale.

Increments are not granted automatically, but only if the employee performs well. It is therefore of great importance to hold regular staff interviews (see also article 6.14). Paragraph 4 enables the employer to decide in special circumstances to award an employee more than one increment, up to the highest pay number in the employee's pay scale. It is not possible for an employee to move to a

higher pay scale while remaining in the same job. If an employee who has reached the maximum of the pay scale deserves 'something extra', article 4.6 of these Regulations provides sufficient scope for this.

§ 2 Allowances

Article 4.4 Market-related allowance

The pay scales form a reliable reflection of the salaries paid by the marker organisations. Nonetheless, there may be pressing reasons, temporary or otherwise, to grant an employee an allowance in addition to the applicable salary amount. The labour market for suitable candidates may be tight, for instance, or there may be special requirements for the job that are not in place at the marker organisations. The salary amount is explicitly not to be increased in such cases because the special circumstances are often temporary. Granting a market-related allowance is therefore a more appropriate solution. The mere fact that an employee is a Dutch national or is proficient in Dutch does not constitute sufficient grounds for granting a market-related allowance.

Market-related allowances should be used selectively. For this and other reasons the allowance can be awarded for a maximum of three years at a time. The factors that prompted the awarding of the allowance should be examined carefully when this period comes to an end.

Only if the market-related allowance has been received for five years or more immediately preceding the date on which the employee reaches the age of retirement is it taken into account when calculating the amount of supplementation.

With regard to employees employed by the Minister of Foreign Affairs, the power to award a market-related allowance is reserved to HDPO. With regard to employees employed by other ministers, HDPO is consulted by or on behalf of the minister in question before the allowance is awarded. Tax should be deducted from the allowance and remitted in the normal way.

Article 4.5 Other allowances that are treated as salary

Additional allowances such as a thirteenth-month bonus, holiday allowance or end-of-year bonus are paid by many of the marker organisations. If such an allowance is prescribed by local regulations or is usually paid by the majority of the marker organisations, it is granted to the employees under paragraph 1. In accordance with paragraph 2 it is then included in the mission version. It should be noted that this provision concerns allowances that are additions to salary. It does not apply to reimbursements of travel expenses, commuting expenses, removal costs etc. Such costs may be reimbursed if provision for this has been made in the mission version pursuant to article 4.24, paragraphs 2 and 3. An allowance is treated as salary and is therefore taxed as such.

§ 3 Additional remuneration

Article 4.6 Special remuneration

Under paragraph 1 of this article, the employer may award additional remuneration to employees who have discharged a special one-off assignment or have performed their duties in exceptional circumstances or whose performance has been consistently outstanding. The operational budget of the mission is sufficient to pay extra remuneration of this kind.

This article contains an exhaustive list of the forms which this extra remuneration may take. The policy is to award extra remuneration wherever possible in the form of a one-off bonus of up to one month's salary per calendar year rather than as extra increments. In this way it is possible to assess afresh each year whether there are grounds for awarding extra remuneration.

Under paragraph 2 provision should be made in the mission version for a long-service bonus if this is in keeping with local regulations or the practice of the marker organisations.

Article 4.7 Emergency service allowance

Under article 6.8 employees may be designated as in-house emergency officers by the head of mission. Such an employee is entitled to an emergency service allowance after each calendar year in which the employee performed emergency service duties. An employee who serves as an in-house emergency officer for a period of less than twelve months is entitled to a proportionate part of the allowance. The emergency service allowance for a non-specialised in-house emergency officer is 8% of the maximum salary amount in pay scale 5 at the mission in question at the time of payment. A

specialised in-house emergency officer (an officer who has acquired proficiency in first aid) receives an emergency service allowance of 16% of that salary amount. Paragraph 2 provides for an additional allowance of 10% of that salary amount to be paid for an in-house emergency officer who is in charge of emergency response activities. In general, emergency service activities are carried out during normal office hours. However, this is not always possible. To cover this eventuality paragraph 4 provides that an in-house emergency officer can be paid an overtime allowance. Emergency service activities are deemed to include participation in exercises and attending compulsory emergency service lessons. All in-house emergency officers receive the same allowance for this form of overtime, regardless of their actual job. For each hour of overtime the employee concerned receives the maximum hourly pay in pay scale 5, increased by 25%. Paragraph 5 provides that an in-house emergency officer is entitled to an emergency service anniversary bonus every five years.

Article 4.7a Stand-by allowance

Local employees can be rostered on stand-by. This article contains an arrangement to provide an employee with financial compensation for being on stand-by regularly or fairly regularly, on the written instructions of the employer, which means being reachable, on an official telephone or otherwise, and available to perform work in urgent cases immediately upon being called up outside their fixed working times. Employees are not rostered on stand-by for hours that fall outside the specific employee's fixed working times but within the opening times of the mission. Given the burden that stand-by duty places on an employee, the number of times they are rostered on stand-by must be kept to a minimum.

For each hour on stand-by employees are entitled to a percentage of their hourly pay, namely 5% for weekday hours and 10% for hours at weekends or on public holidays. These percentages are applied to the employee's hourly pay, but in any event to no more than the hourly pay applicable to pay number 15 of pay scale 7, as set out in the most recent mission version. This is the pay scale of a senior consular officer. In practice, employees in job groups 6 and 7 are often rostered for these duties. This is why the maximum remuneration is set at the highest pay number for job group 7.

The employer can choose to compensate the employee by awarding time off, namely 1.5 hours' leave for stand-by duty of 24 hours on a weekday and 2.5 hours' leave for stand-by duty of 24 hours at a weekend or on a public holiday. Proportionate compensation is awarded for stand-by duty of less than 24 hours. In order to avoid an undesirable accumulation of leave, hours of leave awarded under this article must be taken within six months of the date on which they are awarded. Leave that is not taken is forfeited after expiry of this period, unless in the interests of the service that leave could not be taken. In that case the employee will receive payment in lieu of those hours of leave. This allowance is of the same nature as the emergency service allowance. This means the allowance falls under chapter 4, § 3 and therefore is not part of the qualifying salary on which basis redundancy payments and supplements are calculated.

§ 4 Fixing of gross salary and payment of gross or net salary

Article 4.8 Fixing of gross salary

Under the Salaries Tax Act 1964 the employer is obliged to withhold and remit salaries tax with respect to all employees, no matter their place of work or nationality. 3W is responsible for withholding and remitting salaries tax for local employees on behalf of all ministers. This is done either by 3W itself or by external service providers (ESPs).
The only exceptions to this obligation are where:
a. a convention for the avoidance of double taxation concluded with a country provides that the other country is wholly or partly entitled to levy tax;
b. reciprocal agreements have been made with another country;
c. there is 'presumed' reciprocity.

A reciprocal agreement is a formal agreement between the tax authorities of the Netherlands and another state which is represented in the Netherlands. A reciprocal agreement provides that the employees are liable to pay tax locally. The same applies in the case of presumed reciprocity, the only difference being that the other country does not have a mission in the Netherlands. If tax is not levied locally on the salary of the employee, reciprocity cannot be presumed and the employee remains liable to pay tax in the Netherlands.

A system has been devised to address the issues that arise in calculating, withholding and remitting taxes in conformity with the requirements of the Tax and Customs Administration as regards correctness, completeness and auditability. Under this system, salary is sometimes paid gross and sometimes net.

In cases where the Netherlands levies taxes, it is important to realise that all payments which an employee receives or is entitled to receive pursuant to these Regulations and the mission version, including payments in kind and reimbursements of expenses, may be considered part of the employee's salary within the meaning of the Salaries Tax Act 1964 and may therefore be taxable.

Under article 4.8 each employee's salary is always fixed as a gross amount in accordance with the amount paid by the marker organisations, no matter where the employee is liable to pay tax. The contribution payable by the employee under the social security system applicable to the employee is in any event deducted at source from the employee's gross salary. If no social security system is applicable to the employee, an amount corresponding to the part of the contribution that the employee would have owed if the local social security legislation had been applicable will be deducted at source from the employee's salary.

Article 4.9 Payment of gross or net salary; local tax liability

Paragraph 1 provides that if salary is not taxable under the Salaries Tax Act 1964, it is paid net. The net salary is calculated by deducting from the gross salary amount:

- the contribution payable by the employee under the local social security system, or an amount corresponding to the contribution that the employee would have owed if the local social security legislation had been applicable; and
- the tax owed locally on the salary, or the amount of tax the employee would owe on their salary if they were liable to salaries tax locally.

If, on the grounds of local tax law, the employee owes tax on their salary, under paragraph 2 the tax owed locally is remitted to the local tax authorities by the employer in accordance with the applicable tax law. 3W generally makes use of external service providers for this purpose, unless local peremptory law obliges the employer to remit tax itself.

In some countries employees do not owe tax on their salary because they are employed by a foreign power. In this event, in accordance with paragraph 1 (c) an amount will be deducted from the employee's salary equal to the amount that the employee would have owed in tax if they were liable to salaries tax locally. This is done in order to ensure the employee is as far as possible treated in accordance with local practice. This is necessary in particular to ensure all employees at a mission are as far as possible treated equally if some employees are subject to Dutch tax law and others are subject to local tax law.

When establishing the amount that employees would have owed on their gross salary if they had been liable to tax locally, it is standard policy not to take into account the personal circumstances of the employee or their family members, including any personal deductions they could claim in a tax return submitted to the local authorities, such as for life insurance premiums, mortgage interest, donations and healthcare costs. This is because the employer is generally not aware of all the relevant personal circumstances of the employee and their family members and is not in a position to check whether an employee is entitled to these personal deductions and whether the employee or a member of their family has not already claimed these personal deductions in the tax return they submitted to the local authorities. Furthermore, having the employee provide the employer with sensitive personal data about themselves or their family members is not desirable and in some cases may even be illegal. The employer also lacks sufficient knowledge of local tax systems worldwide as well as the capacity to grant the personal deductions that can be claimed under those systems.

The employer does, however, take account of all general local tax credits relating to salary which are normally taken into account locally by employers when calculating employees' net salaries. These tax credits, by whatever name they are known, apply to every employee and are locally compulsory and/or in keeping with local practice. This includes tax credits that are related to an employee's civil status and children.

In some cases, local tax authorities do not accept a situation in which the employer remits tax for the employee. Paragraph 3 provides that in such a case the salary can be paid as a gross amount to the employee, notwithstanding paragraph 2. The employee is then responsible for remitting the tax to the tax authorities. Paragraph 3 also provides that the head of mission or 3W can require the employee to show that the tax owed on salary has actually been remitted locally.

If an employee fails to pay tax owed locally, despite being obliged to do so, and therefore wrongly receives too much salary (in other words, treats the gross salary as net salary), the salary can be paid net under paragraph 4, notwithstanding paragraph 3. If the employee provides documentary evidence showing that the tax has subsequently been remitted after all, the amount of tax demonstrably paid may be reimbursed by the employer. However, any penalties or extra assessments imposed on the

employee as a result of non-payment or late payment of tax are not eligible for reimbursement unless the employee was not at fault and can show this.

Sometimes local tax authorities ask the employer to provide statements of employees' salaries. In general, there is no reason not to comply. Obviously, the employer does not assist in tax evasion. Tax evasion is most likely to occur where salaries are paid gross. Salaries are fixed on the basis of salaries tax owed by the employee to the local tax authorities. Paragraph 6 confers on the head of mission and 3W the power to inform the competent local authorities, on their own initiative, of the salaries paid to employees by the employer and of other information that may be important for the local authorities, such as the amount of tax remitted locally by the employer on salaries and allowances.

Article 4.10 Payment of net salary; Dutch tax liability

Article 4.10 provides that if under the Salaries Tax Act 1964 an employee's salary is taxable in the Netherlands, it is paid net. Since in such a case an employee is liable to Dutch salaries tax, they are not liable to salaries tax locally, except in the event of double tax liability, for which article 4.11 contains an arrangement.

The employer ensures that the net salary an employee receives corresponds as closely as possible to the net salary that a comparable employee who earns the same gross salary and who is liable to local salaries tax receives each month from the employer after payment of the tax owed locally and the contributions owed by employees under local social insurance legislation. This is done in order to ensure the employee is as far as possible treated in accordance with local practice. This is necessary in particular to ensure all employees at a mission are treated equally as far as possible if some employees are subject to Dutch tax law and others are subject to local tax law. The rates of Dutch salaries tax do not affect the amount of local salaries tax and therefore do not affect the amount of net salary received locally.

When establishing the amount that employees would have owed on their gross salary if they had been liable to tax locally, it is standard policy not to take into account the personal circumstances of the employee or their family members, including any personal deductions they could claim in a tax return submitted to the local authorities, such as for life insurance premiums, mortgage interest, donations and healthcare costs. This is because the employer is generally not aware of all the relevant personal circumstances of the employee and their family members and is not in a position to check whether an employee is entitled to these personal deductions and whether the employee or a member of their family has not already claimed these personal deductions in the tax return they submitted to the local authorities. Furthermore, having the employee provide the employer with sensitive personal data about themselves or their family members is not desirable and in some cases may even be illegal. The employer also lacks sufficient knowledge of local tax systems worldwide as well as the capacity to grant the personal deductions that can be claimed under those systems.

The employer does, however, take account of all general local tax credits relating to salary, which are normally taken into account locally by employers when calculating employees' net salaries. These are tax credits, by whatever name they are known, that apply to every employee and that are locally compulsory and/or in keeping with local practice. This includes tax credits that are related to the employee's civil status and children.

Paragraph 2 provides that salaries tax owed in the Netherlands on the gross salary of local employees is remitted directly to the Dutch tax authorities by the employer.

Paragraph 3 sets out how the amount to be remitted is calculated, taking account of the general tax credit and employment tax credit prescribed in the Salaries Tax Act 1964. The gross salary is netted in the Netherlands, after which the salaries tax owed in the Netherlands pursuant to the Salaries Tax Act 1964 is calculated. If under Dutch tax law an employee is eligible for tax credits, 3W takes account of those tax credits when calculating the salaries tax to be remitted. This procedure has been approved by the Dutch Tax and Customs Administration. 3W subsequently remits the calculated salaries tax.

Dutch tax law provides that a taxpayer may decide to have an employer disregard tax credits provided for by law when withholding and remitting salaries tax, in so far as the employee is entitled to such tax credits. The taxpayer then receives a lower net salary, because the amount of salaries tax withheld is higher. The taxpayer can in such a case later claim these tax credits in their tax return in the Netherlands and receive a refund, if and in so far as the specific conditions are met. However, the introduction of qualifying non-resident tax liability in Dutch income tax law has considerably limited the scope of this option.

Local employees, too, can submit a request to 3W for the employer to disregard the tax credits. This

would result in the employer having to remit more salaries tax in the Netherlands on the net salary than if account were taken of the tax credits. This would, however, not affect the amount of the net salary that the local employee receives, as the amount that they would have owed on their gross salary if they had been liable to tax locally is deducted from their gross salary by the employer. The employee could then claim these tax credits when submitting a tax return in the Netherlands and thus gain an unintended benefit, while the employer would incur the aforementioned disadvantage.

To address this situation, paragraph 4 provides that for employees who successfully submitted such a request to 3W both the amount of tax they would owe locally on their salary if they were liable to local tax and an additional amount, equal to the difference between the amount of salaries tax owed in the Netherlands with and without the tax credits, is deducted from their salary. This additional deduction from the gross salary means the employer incurs no unintended disadvantage and the employee has no unintended advantage as a result of the employee's choice. This is also in line with the principle of equal treatment set out in article 1.4.

Sometimes an employer in the Netherlands mistakenly remits too much salaries tax. It has been agreed with the Dutch Tax and Customs Administration that in such cases the employer can reclaim the excess within a certain period. For this purpose the employer may need to obtain from the employee a written declaration that the employee will not submit an income tax return based on the incorrect annual salary statement. There may also be cases in which an employee must actively cooperate in claiming a refund of the overpaid salaries tax by submitting an income tax return and providing specific details about this to the employer in writing. Under paragraph 3, the employee is obliged to cooperate with the employer in this respect. If the employee fails to cooperate for any reason, an amount equal to the excess tax can be deducted from the employee's salary.

