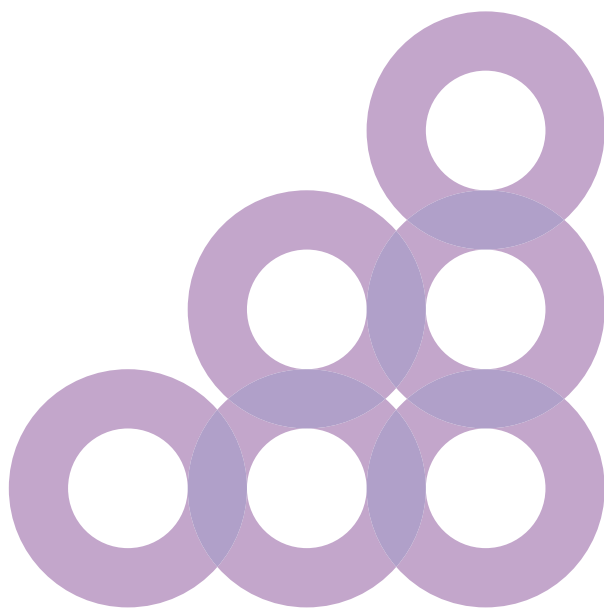


# Pension Provisions in the Netherlands

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## Pension Provisions in the Netherlands



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## Introduction

Future pension provisions in the Netherlands are divided over three pillars:

- the first pillar comprises the basic schemes;
- the second pillar comprises collective pension schemes, and
- the third pillar comprises supplementary individual provisions.

The basic schemes are systems made compulsory by the state for each resident or for each employee, and which are intended to cover specified situations, that provide for a replacement income:

- illness/incapacity for work;
- old age;
- death.

The second pillar comprises additional pension schemes, which are compulsory for many employers and employees. These schemes are linked to an employment relationship, forming part of the terms of employment agreed between employers and employees, individually and otherwise. Agreements exist for most employers and employees to cover the three situations specified above; these are generally supplementary to the basic schemes. Some individual employers also offer supplementary second pillar elements on top of the additional schemes that apply to their entire sector.

The third pillar comprises separate provisions arranged by the individual employee, such as annuity insurance, savings schemes etc.

Note: All monetary sums are annual amounts and are given in euros. The sums apply as at 01/01/2010, unless otherwise stated.

## The first pillar

1

The basic schemes are set down by the government and are compulsory for every resident or employee. The schemes aim to offer a basic income in the event of one of the specified insured situations arising.

## Old-age pension

Dutch nationals working for the Dutch government **abroad**, for a Dutch embassy or consulate, are also insured.

Residents of the Netherlands who work abroad and do not pay Dutch income tax are not insured.

If a person lives abroad but works in the Netherlands and pays Dutch income tax, he/she is also insured.

If a person moves abroad, the old-age pension insurance can in many cases be continued on an individual basis. In such cases, there is no discount on the full old-age pension upon reaching the age of 65.

The deduction from the old-age pension for people who have lived abroad amounts to 2% per year.

If a person has no income, no contribution will be payable, although the **old-age pension** entitlement will continue to accumulate.

Amounts (01.01.2010):

married/cohabiting (each)	€ 9,282.12
single	€ 13,310.40
single parent	€ 16,766.40

Maximum **supplement**: € 9,282.12

If the income is less than € 2,533.68 (i.e. 15% of the gross minimum wage), the maximum supplement will be applied; if the income is above € 15,045.60, or if the income related to employment is above € 8,382.90 no supplement will be applied.

The General Old-Age Pension Act is the basic provision that grants a basic pension payment to every resident of the Netherlands (irrespective of **nationality**) from the age of 65. People are insured between the ages of 15 and 65. If a person has lived in the Netherlands during this time, he/she will have been insured for that entire period, regardless of whether he/she has paid contributions or not. If a person has lived abroad for some of that time and did not work in the Netherlands, he/she will receive a reduced old-age pension. Every insured person who receives an income must pay contributions. The contribution is levied at the same time as taxes. The contribution rate for 2010 is 17.9% on an income of no more than € 32,738. The **old-age pension** is dependent on the marital status/living arrangements of the entitled party. For people who are married or cohabiting, both partners – if aged 65 or over – will each receive 50% of the net minimum wage. Single people receive 70%, and a 65-year-old responsible for caring for a child aged under 18 receives 90%. Those who are married to or cohabiting with a younger partner may be entitled to a **supplement** for the younger partner. The level of the supplement is dependent on the income of the younger partner. If a person entitled to an old-age pension does not live in the Netherlands but in a different country within the EU/EEA instead, or in a country with which the Netherlands has an agreement, he/she will still receive the state pension.

