

No permits, no access to Dutch social benefits 29/07/2003 00:00

Applying for the appropriate visas and permits is an important step to getting settled here. But what if you simply 'forget' about this, get a job and start on your illegal way? Patrick Rovers reports.

Crossing borders means entering new systems of laws and regulations. This definitely applies to the Netherlands.

The Netherlands has numerous laws and rules that apply to every person within its borders. What does this mean to the expatriate?

If an expatriate (and his future employer) takes sufficient care of the appropriate Dutch visas and permits, an important hurdle is taken. But what if the expatriate simply 'forgets' about this, gets a job and starts on his illegal way?

Work permit

In general, the Dutch employer of a non-EU/EER national is responsible for obtaining a valid work permit. The expatriate/employee cannot be punished for working without a Dutch work permit since he is not responsible for obtaining one.

But working without a work permit means violating the 'Vreemdelingenwet' (Aliens Law) since the expatriate is not likely to report this employment to the Aliens Police, which he is obliged to do. Not meeting this legal obligation is punishable by law.

Residence permit

An expatriate, who intends to stay in the Netherlands for longer than three months, has to apply for a residence permit with the Aliens Police of the municipality in which he is residing or staying.

In some cases an authorisation for provisional sojourn (MVV) is needed before an application for residence permit is possible. The Aliens Police will check if the MVV and work permit have been obtained.

If these are not produced, the residence permit application (work based) will be turned down. An expatriate who fails to apply for a residence permit is in direct violation with the Aliens Law and will be deemed illegal. Without the residence permit, the expatriate lacks proof of his lawful residence in the Netherlands.

Exclusion from social security coverage

Working without a proper work permit and valid residence permit has a dangerous side to it, namely exclusion from the Dutch social security system. The Netherlands has an intricate social security system and items such as unemployment benefits (WW), old age

benefits (AOW), health insurance benefits (ZFW) and disability benefits (WAO) are covered by special laws, which are part of national insurance schemes or employee insurance schemes.

With regard to the employee insurance schemes, these automatically apply to persons legally employed in the Netherlands. Persons residing in the Netherlands are usually covered by National Insurance schemes.

Exceptions are possible in certain cases where a foreign employer has requested for a continuation of the expatriates own (foreign) social security system, based on a special Administrative Arrangement with the Netherlands.

The system

The Dutch social security system, at least the part that is relevant to the expatriate, is fairly easy to understand.

The employer has the obligation to check the residence status of the expatriate and has to obtain a Dutch work permit. Subsequently, the employer needs to list the new expatriate/employee with one of the competent agencies responsible for the Dutch social security system.

To check up on the expatriate/employee as 'a new arrival' these agencies are hooked up to a nationwide computer system called Gemeentelijke Basisadministratie (GBA).

GBA is the combined residents' register of all Dutch municipalities. The GBA databank is linked to Vreemdelingen Administratie Systeem (VAS).

VAS holds information on aliens residing in the Netherlands and falls under the direct responsibility of the Aliens Police. If the expatriate cannot be traced through these databanks or has a certain computer code attached to his name, the competent agency will not allow for social security coverage.

This means no benefits during sick leave, disability or unemployment - in short: no income if and when the need arises. Every time the expatriate applies for certain Dutch benefits his residence status and work permit will be checked by the competent agency.

Since work permits and residence permits are generally linked together (no work based residence permit without a work permit and vice versa), the system is designed to exclude illegal aliens/employees from Dutch social security coverage.

In closing

Working and residing in the Netherlands means complying with lots of Dutch rules and regulations.

Work permits and residence permits are linked and Dutch government computer systems process and track expatriates/employees on the basis of their current work and residence status.

The best advice is to stay on the right side of the fence if you aim to work and live in the Netherlands and fully integrate into its society.

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This article is for informative purposes only, is general in nature, and is not intended to be a substitute for competent legal and professional advice. Dutch rules and regulations regarding work permits, visas and residence permits are continuously subject to change.