Any other taxes owed by the employee, for instance under the Income Tax Act 2001, must be remitted by the employee. These taxes are never borne by the employer.

Article 4.11 Payment of gross or net salary; double tax liability

Sometimes both the Dutch Tax and Customs Administration and the local tax authorities may declare that they are competent to levy tax. In such cases, article 4.11 provides that article 4.9 applies *mutatis mutandis*. This means either that the employee receives a net salary equal to that paid by the marker organisations and the employer pays the local tax, or that the employee receives a gross salary equal to that paid by the marker organisations and is responsible for remitting the local tax. In addition, salaries tax owed in the Netherlands is in that case paid by the employer on the basis of the gross salary. This extra salaries tax is borne by the employer pursuant to paragraph 2 of article 4.11. In such a case the employee is obliged to cooperate in claiming a refund of any excess salaries tax paid by the employer in the Netherlands. If the employee fails to cooperate for any reason, an amount equal to the excess tax may be deducted from the employee's salary.

§ 5 Official travel and travel for the purposes of training

Article 4.12 Official travel and travel for the purposes of training; general provisions

Instructions to undertake an official trip or a trip for the purposes of training are issued by the employer. The employer decides on, among others things, the duration of the trip, the fare class, extension of travel for private purposes and reimbursement of laundry, accommodation and subsistence expenses. The travel policy set out in this part must be adhered to. In implementing this policy, the employer is advised by the 3W travel agent on better, smarter and cheaper travel.

An official trip or trip for the purposes of training starts in the country where the mission is located, unless the employer determines otherwise in writing.

Claims for costs relating to an official trip of a trip for the purposes of training must be submitted in accordance with the rules laid down by the employer. Claims can be submitted up to three months after the trip. Claims submitted after the three-month period will not be processed and any travel advances must be repaid.

Article 4.13 Extension of official travel or travel for the purposes of training

In so far as is necessary to adjust to a different climate or culture and/or to recuperate after an arduous outward journey, a period of up to 24 hours for acclimatisation at the destination may be permitted in the case of official travel or travel for the purposes of training. It is up to the employer to decide whether this is appropriate. Prior to the official trip or the trip for the purposes of training, the point at which the employee is obliged to actually begin performing their duties or attending the training will

be determined in order to establish what period of 24 hours qualifies for this provision.

The 24 hours for acclimatisation referred to in this article may not be added to an extension of up to 72 hours for private purposes. Anyone who has already been at the destination for 24 hours or more, even if it is for private purposes, should already be sufficiently acclimatised. This is laid down in paragraph 5.

The employer may suggest alternative travel arrangements that extend the duration of the trip (on the advice of the travel agent or otherwise) if this would lead to a substantial cost saving. It is up to the employer to decide whether this is justified. The total travel and subsistence costs associated with the normal travel arrangements must be compared with the total travel and subsistence costs associated with the alternative travel arrangements. The savings must in principle be at least € 500. Any such extension of a trip requires the agreement of the employee, who will be reimbursed for the extra accommodation and other subsistence costs in accordance with this part. During the extended period, the employee will be required to work (for example, write reports) on working days. The employee may also opt to take leave during this period.

An employee may wish to extend a trip abroad for private purposes at their own expense and take leave during this period. Written advance permission from the employer is required in all such cases. When a request to extend a trip is considered, the interests of the service must always come first, and any extension for private purposes must be in accordance with the rules on integrity.

In individual cases the employer may refuse to allow an employee to extend a trip for private purposes, for instance if this would not be in keeping with the nature of the trip (for instance an integrity investigation). Additional expenses arising from an extension for private purposes, including additional expenses for travel, accommodation, car hire and subsistence, are borne by the employee. Any savings as a result of an extension (such as a cheaper airline ticket) will accrue to the employer.

The extension may not exceed 72 hours. To minimise the administrative burden, it must take place immediately after arrival at the destination or immediately before departure from the destination. A combination of the above and/or extending the trip at a stop-over location on the outbound or return journey is not possible. In order to determine the period of up to 72 hours that may be added to the trip, the employer calculates the time needed for the outward and return journeys associated with the official element of the trip. The extension of up to 72 hours will then be determined on the basis of these times. For example: an employee flies to New York at 08.00 on Monday morning, has meetings there on Tuesday and Wednesday, and could arrive home at 22.00 on Thursday. However, the employee wishes to spend some extra private time in New York after the meetings. An extension for private purposes will allow the employee to arrive home any time before 22.00 on Sunday evening.

Article 4.14 Compensation for delays and loyalty programmes

Airline companies are in many cases obliged to pay compensation for delays if a claim is submitted, except in circumstances beyond their control. The compensation that can be claimed for a delay on an official trip or a trip for the purposes of training accrues to the employer. This is because the employer bears the travel and accommodation costs for such trips and the employee receives a daily allowance which covers any minor additional costs incurred as a result of a delay.

In the interest of completeness, it should be noted that this provision does not transfer the claim from the employee to the employer. It merely provides that, in the relationship between the employee in question and the employer, any financial compensation paid out on the grounds of a claim accrues the employer. The second sentence of article 4.14, paragraph 1 is intended to ensure that the employee in question cooperates in pursuing the compensation claim. An employee can cooperate by claiming compensation themselves, or at any rate making such efforts to do so as can reasonably be expected of them, or by authorising the employer to claim compensation on their behalf.

Airline companies usually have loyalty programmes through which points can be collected and exchanged for tickets, discounts or upgrades to a higher fare class, for example. The loyalty points not only represent a substantial value – and therefore constitute a gift – but can also create an undesirable incentive when planning trips. The employee is permitted to collect loyalty points on official trips and trips for the purposes of training, but the collected points may be used only for future official trips or trips for the purposes of training subject to the conditions specified by the employer. With the employer's permission, points may for example be used to buy an airline ticket for the next official trip. The employee may also trade in points to use a business lounge or travel in a higher fare class if the employee is eligible for this under the provisions in these Regulations. This will save the employer costs which would otherwise have been incurred to provide such facilities to the employee – or reimburse the employee – in accordance with these Regulations. The employee is not permitted to use

collected points for private purposes. In the interests of prudent use of governments funds, the employee must offer the employer full cooperation in identifying and claiming these entitlements.

Article 4.15 Tickets and bookings

From a cost perspective it is desirable to book well in advance, because ticket prices tend to rise as the date of travel approaches. Booking in time also avoids the need to book an earlier flight or switch to a higher fare class at the last minute due to the intended fare class being sold out. For reasons of enforceability, a clear time limit has been set: the employee must request airline tickets and hotel bookings, or buy airline tickets and make hotel bookings with the prior permission of the employer, as soon as possible, but in any case no later than 21 calendar days before departure. If this is not possible, the employee must explain why in writing to the employer. The phrase 'in writing' can also be understood to mean by email or via the electronic request system for official trips used by the employer.

In principle, tickets with non-flexible travel dates are provided or purchased. The reason for this is that flexible tickets that allow the dates of the outbound and return journeys to be changed at no extra charge are often disproportionately expensive and provide no guarantee that a seat will be available on the desired flight in the right fare class if the date of travel does change. However, if it is foreseeable at the time of booking that the date of travel will need to be changed, or if the date of travel is unpredictable, the employer can, on its own initiative or at the employee's written and reasoned request, decide to provide or reimburse the employee for a flexible ticket.

The employer may have agreements with hotels or hotel chains about booking accommodation and pricing. For this reason the employer may instruct the employee on which hotel should be booked for an official trip or trip for the purposes of training. The employee must follow this instruction.

Article 4.16 Travel costs

The employer decides what modes of transport are to be used on an official trip or a trip for the purposes of training. The following travel costs are reimbursed and can be claimed separately on submission of a supporting document:
- the cost of transport between the station, port or airport of arrival and the final destination on the outward and return journeys;
- airport charges;
- porter costs; and
- supplements for special trains, costs of seat reservations and sleeper compartments in trains and extra baggage costs, if the interests of the service or the conditions of travel so warrant.

In the event of a lengthy official trip or trip for the purposes of training the employer may give the employee permission to make one or more short visits home by public transport, by air or by boat in the lowest fare class. A visit home is not regarded as an interruption of the trip. Travel costs are reimbursed on submission of supporting documents, provided that the employee undertakes the journey in the fare class indicated by the employer.

Article 4.17 Public transport, air, official vehicle or employee's own vehicle

A key element of the employer's policy on employee travel is that public transport must be used wherever possible. It has therefore been determined in article 4.17 that employees are to undertake all journeys by public transport if that is possible for the trip in question, if the journey time by public transport is no more than eight hours or the journey time by public transport is more than eight hours but less than one-and-a-half times the journey time by air, and if the employer is of the opinion that travel by public transport would not be unreasonably arduous in the light of special local circumstances or the employee's personal circumstances.

This takes into account that in many cases public transport abroad is of a lower or much lower standard than that in the Netherlands. Often no public transport option is available for a travel route or the service is too irregular, uncomfortable, unhygienic or unsafe to expect employees to use it. Travelling by public transport may also be undesirable in special cases because it is inappropriate for the representative purpose of the trip or due to personal circumstances such as the employee's state of health. In such cases the option is available for employees to travel in their own vehicle, in an official vehicle or by air.

If public transport is not an option and if the use of the employee's own vehicle or an official vehicle is not possible or desirable in the opinion of the employer, the employee may, under article 4.17, travel by air.

On official trips abroad by train, an employee is entitled to travel in first class or equivalent at the employer's expense if a ticket is available in that class for the journey in question. An employee may however opt to travel in a lower fare class. On trips for the purposes of training, an employee is to travel in second class or equivalent.

In principle, the employer provides the employee with a ticket. With prior permission from the employer, an employee may instead purchase a ticket and be reimbursed for the costs up to a maximum amount equal to the price of the ticket to which the employee is entitled.

Article 4.18 Hired vehicle or taxi

The costs of using a taxi for local or regional transport or a hired vehicle for regional transport are eligible for reimbursement if, in the opinion of the employer, this use is in the interest of the service.

Article 4.19 Subsistence costs

An employee receives a subsistence allowance to cover the costs of meals, accommodation and minor expenses necessarily incurred during an official trip or a trip for the purposes of training. The subsistence allowance is based on the lists of rates for subsistence costs that apply to Dutch civil servants on the grounds of the collective labour agreement for central government (CAO Rijk). This means a local employee receives the same subsistence allowance as a staff member posted to the mission would for the same trip. For trips to countries other than the Netherlands the list of rates in appendix 7 *List of rates for subsistence costs on official trips abroad* (*'Tarieflijst verblijfkosten buitenlandse dienstreizen')* of the collective labour agreement for central government applies. For trips to the Netherlands part 10.2 *Official trips in the Netherlands* of the collective labour agreement for central government (CAO Rijk) applies.

There is no entitlement to a subsistence allowance:
- for official travel of less than four hours' duration;
- for the air travel portion of a journey, with the exception of costs necessarily and demonstrably incurred for meals on board; and
- for a visit home during a lengthy official trip, with the exception of costs incurred during the journeys between the places of temporary stay and permanent residence.

Accommodation costs are reimbursed on the basis of the actual costs, subject to the maximum amount given in the list of rates. Unless the employer paid for the hotel, a hotel bill must be submitted. If no hotel bill is submitted an amount of € 11.34 is reimbursed for each night's accommodation for up to four nights. In exceptional circumstances, the actual accommodation costs may exceed the maximum amount given in the list of rates. Where possible the employee must submit a written request for reimbursement of the higher amount in writing to the employer in writing before the trip, stating the name of the hotel, the price per night and why it is necessary to stay in a more expensive hotel.

The flat-rate amount for other costs covers the following expenses:
- a breakfast allowance equal to 12% of the amount of the standard allowance for other costs (for each period between 6.00 and 8.00 on days that breakfast is preceded by an overnight stay at the employer's expense);
- a lunch allowance equal to 20% of the amount of the standard allowance for other costs (for each period between 12.00 and 14.00);
- a dinner allowance equal to 32% of the amount of the standard allowance for other costs (for each period between 18.00 and 21.00), and
- an hourly allowance for minor expenses equal to 1.5% of the amount of the standard allowance for each hour of travel.

If an official trip lasts more than 60 days, the allowance for subsistence costs is halved from the 61st day, or earlier if circumstances so warrant.

Meal allowances may be claimed only if the period referred to falls entirely within the official trip and if costs were incurred for meals at an establishment intended for that purpose.

The hourly allowance must be used to cover costs or additional costs including for the following:
- local transport abroad, such as journeys by tram, bus, metro or taxi;
- drinks and snacks;
- recreational activities;
- local work-related phone calls and personal international phone calls;
- postage and tips;

– credit cards charges.

The hourly allowance is a flat-rate amount. No supporting documents need to be submitted for costs covered by this allowance.

Reimbursement of the following costs can be claimed separately on submission of supporting documents:
– charges for buying foreign currency;
– costs of photos for visas;
– costs of vaccinations and medication prescribed by the occupational health service;
– travel costs to and from the railway station, port or airport in the employee's country of residence. These journeys must in principle be undertaken by public transport;
– airport tax;
– travels costs from the railway station, port or airport of destination to the hotel;
– costs of work-related international phone calls;
– costs of taxis or hired vehicles if the employer is of the opinion that their use is in the interests of the service.

Article 4.20 Benefits in kind provided by the employer

In some cases the employer provides overnight accommodation during an official trip or a trip for the purposes of training. If an employee does not make use of the accommodation provided by the employer, the costs of accommodation elsewhere will not be reimbursed.

If the employer provides meals during an official trip or a trip for the purposes of training the cost of meals purchased elsewhere will not be reimbursed, unless the employee can demonstrate that it was not reasonably possible to take the meals provided by the employer.

Article 4.21 Reimbursement of other costs relating to official travel or travel for the purposes of training

Paragraph 1 allows an employee who undertakes an official trip or a trip for the purposes of training lasting at least seven days, including days spent in transit, to submit a claim for the cost of laundering clothing that the employee expects to wear again during the trip. This provision is intended to prevent the employee having to take large amounts of clothing for longer periods of travel.

Only those days spent on travel in the interests of the service, including days spent in transit, are taken into account. This means that any extra days of travel in the interests of the service as referred to in article 4.13, paragraph 2 will be included, but not any extra days of travel for private purposes as referred to in article 4.13, paragraph 4.

The employee will be required to provide a receipt for the laundry expenses incurred. If the employer has any doubts as to the necessity of the expenses incurred (for example, because considerable expense was incurred just prior to the return journey) the employee can be asked to submit an itemised bill showing what clothing was laundered and when it was laundered.

Paragraph 3 provides that an employee who undertakes a trip abroad is eligible for reimbursement of the costs of vaccinations and medication prescribed by the occupational health service, in so far as these costs are not reimbursed under health insurance or otherwise. Over-the-counter pharmaceutical products found in most homes, such as mosquito repellent, are no longer eligible for reimbursement.

The costs of work-related international telephone calls can be claimed separately.

Article 4.22 Clothing costs

An employee who undertakes an official trip or a trip for the purposes of training to an area where the climatic conditions or other special circumstances differ significantly from those in the country where the employee works is entitled to an allowance covering 50% of the clothing costs incurred. The maximum allowance per calendar year is € 226.89 for locations with a tropical climate and € 226.89 for locations with a polar climate, bringing the total maximum allowance per calendar year to € 453.78. An allowance towards clothing costs is awarded on submission of supporting documents if the employer is of the opinion that it was necessary for the employee to purchase the clothing. The supporting documents must show that the clothing was purchased for the purposes of a specific trip. For that reason supporting documents will, in principle, only be accepted if they relate to purchases made no more than four weeks before the date of the outward journey of the trip in question.

