

Corona-related measures to support businesses in the Netherlands

I. Introduction

1. This memorandum provides a short overview of measures taken in the Netherlands to support businesses struggling with the effects of Corona and other measures taken by the government to combat Corona that may be relevant in dealing with financial distress.
2. This situation develops continuously. The information below is up to date as of 29 September 2020. Changes compared to the previous version of this document, that of 17 July 2020, are *typeset cursive*.
3. Should you require any further information, please contact Niels Pannevis at Niels.Pannevis@resor.nl. Also, at the end below you will find references to websites with further details.

II. Government reimbursement for labour costs

4. A major pillar of the government stimulus is a reimbursement-programme for labour costs of effectively superfluous employees, the so called 'Tijdelijke Noodmaatregel Overbrugging voor Werkbehoud', or NOW. *The original NOW started in March. At the time of writing the successor of this, NOW 2.0 applies, but it is no longer possible to apply for NOW 2.0. From 1 October the NOW 3.0 will apply, until 1 July 2021. Companies can apply for the NOW 3.0 from 16 November onwards, with retro-active effect until 1 October 2020. The core of the NOW 3.0 arrangement is the same as under NOW 1.0 and 2.0: under NOW 3.0 companies can request a substantial reimbursement of the labour costs associated to lost revenue.*
5. Companies can request the NOW 3.0 if they experience a downfall of revenue above the threshold. *This threshold will be raised in the nine months during which the NOW 3.0 applies. During the first three months the arrangement only applies for companies with a loss of revenue of 20% or more. In the second and third period (i.e. from January 2021 onwards) this threshold is 30%. The estimated loss is determined by comparing the expected revenue in a certain period with the revenue generated in 2019.*

6. The amount of the reimbursement under the NOW 3.0 depends upon the downfall in revenue. *In the first period of the NOW 3.0, 80% of the labour costs associated to the lost revenue can be reimbursed; from January 2021 onwards this is 70%; and from April 2021 onwards this is 60%.* Hence, if a company loses 50% of its revenue, up to 40% of the total wage bill can be reimbursed. The support covers wages, but also includes a 40% surcharge to cover employer costs for pensions, employer contributions to social benefits and holiday payments. The first payment is distributed as quickly as possible after the application, the second payment follows roughly two months later.
7. To apply for NOW 3.0, it is not required that employees currently have nothing to do. Also, there is no requirement as to the sector the applying company operates in. Salaries over EUR 9.538 per month cannot be compensated for the part that exceeds this amount. *Per April 2021 only the labour costs of salaries, or parts thereof, up to EUR 4769 can be compensated.*
8. For groups of companies the loss of revenue is calculated on a consolidated basis. For international groups the revenue is calculated by consolidating all Dutch entities and entities that pay wages in the Netherlands. Individual parts of company groups that on a consolidated basis do not have a loss of revenue of 20%, but individually do have such a loss of revenue, may also apply for this arrangement.
9. Companies that use the NOW 3.0-facility cannot distribute dividends or bonuses to shareholders or the board. Also, they may not buy back stock if the advance under the NOW exceeds EUR 100.000, or if the definitive compensation exceeds EUR 125.000. Moreover, employers are obliged to stimulate the employability of their employees, e.g. by providing possibilities for (re)training.
10. When applying for NOW 3.0, companies agree to have published online the name of their organization, place of domicile, the amount of the advance and the definitive compensation. A register of companies receiving such support, including the amounts, for NOW 1.0 has already been published online. *Companies should also inform their employees if an application for the NOW is granted.*

11. Under NOW 3.0, as was the case under NOW 2.0, companies have to provide an opinion of their accountant regarding the actually incurred loss of revenue, on the basis of which the final settlement was made if the received compensation exceeds EUR 100.000. In case of an advance exceeding EUR 20.000 or an final disbursement exceeding 25.000, a statement of a third party – not necessarily an accountant - is required.
12. Staff that works in a payroll-arrangement or through an employment agency can also be covered under the NOW 3.0. The employment agency or payroll organization will then have to apply.
13. The NOW 3.0 shall not affect rights that dismissed employees have on the basis of the Dutch unemployment act.
14. *To compensate for the reduction of the reimbursement percentage in NOW 3.0 compared to NOW 2.0, companies are allowed to gradually lower their loan sum, e.g. by dismissing or not replacing retiring staff, without this affecting their reimbursement. The exemption rate is respectively 10% (first period), 15% (second period) and 20% (third period) of the total loan sum. So if a company lowers its loan sum with 10%, 15% or 20%, it will still receive the same reimbursement as if the loan sum remained the same.*