## Surviving dependant's benefit

The surviving dependant's benefit is the basic benefit applicable in the event of death. This scheme dovetails with the old-age pension scheme insofar as the group of insured persons is concerned. *Dependants* are defined as the widow/widower or partner who is younger than 65 years of age, and any children.

There are three types of surviving dependant's benefit: the dependant's benefit, the half-orphan's benefit and the orphan's benefit.

The partner with whom the deceased was living at the time of his/her death is *entitled* to a dependant's benefit if the dependant is responsible for the care of a child under the age of 18, or is pregnant, incapacitated for work for at least 45% or was born before 1 January 1950.

If one of the two parents has died, the other parent is entitled to a half-orphan's benefit if the child is younger than 18 years and unmarried.

If both parents have died then an orphan is entitled to an orphan's benefit.

Married is also taken to mean: registration of the partner at a municipality, and for the purposes of the *dependant's* benefit, cohabitation is also considered as being equivalent to marriage.

The following are *not entitled* to a benefit:

- a person who lived separately from the deceased on an enduring basis at the time of death;
- a dependant who had been married to the insured party for less than a year at the time of death, if the deceased was in such poor health that his/her death could have been expected within a year of the marriage.

A former partner fulfilling the requirements and receiving alimony (on the basis of a court ruling or a notarial deed) is entitled to a benefit at the level of the alimony.

Amounts (01.01.2010):

dependant (maximum)	€ 13,100.64
half orphan	€ 3,403.20
full orphan	
- up to age 10	€ 4,642.92
- age 10 to 16	€ 6,863.76
- age 16 to 18/21	€ 9,084.48

If the income of the dependant is less than €8,445.60 (i.e. 50% of the gross minimum wage), the maximum benefit will be applied; if the income is above € 28,028.88, no benefit will be applied.

The orphan's benefit continues until the age of 18 or 21 years if the orphan is incapacitated for work, is still in education or is responsible for a household comprising at least one other orphan.

The contributions for the surviving dependant's benefit are levied along with income tax, as is the case for the old-age pension. The contribution rate for 2010 is 1.10% on an income of no more than € 32,738.

The *level* of the dependant's benefit amounts to a maximum of 70% of the net minimum wage, but is dependent on income. The level of the half-orphan's benefit amounts to 20% of the net minimum wage; this benefit is not dependent on income. The level of the orphan's benefit is independent of income, but is dependent on age.

The dependant's benefit ends when the dependant reaches the age of 65 (the dependant will then be entitled to an old-age pension), if the dependant remarries, when the child for whose care the dependant was responsible reaches the age of 18, or if the dependant ceases to be incapacitated for work or at least 45%. The half-orphan's benefit ends when the child reaches the age of 18, marries or is adopted, or when the parent reaches the age of 65 (the parent will then receive an old-age pension of 90% of the net minimum wage). In principle, the *orphan's benefit* ends once the orphan reaches the age of 16.

## WIA benefit

The WIA (benefit for work and income according to capacity for work) is the basic scheme applicable in cases of full or partial incapacity for work, which came into effect on 1 January 2006. The scheme applies to those who have an employment contract with an employer, and is therefore not applicable to everyone who is resident in the Netherlands. The law consists of the IVA scheme (Income provision for those who are fully incapacitated for work) and the WGA scheme (Resumption of work by those who are partially incapacitated for work).

If an employee becomes ill, his/her employer must continue to pay his/her wages for a maximum of 2 years. The employer and employee must also do everything possible to get the employee back to work as soon as possible. After 2 years, the employee is assessed.

If it emerges that the employee is fully and *permanently incapacitated for work*, he/she will be entitled to a benefit equal to 75% of the *WIA monthly wage* up to the age of 65. If the employee is assessed as being less than 35% incapacitated for work (i.e. a *loss of wages* of less than 35%), he/she will remain in the service of the employer. The employer and employee must do everything possible to allow the employee to continue working.