Article 4.23 Costs related to sickness, accident or the loss, theft of or damage to luggage

If an employee demonstrably and necessarily incurs costs during an official trip or a trip for the purposes of training as a result of sickness or an accident, the employer may reimburse these costs. This also applies if an employee demonstrably and necessarily incurs costs as a result of the loss, theft of or damage to luggage the employee needed to take on the official trip or the trip for the purposes of training. The maximum amount reimbursed for the loss, theft of or damage to luggage is € 2,268.90 per trip.

Needless to say the employee will only be reimbursed for costs that are not reimbursed in any other way, for example under a health insurance or travel insurance policy.

§ 6 Reimbursement of other costs

Article 4.24 Reimbursement of hospitality and related costs

Each mission has a budget to cover hospitality costs. If an employee or a staff member posted to the mission incurs hospitality costs in carrying out the mission's hospitality policy at the request of the employer, these costs will be either fully or partially reimbursed in accordance with the rules applicable at the mission. Hospitality costs may include, for example, expenses incurred by the employee for providing food and drink for a reception or dinner.

Other related costs incurred by an employee, such as the costs of appropriate dress and the costs of travel to and from work, are reimbursed if this is in keeping with local regulations or local usage (paragraph 2). Under paragraph 3, provision for the reimbursement of these other costs should be made in the mission version if such reimbursement is in keeping with local regulations or local usage.

Article 4.24a Homeworking allowance

Local employees who work from home incur costs, for example for water, energy, coffee and tea. Local employees who work from home with the permission of their manager are entitled to receive an allowance to help offset the costs they incur on the days they work from home if they satisfy a number of conditions.
The employee must have worked from home their entire working day, and their working day must have been at least four hours. No allowance will be paid for days on which an employee works part of the day from home and part of the day at the chancery or elsewhere, or works less than four hours in total for whatever reason (including sickness, vacation or (special) leave).
In order to avoid the accumulation of provisions, the homeworking allowance will not be paid for days on which an employee works from home if:

- the employee already receives a comparable allowance or tax exemption for homeworking under local employment or tax law;
- the employee receives a comparable allowance under the mission version or another arrangement provided by the employer;
- the employee is eligible for an allowance or public transport pass for travel between home and work or for a meal allowance, under local law, the mission version or another arrangement provided by the employer.

The homeworking allowance per day is equal to 10% of the gross hourly pay corresponding to the highest pay number of pay scale 7 that applies on the date of payment at the mission where the employee works.
Employees may submit a claim each month or, in order to reduce the administrative burden for themselves and the mission, they may opt to submit claims every three or six months, for example. If an employee does not claim the homeworking allowance within six months after the month in which they worked from home, entitlement to the homeworking allowance will lapse.

Article 4.25 Indemnification

This article allows the employer to provide fair compensation for damage or to reimburse costs in whole or in part, where reasonable, in individual cases where no other provision of these Regulations or the mission version applies. This may be the case, for example, when an employee, in the course of their duties and through no fault of their own, suffers damage to their personal property which should reasonably be borne by the employer. This would be the case if, for example, the damage resulted from the negligence of the employer or exceptional risks to which the employee is exposed in the course of their work.

Paragraph 2 details the arrangement covering accidents or sickness connected with the performance of duties. Under the arrangement, a one-off payment is awarded in the event of the death or perma-

nent disability of an employee as a consequence of an occupational sickness or work-related accident. For the purposes of this article, the terms 'work-related accident' and 'occupational sickness' are taken to have the meaning attributed to them in article 5.10, paragraph 3. The sum payable is 1.5 times the gross annual salary amount in the case of death and up to 3 times the gross annual salary amount in the case of permanent disability. For this purpose the annual salary amount of any employee is taken to be the maximum monthly salary amount on scale 7 in accordance with the mission version, multiplied by 12.

Amounts are paid net. Any local or Dutch tax is paid by the employer. The amounts disbursed include any payments made on other grounds, in so far as the employer paid or reimbursed the associated costs. This means that if the employee had travel or other insurance which pays out in the event of death or permanent disability, and the employer reimbursed the employee for the premiums for this policy, any payment made under the policy is deducted from the payment referred to in this arrangement. The same applies if the employer took out travel or other insurance for the employee. Any payment made under an insurance policy which an employee took out at their own expense is disregarded.

A payment will be awarded under this provision only if there is a causal connection between the employee's death or permanent disability and the performance of duties. It follows that local employees are not covered, for example, for the consequences of an accident that occurs while travelling to or from work or while visiting a local market in their private capacity during a work break, for contracting an infectious tropical disease at the duty station or for injury caused during disturbances at the duty station unrelated to the mission. In such cases there is no entitlement to the payment provided by this arrangement. A claim may be made, for example, where an accident occurs during a prison visit or other official trip, whether abroad or in the country where the mission is located, or as a result of an attack directed against the mission.

The amount of the payment in the case of permanent disability depends on the degree of disability, which is determined in accordance with the criteria of the American Medical Association's Guides to the Evaluation of Permanent Impairment (AMA Guides).

Where the employer judges this to be fair and reasonable, the payment may be increased if an insurance policy taken out on the life of the employee does not pay out because the death is a consequence of an act of war or the like. However, this is possible only if the act in question can be shown to be closely connected with the performance of duties at the mission, for example where a terrorist attack specifically targets the mission. If the payment in such a case is insufficient, for example, to pay off a mortgage, the employer can, where fair and reasonable, award an additional payment pursuant to paragraph 7 to cover the rest of the redemption, provided that the mortgage is proportionate to the employee's salary.

§ 7 Setoffs and payments

Article 4.26 Setoffs

This article contains a general provision enabling the employer to set off amounts of any kind which it is owed by the employee against the employee's salary and against all allowances and other payments and reimbursements referred to in chapter 4.

Article 4.27 No payment if duties not performed

This article provides that an employee is not entitled to salary or other payment in respect of a period during which the employee has not performed their duties, except where entitlement to such payments exists under any provision included in these Regulations or the mission version, for example in the event of sickness, pregnancy or holiday. It follows that such a period does not count towards the period of service for the purpose of calculating supplementation. If, for example, an employee does not work as a result of being in custody or being committed for failure to comply with a judicial order, that employee is not entitled to salary or any other payment. In special circumstances the employer may apply the hardship clause (article 1.9) to the benefit of the employee.

Article 4.28 Currency; fixing and payment

These Regulations provide that in principle an employee's financial entitlements (salary, allowances etc.) should be fixed and paid in the same currency used by the marker organisations. Article 4.28, paragraph 2 enables HDPO in exceptional cases to fix or pay financial entitlements in a currency other than that used by the marker organisations. Where this occurs, the entitlement is converted at the exchange rate applied at the time of payment by the Director of the Financial and Economic Affairs

Department of the Ministry of Foreign Affairs for payments to third parties. Generally speaking, all payments are made in the country where the mission is situated. In accordance with paragraph 5, salaries are paid monthly. Allowances need not be paid monthly. How frequently allowances are to be paid should be specified in the mission version.

Chapter 5 Social provisions, occupational health support, sickness and pregnancy

§ 1 Social provisions

Participation in the local social insurance system; general provisions

Chapter 5 of these Regulations contains rules on the applicable social security system. The general rule is that employees are registered with the local social security system if there is an obligation to do so or if, where such an obligation does not exist, there are good opportunities for voluntary participation.

Opting for the Dutch social insurance system; general provisions

The Netherlands has concluded bilateral social security agreements with a number of countries. Under these agreements it is often possible for employees with Dutch nationality who are working at a mission to choose to insure themselves under the Dutch social security system. In many cases this decision must be made within a given period (three or six months) after the start date of employment and is often retroactive to that date. Once the choice has been made it cannot be altered during employment. An employee who takes no action will generally be automatically insured under the local social security system.

Under Regulation (EC) No 883/2004, a local employee working in an EU country or in Switzerland or Norway is insured under the local social security system from the date on which employment starts. In exceptional circumstances, the competent authorities can decide that a social security system other than the local one applies to a local employee.

Article 5.1 General

The mission version states whether a social security system applies to local employees and, if so, which one.

§ 2 Employees to whom the local social security system is applicable

Article 5.2 Registration with the local social security authorities

Paragraph 1 states that 3W is responsible for registering local staff with the local social security authorities in two cases: first, where participation is compulsory and, second, where participation is possible, albeit not compulsory, and considered advisable by HDPO. Whether participation is advisable is determined by, among other things, the amount of the contributions to be remitted in relation to the amount and relevance of the resulting entitlement and the reliability of the local social security authorities. It is also necessary to examine, for example, what entitlements registration provides in the event of sickness (health insurance pay-outs and benefits in lieu of salary in the event of sickness during employment and, in particular, after the employment contract ends), unemployment, death and retirement. The general principle is that if voluntary participation in the local social security system is possible, the employee should be registered with the local social security authorities unless there are good grounds for not doing so. If the decision is made to participate, this decision is included in the mission version after consultation with the employee participation body at the mission. In general 3W designates an external service provider to register employees. However, if local peremptory law so requires, the mission registers employees. In some cases, under local regulations or in keeping with local usage it is the employee rather than the employer who has to register. The employer should check that the employee does actually register. If registration is carried out by the employer, it is advisable for the employer to inform the employee when registration has taken place, so that the employee can check that this has been done properly. This can prevent problems arising later on.

Article 5.3 Payment of contributions to the local social security authorities

As a rule, to participate in the local social security system contributions must be paid. The amount of the contributions and the manner in which they are divided between the employer and the employee are specified in the mission version. How they are divided should be determined in keeping with local regulations or local usage. 3W is responsible for remitting the contributions and usually designates an

external service provider for this purpose. If local peremptory law so requires, the mission remits the contributions.

§ 3 Employees to whom the Dutch social security system is applicable

Article 5.4 Registration with the Dutch social security authorities

The employer arranges the employee's registration with the Dutch authorities in the event of participation in the Dutch social security system.

Article 5.5 Payment of contributions to the Dutch social security authorities

Under paragraph 1, if the employee is insured under the Dutch social security system, the employer's and employee's contributions are remitted by 3W to the relevant authorities in the Netherlands. Since the general principle is that the employee is subject to local social security legislation, paragraph 2 specifies that the contributions which the employee would owe if the local social security system applied are withheld from the employee's salary. This is in keeping with the underlying principle of these Regulations that employees who perform the same work should, in so far as possible, receive the same net salary, regardless of whether and where they are liable to pay tax on their salary and whether or not they participate in the local social security system.

§ 4 Employees to whom neither the Dutch nor the local social security system is applicable

Article 5.6 General

If an employee is unable to participate in either the local or the Dutch social security system, an amount equal to the amount which the employee would owe in local social security contributions if the local social security system applied is deducted from the employee's gross salary. This is stated in article 5.6, paragraph 1 and is in keeping with the underlying principle of these Regulations, as explained above, that all local employees should receive equal net salary for equal work. In such cases article 5.6, paragraph 2 provides for the possibility of specifying in the mission version that the amount of the employee's contribution that would be withheld if the local social security system were applicable plus the amount that would be owed in employer's contributions if the local social security system applied may be paid out to the employee fully or partially each month. These amounts can then be used by the employee as the employee sees fit, for example to arrange cover for unemployment, disability, surviving dependants' benefits and old age pension, whether through an insurance policy, a (blocked) savings account or otherwise.

In addition, the mission version contains a provision determining to what extent the employee is still entitled to a supplement under chapter 9, taking account of the extent to which the employee misses out on rights under the local social security system in relation to the entitlement to a supplement.

§ 5 Occupational health support

Article 5.7 General provisions and computer glasses

An employee's good health is important not only to the employee but also to the employer. Paragraph 1 of this article therefore provides that the head of mission is responsible for the occupational health support provided to employees and is assisted in this respect by an occupational health service. Often this will be a doctor or institution of good local repute. Under paragraph 2, the head of mission designates an occupational health service after consulting with the employee participation body or, if no such body exists, with all the staff at the mission during a staff meeting. The head of mission then informs all staff working at the mission of the decision.

Given the importance of good health, paragraph 3 requires an employee to follow the instructions of the competent medical officer. An employee can only be advised, not ordered, to undergo an invasive medical procedure, such as surgery.

Article 5.8 Medical examination

Under paragraph 1, an employee may take the initiative to consult the occupational health service about work-related health problems. An employee may also request the employer to arrange for an examination by or on behalf of the occupational health service in connection with health problems which may be work-related. The cost of the consultation and examination are borne by the mission.

Paragraph 2 provides that an employee can be instructed to undergo a medical examination if the

employer has reason to doubt that the employee is in good health. A medical examination can also be carried out to determine whether medical factors are responsible for an employee's inability to perform some or any of their duties. Such an examination might also be necessary to determine what duties the employee is still able to perform. The employee is obliged at all times to comply with a request to undergo a medical examination. Failure to submit to such an examination can be treated as dereliction of duty.

Under paragraph 3 the employer can suspend an employee if a medical examination shows that the employee's physical or mental condition is such that it is not in the interests of the employee, of the service or of third parties for the employee to continue working. This could be the case, for example, if the examination shows that the employee is suffering from an infectious disease. An employee who is suspended under this article is deemed to be sick. In such cases employees remain on full salary or receive a percentage of their salary for a given period in accordance with the relevant provision of the mission version (see article 5.11).

§ 6 Medical expenses

Article 5.9 Contribution towards medical expenses

Each employee at a mission and their family members as defined in article 1.1 should be sufficiently covered against medical expenses incurred in the country in which the mission is located. The general rule is that medical care should, where possible, be provided locally or otherwise under the social security system. In this case, there are statutory rules that regulate how the contributions should be paid and how they should be divided between the employer and the employee. If the applicable social security system provides insufficient or no cover for necessary medical expenses and private insurance or private supplementary insurance has to be taken out, the employee is entitled under article 5.9, paragraph 1 to a contribution towards the premium for such insurance in accordance with local regulations or local usage. No contribution is paid towards the employee's part of the premium for health insurance under the applicable social security system. The part of the premium for private health insurance that is reimbursed is specified in the mission version and is in keeping with the practice of the majority of marker organisations.

Another possibility is for the mission to take out a group health insurance policy for its employees and to charge a monthly premium for this. The conditions of the insurance and the amount of the premium will in that case be in keeping with the practice of the majority of the marker organisations.

Paragraph 2 defines the parameters for the health insurance that is taken out. The insurance must provide cover for medical expenses incurred in the country where the mission is located and be chosen on the basis of what is most economical for the employer, while at the same time making reasonable allowance for the employee's interest in having adequate insurance and for local circumstances and the health insurance that marker organisations offer their employees. These parameters are intended to prevent health insurance policies being taken out at the employer's expense that provide first class coverage of hospital admission and nursing costs.

For the sake of clarity, paragraph 3 provides that medical expenses not reimbursed by the insurer are not eligible for reimbursement by the employer.

If HDPO is of the opinion that there is no possibility of taking out adequate individual or group health insurance and there is no existing entitlement, for example through the employee's partner, to a contribution towards or to reimbursement of medical expenses necessarily incurred and borne by the employee, a contribution towards these costs may be awarded under paragraph 4. Any such contribution must be towards medical expenses incurred in the country where the mission is located. Medical expenses incurred elsewhere are eligible for a contribution only if the marker organisations also provide a contribution toward such costs.

Employees may be required to pay a contribution, irrespective of whether they incur medical expenses. The amount of the contribution should be in keeping with the practice of the marker organisations. In addition, some categories of medical expenditure may be excluded from reimbursement or be subject to a ceiling, once again taking account of the practice of the marker organisations.

This article also allows a contribution to be made to medical expenses of the employee's family members (as defined in article 1.1) which are necessarily incurred and are borne by the employee, if the family member's income from employment or a business in the calendar year concerned does not exceed the employee's salary. The income of the family member concerned is taken into account in the calculation of the threshold amount.

Contributions towards medical expenses are granted for a full calendar year. The right to a contribution lapses automatically if no written request for a contribution has been made within six months of the end of the calendar year.
If, in the course of a calendar year, the employee is faced with substantial medical expenses which are eligible for reimbursement under this article and which the employee is unable to meet pending reimbursement, the head of mission may, pursuant to paragraph 7, determine that the employee should receive an advance on the contribution towards medical expenses. If the employee does not submit a request for reimbursement of medical expenses or does not do so in time, the employee must repay the advance.