III. Fiscal measures

15. The tax authorities are taking several measures to keep companies from going into financial distress.

Extension of payments

16. Since March all businesses can get an extension of payment of their taxes. It can be filed for through an online form. Such request is automatically granted. The extension not only covers current tax debts, but also debts that will be incurred in the next three months. For all taxes, this policy applies until 1 October 2020. This means that companies can request an extension for their taxes on, 30 September 2020 at the latest, which then applies until December 2020. When the extension of payment is revoked, companies are offered a payment arrangement. *From 1 January 2021 companies should start paying their taxes in accordance with the regular rules. From 1 July 2021 companies will be granted no more than three years to satisfy the tax debt accrued during the Covid-period.*
17. Companies can request extension of payments for income taxes, corporate income taxes, VAT and taxes over wages. The tax authorities will suspend any collection measures. Also no penalties will be incurred for untimely payment.
18. In addition to the taxes mentioned above, the extension can also cover gambling taxes, excise duties, consumption taxes, insurance taxes, landlord levies, energy taxes and other environmental taxes. For companies with high energy use, the energy supplier will no longer invoice the taxes.
19. A request for extension of tax payments needs to be filed in writing, explaining how the Corona-outbreak has incurred financial distress. Contrary to earlier information, this request does not need to be supplemented by an opinion of an independent expert.
20. Other usual conditions for an extension of payments apply. These include the past behavior of the taxable company. If insufficient funds were reserved for the taxes that were to be expected, no extension is granted.
21. If three months' extension is not sufficient, a company can request for further extension under the condition that it does not distribute bonuses or dividends and does not buy back stock. Tax authorities are still determining which information will be required for such an extension-request. There is a simplified process for companies with less than EUR 20,000 in tax-debt.

Special tax reserve

22. The Dutch government has adapted existing legislation on tax-deductible loss. Loss compensation with the preceding year is, in principle, only possible when the tax return for the loss year is filed and the final tax assessment for the profit year has been issued. The Dutch government has announced that taxpayers are now allowed to take into account the expected 2020 loss (which loss must relate to the coronavirus) in their tax return for 2019 through the creation of a tax reserve with a maximum of the 2019 taxable profit excluding this "corona tax reserve".

Adjustment of preliminary assessments

23. Companies currently paying income or company taxes based on a preliminary tax assessment which is in turn based on last year's profit, can request to lower that preliminary assessment of this year's profit. This directly lowers the taxes currently due.

No interest

24. Usually due and payable tax claims incur interest of 4%. This rate has been lowered to 0,01% for tax debts which arose in the period from March 2020 until 31 December 2020. *From January 2021 onwards, the normal interest rate applies again.*
25. The interest for taxes that are assessed late is also lowered. Usually this is 8% for corporate income taxes and 4% for other taxes. The rate for corporate income taxes has been lowered to 4%; the rate for other taxes has been lowered to 0,01%. *This policy is scheduled to end 31 December 2020.*

Local taxes

26. The government endeavors to suspend the collection of local taxes, particularly tourism taxes. Discussions with local authorities on this topic are ongoing. Some local authorities, such as the municipality of Amsterdam, have granted a suspension of payments of (some of) their taxes.

IV. Emergency funds

Additional guarantees for large financing

27. Under an existing program the government guarantees medium and large sized loans made by financial institutions to large companies (*Garantie Ondernemingsfinanciering, GO*). Loans between EUR 1,5 million and EUR 150 million qualify. The maximum duration is eight years. They can be guaranteed for up to 50%.
28. On 28 April, this program was expanded by introducing a separate facility for enterprises with financing liquidity needs for working capital and investment costs arising as a result of the coronavirus (*GO-C*). The maximum guarantee has been raised to 80%, and 90% for SME loans. The maximum duration of the guarantee is six years. This program only covers unsubordinated loans to enterprises which were not in financial difficulties on 31 December 2019. *Applications for such guarantees should be submitted before 15 December 2020.*
29. Interested companies should address their bank. A list of participating banks can be found under the links listed further below.

Additional sureties for SME-loans

30. Under an existing program, the government acts as a surety (*borg*) for (part of) loans to small and medium sized enterprises (*Borgstelling Midden- en Klein Bedrijf, or BMKB*). To qualify as a small or medium sized enterprise (SME) a company can have no more than 250 employees (fte's), a turnover of EUR 50 million or a balance sheet total of EUR 43 million.
31. This existing program is expanded. Under the new rules the government will act as surety (*borg*) for more loans and for up to 75% of the loan. It is intended for bridge loans or extension of existing loans for up to *two years*. The personal surety of entrepreneurs will be lowered from 25% to 10%. The maximum credit for this program is EUR 1,5 million. *Requests under this expanded programme should be submitted before 1 April 2021.*

32. To request such surety, companies should address their own bank. The premium to take part in this arrangement has been lowered from 3,9% to 2% (with a duration up to two years) and to 3% (with a duration up to four years). The repayment term has been extended from two to four years.
33. The specific surety program for entrepreneurs in the agricultural sector will also be expanded.

