



Rijksdienst Caribisch Nederland

Rights and obligations foreign nationals



The rights and obligations of the employer and the employee are described in various laws in the Caribbean Netherlands. The employee is protected by the government. The laws in the Caribbean Netherlands do not only apply to Dutch citizens but to everyone who performs work.

Furthermore, there are several laws which govern the residency of foreign nationals in the Caribbean Netherlands. In order to reside and work in the Caribbean Netherlands, a foreign national should meet certain requirements. Employers who have foreign nationals working for them should also meet certain requirements.

Wet arbeid vreemdelingen BES

The Wet arbeid vreemdelingen BES [BES Labour Law Foreigners] is intended to protect the local labour market. Only when no local workers can be found for certain work, may the employer apply for a work permit. With a work permit you as a foreign national can apply for a residency permit. As long as the permit is valid, you can temporarily reside in Bonaire, St. Eustatius and Saba to perform work.

1. Work permit

An employer is not permitted to have a foreign worker perform work for them if the employer does not have a valid work permit. It is important for you to know: having a work permit is the responsibility of the employer and not yours as an employee. Having a foreign worker perform work without a valid work permit is punishable with a large fine!



2. Employment contract

All foreign nationals who work under a work permit should have a written employment contract with their employer. You should always be paid at least the wage which is stated in the employment contract. Also when you work less hours than has been agreed!

3. Payslip

With each payment of salary you are entitled to a payslip. The payslip will state your net wage and which amounts have been withheld for the Tax Office. The employer is obliged to pay the withheld amounts to the Tax Office. It is important to keep these payslips.

4. Who is your employer

The person with whom you have a written employment contract is your employer. That also is the person who is permitted to let you work via a work permit and the person who pays your wage. It may occur that your employer lets you work for another employer. This is only permitted under the following conditions:

- You continue to receive your wage from the employer who has the work permit;
- You continue to receive the wage as stated in your employment contract;
- You work in the same position.

5. Housing

In order to temporarily reside on the island you should be able to live in proper conditions. Proper housing means that you have at least an own lockable spacious room and an own bed. There should also be a table and chair, and a cupboard to store goods. A toilet and bathroom with running water should be properly arranged.

6. Payments and deductions

All payments and all deductions should be stated on your payslip. Overtime should also be stated on your payslip. Deductions which are not stated on your payslip, are not legal. Your employer is not permitted to deduct money for the costs of the work permit.

Sickness and occupational accidents

Your employer is insured by law against sickness and occupational accidents. The employer pays a contribution for this via the tax on your wage. If you are sick or have been in an occupational accident, the employer should continue payment of your wage. In case of sickness this is from the third day of sickness and in case of an accident from the day on which the accident was reported to the Social Affairs and Labour Unit. Your employer should pay your wage on the regular day of payment.

Minimum wage

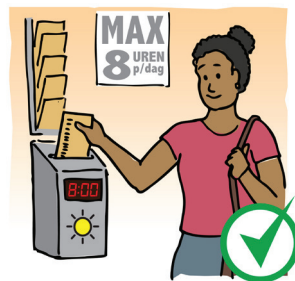
The Wet minimum loon BES [BES Minimum Wage Act] stipulates the minimum pay per hour. The minimum wage differs per Public Entity (island) and is reviewed annually. In Bonaire the 2017 minimum wage per hour for employees aged 21 and over is \$4.73, in St. Eustatius this is \$5.80 and in Saba \$5.68. All exact amounts can be found on the website www.RijksdienstCN.com. Your income should be at least 40 times the minimum hourly wage per week (also when you work less than 40 hours per week).

Holiday entitlement

The Vakantiewet BES [BES Holiday entitlement law] stipulates that you as an employee are entitled to paid holiday. You are entitled to 15 days' paid holiday, except when you work less than 40 hours per week. If you work less than 5 days per week, the number of days paid holiday is 3 times the number of working days per week.