Paragraph 8 provides that part-time employees are entitled to a proportionate part of the contribution towards medical expenses. This means that if an employee works 24 hours a week and full time is 36 hours, the contribution is 24/36ths (two-thirds) of the full contribution.

Finally, paragraph 9 provides for the possibility of enabling an employee whose employment contract has ended to continue participating at their own expense in the group health insurance policy taken out by the employer. This is conditional upon the cooperation of the insurer. This possibility also applies to members of the employee's family. Such an option is of particular relevance to employees who retire and would then be unable to take out health insurance or would be able to do so only at a much higher premium or with certain exclusions. The head of mission may set conditions for such participation.

Whether an ex-employee and an ex-employee's family members may continue participating in the group health insurance at their own expense, and the conditions on which this may occur, are specified in the mission version. One such condition might be that the ex-employee pays the premium directly to the health insurer and not through the employer.

Article 5.10 Reimbursement of medical expenses in the event of a work-related accident or occupational sickness

If an employee has incurred medical expenses in the country where the mission is located as a result of an occupational sickness or work-related accident for which the employee is not responsible and these expenses are not reimbursed by an insurance company, a third party or the employer under article 5.9, they will be reimbursed to the employee under this article. In the event of a work-related accident which takes place during an official trip abroad, the medical expenses necessarily incurred outside the country where the mission is located are also reimbursed.

An occupational sickness or work-related accident exists only if the sickness or accident is demonstrably caused by work performed by the employee and there is a significantly increased risk resulting from the nature of the work or the special circumstances under which it had to be performed. For example, there would be no entitlement under this article for an employee who is injured by tripping over a doorsill in the embassy building or for an employee who suffers from stress at work despite there being no excessive pressure of work or other special circumstances. However, an in-house emergency officer who falls down the stairs while rushing to answer an emergency call or a driver who is involved in a traffic accident will be entitled to reimbursement under this article.

A contribution will not be forthcoming in cases where the sickness or accident is attributable the employee. In the case of a driver as referred to above, this would apply if the driver was driving recklessly or at an excessive speed other than on the instructions of the head of mission.

§ 7 Sick pay

Article 5.11 Continuation of salary payment in the event of sickness

Employees who are unable to perform their duties due to sickness will continue on full salary for a given period. The period of entitlement to continuation of salary payment and the percentage of salary that continues to be paid must be in keeping with the practice of the majority of the marker organisations and be specified in the mission version. The mission version also includes a provision indicating after what period the employment contract can be terminated on account of sickness, once again in keeping with the practice of the majority of the marker organisations.

If an employee is sick 'off and on' and the intervening periods are less than 31 days, the periods of sickness are added together for the purposes of calculating the period referred to in paragraph 1.

Paragraph 5 provides that an employee who is partially unfit to work receives full salary for the number of hours that the employee is medically fit to perform their duties or other suitable duties and

actually performs – or in any event offers to perform – that work.

Under paragraph 6, any claims to which an employee is entitled under the social security system will be deducted from the full or partial salary that continues to be paid during sickness.

Article 5.12 Limitation of salary entitlement

Article 5.11 lays down the general rule that employees who are unable to perform their duties due to sickness will continue to receive full salary or a percentage of their salary for a given period. However, in a number of situations this rule does not apply and there is no entitlement to continued payment of salary. These situations are listed in article 5.12:

a. if sickness has been feigned or has been exaggerated to such an extent that unfitness for work cannot be presumed;
b. if the employee has caused the sickness intentionally or through gross negligence;
c. if the sickness occurs within six months of the employee undergoing a medical examination and the employee is found to have provided incorrect information or concealed relevant information during the examination;
d. during a period that the employee:
    1°. refuses to undergo a medical examination;
    2°. refuses without a valid reason to undergo medical treatment or fails to obey the instructions given by the treating physician;
    3°. acts in such a way as to hinder or delay recovery;
    4°. works for themselves or for third parties during the period of sickness, unless this is considered by the occupational health service to be desirable in the interests of recovery;
    5°. refuses to return to work on the date specified by the occupational health service and for the number of hours specified by the occupational health service; or
    6°. refuses, without good grounds, to accept an offer of work which is suitable and which the occupational health service believes the employee is capable of performing.

§ 8 Pregnancy and birth

Article 5.13 Provisions in the case of pregnancy and birth

The duration of pregnancy and maternity leave is sixteen weeks or such longer period as is prescribed by local peremptory law or is in keeping with the usual practice of the majority of the marker organisations. During this period the employee continues to receive her full salary. However, she may be entitled to social security benefits on account of her pregnancy and maternity leave. If so, such benefits are deducted from her salary. This is regulated in paragraph 2 of this article.

Article 5.14 Employee who is breastfeeding

An employee who is breastfeeding must be given the opportunity to interrupt her work to breastfeed her child or to express breast milk. Under international agreements she should have this opportunity until her child is nine months old. The employee concerned should determine the timing and duration of the interruptions with the employer.

An employee who works full-time is allowed to breastfeed her child or to express breast milk for a maximum of one hour a day. This time allowance is reduced proportionately for part-time employees. These periods are treated as work time for which the employee is entitled to payment of salary.

Article 5.15 Prohibition of termination of an employment contract during pregnancy

The employment contract of an employee who is pregnant may not be terminated by the employer during pregnancy unless the termination is demonstrably unrelated to the pregnancy. For example, a pregnant employee who commits fraud can be dismissed (summarily or otherwise) for this reason.

This protection afforded to the employee lasts until six weeks after the end of the maternity leave. This extension of protection is conditional upon the employee returning to work after maternity leave. A fixed-term employment contract ends automatically (see article 8.1). This also applies if the employee is pregnant or has recently given birth and the employment contract ends during the period referred to in this article.

Chapter 6 Other rights and obligations

§ 1 Obligations and prohibitions

Article 6.1 Good conduct as an employee and oath or affirmation

Under this article employees are obliged to conduct themselves as befits a good employee and to perform the duties arising from their employment contract conscientiously and diligently. Employees are required at all times to be conscious of the fact that they are working for a representation of the Kingdom of the Netherlands in a foreign country and of the high demands this places on them, particularly as regards discretion and integrity.

As soon as possible after the start of employment the employee must take the oath or make the affirmation worded in paragraph 2.

Article 6.2 Reporting obligations

Employees who are unable to perform their duties on account of sickness or for other reasons are obliged to report this at the earliest possible opportunity to the mission. The mission version states how this should be done (for example by telephone, email or fax) and who should be notified. Employees who are unable to perform their duties should always provide the mission with an address where they can be visited or a phone number where they can be reached. Failure to fulfil this obligation constitutes dereliction of duty, unless the employee can show that no blame attaches to them.

Paragraph 2 of this article states that if circumstances or changes occur which affect or may affect the rights and duties established by these Regulations or the mission version, the employee must notify the employer immediately but in any event within seven days after their occurrence. Examples are changes of address, changes to the composition of the employee's family and cancellation of a driving licence required for the performance of the job. Notification must be made in writing. In principle, failure to fulfil this obligation constitutes dereliction of duty.

Article 6.3 Outside work and acting as a contractor

This article obliges an employee who performs or intends to perform any outside work to notify the employer of this. This obligation applies only to outside work which might touch upon the interests of the service, in so far as such interests relate to the employee's performance of duties. Outside work includes holding positions with other organisations, conducting business and acting as a supervisory director or executive director of a company, foundation or association or as partner in a partnership.

Under paragraph 2 the employer is obliged to keep a record of the information about outside work. Paragraph 3 prohibits an employee from performing outside work which could, in the opinion of the employer, adversely affect the employee's proper performance of duties or the smooth operation of the mission. Paragraph 4 prohibits an employee from taking part in tendering and contracting for public services. Exemption from this provision may be granted only if the employee concerned is not and cannot be involved in any way in the decision on the tenders or contracts.

Article 6.4 Rewards, donations and promises of third parties

Under this article employees may not demand, request or accept rewards, donations or promises from third parties without the consent of the employer.

Article 6.5 Official work clothes and wearing of insignia

Article 6.5 provides that an employee is required to wear official work clothes and insignia if prescribed by the employer and to do so in the prescribed manner. Paragraph 2 specifies when official work clothes must be replaced, namely once they exhibit wear and tear. Paragraph 3 provides that the employee is responsible for maintaining and cleaning official work clothes and bears the costs of this. After all, employees who do not receive official work clothes from the employer are responsible for cleaning the clothes that they wear while carrying out their duties at the mission, and bear the costs for this. However, different rules apply if the majority of the marker organisations reimburse their employees fully or partly for such costs, or if local peremptory law requires this. In that case these costs are borne by the employer to the same extent, and the relevant mission version includes a provision to this effect.

The provision forbidding employees to wear badges or other insignia other than at the instruction of

or with the permission of the employer only applies to employees who wear official work clothes.

Article 6.6 Place of residence

If necessary for the proper performance of their duties, employees may be obliged under this article to reside in a given place or area. This is the case where an employee has to be able to reach the mission quickly from their home owing to the nature of the job. Similarly, an employee is required to move to the vicinity of the mission if commuting places or may place an undue physical or mental burden on the employee. Depending on whether the marker organisations pay certain costs (such as removal and transport costs) in these cases, the employee can be reimbursed for such costs under article 4.24.

Article 6.7 Instructions to perform other duties

Under this article an employee may be instructed temporarily to perform other duties. Naturally, these must be duties which the employee concerned can reasonably be expected to perform in view of the employee's background, experience and education. If an employee performs other duties for longer than one month and these duties are classified more highly than the employee's own duties, it is appropriate to remunerate the employee accordingly. This may take the form of a bonus under article 4.6. It goes without saying that the employee concerned must have performed these temporary duties properly.

Article 6.8 In-house emergency service

Under this article the head of mission can appoint one or more employees as in-house emergency officers to assist in the event of an accident or fire and thus ensure the safety and health of employees as far as possible. For this purpose, assistance means in any case first aid in the event of accidents, fire control, firefighting and accident prevention, raising the alarm in emergencies and evacuating employees, and working with external emergency services. Employees who have been appointed as in-house emergency officers are obliged to maintain their proficiency by attending all refresher lessons and exercises organised for in-house emergency officers. Employees who fulfil this obligation are also entitled to an in-house emergency service allowance as referred to in article 4.7.

§ 2 Staff residences

Article 6.9 Staff residences; general provisions

At some missions it is standard practice for an employee to be given use of a staff residence. The conditions for the provision of such accommodation are set out in the mission version. These include the rent to be paid by the employee for the accommodation and the extent to which the employee is responsible for minor maintenance. Staff accommodation is not let on an ordinary tenancy since it is made available to employees in their official and not their personal capacity. The staff residence therefore ceases to be available to the employee when the employment contract ends.

The provision of staff accommodation is treated by the Dutch Tax and Customs Administration as salary in kind on which salaries tax and social insurance contributions are owed. For this purpose, the value of the accommodation is fixed at its going rate, which means the rental which the accommodation would produce if it were let on the open market.

Article 6.10 Use of staff residences by surviving family members

As noted in relation to article 6.9, staff accommodation is made available to employees in their official and not their personal capacity. This means that the accommodation must be vacated at the end of the employment contract. In the event of an employee's death the employment contract ends. After the death of the employee the accommodation must therefore be vacated by the employee's family. The general rule is that the family members may remain in the accommodation during the month in which the employee dies and the following three months. This period can be shortened by the employer in the interests of the service, for example if the accommodation is in the grounds of the embassy and is intended for a security officer. In this case the family members of the deceased employee will receive fair compensation. The amount of the compensation depends on the circumstances and will therefore differ from case to case.

If rent was payable by the employee for the use of the staff residence, the surviving family members must also pay rent for the time during which they continue to occupy the residence. As the employee's salary ceases upon the employee's death and is replaced by a lower benefit supplement or pension for the surviving dependants, it is only reasonable that the amount charged for the remaining period of occupation of the staff residence should be reduced to 50% of the original rent. This amount may be

deducted from any benefit supplement that is awarded to the surviving dependants.

§ 3 Training

Article 6.11 Mandatory training

Training is essential if an employee is to perform well and continue doing so. Training includes all courses and programmes designed to increase proficiency or general skills. This article deals specifically with training in the interests of the service. Paragraph 2 provides that the costs of training are fully reimbursed by the employer. Under paragraph 3 an employee can be granted paid training leave.

Paragraph 4 provides that an employee who undergoes training can be required in certain circumstances to repay the amount reimbursed for the training. Before starting a training course the employee should therefore be expressly informed, preferably in writing, of the situations in which repayment could be required, such as failure to attain a satisfactory result or complete the training course. However, repayment may be required only if the unsatisfactory result or failure to complete the course is due to the employee's own fault or actions. Other situations in which repayment may be required are where the employee terminates the employment contract or is dismissed as a consequence of culpable actions during the period of training or within two years after successful completion of the course. Repayment is not required in any event if an employee who is the partner of a staff member posted to the mission terminates the employment contract at the mission as a consequence of that staff member being transferred.

Where employment is terminated within two years of the successful completion of training, a maximum of 1/24th of the amount reimbursed may be reclaimed for each month remaining before the end of the two-year period. The repayment obligation does not apply if termination of the employment contract is not due to the employee's own fault or actions (for example, where the employee is made redundant during a reorganisation) or if the employee enters the service of another Dutch government body within one month or is entitled to benefit as referred to in chapter 9 after termination of employment.

Article 6.12 Training on the employee's initiative

An employee who takes the initiative to undergo training can be fully or partially reimbursed for the costs of the training and granted training leave even if the course is not strictly necessary for the purposes of the service. Training costs include course fees, examination fees and the costs of obligatory course material. The employee can in certain circumstances be required to repay the amount reimbursed for the course. The same conditions apply as in the case of mandatory training.

§ 4 Introductory interviews, staff interviews and assessments

Article 6.13 Introductory interviews

Employee performance is a subject that deserves close attention. Introductory interviews are one of the instruments that can be used for this purpose. An introductory interview is a conversation between the employee and the manager in which clear agreements are made about the content of the work, working with others and the employee's personal development, so that both the manager and the employee know where they stand. An introductory interview takes place within a month after the employee enters employment or a new manager starts work. The basis of the introductory interview is the job description. A report must be drawn up of the interview.

Article 6.14 Staff interviews

In the staff interview the employee and the manager discuss the employee's tasks, knowledge, skills and competences to be developed, integrity, a safe and supportive working environment, diversity and inclusion, the employee's potential and career, mobility and other working conditions. Aside from the staff interviews, the employee and the manager are expected to give each other regular feedback throughout the year on job performance (achieved and envisaged results), sustainable employability (development) and the conditions needed to achieve these.

Article 6.15 Assessments

At the request of the employee or on the initiative of the employer, a one-sided, formal assessment can be drawn up by the employer in accordance with the guidelines adopted by the employer.

§ 5 Reorganisation

Article 6.16 Developing a plan of action

Article 6.16, paragraph 1 requires the employer to draw up a plan of action if an alteration that would affect the legal status of five or more employees is to be made to the organisation of a mission, or if the mission is to be closed. This includes a reorganisation on account of the elimination of specific jobs or a reduction of the number of similar jobs due to redundancy or as a result of a change in policy.

Paragraph 2 (f) provides that the planned measures to limit the impact on staffing are only included in the plan of action in so far as they deviate from the supplementary measures referred to in chapter 6, part 5 of these Regulations. This is most likely to occur if local peremptory law requires additional measures to be adopted for the benefit of employees. It could also occur in very special cases where the employer sees a need to adopt additional measures, in accordance with article 1.9, for the benefit of the job losers concerned.

Article 6.17 Adopting the plan of action

This article provides that the employer adopts the plan of action after consulting the employee participation body at the mission.

Article 6.18 General provisions

Articles 6.16 to 6.30 apply to job losers. Local employees with a fixed-term or open-ended employment contract are deemed to be job losers from the day on which the employer terminates their employment contracts as a result of their jobs ceasing to exist due to a reorganisation.