New credit lines for companies without bank financing

34. New credit lines will be opened for companies that have no existing bank financing, particularly innovative companies, start-ups and scale-ups (*Corona-Overbruggingslening, COL*). This new financing will be supplied through the regional development societies (*Regionale Ontwikkelingsmaatschappijen, or ROMs*). The central government will supply EUR 200 million for the ROMs to arrange these loans. The loans themselves will be between EUR 50,000 and EUR 2 million. For larger loans, between EUR 2 million and EUR 5 million, a similar facility is set up by the national investment fund InvestNL.
35. This programme was extended until 1 October 2020. *As of yet it is unclear whether the COL 2.0 will be extended for applications beyond October 1st.*

Support of closed and near-closed businesses

36. A specific support program has been set up for businesses that were forced to close under the Corona-measures (hairdressers, event-organizers), called Compensation Fixed Costs Small and Medium Enterprises (*Tegemoetkoming Vaste Lasten or TVL*). The TVL applies from 30 June until 1 October. SMEs with a maximum of 250 employees that have lost more than 30% of their net turnover can receive a maximum amount of *EUR 90.000* for a period of three months to pay their fixed costs (excluding wage costs). This amount is based on the total loss of revenue. Companies applying to the TVL should have at least EUR 4.000 in fixed costs (not including wage costs). The TVL is in addition to the NOW.

37. *The TVL will be extended until 30 June 2021 (TVL 3). It is divided into three periods. In the first period, October – December 2020, only companies with a loss of revenue above 30% can apply. In the second and third periods, January – March 2021, and April – June 2021, it is raised to 40%, respectively 45%.*

Other small business measures

38. In addition to the program mentioned above, self-employed can get extra income support in two ways under the TOZO (*Tijdelijke Overbruggingsregeling Zelfstandig Ondernemers*).

39. Self-employed with a low income can get extra income support under the social benefits program for up to three months, without having to first use up their savings.

40. In addition, self-employed can request a loan for working capital with a maximum amount of EUR 10.517. The interest rate is 2%.

41. *On 28 August 2020, the government indicated that the TOZO-facility will be extended until 30 June 2021. In addition to the conditions that were previously required, a means test is introduced. To apply for TOZO 3, a self-employed should have less than EUR 46.520 EUR. The available funds of the partner of the self-employed are also counted.*

42. Also, small businesses financed through governmental finance provider Qredits will get an extension of payments of six months and their interest rates will be lowered to 2%.

43. Small companies that have attracted public investment through the early stage financing (*Vroege Fase Financiering*) or through innovation credit (*Innovatiekrediet*), can get a suspension of payments on these loans of half a year.

Re-insurance for credit insurance companies

44. The government *has provided* a re-insurance scheme for credit insurance companies. The aim is to allow the credit insurance companies not to lower their limits in the short term. The government has stated that it will guarantee supplier credit up to EUR 12 billion, covering deliveries as of 1 January 2020.

Support by banks

45. In March Dutch banks have indicated that SME's with loans up to EUR 2,5 million can get an extension of payments for half a year. *As this overall-extension approach has elapsed, no announcements have been made on further extensions.*
46. For larger financings bespoke measures are being taken by the banks. Some banks are granting all larger customers suspension of interest payments, others are even suspending down payments on existing financing for larger customers.

Other suspensions of payment obligations

47. Pension funds are suspending payment obligations for affected companies. Currently this is done per individual company, broader guidelines are being developed.
48. The organisation of professional landlords and tenants of corporate real estate have agreed on a number of (non-binding) guidelines, such as the extension of rental obligations of three months. Some large individual landlords did already grant extensions. In the case law courts are granting adjustments of rent for tenants that have had to close their businesses due to Corona-measures.

Measures for specific sectors

49. Health insurance companies have promised to pay out health care providers a percentage of their normal turnover from insured care (the estimated percentage varies between 60 and 85 %).
50. The government has indicated that it will support the cultural sector with an additional EUR 300 million. This will be dispersed through the regular channels by which the government subsidizes the cultural sector. *In September the government announced additional support of EUR 482 million for the cultural sector.*
51. Also, specific funds of EUR 650 million for agriculture were announced. This focuses on floriculture and the food industry.

