

FAQs

Answers and information for Substitutes

Introduction

Due to new legislation, there has been much ado since 1 January 2020 about the employment conditions of employees engaged on fixed-term basis. That new legislation also applies to musicians who are not tenured members of the orchestra where they are substituting and is recorded in the Dutch Orchestras Collective Labour Agreement (“CLA”) for Substitutes, which applies from 1 April 2020 until 1 December 2020.

That has given rise to a number of amendments to the employment conditions of substitutes, including your personal pay scale (related to the position you hold) and the step in that scale (based on the number of years of relevant work experience).

The trade unions have communicated these changes and you will also have received information from the HR manager of the orchestra(s) or choir where you substituted this past calendar year.

As this is complicated subject matter, entirely unrelated to making music, and because we are aware that you have many questions, the Dutch Orchestras HR Network has drawn up this document, which addresses questions that you as substitutes may have.

We hope that these FAQs will help you gain a better understanding of your employment conditions as a substitute.

Employment conditions

1. What is the Balanced Labour Market Act?

The *Wet arbeidsmarkt in balans* (Balanced Labour Market Act) entered into force on 1 January 2020. Tenured employees often have better employment conditions and more rights than employees with fixed-term contracts. The government wishes to reduce the gap between open-ended and fixed-term contracts. That has given on-call workers and payroll workers greater security.

Substitutes are payroll employees because they are supplied to the orchestra (where they are engaged) by *Stichting Remplaçanten* (the Substitutes Foundation, with which the framework agreement is entered into each season and with which an employment contract is entered into per production).

2. Why have the employment conditions of substitutes changed?

Since 1 January 2020, the law provides that the employment conditions of substitutes engaged at orchestras by Substitutes Foundations must be at least equivalent to those that apply to tenured musicians who hold the same or similar positions. Stichting Omroep Muziek (SOM), which the Radio Philharmonic Orchestra and the Groot Omroepkoor come under, does not use a Substitutes Foundation, but does apply at least the same or equivalent employment conditions.

3. What CLAs apply to tenured musicians?

CLAs of tenured musicians

Several CLAs and schemes apply to tenured musicians at orchestras:

1. The Dutch Orchestras CLA
2. The CLA of the Koninklijk Concertgebouw Orkest (KCO)
3. The CLA of Stichting Omroep Muziek (SOM)
4. The CLA of the Metropole Orkest (MO)
5. The *BAM* (Extraordinary Employment Conditions for Musicians) of the Rotterdams Philharmonisch Orkest (RPhO)

Most orchestras apply the Dutch Orchestras CLA to tenured musicians. They are the following orchestras:

- Nederlands Philharmonisch Orkest | Nederlands Kamerorkest (NedPho | NKO)
- Balletorkest (HBO)
- Residentieorkest (RO)
- Philharmonie zuidnederland (phzn)
- Phion, Orkest van Gelderland & Overijssel (Phion)
- Noord Nederlands Orkest (NNO)

The Rotterdams Philharmonisch Orkest (RPhO) has a number of specific schemes in place (recorded in the *BAM*), but also applies most of the provisions of the Dutch Orchestras CLA.

4. Where can I find a copy of the CLA that applies to the tenured musicians of the orchestra where I am substituting?

You can find the CLAs for tenured musicians on the website of the Vereniging van Nederlandse Orkesten (VvNO) (www.vvno.nl) under Downloads.

5. What is my legal position as a substitute?

The *Dutch Orchestras Substitutes CLA* applies to substitutes who are engaged as temporary employees via the Substitutes Foundation (therefore not to substitutes who are engaged as self-employed persons).

That CLA applies in addition to the other CLAs in the orchestra sector and regulates the employment conditions that apply to substitutes who are engaged at Dutch orchestras via the Dutch Orchestras Substitutes Foundations and to substitutes who are employed by Stichting Omroep Muziek (SOM).

That CLA is entered into on behalf of the employers by Vereniging van Stichtingen Remplaçanten Nederlandse Orkesten (VSR) and SOM, and on behalf of the substitutes by FNV Media & Cultuur and the Kunstenbond. That CLA therefore also applies to orchestras/choirs that have their own CLA for tenured musicians (SOM, KCO, RPhO and MO).

The employment conditions that apply to tenured musicians at the orchestras and the choir apply to the substitutes, **unless the Substitutes CLA contains specific or additional provisions.**

6. Where can I find a copy of the Substitutes CLA?

You can find the Substitutes CLA on the website of the Nederlandse Orkesten (VvNO) (www.vvno.nl) under Downloads.

7. What employment conditions are set out in the Dutch Orchestras Special Provisions CLA?

A new CLA entered into force in the sector on 1 January 2020: the **CAO Nederlandse Orkesten Bijzondere Bepalingen** (Dutch Orchestras Special Provisions CLA).

That CLA regulates two issues:

- the exclusion of the *ketenbepaling* (provisions on the succession of fixed-term employment contracts); and
- the cancellation provisions.