Employees with a fixed-term employment contract who were hired before the announcement of the reorganisation which led to their jobs ceasing to exist are also deemed to be job losers:
1°. if their employment contracts are not renewed by the employer as a result of their jobs ceasing to exist; or
2°. if the employer notifies them orally or in writing that their employment contracts are not expected to be renewed as a result of their jobs ceasing to exist.

Article 6.18 also expressly allows the employer to designate employees as job losers, orally or in writing, even before their employment contracts are terminated, from the moment termination is expected to be necessary. Such a moment could arise when the minister has decided to abolish a specific job or close a mission in a year's time. This will enable affected employees to improve their position in the labour market well before losing their job, for example by undergoing training or making preparations to set up a business.

If at any time it becomes apparent that a designated job loser's employment contract will not need to be terminated after all, the employer will notify the job loser orally or in writing, after which the employee will no longer have job loser status and any entitlements associated with that status will no longer apply. This situation can arise if it emerges that the employee's job will not cease to exist after all or if it becomes clear that the employee can be assigned to a different job at the mission. An employee will not be required to pay back any benefits already received under the supplementary measures, because at the time the benefits were granted the employee had job loser status and was therefore entitled to receive them.

If the abolition of the job coincides with the date on which a fixed-term employment contract ends, and the employer therefore does not need to terminate the contract, articles 6.16 to 6.30 will not apply. In this case, the employee knew when entering into the contract that employment would end on the specified date.

Article 6.19 Support finding a job or setting up a business

The employer undertakes to support a job loser in finding a new job, for example by recommending the job loser to contacts or by offering job application training. At the job loser's request, the employer issues a letter of recommendation that describes how the job losers has served the employer. In addition, a job loser is granted up to five working days' special paid leave for job interviews and activities relating to setting up a business.

Article 6.20 Priority in the event of job vacancies

If the reorganisation of a mission entails not only the elimination of jobs but also the creation of new ones, job losers will in the first instance be given exclusive notification of the new jobs at the mission or at other mission in the same country, notwithstanding article 2.1, paragraph 1. The same principle will apply to vacancies that arise for existing jobs at the mission or at other missions in the same country. Other local employees at the mission and the partners of staff members posted to the mission may only be invited to apply for such vacancies if none of the job losers is found to be suitable or will be suitable within three months, for example after training.

Job losers are given two weeks to express interest in a vacancy. The head of missions may reduce this two-week period to one week in special cases where haste is required and no suitable candidate is expected to be found among the job losers at the mission or the other missions in the same country.

If more than one job loser has expressed interest in a vacancy in a timely manner and satisfies the job requirements or will be able to do so within three months, the most suitable candidate will be considered for the job. In special cases the employer may depart from this approach and select a job loser other than the most suitable one. This might be the case, for instance, if a job loser has a far longer period of service or a far weaker position in the job market.

Article 4.3, paragraph 1, which provides that the pay scale applicable to an employee is the pay scale attached to the employee's job, also applies to job losers who are selected for a different job at the mission in accordance with article 6.20.

Article 6.21 Termination

If a job loser cannot be assigned to a different job at the mission, the employer will terminate the employment contract with effect from the date on which the job ceases to exist. In special cases the employer may set a later date, for example if the employee can be temporarily assigned other duties. The date with effect from which an employment contract can be terminated in the event of reorganisation or closure of a mission can therefore vary from one job loser to the next.
An employee's fixed-term employment contract will of course not be terminated if the date on which the employee's job ceases to exist coincides with the contractually agreed date on which employment ends automatically.

In some cases, a job loser can be retained but for fewer hours than the job loser is currently employed to work. In such cases the job loser's employment contract is terminated in respect of the additional working hours. Of course, a job loser who accepts a job for fewer hours retains the entitlements (such as holiday hours and entitlement to supplements) accrued in the previous job.
The termination of the employment contract can be postponed for, in principle, up to six months, if a job loser is given the opportunity to perform similar work at another mission or another unit of the employer in the Netherlands (such as 3W WorldWide Working) to which the tasks in question have been transferred, at the job loser's own request and with the consent of the job loser's head of mission and the head of mission of the other mission concerned or the director concerned. Such a request will be granted only if the local authorities in the country in question permit the job loser to live there and perform the work in question. The performance of the duties in question is deemed official travel within the meaning of articles 4.12 to 4.23.

Article 6.22 Redundancy payment in the event of reorganisation

If the employer terminates a job loser's open-ended or fixed-term employment contract as a result of the job loser's job ceasing to exist, the job loser will be entitled to a transition redundancy payment equal to a month's salary for each year the employment contract or successive employment contracts have been in effect. A higher payment will be awarded if mandated by local peremptory law.

This is a deviation, to the benefit of job losers, from article 8.3, paragraph 1, second sentence, which provides that a transition redundancy payment of half a month's salary is awarded for each year the employment contract or successive employment contracts have been in effect.

The wording 'as a result of the job loser's job ceasing to exist' indicates that in a special case where a job loser is dismissed for a different reason, for example because the job loser has reached retirement age or because the job loser's job performance falls well below the standard required, the aforementioned increase in redundancy payment does not apply.

Under article 8.3, paragraph 1 (b), employees who terminate their employment contract themselves for a reason other than a seriously culpable act or omission by the employer are not entitled to a

transition redundancy payment (unless such a payment is mandated by local peremptory law). Article 6.22, paragraph 2 stipulates that, notwithstanding the aforementioned provision, job losers who terminate their own employment contracts receive a transition redundancy payment, amounting to half a month's salary for each year the employment contract or successive employment contracts have been in effect. This situation will arise primarily if a job loser accepts a job with a different employer before the job at the mission ceases to exist in order to avoid a period of unemployment. Any provision under local law prescribing a higher payment will prevail.

Aside from the two aforementioned deviations, article 8.3 applies in full to redundancy pay for job losers. This means among other things that the number of months' salary paid out as a transition redundancy payment must not exceed the number of calendar months between the date of termination and the employee's pension date as referred to in article 9.1, paragraph 1 (d). For instance, a job loser whose employment contract has been terminated by the employer after 10 years of service with effect from a date six months before the pension date will receive a transition redundancy payment of six months' salary rather than 10 months' salary.

Even in cases where neither the employer nor the job loser terminates a fixed-term employment contract, the employee may be entitled to a transition redundancy payment when the employment contract ends automatically because the period for which the contract was entered into has elapsed. Such entitlement exists where one or several successive fixed-term employment contracts have automatically expired, unless the employee has rejected an offer from the employer for a successive employment contract subject to the same or comparable employment conditions. In that case, under article 8.3, paragraph 1 (a), the employee receives a transition redundancy payment of half a month's salary for each year of service.

If a job loser can be retained but for fewer hours than that job loser is currently employed to work, the transition redundancy payment will be calculated in proportion to the number of hours in respect of which the contract is being terminated by the employer. This follows from article 8.3, paragraph 3. A comparable provision is set out in the closing sentence of article 6.22, paragraph 2 for cases where the job loser partially terminates the employment contract.

With regard to the other entitlements provided for, no pro-rated reduction applies in the event of partial termination of a contract because these entitlements are always based on the monthly salary that applies for full-time employment. This is because the costs of training or outplacement, for example, do not depend on the number of hours per week in respect of which the employment contract is being terminated.

A job loser who accepts a job for fewer hours retains the entitlements (such as holiday hours and entitlement to supplements) accrued in the previous job.

If a job loser does not accept an offer of continued employment for a reduced number of hours or on a lower scale, the employment contract will subsequently be terminated in full. The job loser will in this case be compensated in accordance with paragraph 1.

Article 6.23 Contribution towards outplacement costs

At a job loser's request, the employer can grant a contribution towards the costs of an outplacement programme in which the job loser is given structured and intensive professional guidance in finding new employment. This often involves taking stock of a person's talents and competences, formulating preferences and requirements as regards a new career, and seeking employment by means of networking, speculative applications and applications for advertised vacancies.

Costs are reimbursed on submission of the contract with and the invoice from a professional job placement agency.

A job loser is eligible for this contribution if the outplacement programme begins no sooner than 12 months before the date of termination of employment set or anticipated by the employer and no later than six months after the date on which the employment contract ends.

Article 6.24 Contribution towards training costs

Article 6.11 provides for the possibility of instructing an employee to undergo training in the interests of the service, in so far as the employee can reasonably be required to do so. All the necessary training costs are reimbursed by the employer. In addition, the employer can grant paid training leave.

Furthermore, if an employee takes the initiative to undergo training that increases the employee's

chances of finding a job or of setting up a business, article 6.12 allows the employer to fully or partially reimburse the necessary training costs and/or grant paid training leave if the training is the interests of the service.

Article 6.11 also applies to job losers. On the basis of this article, costs can therefore be reimbursed and leave granted for training that increases the likelihood of the job loser being able to be assigned to another suitable job at the mission.

Article 6.24 offers a job loser undergoing training with a view to finding a job with a different employer or setting up a business a stronger entitlement to a contribution towards training costs than article 6.12. This is because article 6.24 requires the employer to grant a contribution that helps a job loser find a new job with a different employer or set up a business. In addition, article 6.27 clarifies the amount of the contribution: costs are reimbursed up to a maximum of four times the full-time equivalent of the job loser's monthly salary. Moreover, article 6.24 grants an entitlement not only to a job loser whose employment contract is still ongoing but also to a job loser whose employment contract has already ended, for training that started no later than six months after the employment contract ended.

Job losers are required to repay the contribution granted if, due to their own fault or actions, they achieve an unsatisfactory result or do not complete the training course. A job loser who terminates the employment contract or does not complete the training due to finding a different job inside or outside the mission which makes completion of the training course unnecessary does not have to repay the contribution.

Article 6.25 Training leave

This article entitles job losers who begin training as referred to in article 6.24 before the end of the employment contract at the mission to paid training leave of up to 20% of their normal working hours. The employer can grant more leave in special cases, for example if a person with a long period of service will only have a good chance of finding work elsewhere after very intensive training.

If the employer is of the opinion that training leave of this kind conflicts with the interests of the service, a leave request can be refused. By way of compensation, the job loser will then be granted one hour's gross pay for every hour of leave not granted for that reason, subject to a maximum of twice the full-time equivalent of the job loser's gross monthly salary. This amount does not affect the maximum contribution mentioned in article 6.27 for outplacement, training and setting up a business.

Article 6.26 Contribution towards the costs of setting up a business

This article entitles the job loser to a contribution towards the costs of setting up a business. Requests must include a concise business plan and an estimate of the startup costs. The contribution may be used for legal, tax and financial advice, notarial fees, website-building services etc.

The contribution can also be used to invest in a business or go into business with a partner. The contribution may be used for a business in the country where the mission is located or another country. The prospect of a new job at the mission or elsewhere does not constitute sufficient grounds to refuse a job loser's request for a contribution of this kind. A new employment contract does however constitute sufficient grounds to do so.

Article 6.27 Contribution amounts

The contributions towards the costs of outplacement, training and setting up a business are subject to a combined maximum. In total, employees can receive no more than four times the full-time equivalent of their gross monthly salary in contributions towards one or more of these objectives. It does not matter for this purpose whether the employment contract being terminated is open-ended or fixed-term.

The wording 'full-time equivalent' ensures that the maximum contribution for a job loser in part-time employment is the same as that for a job loser in full-time employment: four times or twice the gross monthly salary that applies for full-time employment. This approach has been opted for to ensure that job losers who work part-time are also given sufficient opportunity to improve their position in the job market.

The way the maximum contribution is formulated offers job losers a great deal of flexibility. Some might use the contribution to fund an expensive training course, some might opt for a substantial contribution towards setting up a business and others may opt to combine a high amount for an

outplacement programme plus a modest amount for training.

Article 6.28 Contribution towards removal and refurbishment costs

A new job sometimes entails moving house within the country were the mission is located or to another country. Article 6.28 therefore entitles a job loser to a contribution towards removal and refurbishment costs. Eligibility is conditional on a job loser relocating in order to accept a new job at another mission or with another employer or set up a business, within six months of the end of the employment contract. An additional condition is that relocation enables the job loser to avoid an increase of more than one hour in the total daily commuting time. The contribution is equal to twice the full-time equivalent of the job loser's gross monthly salary.

Article 6.29 Allowances in the event of employment in another unit of the employer

Article 6.29 provides that a job loser who has been given notice of the termination of their employment contract or of the fact that their employment contract is expected to be terminated by the employer due to the job ceasing to exist and who relocates to another city in order to be able to take up a job at another unit of the employer is entitled to the generous package of relocation allowances referred to in paragraphs 2 to 6.

The package includes an allowance for the cost of having household effects packed, unpacked and transported over land or water in a 40-foot container and insurance for the household effects transported. It also includes four days' relocation leave, the cost of travel by air in economy class, by public transport or in the employee's own vehicle, and a contribution towards the costs of refurbishing a new home in the vicinity of the new place of work. There is also the option of an interest-free prepayment of up to three months' gross salary for high additional costs.

In cases of this kind, the local employee is responsible for obtaining any necessary residence and work permits or comparable documents. Under article 2.5, paragraph 8, the costs of obtaining documents of this kind are borne by the employee, unless these costs are wholly or partly borne by the employer in accordance with local peremptory law or local usage.

If this article is applied, the employee concerned is not entitled to the contribution towards removal and refurbishment costs referred to in article 6.28.

Article 6.30 Internal candidate status

An ex-employee whose employment contract has been terminated by the employer due to the job ceasing to exist is given the opportunity for up to one year after the date on which the employment contract ends to apply as an internal candidate for vacancies entailing an employment contract at the mission where the ex-employee worked or at another mission in the same country, in accordance with article 2.1.

If the ex-employee so requests, it is reasonable for the head of mission to send the ex-employee suitable vacancies by email during that year if the employee is unable to view the vacancies on the mission's website.

Chapter 7 Prohibition of entry, suspension, compensation, dereliction of duty and disciplinary penalties

Article 7.1 Prohibition of entry

Sometimes it may be necessary to temporarily bar an employee from entering official rooms or buildings. This could be necessary, for example, if the employee has an infectious disease which can be spread from one employee to another, for example by coughing or shaking hands (for example, tuberculosis or SARS, but not HIV) or if the employee is suspected of irregularities and it is in the interests of the investigation that the employee should not have access to the workplace for the time being. This article allows for this possibility. This measure is, incidentally, less far-reaching than a suspension since salary is not withheld and the employee may continue to work in the places from which the employee has not been barred.

Article 7.2 Suspension

Paragraph 1 provides that employees who have been deprived of their liberty pursuant to a statutory measure are automatically suspended. In such cases the employer need not take a decision on this. The suspension takes effect automatically as soon as an employee is taken into custody under a

statutory measure. However, the employee should, if possible, be informed of the automatic suspension. The above does not apply where an employee is deprived of liberty in the interests of public health, for example if the employee is quarantined on account of an infectious disease. In such a case the employee is not suspended automatically.

Under paragraph 2, the employer may suspend an employee if criminal proceedings have been instituted against the employee or if suspension is in the interests of the service for some other reason. In such cases, the employer must make the decision to suspend the employee. A suspension may serve as a temporary measure, for example where there is good reason to suspect an employee of misconduct. Employees who have been suspended are temporarily barred from performing their duties. It follows that a suspended employee also no longer has access to the offices of the mission. A suspension might be justified in cases where an employee should preferably not perform duties pending an investigation. Depending on the findings of the investigation, the suspension can be lifted (possibly subject to the imposition of a disciplinary penalty) or the employee can be dismissed. Obviously, the parties concerned should always be heard immediately in such cases.

As a rule, an employee is first informed orally of the suspension, after which the suspension should be confirmed in writing. The suspension decision should clearly state the reasons for the suspension. The period of suspension may not be longer than strictly necessary. When suspending an employee, the employer should also indicate whether the person concerned is to be suspended on full or partial salary or without salary.