Working hours

The Arbeidswet 2000 BES [BES 2000 Labour Code] stipulates the maximum number of working hours per week for an employee. The standard number of working hours in the Caribbean Netherlands is 40, 5 days of 8 hours being the guiding principle in this respect. After 5 hours of work, employees should take a break of at least half an hour. The daily rest time is at least 11 hours. Sunday is a non-working day.



In case of unforeseen work, overtime is permitted under the following conditions:

- The maximum number of working hours per day is 11 hours with a maximum total of 50 hours per week.
- The average number of working hours over a period of 13 weeks should not exceed an average of 45 hours per week. Apart from working hours, sufficient time to rest and recover should also be arranged.
- If you have worked more than 160 hours over 4 weeks, then those hours count as overtime. In that case you as an employee are entitled to overtime pay.

Different rules apply to companies in the horeca [hotel, restaurant and catering] industry. The horeca industry comprises: hotels, restaurants (snèks) and casinos. People in the horeca industry work 8 hours a day and 6 days a week: which is 48 hours per week. In case of overtime, the total number of working hours should not exceed 11 hours per day and 60 hours per week, However, the average number of working hours over four weeks should not exceed an average of 55 hours per week and calculated over 13 weeks the average number of working hours should not exceed 48 hours per week. Once every 13 weeks the employee is entitled to a non-working Sunday. Apart from working hours, sufficient time to rest and recover should also be arranged. After 5 hours of work, employees should take a break of at least half an hour. The daily rest time is at least 11 hours.

Safety

The Arbeidsveiligheidswet BES [BES Occupational Safety Act] stipulates that work should be performed safely. The workplace should be organised safely, machines and equipment should be constructed safely and employees should be provided with personal protective equipment if necessary.

The employer is obliged to offer and pay personal protective equipment. So the costs of, for example, safety shoes, a construction helmet, masks, safety glasses and ear protection are paid by the employer. You as an employee are obliged to use the equipment in a proper manner.

Employers in the construction industry should take measures to prevent the risk of falling. If work is performed at a height exceeding 3 metres, an employer is obliged to place guard rails and/or fences. Stairs should be fitted with handrails. And there are many more rules regarding occupational safety and health.

Brochures containing more information about working in construction, in shops and in the horeca industry are available free of charge at the Social Affairs and Labour Unit. You can also visit www.ArbeidsinspectieCN.com for more information.

Human trafficking

Many people who fall victim to human trafficking or labour exploitation are not aware themselves that they are a victim of human trafficking. Such a situation often does not arise overnight. When you decide to leave your country of origin, you often are offered great prospects. However in practice these sometimes prove to be false pretences.

Sometimes threats are made that the residency permit will be withdrawn. The employer may for instance say: "If you do not like it, I will send you back to your country!" The combination of long hours, receiving little pay and the threat of withdrawal of the permit are signs that you are being exploited. Other signs are: failing to meet promises, being forced to provide sexual services, not being in control of ones own passport and/or being forced to incur a high debt to your employer.

It is important that you report this to the authorities. The Royal Netherlands Marechaussee, the Police Force and the Labour Inspection are making efforts to prevent human trafficking.

Where can you go?

Problems come in all sizes. In all cases it is important that you first try to solve the problem together with your employer. However, this is not always possible. You may call upon the authorities for information or if injustice is being done to you.

You can do this in different ways:

Information and mediation

For questions about your salary and working hours, or for mediation in an employment dispute, you may contact the Labour Affairs Department. You can send an e-mail to arbeidszaken@RijksdienstCN.com, or call via +599 715 8888. For more information you can also visit www.rijksdienstCN.com under Social Affairs and Labour Unit.

File a complaint

If you wish to file a complaint about your working conditions, you can do this with the Labour Inspection via arbeidsinspectie@RijksdienstCN.com or by telephone via +599 715 8888.

Report human trafficking

If you end up in a situation in which you are being exploited, you should contact the Police (KPCN).

The following KPCN phone numbers can be reached at all times:

- On Bonaire: +599 717 8000 (general).
Bonaire Anonymous Tip Line: +599 717 7251
- On Saba: Basic Police Care: +599 416 3737
- On St. Eustatius: Basic Police Care: +599 318 2333

All these agencies will handle your complaint confidentially!