V. Amendments in statutory insolvency and company law

52. As of yet no amendments have been made to Dutch statutory insolvency law. In comparison to other countries it is important to note that Dutch law has no strict statutory obligation to file for insolvency proceedings, so in that regard amendments were not as urgent as elsewhere.
53. The act on the conformation of out-of-court arrangements (the WHOA), a new tool similar to the Scheme of Arrangement, has been adopted by the lower house of Parliament on the 26th of May. It is expected that the WHOA will soon be adopted by the Senate.
54. A special, temporary act on the suspension of seizures of assets and insolvency petitions is in preparation. Under this act, the *Temporary Payment Deferment Act or Tijdelijke Betalingsuitstelwet*, a debtor can request the court to suspend the ability of a specific creditor to file for insolvency proceedings of the debtor, or seize his assets for recourse. Such a request can be granted if (i) the debtor is in a liquidity-crisis due to the measures to combat Corona, (ii) the debtor is expected to be able to meet his obligations after a term set by the court, and (iii) the addressed creditor is not disproportionately affected by this. *Friday 4 September 2020 the act was submitted to the parliament. It will most likely enter into force on 1 October 2020, initially until 1 December 2020.*
55. New legislation has been enacted allowing the boards of companies to plan general meetings up to four months later than otherwise allowed or to conduct them through video- or audioconference. Under this legislation, director's liability risks that would normally be incurred due to late publishing of the annual accounts are also mitigated, if the delay can be attributed to COVID-19 circumstances. Some of these provisions have retroactive effect back to 23 March 2020.
56. Also, under the same legislation the meetings normally required for the execution of notarial deeds can be conducted through video- or audioconference. *The planned expiration of this legislation on 1 September has been postponed to 1 October 2020.*

VI. Measures to combat the virus

Courts

57. During the peak of infections in March and April Courts have been closed for all non-urgent matters. Some court proceedings have been conducted by audio- or videoconference. Since 11 May, the courts have gradually started having live hearings again.
58. Filings for the opening of insolvency proceedings are considered urgent and therefore still handled, albeit mostly by phone. The Enterprise Chamber of the Amsterdam court of appeal also remains open.
59. Whether summary proceedings (*kort gedingen*) qualify as urgent matters is assessed on a case-by-case basis.

Close-contact businesses

60. Specific businesses for which close contact is unavoidable, such as beauty salons and hair dressers, were temporarily shut down. These businesses have mostly been re-opened, abiding by strict protocols.
61. Other businesses can remain open, although all personnel that can work from home should do so.
62. Stores can remain open, but must take measures to ensure customers keep 1,5m (5 feet) distance. Stores that do not do so can incur fines of up to EUR 4.000 and ultimately be closed by the local mayor.

VII. Links

Government reimbursement for labor costs (NOW)

- [Central government website](#) (in Dutch)
- [Business.gov on NOW](#) (in English, shorter version)

Fiscal measures

- [Tax authorities](#) (in Dutch)
- [Business.gov on fiscal measures](#) (in English, under 'Tax options')
- [Form to request extension of payments](#) (In Dutch)

Emergency funds

- [Business.gov on sureties for larger companies](#) (in English)
- [Central government website on sureties for larger companies](#) (in Dutch)
- [Business.gov on extra sureties for SME-loans](#) (in English)
- [Further information by central government on SME-sureties](#) (in Dutch)
- [Dutch banking association on extension of six months for SME's](#) (both in Dutch and English)
- [List of governmental credits and guarantees](#) (in English)
- [Temporary bridging scheme for self-employed entrepreneurs \(TOZO\)](#) (in Dutch)
- [Further information on TOZO](#) (in Dutch)
- [Further information on TOZO](#) (in Dutch)
- [Further on TvL](#) (in Dutch)
- [Business.gov on TOZO](#) (in English)
- [Reimbursement for entrepreneurs in affected sectors \(TOGS\)](#) (in Dutch)
- [Business.gov on TOGS](#) (in English)
- [Further information on COL](#) (in Dutch)
- [Further information on COL](#) (in English)
- [Participating banks in GO-C facility](#) (in Dutch)
- [Participating banks in Go-C facility](#) (in English)
- [Further information on ROMs](#) (in Dutch)
- [Further information on ROMs](#) (in English)
- [Further information on Tijdelijke betalingsuitstelwet](#) (in Dutch)

Closure of courts and specific businesses

- The Courts (in Dutch)
- Policy of courts as of 23 April 2020 (in Dutch)
- Central government on closure of specific businesses and measures for stores (in Dutch)
- Factsheet "Gradual downscaling of the measures" (in Dutch)