Article 7.3 Compensation

This article enables the employer to recover from an employee all or part of any damage caused by the employee. However, only an employee who is seriously at fault may be required to pay compensation. For example, a driver who causes a traffic accident while driving an official vehicle cannot be required to pay compensation if the accident was the result of a traffic infringement or traffic offence caused by an oversight or minor act of negligence. However, a driver who was deliberately speeding or committed a different serious traffic offence other than on the instructions of the head of mission could be required to pay compensation for an accident.

Article 7.4 Dereliction of duty

Employees can be expected to perform all the obligations resulting from their employment contract conscientiously and diligently and to conduct themselves in a manner befitting a good employee. This article provides that employees who do not conduct themselves in such a manner may be penalised.

Acts or omissions may be treated as a dereliction of duty if each of the following three conditions is fulfilled:
a. the act or omission by the employee is contrary to written or unwritten rules;
b. the employee knew – or could reasonably be expected to have known – that the act or omission was wrong; in other words, there is a requirement of culpability;
c. the employee can be held accountable for the act or omission (this would not be the case, for example, if the employee cannot be held fully responsible for behaviour connected to mental disorder).

Article 7.5 Disciplinary penalties

Only the penalties listed in this article can be imposed for dereliction of duty. However, a combination of the penalties can be imposed or a penalty can be imposed in combination with another measure, for example an obligation to compensate the employer for damage caused.

The penalty imposed must be proportionate to the particular instance of dereliction of duty. The decision on the penalty should in any event take account of the nature and seriousness of the offence, the nature and level of the employee's job, the extent to which it was made clear to the employee in the past that the actions in question were unacceptable, the attitude of the employee during the investigation and the manner in which comparable offences by others have been penalised in the past. For example, an employee who arrives late for work on one occasion without good reason will generally not be penalised. But an employee who ignores warnings and regularly arrives late may be given a written reprimand and part of the employee's salary may also be withheld. If the employee still persists in coming late, the penalty may even be dismissal.

Before imposing a penalty the employer must determine all the relevant facts and circumstances. The employee is then informed of the specific findings of the investigation and of the charges, and given the opportunity to answer the charges. The employee can be assisted (at the employee's own

expense) by an adviser. The charges can be answered either orally or in writing. If a defence is entered in writing, it would be appropriate to give the employee, on request, the opportunity to provide a further oral explanation.

Chapter 8 End of an employment contract

§ 1 End of an employment contract and redundancy payment

Article 8.1 Employment contract for a fixed term; automatic termination; premature termination

A fixed-term employment contract ends automatically when the agreed term has expired. Prior notice of termination is not necessary in this case. However, it is advisable to give the employee explicit and timely notice of the decision not to renew the employment contract. Timely notice means notice before the expiry of the fixed term. If the agreed term has expired and the employee continues to perform their duties without any objection from the employer, the employment contract will be deemed to have been renewed for the same term, subject to a maximum of one year and on the original employment conditions. If the employment contract has been tacitly renewed, the renewed employment contract will end automatically at the end of this period. In this case, too, the employer is not required to give prior notice of termination.

It may be necessary to terminate a fixed-term employment contract before the expiry of the term, for example because the employee is underperforming. Paragraph 3 of this article makes this possible. In such a case, the notice periods referred to in article 8.2 apply *mutatis mutandis*.

Article 8.2 Termination of an open-ended employment contract

An open-ended employment contract (an employment contract without a specified end date) may be terminated without a period of notice in the following ways:
- by mutual consent: on a date to be agreed;
- by notice during the probationary period: with immediate effect (article 2.5);
- when the employee reaches the age of retirement: on the first day following that on which the employee reaches this age (article 8.5);
- upon the death of the employee: on the date of death (article 8.6); and
- by notice of termination for a compelling reason: with immediate effect (article 8.8).

A period of notice must be observed in all other cases when an open-ended employment contract is terminated. The employer must give either one month's notice or, if the period of employment has lasted for five years or longer, two months' notice. The employee must give one month's notice. For the purpose of determining the period of employment, employment contracts at the same mission which are separated by intervals of less than 31 days are added together.

The notice period starts on the day following that on which notice is given. The notice period begins after the termination has been demonstrably communicated to the employee, preferably by means of a letter either handed to the employee or sent by registered post. However, the letter may also be sent by regular post, or the termination may be announced orally (preferably in the presence of a witness). This applies only in so far as it is permitted by local peremptory law.
For the sake of due care, paragraph 5 of this article requires the employer to seek the advice of 3W before terminating an employment contract without the consent of the employee.

Pursuant to paragraph 6, for the purposes of these Regulations the termination of an employment contract by a court or other body at the request of the employer or the employee is equated with the termination of an employment contract by the employer or the employee. This means, for instance, that an employee is entitled to a transition redundancy payment as referred to in article 8.3, paragraph 1 not only if the employer terminates the employment contract, but also if a court terminates the employment contract at the request of the employer or the employee.

Article 8.3 Redundancy payments

On the grounds of this article an employee with a fixed-term or open-ended employment contract is, subject to certain conditions, entitled to either one or two one-off redundancy payments from the employer. Both redundancy payments can be granted in situations in which a fixed-term employment contract automatically expires or an open-ended or fixed-term employment contract is terminated by the employee or the employer by giving notice or by a court or other body at the parties' request. The conditions and the calculation methods for the two redundancy payments differ.

The payment referred to in paragraph 1, the transition redundancy payment, is intended as financial

compensation for the consequences of termination of employment. It is also intended to facilitate the employee's transition into other work, for instance by covering the cost of training or retraining.

Paragraph 1 lists five situations in which there is no reason to grant a transition redundancy payment and the employee is therefore not entitled to it. This concerns situations in which:

a. an employee's fixed-term employment contract automatically expires and the employee has rejected an offer from the employer for a successive employment contract subject to the same or comparable employment conditions. In this situation, the employee could have avoided termination by accepting the offer;
b. the employee has terminated the employment contract for a reason other than a seriously culpable act or omission by the employer. In this situation, the employee has chosen to terminate the contract for personal reasons, for instance to take a job elsewhere, and not for serious reasons that are the fault of the employer;
c. the employer has terminated the employment contract for serious reasons that are the fault of the employee. In this situation, termination is due to serious acts or omissions by the employee;
d. the employment contract has automatically expired or been terminated by the employer or the employee, and, from the date of termination, the employee is entitled to supplementation of old age pension or payments made under an insurance policy taken out by or on behalf of the employer or a similar provision made by or on behalf of the employer to ensure the accrual of an old age pension. In this situation, if the employee has reached the age at which this applies, they are already entitled to social security benefits, old age pension or supplementation of old age pension;
e. the employment contract has been terminated due to sickness after the period referred to in article 8.4, paragraph 1. In this situation, the employee is entitled to supplementation of invalidity benefits as referred to in article 9.8.

This payment amounts to half a month's salary for each year the employment contract or successive employment contracts have been in effect.

If it is in keeping with local regulations or local usage to do so, the employer must under article 9.3 take out insurance or make comparable provision to ensure the accrual of old age pension for the employee. If the employment contract or successive employment contracts have been in effect for at least seven years and for part of that time no insurance policy or comparable provision as referred to above was in effect, on the grounds of article 9.4 the employee will in due course be eligible to supplementation of old age pension.

The one-off redundancy payment referred to in paragraph 2, the old age pension redundancy payment, is intended as a contribution towards the costs employees incur in arranging appropriate old age pension provision in cases where the employer has not done so during the period of employment in one of the ways described above. This means that two conditions must be met.

Firstly, the period of employment must have lasted less than seven years, because any employee who is in service for longer than seven years is entitled to supplementation of old age pension on the grounds of article 9.4. Secondly, for all or part of the period of employment no old age pension insurance or similar provision taken out or made by the employer on the grounds of article 9.3 must have been in effect.

Given the purpose of this redundancy payment, it is paid regardless of the reason for the employment contract ending. The employee thus retains this entitlement even if they terminate the employment contract themselves or if the employment contract ends upon or after the employee reaching retirement age, for instance.

This old age pension redundancy payment amounts to half a month's salary for each year the employment contract or successive employment contracts have been in effect during which the employer had not taken out an insurance policy or made comparable provision to ensure the accrual of old age pension as referred to in article 9.3 and during which the employee did not accrue entitlement to supplementation of old age pension as referred to in article 9.4.

Paragraph 3 contains additional provisions regarding the transition and old age pension redundancy payments referred to in paragraphs 1 and 2.

Firstly, it provides that if the duration of an employment contract includes a partial year, the payments for part of a year are pro-rated.

It also provides that article 8.2, paragraph 4 applies mutatis mutandis to the calculation of the duration of the employment contract. This means that employment contracts entered into with the employee

for duties at one and the same mission are treated as one employment contract if any intervals between contracts do not exceed 31 days.

Finally, it provides that if the number of working hours under an employment contract is reduced, the redundancy payments are calculated and paid over the number of hours by which the working hours have been reduced.

Paragraph 4 limits the number of monthly salaries that the transition redundancy payment referred to in paragraph 1 may comprise to no more than the number of full calendar months between the date of termination and the employee's pension date as referred to in article 9.1, paragraph 1 (d). The reason for this limitation is that such a redundancy payment is partly intended as compensation for the financial consequences of termination of employment. As of their pension date, an ex-employee is entitled, at the employer's expense, to supplementation of old age pension, a comparable payment or an old age pension redundancy payment as referred to in paragraph 2 and there is therefore insufficient reason to pay the transition redundancy payment referred to in paragraph 1 in full. This limitation does not apply to the old age pension redundancy payment referred to in paragraph 2 as this payment is intended for the employee to make provision for old age pension coverage themselves.

An example may help to clarify the application of paragraph 4.

In this example the employee has been in service for 20 years. The transition redundancy payment referred to in paragraph 1 amounts to half a month's salary for each year of service. The period between the date of termination and the employee's pension date is eight full months.

Disregarding paragraph 4, the amount of the redundancy payment would be: 20 x ½ month's salary = 10 months' salary. However, because the period between the date of termination and the employee's pension date is eight months, the application of paragraph 4 limits the transition redundancy payment to eight months' salary. If on the grounds of local peremptory law no retirement age may be included in the mission version, and the employee is entitled to supplementation of old age pension immediately after the date of termination, the employee is not entitled to a transition redundancy payment (because in this case it amounts to zero monthly salaries), unless local peremptory law prescribes otherwise.

Paragraph 5 contains a provision against overlapping to prevent periods of the employment contract or successive employment contracts over which a transition or old age pension redundancy payment as referred to in paragraph 1 or 2 has already been made being taken into account in the calculation of the redundancy payment.

In practice, situations regularly occur in which the employer changes the number of working hours at the employee's request. Where this happens and the employment contract is terminated shortly afterwards, article 8.3 can work unfairly in practice, to the detriment of either the employer or the employee, if the amount of the redundancy payments is calculated on the basis of the employee's most recent salary. Paragraph 6 therefore provides that the amount of the redundancy payments is based on the employee's average salary in the 12 months immediately preceding the date of termination.

An example may help to clarify the application of paragraph 6. Suppose that an employee has been in service for 10 years and has worked full time for 9½ years. The full-time salary is 1,000 a month. With the employer's consent the employee starts working part time (50%) after 9½ years, from which point the employee's salary is 500 a month. The redundancy payment amounts to half a month's salary for each year of service. Six months later the employment contract is terminated. In consequence of this termination the employee would receive a transition redundancy payment as referred to in paragraph 1, based on the most recent salary, of 10 x ½ x 500 = 2,500. This would be unreasonable, since the employee worked full time for 9½ years (and on the basis of a full-time salary the redundancy payment would have been 10 x ½ x 1,000 = 5,000). The converse situation would be equally unreasonable. An employee who has been in service for 10 years, working part time for 9½ of those years (salary: 500 a month) and full time for the last six months with the employer's consent (salary: 1,000 a month) would then receive a redundancy payment of 5,000.

To minimise the effect of a change in the number of working hours, paragraph 6 provides that the amount of the redundancy payments is based on the employee's average salary over the 12 months immediately preceding the date on which the employment contract is terminated. This average is calculated on the basis of the number of working hours per week agreed with the employee in the employment contract, without taking account of any special leave that the employee may have had in that 12-month period.

This has the following effect in the example. In the 12 months prior to the termination of employment the employee worked full time for six months and part time for six months. This means that the salary used to calculate the redundancy payment is 750, namely (6 x 1,000 + 6 x 500)/12. The amount of the redundancy payment is therefore 10 x ½ x 750 = 3,750.

The amount of the redundancy payments is fixed on the basis of the monthly salary that the employer earned on the day prior to the date on which the employment contract is terminated. Under the last sentence of paragraph 6 the amount of the redundancy payments will not subsequently be recalculated if due to a general salary adjustment as referred to in article 4.1, which, in principle, takes place once a year, the salary amounts in the mission version are increased with retroactive effect.

Under paragraph 7 the amount of the redundancy payments is fixed and paid subject to the same tax provisions that apply to the fixing and payment of salary.

The employer will comply with local peremptory law with regard to these redundancy payments. This may mean that higher payments are awarded or that the conditions that apply will be less strict. Local regulations may, for instance, oblige the employer to pay a transition redundancy payment as referred to in article 8.3, paragraph 1 in situations listed as exceptions in that paragraph. For instance, in the event of retirement or termination of employment due to the employee becoming unfit to work due to sickness. In such a case, the locally prescribed redundancy payment is paid and, if the employee is also entitled to supplementation of old age pension or invalidity benefit, subsequently converted into a monthly amount and deducted from the monthly supplement. This is stipulated in paragraph 8. The formula referred to in article 9.1, paragraph 2 is used for this purpose. The redundancy payment converted into a monthly amount is deducted from the monthly old age pension supplement or invalidity benefit supplement granted to the employee, with due observance of article 9.4, paragraph 3 and article 9.8, paragraph 3.

Sometimes, for reasons other than compliance with local regulations, a one-off redundancy payment as referred to in article 8.3, paragraph 1 is made in situations listed as exceptions in that paragraph, for instance, as an element of a termination agreement. For such special cases paragraph 9 stipulates that an employee who chooses to receive this redundancy payment forfeits the right to supplementation of old age pension or invalidity benefit.

In some countries, an employee whose employment contract is terminated may be entitled to unemployment benefit for a certain period, depending on the country's social security system. Any unemployment benefit paid under the social security system is not deducted from or set off in any way against the redundancy payments granted under these Regulations.

§ 2 End of an employment contract due to sickness, retirement, death or a compelling reason

Article 8.4 Termination of an employment contract due to sickness

Employees who are wholly or partly unable to perform their duties owing to sickness continues to receive all or part of their salary for a given period. The maximum period during which an employee continues to be paid and the percentage of the salary the employee receives should be in keeping with the practice of the majority of the marker organisations and should be included in the mission version (see article 5.11 and the relevant notes). If due to sickness an employee is still unable to work at the end of this period, the employment contract can be terminated. Before the contract is terminated it must be established by means of a medical examination that the employee is still sick. The examination should be carried out by or on behalf of the occupational health service designated for the mission. The period of notice specified in article 8.2 must be observed when terminating the employment contract.

In some cases employees work between periods of sickness. In such cases, all the periods of partial or total unfitness for work due to sickness separated by intervals of less than 31 days are added together in order to determine the date on which the employment contract may be terminated.

If the employer terminates the employment contract too early on account of sickness, the employee may invoke the nullity of the termination within two months. The nullity of the termination must be invoked in writing. If the employee does so within the two-month period, the employment contract will be deemed not to have been terminated at all. This means that the sick employee is still entitled to receive full or partial salary, as the case may be. Alternatively, the employee may bring a claim under article 8.9 for manifestly unreasonable termination and claim compensation from the employer.

An employment contract with a sick employee may be terminated for reasons other than sickness,

regardless of the duration of the employee's sickness. In such cases termination must not have anything to do with the employee's sickness. For example, the employment contract with a sick employee may be terminated if the employee underperforms or becomes redundant as the result of a reorganisation. The contract may also be terminated if the employee commits a serious dereliction of duty, for example by defrauding the employer or by refusing to undergo a medical examination by the occupational health service. In all these cases it is up to the employer to show that the termination is unrelated to the employee's sickness as such.