An employee is classified as *fully and permanently incapacitated for work* if he/she is unable to earn more than 20% of his/her most recently earned wage and if there is no chance of this situation improving in the future.

If there is still a slight chance of recovery, the person will be reassessed every year during the first 5 years.

There is a maximum *WIA monthly wage* for the purposes of calculating the benefit (in 2010, the maximum is € 48,715.65).

The *loss of wages* must be at least 35%.

The employer can make the employee redundant if there is no work available. In that case, the employee will be entitled to unemployment benefits or an assistance benefit.

The duration of phase 1 is dependent on the employment history, and a maximum applies (2010: € 48,715.65).

In phase 2, 'work' is defined as the employee working to receive a wage of at least 50% of his/her remaining earning capacity.

The benefit payable in the event of the person not working is determined by the extent of his/her incapacity for work.

The wage supplementation or follow-up benefit ends when the person reaches the age of 65.

If the assessment demonstrates that the employee is partially incapacitated for work or fully yet not permanently incapacitated for work, the WGA scheme (Resumption of work by those who are partially incapacitated for work) will apply, and the following situations may arise.

*Phase 1: Wage-related benefit.*

The employee works: for the first 2 months, he/she receives 75%, and after that 70% of the difference between his/her former and current wage. The employee does not work: he/she receives 70% of his/the WIA monthly wage.

*Phase 2:*

The employee works: he/she receives 70% of the difference between the WIA monthly wage and the residual earning capacity (*wage supplementation*). The employee does not work: he/she receives a *follow-up benefit* at the level of a certain percentage of the minimum wage.

The WIA contribution is at the full expense of the employer. Each employee is subject to a basic contribution: 5.7% of the WIA monthly wage, plus a differentiated contribution.

## The second pillar

# 2

The provisions of the second pillar of the pension system are linked to the employment relationship and may or may not be set out in a pension scheme agreed by the social partners.

The pension must be placed with a pension fund or an insurance company (i.e. it must be placed outside the enterprise). The financing system must be capital funding. There must be a solid financial basis. Actuarial and technical business reports must be drawn up beforehand, containing the starting points for the financial policy that is to be implemented. Reporting is also required. De Nederlandsche Bank (DNB) and Netherlands Authority for the Financial Markets (AFM) have monitoring powers.

Pensions are intended for the provision of a benefit payment in old age, or in the event of death or incapacity for work. The benefit must be considered reasonable according to generally accepted rules, in light of the number of years of service and the salary.

## Legislation

There is no law in the Netherlands that makes pensions compulsory. Only if a *pension commitment* is given does the Pensions Act provide a number of rules to be fulfilled by that pension commitment.

The tax legislation provides an exact description of the concept of *pensions*. The sum paid into a pension by the employer and employee is untaxed, while the pension payments are taxed (the ‘reverse rule’). The return on the pension investment is also untaxed.

## Implementation

The pension commitment must be implemented by:

- a *sectoral pension fund*;
- an *occupational pension fund for sole traders*;
- a *company pension fund*;
- an *insurance company*.

Sectoral pension funds can be made compulsory for the entire *sector*; all employers are then obliged to affiliate themselves to that fund. The condition for such an obligation is that there is solidarity: a *single, standard premium* must apply and no impediments can be put in place to restrict employees from participating in the pension scheme.

**Sectoral pension fund:** implements a scheme for a particular sector (e.g. the construction industry, the metal industry, the health care sector).

**Occupational pension fund:** implements a compulsory scheme for people who are self-supporting (e.g. GPs, pharmacists, civil-law notaries, lawyers).

**Company pension fund:** is affiliated to a single company, an independent element of a company or a conglomeration of enterprises (e.g. Philips, KLM, AKZO, DSM).

**Insurance company:** the employer asks the insurance company to implement a scheme.

The majority of the social partners within the *sector* must submit a request to the Minister of Social Affairs and Employment.

There are also non-obligatory sectoral pension funds, such as the Stichting Pensioenfonds voor Kunst en Cultuur (Art and Culture Pension Fund Foundation) and the Stichting Pensioenfonds Openbaar Vervoer (Public Transport Pension Fund Foundation).