The exclusion of the **provisions on the succession of fixed-term employment contracts** means that substitutes may enter into an unlimited number of successive fixed-term contracts with the Substitutes Foundations and the SOM.

The **cancellation provisions** provide for the possibility of making agreement regarding fixed-term contracts that differ from the continued payment of wages obligation.

8. Will I be paid even if the production I have been engaged for is cancelled?

In the event of cancellation less than 28 calendar days before the start of a scheduled production or performance, or the part in question, 100% of the wages that apply to the performance are paid.

In the event of cancellation more than 28 calendar days before a scheduled production or performance, or the part in question, you are not entitled to any wages.

The parties to the CLA are still negotiating on a possible temporary cancellation arrangement linked to the government's restrictive measures due to COVID-19. If such a temporary arrangement is made, it will be communicated separately.

9. Which employment conditions of the CLAs for tenured musicians do not apply to substitutes?

The Substitutes CLA provides that all the employment conditions of tenured musicians at the various orchestras/choir apply to substitutes. The provisions of the CLAs for tenured musicians that, by their nature, cannot apply to substitutes are excluded, such as provisions regarding secondary activities, unpaid leave, personal portfolios, relocation allowances, etc. The CLA furthermore contains provisions that specifically apply to substitutes, such as provisions regarding auditions and pensions at Pensioenfonds Zorg en Welzijn (PFZW).

10. What employment conditions of the CLAs for tenured musicians are not yet being implemented?

We are not yet implementing a number of employment conditions, such as provisions regarding career and development, anniversary bonuses, benefits in the event of death, and the insurance of instruments. Since it is not yet clear how exactly those conditions must be organised, the allowances in question are not yet being paid.

11. Why has each orchestra/choir drawn up its own wage table and do I receive a different gross hourly wage at one orchestra than at another?

Because the employment conditions differ from one orchestra to the next. The reasons for this include the following:

- Not every orchestra or choir applies the Dutch Orchestras CLA: SOM, MO, RPhO and KCO have their own CLAs.
- A distinction is made within the Dutch Orchestras CLA between 100%, 110% and 120% orchestras, with different gross monthly wages.
- Additional agreements on local arrangements sometimes apply at orchestras (such as an extra fixed allowance).

All of these aspects lead to different gross hourly wages.

12. Why is the principal's fixed allowance not included in the calculation of the gross hourly wage at most orchestras?

Because the principal's fixed allowance for tenured musicians is in actual fact an hours allocation as part of the annual task (part of the engagement is regarded as a playing obligation and part as a principal's fixed allowance, intended in accordance with the Dutch

Orchestras CLA for the extra tasks assigned to a principal), this does not affect the gross hourly wage. A tenured principal's gross hourly wage is the same as that of a substitute principal.

But if the principal's fixed allowance is included in the calculation of the gross hourly wage, the orchestra in question has converted the principal's fixed allowance into a local arrangement for extra paid lead for the principals.

13. I play an instrument of which there is usually only one in the ensemble. What position do I hold (and what scale am I therefore in)?

If you are substituting because the tenured musician who plays the tuba, harp or kettledrums is absent, you hold the position of principal without a section. In the Dutch Orchestras CLA, that position is placed in scale 3 (principal's scale). If you are a second player on the stage, that is a tutti part (scale 1 in the Dutch Orchestras CLA). The CLAs of MO, RPhO, SOM and KCO have different scales; see the CLAs in question (which can be found at vvo.nl)

For instruments that do not form part of a symphony orchestra's regular ensemble (such as piano, saxophone or guitar), most orchestras consider the repertoire. If the part is of a very soloistic nature, the substitute is placed in the principal's scale (scale 3 in the Dutch Orchestras CLA). If the music does not include obligatory solos, the substitute is placed in scale 1 as a tutti player (Dutch Orchestras CLA).

Individual pay scale

14. Do I lose my years' of experience if I do not substitute for a year?

No. We assume that you will maintain your playing quality also if you do not substitute for a year. Your years of experience will therefore continue to count.

15. Does my pay scale as a substitute apply if I enter the employment of one of the orchestras/choir?

That depends on the ensemble where you are employed. Not all orchestras and choirs use the same pay scales for newly engaged musicians. It is up to the orchestra or choir in question to assign a substitute who they hire to a pay scale. No countrywide agreements are made on that point.

16. Who can I turn to if I disagree with my personal pay scale?

The Dutch Orchestras HR Network, consisting of all the HR managers employed at the Dutch orchestras, has set up a Substitutes Pay Scales Committee. The committee currently consists of Ella Broekstra (SOM), Hedi Boersema (NNO) and Sana van Iddekinge (RO).

If you disagree with your pay scale, you should send an email within two weeks after receipt of your pay scale notification to the secretary of the Pay Scales Committee, sana.van.iddekinge@residentieorkest.nl. State in the email why you disagree with your pay scale. You will receive a reply within three working weeks.

17. Why must I complete a questionnaire if I substitute for the first time (again) after 1 January 2020?

The questionnaire has been developed in order to assign you to a pay scale. Information on your education and work experience is then required. Because your wages will be based on the gross hourly wage table as from 1 January 2020, your step on the scale must be determined beforehand. It is important that you answer all the questions so that you can be assigned to the right pay scale on the basis of correct information.

