

WE ARE GOING ON STRIKE



YOUR RIGHTS AND DUTIES

JANUARY 2021



IT'S TIME TO TAKE ACTION

After the ultimatum given to the employers expired, it was decided to start campaigning, which is referred to in this brochure as going on strike. Industrial action will only succeed if enough employees are convinced of the need for it, and will only be effective if the employer is affected by it.

THE RIGHT TO CAMPAIGN

If talking no longer works, it is permitted to take industrial action, a right that is laid down in the European Social Charter (ESC). Article 6 of the ESC states the right to collective bargaining as well as the right of employees and employers to collective action in the event of disputes, including the right to go on strike. Article 6 of the ESC sets out the boundaries of the right to collective action: namely, the rights of third parties, public order, national security, public health, and the public interest or public morality.

The FNV's campaign lawyer will determine beforehand whether the action is legitimate; it therefore rarely happens that a court prohibits a strike. The right to strike involves the employer possibly being harmed by the campaigns, and clients and commissioning parties (the third parties) may also be hindered or affected by the strike. Neither the employer nor the third parties can recover damages from the employee and/or the trade union. The employer who is targeted by strikes will need to cover their own damages.

Participating in a strike means that you do not need to carry out your work, but this may not be regarded as the employee declining to work. Participation is therefore no reason for dismissal for pressing reasons or on other grounds. Moreover, the employer will not be allowed to impose far-reaching sanctions such as reducing salary or withholding leave days. The employer in turn will not be obliged to pay wages for the hours the worker has been on strike.

The employer will, in all reasonableness, be allowed to limit the impact of the industrial action/strike as far as possible. However, this does not include intimidating campaigning employees, and you may raise this matter with the employer or supervisor in the usual manner.



If employers or supervisors exhibit intimidating behaviour, this should be reported immediately to the campaign leader within the company and/or your FNV trade union official. In that case, an appropriate response will be drawn up in cooperation with the trade union lawyers.

POSITION OF AGENCY WORKERS AND NON-STRIKERS

It may happen that although an agency worker wishes to join the strike, the court has not yet issued any rulings concerning the legal position of agency workers on strike. We assume that they may join the strike concerning the ultimatum given to the user company [inleenbedrijf]. Agreements have been made with the Algemene Bond Uitzendondernemingen (ABU), the industrial organisation of temporary employment agencies (which includes the agencies affiliated with the ABU), that their temporary agency workers will be allowed to join the strike. If needed, the FNV will inform the ABU and/or the temporary employment agencies known to us. In any case, striking agency workers who are members of the trade union are also entitled to a strike allowance [stakingsuitkering].

An employer targeted by strikes may also attempt to deploy an agency worker to perform a striker's job. However, the ban on scabbing [onderkruipersverbod] forbids the hiring of agency workers to replace strikers. If this ban is being ignored, the FNV trade official should be informed so that the Dutch Inspectorate for Social Affairs and Employment [Inspectie SZW], formerly known as the labour

inspectorate [Arbeidsinspectie], can be notified. An agency worker may decide to perform his/her job with the company targeted by the strike, and will then be regarded as a non-striker [werkwillige].

Some colleagues will not wish to join the strike, and are referred to as non-strikers. Non-strikers may have various reasons for not joining: they may be members of a union that has not called for action, or they do not support the goal of the strike or type of action chosen. Another major reason may concern whether wages will continue to be paid or not. The employer will aim to get and keep as many non-strikers as possible on his side, and continuation of pay may be a major issue in that respect. In practice, most employers will continue paying wages to non-strikers, even if they are unable to do their job. However, non-strikers cannot force their employer to continue paying them. If the employer asks non-strikers to take over the strikers' job, this will be labelled as blackleg work [besmet werk]. Non-strikers are permitted to refuse performing blackleg work without being considered as strikers. Consequently, both agency staff and non-strikers cannot be forced to take over a striker's job.

RULES OF CONDUCT

During the strike, it is important that the campaigners follow the instructions given by the FNV trade union officials and campaign leaders, which means that their reasonable orders and requests should be observed. Otherwise the situation will become chaotic. Furthermore, trade union officials and campaign leaders are responsible for preserving the legitimate nature of the strike.

During a strike, emotions may run high, and lead to a fierce confrontation between strikers and non-strikers. Strikers will try to convince as many non-strikers as possible to join the industrial action. Posting to persuade non-strikers not to get to work is permitted, but, for example, it is not allowed to hinder them by blocking their passage. Please remember these are your co-workers, with whom you will need to cooperate again after the strike.

Of course, the general rules of conduct will remain in place, and there are limits to what is permissible. Please mind your language; do not insult others or call them names. Violence against people or destroying the property of others such as production resources, buildings, or vehicles is not permitted. Please keep this in

mind when you put stickers on things or hang up banners. Or better yet, first discuss the activities with the campaign leader or the FNV trade union official.

STRIKE ALLOWANCE

The employer will not be obliged to pay wage for the days the worker has been on strike. In the event of a strike of one day or longer, members of the FNV will be entitled to an allowance from the strike fund [stakingskas], based on a standard amount [normbedrag] that will be adjusted every six months. Please refer to fnv.nl/staken for the current strike allowance.

Please note that you will receive a lower allowance if you work fewer hours a day, such as in part-time employment.

The allowances are paid as an advance amount. However, if it becomes clear after the industrial action that the employer continued paying your wage, you will be obliged to pay back the strike allowance to the FNV trade union using bank account number NL53 SNSB 0635 0331 78 in the name of FNV, stating your membership number and 'retour stakingsuitkering'.

APPLYING FOR A STRIKE ALLOWANCE

In order to apply for a strike allowance, you need to register as a striker at the campaigning location. To register, you will receive a strike form on location that needs to be fully completed and handed in to the strike leader.

NOT YET A TRADE UNION MEMBER?

Only FNV members will be entitled to a strike allowance. If you are not a member of the FNV trade union at the start of the strike, you will not be entitled to an allowance. If you wish to receive the strike allowance, you will first need to join the FNV trade union and sign a statement that you will remain a member for at least one year. If you cancel your membership within a year, the strike allowance will have to be paid back in full.

FINALLY

Going on strike is a serious matter, and should not be underestimated. Gather together, keep each other motivated, and let us keep things civil. Always bear your goal in mind. Together you will stand strong! We wish you every success and a great deal of perseverance.



TOGETHER WE STAND STRONGER!

Become a member now or make a colleague a member of the FNV. For more information about benefits and membership fees, visit fnv.nl/lidworden. If you register a new member, you will receive a recruitment premium.



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