A pension fund has a **social objective**: the participants bear each other's burdens and help those in a weaker position. This is what distinguishes a pension fund from an insurance company.

A **standard premium** means that a fixed percentage is paid out of the wages or a similar nominal amount.

The backdrop to this was that, whereas **pension funds** are based on compulsory collectivity, society was demanding greater flexibility. The more flexible the products, the greater the competition between pension funds (which are exempt from taxation) and insurance companies.

Pension funds may offer more flexible products in addition to the basic scheme, such as.

- the employer paying at least 10% of the total costs, or
- the employee paying the same (nominal or percentage-based) contribution, or
- indexation of benefits being made at the expense of the collectivity, with the same rules applying for indexation as those for the basic scheme.

For example: for a **provision** in excess of a certain maximum wage.

*Pension funds* and insurance companies have demarcated the markets within the second pillar; there is a division of responsibilities. Pension funds can offer basic products that involve solidarity and collectivity, plus supplementary voluntary products insofar as they comply with a number of solidarity-related features. Furthermore, pension funds are not subject to taxation, whereas insurance companies are.

An employee may be compulsorily affiliated to a sectoral pension fund while also arranging for supplementary **provision** through an insurance company.

## Schemes

The Dutch Government has laid down a number of rules in the Pension Act which the pension schemes must comply with. In addition, the pension schemes are also influenced by fiscal rules.

A first distinction between the various types of schemes is: *defined benefit/defined contribution*.

Defined benefits schemes can be subdivided as follows:

- *final salary* schemes;
- *moderated final salary* schemes (came into being in order to moderate the expensive final salary systems);
- *average salary* schemes.

All systems take account of the fact that the employee (and his/her partner) is entitled to an old-age pension. This is mostly done by taking a *deductible* from the salary.

**Defined benefit:** the outcome, i.e. the pension, is 'defined.'

**Defined contribution:** the contribution is 'defined.' The pension will be financed by the contribution premiums; the level of the pension is not fixed beforehand.

A combination of the two is also possible; for example, a basic 'defined benefits' scheme (up to a certain income level), with a top-up 'defined contributions' scheme above that level.

**Final salary:** all the employee's years of service are factored by the level of pay upon retirement.  
example:  $P = 1.75\% \times \text{years of service} \times \text{final salary} - \text{deductible}$

**Moderated final salary:** as of a certain age, the individual salary increments are no longer factored by the total number of years of service but instead applied only with regard to the future.

example:  $P = 1.75\% \times \text{years of service until age 55} \times \text{salary at age 55} - \text{deductible} + 1.75\% \times \text{years of service from age 55 until next pay rise} \times \text{salary prior to pay rise} - \text{deductible}$ .

**Average salary:** pension accumulation per year, dependent on the income and the years of service in the year concerned.

example:  $P = 2\% \text{ per year} \times \text{salary during that year} - \text{deductible}$

The **deductible** may be linked to the old-age pension ( $10/7 \times 2 \times \text{old-age pension for married persons}$  or  $10/7 \times \text{old-age pension for unmarried persons}$ ) or the minimum wage.

The tax authorities thus also allow the **level** of the pension to vary; the ratio may not be greater than 100:75.

**Years of service** can be said to include:

longer periods of leave or time during which the person received severance pay. Pension entitlements are built up proportionally if the person has been working part-time.

Since this concerns capital funded pensions, it is possible to calculate an actuarial **value** for the pension entitlement that has been accumulated when participation is terminated. In the Netherlands, in the event of a change in his/her pension scheme, the employee has the right to transfer its value to the new pension scheme; the new pension fund will then make an actuarial conversion of the value for the new scheme. A value transfer to and from foreign countries is also possible under certain conditions.

Pension for the partner: a maximum of 70% of the old-age pension. Pension for orphans: a maximum of 14% of the old-age pension (for half orphans) or a maximum of 28% for full orphans.

If the employee dies while in service, the **dependant's pension** is calculated as if the employee died on his/her retirement date.

The dependant's pension covering death before the age of 65 is arranged on a **risk basis**: in the event of death during participation, the former partner is not entitled to a pension; in the event of death once participation in the scheme has ended, the partner and former partner are not entitled to a pension.