18. Must I complete a new questionnaire for each orchestra?

No. As soon as you are assigned to a pay scale, that scale is stated in a central pay scales list that can be accessed by a limited number of employees of orchestras that use substitutes. We will of course ensure that your privacy is guaranteed by using a privacy controlled system that is only accessible for employees that are entitled to view and/of mutate the data.

19. Does work experience abroad count for the number of years of experience?

Whether foreign experience counts with regard to the number of years of experience depends on the orchestra where you have played. The pay scales committee asks one of the Artistic Directors whether the foreign orchestra in question is equivalent to the Dutch orchestras.

The criteria include:

- whether a professional orchestra is involved;
- whether it is an orchestra with a symphonic ensemble (i.e. no strings section).
- whether the orchestra receives long-term government subsidies (similar to our orchestras in the basic infrastructure (BIS)); and
- whether the quality is at least equivalent to that of our regional orchestras.

20. I have 17 years of experience; why have I been placed in step 15?

The orchestras that use the Dutch Orchestras CLA have a wage structure with 15 steps and two additional steps. The first additional step (step 16) applies if you have been in step 15 for 10 years (i.e. after 25 years of experience). The second additional step (step 17) is granted if your wages have been based on step 16 for 5 years (i.e. after 30 years of experience).

A similar system applies at SOM and MO: with 15 years of experience you are placed in step 15, after 10 years you are moved to step 25, and after 30 years to step 30. KCO has its own wage structure with 30 steps. All the years of experience are counted there: with 17 years of experience, you are therefore placed in step 17 at the KCO.

See also the conversion table on the next page.

21. How can several pay scales apply?

The wage table has several pay scales with steps. Your individual pay scale relates to the step within the scale. Which pay scale applies depends on the position in which you substitute. It may be a tutti position (scale 1), a substitute principal position (scale 2) or a principal position (scale 3). The assignment confirmation states in what position you will be working as a substitute. That may therefore differ per production.

Transition payment

22. What is a transition payment?

A transition payment is a payment that the employer must make to an employee if he or she is dismissed. The transition payment serves on the one hand as compensation for the dismissal and on the other hand to make employee's transition to another job easier. Dismissal is the termination of an employment contract by giving notice or by means of dissolution (*ontbinding*). Not extending a fixed-term contract or not offering a new engagement after an interruption also constitute dismissal.

23. Why is the accrued transition payment paid periodically?

A transition payment normally does not have to be paid (yet) if a new employment contract is offered before the employment contract ends, that starts no more than six months later. Because it is often unclear in the case of substitutes before the end of the engagement whether and, if so, when the next engagement will follow, it has been decided to make the transition payment after every engagement. This agreement was made between the parties to the CLA (employers and trade unions). It is a differing provision in favour of the substitute. For tax reasons, the transition payment is made in the form of a separate payslip.

Conversion 1st years of experience into steps in accordance with the Dutch Orchestra CLA

Scheme year 2022

Scheme year 2022			Annual period date for substitutes	
1st year's substituting	Number of years experience per 1-1-2022	Steps as at 1-1-2022	Number of years experience per 1-8-2022	Steps as at 1-8-2022
Situation on 1 January of the year zero!				
1980	42	17	43	17
1981	41	17	42	17
1982	40	17	41	17
1983	39	17	40	17
1984	38	17	39	17
1985	37	17	38	17
1986	36	17	37	17
1987	35	17	36	17
1988	34	17	35	17
1989	33	17	34	17
1990	32	17	33	17
1991	31	17	32	17
1992	30	17	31	17
1993	29	16	30	17
1994	28	16	29	16
1995	27	16	28	16
1996	26	16	27	16
1997	25	16	26	16
1998	24	15	25	16
1999	23	15	24	15
2000	22	15	23	15
2001	21	15	22	15
2002	20	15	21	15
2003	19	15	20	15
2004	18	15	19	15
2005	17	15	18	15
2006	16	15	17	15
2007	15	15	16	15
2008	14	14	15	15

2009	13	13	14	14
2010	12	12	13	13
2011	11	11	12	12
2012	10	10	11	11
2013	9	9	10	10
2014	8	8	9	9
2015	7	7	8	8
2016	6	6	7	7
2017	5	5	6	6
2018	4	4	5	5
2019	3	3	4	4
2020	2	2	3	3
2021	1	1	2	2
2022	0	0	1	1

Other questions

24. Who can I turn to with questions regarding my Confirmation of Engagement (employment contract per production)?

If you have any questions regarding your Confirmation of Engagement, please contact the orchestra inspection/production manager of the orchestra where you are substituting.

25. Does the Balanced Labour Market Act also apply if I work as a conductor or soloist?

The Balanced Labour Market Act applies to employees who are engaged on the basis of an employment contract via the Substitutes Foundations. As a rule, conductors and soloists are engaged as self-employed persons. The Balanced Labour Market Act does not apply to self-employed persons.