Article 8.5 End of an employment contract upon reaching the age of retirement

The age of retirement is fixed in accordance with the practice of the majority of the marker organisations. However, it may not be under 60 or over 67, and must be stated in the mission version. No distinction may be made on the grounds of sex or nationality.

When an employee reaches the age of retirement specified in the mission version, the employment contract ends automatically with effect from the first day following the day on which the employee reaches that age. In such a case prior notice of termination is therefore not necessary. Employees who are close to retirement age should be alerted to this fact in a timely manner and informed about their rights and obligations.

In exceptional cases, the pension date may be deferred and the employee allowed to continue working after that date. In such a case, the employee's entitlement to supplementation is also deferred and takes effect only when the employee actually stops working. However, supplementation entitlements continue to accrue if the maximum number of years of service for the purposes of accrual has not yet been reached. If the mission version specifies a retirement age of 65 or younger this maximum is 40 years of service. If the retirement age specified is 66 or 67, the maximum is increased by one or two years respectively to 41 or 42 years. An employee may continue working after retirement only if there are special circumstances that make this desirable, for example if it is very important that the person concerned should complete a project. As the employment contract ends automatically on the pension date, a new employment contract must be concluded in such circumstances. As a rule, such an employment contract will be for a fixed term of one year. Whether another renewal for a maximum of one year is desirable can be considered towards the end of the extra term of one year.

If it is possible under local law for an employee to retire before the age of retirement specified in the mission version, the employee may make use of this option. The supplementation provision of article 9.4 will not take effect until the date on which the employee reaches the age of retirement specified in the mission version. However, the employee may be eligible for benefit under the local social security system with effect from the date employment ends.

Article 8.6 End of an employment contract due to death

If an employee dies, payment of salary ceases on the first day after the date of death. The surviving dependants may be entitled to supplementation under part 4 of chapter 9 from the first day of the month in which the employee died.

The surviving partner is entitled as a result of the death to a one-off payment equal to the employee's monthly salary. This amount may be used, for example, to cover the costs of the funeral. If the employee did not have a partner, the payment can be disbursed to the dependent children of the deceased. In the absence of a surviving partner and dependent children, the amount can be used to cover funeral expenses and costs related to the employee's final illness that have not been or will not be covered otherwise. This is possible only if the estate of the deceased is insufficient for these purposes.

Article 8.7 End of an employment contract when an employee is missing

If an employee is missing and presumed dead, the employer sets a date of death for the purposes of these Regulations. This provision can be applied, for example, if an employee was on board a crashed aircraft but the body was never recovered. The employer must comply with local peremptory law as far as possible in this connection. In the absence of local peremptory law on this matter, the employer should fix a date that is reasonable. The employer should not exercise this power lightly and should do everything possible to determine whether the employee concerned is still alive. This provision does not apply if there is good reason to suspect that the employee is absent without permission.

Once the employer is convinced that the employee concerned is no longer alive, the employer fixes the date of death for the purposes of these Regulations. The employment contract is terminated from that date. The missing employee's partner or dependent children can then be granted a one-off

payment and an entitlement to supplementation of the benefits for surviving dependants

If it subsequently transpires that the missing employee is still alive, the employment contract will nonetheless be deemed to have been terminated with effect from the date fixed by the employer as referred to above. Depending on the situation, for example whether the employee is to blame for the absence, whether the employee's former job has already been filled and whether other vacancies exists at the mission, the employer may offer the employee a new employment contract. There is no entitlement to salary for the intervening period since the person concerned was not in the employ of the mission during this period. In special circumstances the employer may apply the hardship clause (article 1.9) and direct that salary should be paid throughout the period the employee was missing. Paragraph 2 provides that the partner is not entitled to the one-off payment referred to in article 8.6, paragraph 2 if there is good reason to suspect that the employee is absent without permission.

Article 8.8 Termination of an employment contract for a compelling reason

If an employment contract is terminated for a compelling reason, it ends with immediate effect. It is not necessary to give notice in such circumstances.

An employment contract may be terminated for compelling reasons only if there are circumstances such that the party terminating the contract cannot reasonably be expected to allow it to continue. Compelling reasons are deemed to exist if the other party shows flagrant disregard of the terms of the employment contract. For the employer, theft, embezzlement, assault and failure to comply with reasonable instructions can constitute a compelling reason for summary dismissal of the employee. A compelling reason for the employee to terminate the contract could be assault, late payment of salary or being put in serious jeopardy by the employer.

If an incident occurs that could warrant summary dismissal, the employee must be dismissed as soon as possible after the incident occurs. Within reasonable limits the employer may take the time to investigate the facts of the case and obtain legal advice (possibly from a local lawyer, but in any event from 3W). The employee must also be given the opportunity, where possible, to give their version of events. The investigation to determine the facts of the case and the hearing of both parties should be conducted expeditiously but with due care. The employee may be suspended for the duration of the investigation.

If an employment contract is to be terminated without notice, this may be done either orally or in writing. It is advisable to give immediate written confirmation of an oral termination. If the contract is terminated by the employer, the employee should be given a clear explanation of the reasons for dismissal.

If it is determined that there was no compelling reason to terminate the contract without notice, an obligation to pay compensation will arise. The compensation owed will be equal to the salary which the employer would have paid if the employment contract had been terminated in accordance with the prescribed period of notice. In addition, compensation may be claimed under article 8.9 in the event of manifestly unreasonable termination.

Finally, the last paragraph of this article provides that any claim under this article is statute-barred after six months. This means the employee has six months in which to contest the dismissal in law. After these six months the dismissal is final (even if it was unfounded).

§ 3 Manifestly unreasonable termination

Article 8.9 Manifestly unreasonable termination

An employee who considers the termination of their employment contract by the employer to be manifestly unreasonable may invoke this article and claim reasonable and fair compensation from the employer. A termination may be manifestly unreasonable if no reasons are given for the termination or the reason given is a pretext or false. The same applies if the termination is contrary to a prohibition of termination, for example on account of pregnancy or sickness. Termination may also be manifestly unreasonable if the termination itself is justified but the consequences for the employee are so serious that they outweigh the employer's interest in termination, even in view of the redundancy provisions made for the employee and the opportunities for the employee to find suitable work. Lastly, termination may be manifestly unreasonable if it takes place solely because the employee refuses to perform certain duties owing to a serious conscientious objection.

Just as in article 8.8, any claim on the grounds of manifestly unreasonable termination is statute-

barred after six months. This period of limitation starts on the date the employment contract actually ends.

Termination can never be manifestly unreasonable if it occurs during the probationary period or in the event of lawful termination for a compelling reason.

§ 4 Special obligations of the employer upon termination of an employment contract

Article 8.10 Employer's declaration

An employee who so requests is entitled to receive an employer's declaration on termination of the employment contract. The employer's declaration should contain information about the nature of the work performed and the date on which employment started and ended. At the express request of the employee, the employer's declaration may also contain information about how the employment contract was ended and the employee's performance during employment.

Chapter 9 Old age pensions, surviving dependants' benefits and invalidity benefits

§ 1 General provisions

General

The general principle is that employees should wherever possible be covered under old age pension provisions that are in keeping with local regulations or local usage. This principle is expressly reflected in the articles of this chapter. If cover under local old age pension provisions is not possible, the employee may claim the provisions in chapter 9. This chapter sets out a system which reflects Dutch views on the responsibilities of a good employer and guarantees a minimum level of benefit for employees or their surviving dependants if certain events occur, in order to make provision for the financial consequences of those events. These events are the retirement, invalidity or death of the employee.

The provisions described in this chapter are expressly intended to operate as a safety net in the form of a supplementation scheme. This means that if the event concerned gives rise to similar statutory entitlements under the local system of social security, the amount of the supplement to which an employee is entitled under this chapter is reduced by the amount of that statutory entitlement. In other words, the entitlements based on this chapter are intended to supplement the entitlements under the local system of social security and any other provisions. If the minimum level of benefit considered reasonable in the light of Dutch views on the responsibilities of a good employer is achieved in some other way, the employer has no further role to play in this connection.

Article 9.1 Definitions

This article contains definitions which apply specifically to this chapter. The key term is 'supplement'. A supplement is the difference between the maximum that may be granted (the supplementation ceiling) and the employee's entitlement to a benefit on other grounds.

The amount of the supplementation ceiling (the maximum supplement) is calculated using the following formula: accrual percentage x qualifying period for supplementation x qualifying salary = supplementation ceiling.

Accrual percentage

The accrual percentage is 1.75% for each year of service before 1 January 2005 and 1.5% for each year of service from this date onwards.

Qualifying period for supplementation

The qualifying period for supplementation is the period during which a local employee has worked under an employment contract, or under various employment contracts, at a mission abroad, subject to a maximum of 40 years if the retirement age is 65 years or younger. If the mission version specifies a retirement age of 66 or 67, the maximum number of years of service is increased by one or two years, respectively to 41 or 42 years. If there have been two or more employment contracts, only successive contracts separated by a period of six months or less count towards the qualifying period for supplementation. Notwithstanding the previous sentence, successive employment contracts before 1 January 2005 count towards the qualifying period for supplementation if the intervals between them are less than 31 days and they relate to one and the same mission.

It is important to note that the employee should also have received salary during the period in question. This means that periods during which the employee was employed at the mission but did not receive salary are not counted towards the qualifying period for supplementation. Examples are periods of parental leave, sabbatical leave, periods during which an employee was suspended without salary and the aforementioned intervals of less than six months between successive employment contracts.

Time during which an employee is entitled to supplementation of invalidity benefits also counts towards the qualifying period for supplementation. Periods during which the employee worked part-time count proportionately.

Qualifying salary

The qualifying salary is calculated by reference to the employee's position (pay number) on the pay scale immediately preceding the date of retirement. For the purpose of indexation, the amount of the supplement is, in brief, based on the current salary amount under the pay scale. This provision ensures that the supplement is indexed and that the person entitled to the supplement receives benefit that is always in line with pay indexation at the marker organisations. In some cases pay scales are or have been lowered, for example as a result of a change in the choice of marker organisations or because marker organisations have cut salaries on account of an economic crisis. In this case, the higher salary amount on which the supplement is based is frozen until the current salary amount under the pay scale catches up, at which point the current salary amount is taken as the basis for the supplement. Under (e) the amount of the supplement is based on the level of the frozen salary rather than on the level of the current salary.

If the employment contract was terminated before the pension date, the amount of the qualifying salary is determined by reference to the pay number on the pay scale that applied to the employee at the moment of termination of the contract. The current salary amount relating to the pay number referred to above is then converted into an annual amount. This annual amount is increased by all the allowances provided under articles 4.4, 4.4a and 4.5 and the total constitutes the qualifying salary.

Supplementation ceiling

The supplementation ceiling is the maximum amount of supplement which may be paid. The supplement is the amount that is left after deduction of any benefits payable on other grounds.

Sometimes an employee may also be entitled under provisions of local peremptory law to a one-off payment from the employer upon retirement. In such a case the one-off payment is deducted from the supplement to be paid. The one-off payment is converted into a monthly amount using formulas that take account of statistical life expectancy in the country or region concerned.

Employee with two or more employment contracts at different missions

If an employee has worked at different missions, the qualifying periods for supplementation arising from the various employment contracts after 1 January 2.005 are added together, provided that the intervals between the periods of employment were less than six months.

Pension date

Article 9.1, paragraph 1 (d) provides that the pension date is the first day following the day on which the employee or ex-employee reaches the age of retirement specified in the mission version in accordance with article 8.5; From this date the employee or ex-employee is entitled to supplementation of old age pension.
The qualifying salary is calculated by reference to the last salary and the duration of each separate employment contract. For example, the qualifying period for supplementation for an employee who worked in Paris for four years and in Riga for six years, with an intervening period of four months, is 10 years. The supplementation ceiling is calculated for each employment contract separately. In this example the ceiling for the Paris contract is four (years of service) x the accrual percentage x the last salary in Paris, and the ceiling for Riga is six (years of service) x the accrual percentage x the last salary in Riga.

Paragraph 2 of article 9.1 contains rules on converting a one-off payment into a periodic payment and vice versa. This calculation is made on the basis of cash value. The cash value is determined by reference to the United Nations' Demographic Yearbook, which sets out the average life expectancy of the population by country. The life expectancy data is used to calculate a periodic payment based on the statutory rate of interest applied by De Nederlandsche Bank N.V. for non-commercial transactions.

Article 9.2 Obligations of the employee, ex-employee or surviving dependant

This article contains rules to cover the eventuality that an employee, ex-employee or surviving dependant deliberately provides incorrect information to the employer or deliberately withholds information that is necessary for the proper implementation of the provisions of this chapter or an employee, ex-employee or surviving dependant refuses to apply for a benefit under local or Dutch social security legislation. In such a case the right to supplementation will be lost.

Paragraph 2 provides that the person entitled to the supplement must periodically submit proof of life. The aim of this requirement is to ensure that payment does not continue after the person entitled has died. An example of proof of life is a page of a recent newspaper signed by the person in question.

The article also allows the supplement payable to an employee, ex-employee or surviving dependant to be reduced if the person's social security benefit is reduced because of a failure to comply with the rules.

§ 2 Old age pensions, surviving dependants' benefits and invalidity benefits

Article 9.3 Old age pensions, surviving dependants' benefits and invalidity benefits; general provisions

This article provides that the employer must take out pension insurance for the employee or make comparable provision to ensure the accrual of an old age pension and surviving dependants' benefits if local peremptory law so requires or if the majority of marker organisations offer such provision. Pension insurance should be taken out only with a pension fund or insurance company that can be expected to fulfil all its obligations to the insured in the future. In principle, the pension insurance should be in conformity with the pension insurance that the majority of the marker organisations offer their employees. If the marker organisations do not provide pension insurance for employees, the cover should be based as far as possible on the insurance cover that good employers in the country concerned usually provide to their employees.

Where pension insurance is in effect, provision must be made in the mission version for the division of the premium between the employer and the employee. The general principle is that the division should be in conformity with the practice of the marker organisations.

§ 3 Supplementation of old age pensions

Article 9.4 Supplementation of old age pensions; general provisions

Article 9.4 provides a safety net in the form of a supplementation scheme for the period or periods in which there is no pension insurance or comparable provision as referred to in article 9.3.

Under the supplementation scheme, entitlement to supplementation begins once the employment contract has been in effect for seven years. To determine the duration of employment for this purpose, the terms of successive employment contracts are added together if the contracts followed one another at intervals of no more than 31 days (if the interval occurred before 1 January 2005) or no more than six months (if the interval occurred after 1 January 2005). If an interval exceeds 31 days or six months, respectively, the seven-year period starts anew. An interval between successive employment contracts during which the employee does not receive salary is not counted towards the qualifying period for supplementation. If a new employment contract is entered into with an employee after that employee has reached the age of retirement specified in the mission version, the employee is entitled to salary. In that case there is no entitlement to supplementation of old age pension at that time. If the interval between the previous employment contract and the new one is six months or less and there is no pension insurance, then the term of the employment contract can be counted in the calculation of the supplement in so far as the maximum number of years of service has not yet been reached. The maximum number of years of service taken into account in calculating the supplement is 40 if the retirement age is 65 years or younger. If the mission version specifies a retirement age of 66 or 67, the maximum number of years of service is increased by one or two years respectively to 41 or 42 years.

The accrual percentage for supplementation during the period in which there was no insurance cover is 1.75% for each year of service before 1 January 2005 and 1.5% for each year of service after this date.