## Types of pension

### Old-age pension

In the Netherlands we build up a certain percentage of the salary (- deductible) each year. The inception date can vary.

'*Years of service*' is the time spent working for an employer; part-time work is taken into account.

When a person changes their job and pension scheme, the **value** of the entitlement reserves that have been accumulated is transferred.

Conversion of the accumulated entitlement to an old-age pension into a dependant's pension and vice versa is sometimes possible.

### Dependant's pension

Upon the death of the employee, his/her partner/former partner and children are entitled to a **dependant's pension**. This pension is derived from the old-age pension.

Sometimes, the dependant's pension covering death before the age of 65 is financed on a **risk basis**, while the pension covering death after the age of 65 is financed on a capital funding basis. This has implications for the pension payments after death.

In a number of cases, there may also be compensation for the full or partial loss of the surviving dependant's benefit.

## Incapacity-for-work pension

Quite a number of *schemes* make no provision for an incapacity-for-work pension. The basic scheme will be deemed sufficient in such cases. Where an incapacity-for-work pension is provided, the scheme generally consists of a supplement to the basic scheme (WIA), for example for those with earnings in excess of the maximum daily wage.

## Early retirement

The cabinet has decided to end *tax* breaks for those retiring from work before reaching the age of 65. As from 1 January 2006, entitlements accumulated after that date by employees who had not reached the age of 55 before 1 January 2005 will no longer be tax-free. Contributions paid by these employees may no longer be deducted from their income. This group is even subject to a fiscal pension penalty.

## Indexation

The bulk of pension entitlements accumulated here are indexed. They can be index-linked in line with *wages* or *prices*, and the indexation is usually dependent on the finances of the pension body.

*Schemes* often stipulate that the accumulation of old-age pension entitlements will fully or partially continue on a premium-free basis if an employee becomes incapacitated for work.

Entitlements accumulated before 1 January 2006 will be honoured and can therefore be used for early retirement even after 1 January 2006, without any adverse tax implications. The pension payments will be taxable.

The existing *fiscal facility* will remain in force for employees who reached the age of 55 before 1 January 2005. The contributions remain tax-deductible, the accumulated entitlements remain untaxed, while the benefits are taxed.

Adjustments in line with *wages* are based on changes to such aspects as salaries within the sector or the company.

Index-linked changes are based on *price* index figures.

If indexation is applied, the pensioners and inactive members (i.e. people who are no longer building up pension entitlements and are not yet drawing a pension) must be treated equally.

## Developments

### Life Account Scheme

On 1 January 2006, the Life Account Scheme was introduced. This scheme offers the possibility to build up a source of income (salary replacement) for a period of partially or fully unpaid leave. Any money to be saved is deducted from the gross salary, and the levying of income tax is postponed until the time that the fund is drawn on.

### Conditions

- Employees are entitled to save a maximum of 12% of their gross salary per year.  
The maximum balance is 210% of the annual salary.
- Employees may use the saved amount to fund any type of leave during their careers and/or prior to retirement. This is subject to the employer's consent.
- If the pension fund offers the possibility to commute the accumulated pre-pension entitlements, this amount can be contributed to the Life Account Scheme without being taxed. The maximum of 12% per year will cease to be applicable in that situation, but the absolute maximum of 210% continues to apply.
- The maximum of 12% per year ceases to apply to employees who had reached the age of 50 before 1 January 2005, but who had not yet reached the age of 56 by that date. They can make additional contributions into the life account scheme.  
In this way, they can build up a Life Account balance of a maximum of 210% in a shorter period of time, and this can then be used to allow early retirement, for example.

## The third pillar

# 3

The third pillar in the Dutch pension system consists of individual provisions for the three situations described in the introduction: incapacity for work, death or old age. Most of these are defined contributions schemes.

The third pillar is of particular importance for self-employed individuals who are unable to participate in a supplementary second pillar pension scheme. They must build up a pension independently, through an individual life assurance policy or an alternative way of saving for retirement. However, some employees participating in second pillar collective pension schemes also wish to make their own additional arrangements; these also fall under the third pillar.

The implementation is carried out by insurance companies; pension funds are not permitted to operate within the third pillar.