The supplement is intended to serve as a safety net. The amount of the supplement is the difference between the calculated supplementation ceiling and the benefit entitlements the employee has

accrued under the local social security system or otherwise during the employment contract, unless the employee has made provision privately without any contribution from the employer (for example, a single premium policy paid for in full by the employee). In the latter case the resulting benefit is not deducted from the supplementation ceiling. The higher the benefit entitlement is, the lower the supplement will ultimately be. As the supplement serves as a safety net enabling an ex-employee to maintain a certain standard of living after the employment contract ends, it is only reasonable that all benefits, by whatever name they may be known, which the employee receives as a consequence of employment ending – and not just old age pension benefits – are deducted from the supplementation ceiling. Since the old age pension supplement is intended as a safety net, any redundancy payment the employee receives on the grounds of local regulations or otherwise from the employer (for instance due to their employment contract being terminated as a result of a reorganisation) is also deducted from the supplementation ceiling if the employee is also entitled to supplementation of old age pension following termination of the contract.
In some countries employees can choose to retire before reaching the pension date that is in keeping with local usage or compulsory in the country concerned. In some cases an employee who chooses to do so receives a lower old age pension by virtue of the applicable social security legislation. This does not affect the way in which the old age pension supplement paid by the employer is calculated. This is laid down in paragraph 3.

§ 4 Supplementation of surviving dependants' benefits

Article 9.5 Supplementation of surviving dependants' benefits; general provisions

If there is no insurance for surviving dependants in effect at the time of an employee's death, the partner who had been married to, in a registered partnership with or cohabiting, as referred to in article 1.1 (g) with the employee for at least one year at the time of the employee's death and any dependent children are entitled to supplementation of surviving dependants' benefits under this article, in so far as the partner or the dependent children are not culpable for the death of the employee. Entitlement to surviving dependants' benefits also exists in the event of the death of an ex-employee who was receiving supplementation of invalidity benefits or old age pension at the time of their death. It follows that the partner and dependent children of an ex-employee who was not receiving a supplement are not eligible for supplementation of surviving dependants' benefits. The ex-partner of an employee or ex-employee is not entitled to supplementation of surviving dependants benefits on the death of the employee or ex-employee.

For the purpose of calculating the combined surviving dependants' benefit supplements (for partner and children), the total supplementation ceiling is equal to the supplementation ceiling for the old age pension which applied to the employee at the time of retirement or would have applied to the ex-employee if the ex-employee had continued working until the pension date. If the total supplement calculated for all the persons concerned exceeds the supplementation ceiling, the orphans' benefit supplement is reduced proportionately. If entitlement to a surviving dependents' benefit supplement for the partner or an orphan subsequently lapses, for example on the death of the surviving partner or orphan or when an orphan reaches the age of 18, the remaining orphans' supplements will be increased proportionately.

Article 9.6 Supplementation of surviving partner's benefits

The benefit supplement for the surviving partner is calculated on the basis of the supplementation ceiling that would have applied to the employee if the employment contract had continued until the pension date. The period from the date of death of the employee or ex-employee until the date on which the employee or ex-employee would have reached the age of retirement therefore counts towards the qualifying period for supplementation, unless the maximum number of years of service had already been reached. If the retirement age is 65 years or younger, the maximum number of years of service is 40. If the mission version specifies a retirement age of 66 or 67, the maximum number of years of service is increased by one or two years respectively to 41 or 42 years. The surviving partner's benefit supplement amounts to 70% of the supplementation ceiling.

If the age difference between the partner and the employee or ex-employee exceeds ten years, the supplementation entitlement is reduced. In such a case the supplement for the surviving partner is reduced by 2.5% for each entire year that the age difference exceeds ten years. This provision is intended to prevent abuse of the scheme. The supplement is not reduced if the surviving dependant had been the partner of the employee or ex-employee for five years or more at the time of the employee's or ex-employee's death.

As the scheme is intended to serve as a safety net, any benefits to which entitlement arises as a result of the death and to which the employer has contributed in any way or benefits ensuing from a social

security system are deducted from the supplement that is paid.

The supplement for the surviving partner is granted with effect from the first day of the month in which the employee or ex-employee died.

The benefits of the surviving partner are supplemented for a period equal to the term of the employment contract or successive employment contracts. For the purpose of determining the period of employment, the terms of successive employment contracts are added together if they followed one another at intervals of no more than 31 days (if the interval occurred before 1 January 2005) or no more than six months (if the interval occurred after 1 January 2005). The minimum period for the supplementation of benefits is five years, unless the surviving partner dies or remarries before the five-year period ends. For this purpose, a cohabitation agreement executed by a civil-law notary or a registered partnership is equated with marriage. In such cases, the supplement ends on the first day of the month following the month in which the surviving dependant dies or marries.

Once again, as the supplementation scheme is intended as a safety net, all benefits to which the surviving partner is entitled under a social security system and all other benefits for the surviving partner to which the employer has contributed are deducted from the supplement.

Article 9.7 Supplementation of orphan's benefits

As explained in article 9.5 and the accompanying notes, the total surviving dependants' supplement (for the partner and orphans together) is based on the supplementation ceiling that applied to the deceased employee or that would have applied to the deceased ex-employee if the employment contract had been in effect until the age of retirement. The surviving partner of a deceased employee receives 70% of the supplementation ceiling. Each orphan receives 14% of the supplementation ceiling. If there is a partner and more than two orphans, the total of the supplements exceeds the supplementation ceiling. In such a case the supplements for the orphans are reduced proportionately.

For the purpose of this scheme, an orphan is a dependent child of a deceased employee or ex-employee who is under the age of 18 years.

If the employee or ex-employee did not have a partner or the partner dies, the orphan is deemed to be a 'full orphan'. A full orphan is entitled to a supplement of 28% of the supplementation ceiling. If there are four or more full orphans the supplement is divided evenly, meaning the supplement per orphan will be less than 28%.

As the supplementation scheme is intended as a safety net, any benefit to which the orphan is entitled under a social security system and all other benefits for the orphan to which the employer has contributed in any way are deducted from the supplement.

§ 5 Supplementation of invalidity benefits

Article 9.8 Supplementation of invalidity benefits; general provisions

Article 9.3, paragraph 2 provides that the employer must take out insurance that provides cover for the employee in the event of invalidity or make comparable provision where this is required by local law or is the practice of the majority of the marker organisations. Article 9.8 covers situations in which the employee's employment contract is terminated on account of invalidity and the employee is not covered by such insurance or provision and is subsequently unable to perform any other suitable employment. In such a case, the employee is entitled to supplementation of invalidity benefits. The supplementation ceiling is in this case equal to the qualifying salary multiplied by the percentage of the salary paid to the employee immediately preceding the termination of the contract, but subject to a maximum of 70% if the supplement started before 1 January 2005 and 60% if the supplement started on or after 1 January 2005. If, for example, the employee was receiving 45% of their salary when the employment contract was terminated, the supplementation ceiling will also be 45%. If, however, the employee was receiving 80% of their salary, the supplementation ceiling will be 60%.

As the supplementation scheme is intended as a safety net, all provisions, by whatever name they may be known, to which the ex-employee is entitled as a consequence of the termination of employment as well as benefits to which the employer has contributed in any way will be deducted from the supplement. Any income that the ex-employee receives or will receive from employment or a business is also deducted from the supplement.

Invalidity benefits are supplemented for a period equal to the term of the employment contract or, in the case of two or more employment contracts, the successive employment contracts in so far as they

followed one another at intervals of no more than 31 days (if the interval occurred before 1 January 2005) or no more than six months (if the interval occurred after 1 January 2005). The minimum period for the supplementation of invalidity benefits is five years. If, in the employer's opinion, the employee's invalidity is largely due to the nature of the duties which the employee was instructed to perform or to the special circumstances in which they had to be performed, and is not attributable to the fault or actions of the employee, the duration of the supplementation is not dependent on the term of the employment contract or contracts. Instead, the supplement lasts until one of the situations referred to below occurs.

Invalidity benefit supplement ends on the day on which the ex-employee is capable of performing other suitable employment. Whether or not there is a job vacancy is not relevant for this purpose; the sole fact that the ex-employee is deemed medically capable of performing another job is sufficient to terminate the right to invalidity benefit supplement. This applies even if the other job pays (significantly) less than the job the person concerned held at the mission. Employment is suitable if, in the opinion of the employer, given the ex-employee's health and other circumstances, the latter can reasonably be expected to apply for the job and, if offered the job, to accept it. In addition, the associated salary must equal or exceed the supplement received by the person concerned.

The right to supplementation ends when an ex-employee reaches the age of retirement. From that time onward entitlement exists to old age pension or to supplementation of old age pension or both (if pension insurance cover existed during only part of the years of service).

The right to supplementation ends on the death of an ex-employee. In such a case, however, there may be entitlement to supplementation of surviving dependants' benefits (see the notes on article 9.5).

Article 9.9 Supplementation of invalidity benefits; medical examination

This article provides that an ex-employee who receives an invalidity benefit supplement must undergo frequent medical examinations in order to check whether the supplement should still be provided. Such examinations may be carried out by the occupational health service of the mission or by another medical service on behalf of the occupational health service. As a rule, once every two years is sufficient. However, there may be situations in which a different frequency is necessary. The employer may then direct that the medical examination should be carried out more frequently or less frequently, as the case may be. The employer will base such a decision on medical advice provided by or on behalf of the occupational health service. If the outcome of the medical examination is that the ex-employee can be deemed capable of performing other suitable employment, the ex-employee is no longer entitled to supplementation under article 9.8 (on this point see the notes on article 9.8).

If an ex-employee refuses to undergo a medical examination, the right to supplementation lapses unless the ex-employee cannot be blamed for the refusal. Once the ex-employee decides to cooperate and undergo the medical examination after all, the right to payment of the supplement resumes, provided that all the other conditions for entitlement to the supplement are fulfilled. The costs of the medical examination are borne by the employer. In accordance with chapter 4, part 5, the employer also bears the travel expenses necessarily incurred by the ex-employee, unless the person concerned has relocated since the first day of the sickness that led to the termination of employment to a different place than where the mission is located and the ex-employee's travel expenses are higher as a result. In this case, the additional travel expenses must be borne by the ex-employee, because it was their decision to move to another area.

§ 6 Payment of supplement

Article 9.10 Fixing and payment of supplements

Under this article the provisions that apply to salary also apply *mutatis mutandis* to the fixing and payment of supplements. It follows that a supplement will, like salary, always be fixed as a gross amount. Depending on tax provisions, tax will have to be paid on the supplement in the Netherlands, locally or both in the Netherlands and locally.

In addition, a supplement is fixed and paid in local currency, in keeping with the provisions regarding the fixing and payment of salary. In special cases, however, 3W may decide to depart from this rule and fix or pay a supplement wholly or partly in a different currency.

In individual cases the employer may also depart from the general rule that supplements are to be paid locally, in other words in the country where the mission is located. The employer could, for example, take such a decision if an ex-employee returns to the Netherlands or moves to a country

other than the one in which the mission is located. If extra costs (for example, transaction costs) are incurred in paying the supplement in such a case, the additional costs are deducted from the supplement.

The amount of the supplement is reviewed periodically after adjustment of the pay scale. Adjustments may also be needed because of changes to the ratio of the gross to net amounts or because of changes to the amount of other benefits to which the person concerned may be entitled. However, a monthly review would place too great a burden on the employer. This is why a provision is included that the supplement to be paid should be fixed for a period not exceeding one year. The amount may be changed earlier only if this is necessary due to special circumstances.

The supplement is generally paid monthly. In special circumstances the employer may alter the frequency of payment. For example, the frequency of payment could be reduced to less than once a month or even to a single lump-sum payment in the following cases:
a. if the costs are not in proportion to the very low amount of the supplement;
b. if a mission closes and payment becomes difficult or impossible;
c. if an ex-employee moves to a place where normal banking facilities are not available, present major difficulties or entail very high costs.

Paragraphs 4 to 7 provide for the possibility of commuting the accrued entitlement to supplementation into a one-off payment. This may be in the interests of the employee. A one-off payment could, for example, furnish an employee with the capital needed to set up a business and thus be self-supporting in the future.

The employer may wish to commute entitlement to supplementation when a mission closes in a country where the Netherlands will no longer have a representation in future. In this situation it would be difficult to obtain information about pay trends at the marker organisations and to continue updating the pay scale annually. Without an up-to-date pay scale, annual adjustment of the supplements is not possible. This problem can be solved by commuting the accrued entitlement to supplementation into a one-off payment either when the mission closes or shortly afterwards.

Paragraph 4 allows the employer to commute the supplementation entitlement at the request of an employee or ex-employee who may or may not already be receiving a supplement referred to in chapter 9. Such a request will be honoured unless compelling interests of the service prevent this. A request will be considered contrary to compelling interests of the service if, for example, there is unexpectedly such a large volume of requests that in the employer's opinion insufficient financial resources are available to commute all the entitlements. As a rule, requests will be honoured in accordance with the principle of 'first come, first served'. 3W will inform the employee or ex-employee in writing of how the one-off payment has been calculated, providing a clear explanation and advising the employee or ex-employee to seek professional advice that takes into account the individual circumstances and to weigh the options carefully before deciding whether or not to accept the one-off payment.

Paragraph 6 provides that the supplementation entitlement of an employee at a mission which closes or is scheduled to close within six months may be commuted by the employer if the employee has been in the service of the mission for 15 years or less and no other Dutch diplomatic representation remains active in the country concerned. The same applies to an employee whose employment contract has already ended when the mission closes and who was in the service of the mission for 15 years or less. In such cases the consent of the person concerned is not required, given the great importance to the employer of being able to commute the supplementation entitlement and the relatively small size of the entitlement. 3W will inform the employee or ex-employee in writing of how the one-off payment has been calculated, providing a clear explanation.

The one-off payment is calculated in accordance with the method determined by HDPO on the basis of the recommendations made by Aon Hewitt in its report of 12 June 2012. An entitlement may be commuted only if at the time of commutation sufficient information is available about the amount of the future provisions to be deducted from the supplementation ceiling.

Cases may occur in which not all employees or ex-employees are prepared to have their supplementation entitlement commuted into a one-off payment or in which insufficient data is available to calculate the amount of the payment. To provide for this eventuality, it is necessary to indicate how the qualifying salary can be reliably calculated in the future. As noted above, in countries where a Dutch representation is no longer active it is difficult to obtain information about annual pay trends at the marker organisations. To ensure that the level of the qualifying salary can still be calculated in such cases, paragraph 7 provides that the qualifying salary is to be adjusted annually by the rate of inflation in the country concerned, based on the inflation data from the Economist Intelligence Unit

(EIU). Since inflation, particularly high inflation, is seldom compensated in full when salaries are adjusted, a maximum of 15% applies. If inflation exceeds 15%, the adjustment rate is fixed at 15% unless HDPO considers that a higher rate would be reasonable given the circumstances.

Chapter 10 Transitional and final provisions

Article 10.1 Transitional provisions concerning social plans

Any social plan that applies to an employee or ex-employee on the date that these Regulations enter into force will continue to apply to that employee or ex-employee in order to avoid uncertainty and conflicts.

Article 10.2a Transitional provisions concerning one-off redundancy payments

In order to guarantee uniformity and limit the administrative burden, article 10.2a, paragraph 1 stipulates that article 8.1 concerning one-off redundancy payments is repealed in the various mission versions. The employer will of course continue to comply with local peremptory law with regard to redundancy payments.

Notwithstanding paragraph 1, in six mission versions article 8.1 is not repealed but will be amended as soon as possible, after consulting the mission council or local employees, with due observance of the revised article 8.3 and local peremptory law. This concerns mission versions for countries in which employees are entitled to a one-off redundancy payment from a fund, social insurance scheme or pension scheme and the employer contributed to these provisions during the period of the employment contract. Article 8.1 in these mission versions remains necessary (at least in part) to prevent employees from being entitled to a full one-off transition redundancy payment as referred to in article 8.3, paragraph 1 in addition to an aforementioned provision to which the employer contributed.
In the Mission version for Australia 2020 article 8.1 is not repealed either because that mission version does not have an article concerning redundancy payments.
In the Mission version for Libya 2020 article 8.1a concerning redundancy payments is repealed.

The Hague, 13 November 2019

Y. Brandt
Secretary-General
For the Minister of Foreign Affairs
For the State of the Netherlands