MODERN MIGRATION ACT: RESIDENCE CONDITIONS

In implementing the Modern Migration Policy Act, the Dutch government aims to move towards a selective entry policy. What this entails is that the Netherlands wants to welcome migrants who meet economic and cultural needs, but remain restrictive for others. For that to be possible, the immigration procedures need to be faster and simpler, significantly reducing the administrative burden for citizens and companies. These measures aim to help promote the Dutch knowledge economy. The Modern Migration Policy Act (‘Wet MoMi’) took effect on 1 June 2013. This legislation simplifies the application procedure for residence permits for international employees or visitors at TU/e.

The introduction of this legislation places a stronger responsibility on employers, who from now on act as official ‘sponsors’ in the permit application procedure. The Ministry of Social Affairs will monitor compliance with this new legislation strictly, and will impose high fines in cases of failure to follow the new rules.

WHAT RIGHTS CORRESPONDS TO THE RESIDENCE PERMIT?

Below, you can find the rights that correspond to a residence permit as a highly skilled migrant or a scientific researcher under directive 2005/71/EC.

Validity
The residence permit entitles you to reside in the Netherlands for the duration of the employment contract or the appointment. The residence permit remains valid as long as you fulfill the conditions, even if you take on another role for your employer or your employer changes. The residence permit does not need to be altered in this event.

Family-members or relatives
You can apply for a residence permit for family-members or relatives. You function as the sponsor for the family-member or relative. This is not necessary if you have the Turkish nationality. The employer functions, in all cases, as the sponsor for you. For the conditions, see the publication “Bringing a family-member or relative to the Netherlands”.
If you do not need a work permit, family-members or relatives do not require one either.

Please note: If you apply for benefits in the Netherlands, this could impact upon the residence permit. It could be withdrawn. The IND can also withdraw or refuse to extend the residence permit if you have to undergo the civic integration process and fail to pass you civic integration exam within 3 years. For more information about civic integration in the Netherlands, see www.inburgeren.nl
WHICH RULES MUST YOU ABIDE BY?

If your employer applies for a residence permit, he functions as your sponsor. The sponsor is responsible for ensuring that you stay in the Netherlands on a legal basis. The employer must ensure that you fulfill the conditions for a residence permit. Not only when the application for the residence permit is made but also thereafter. Your employer must abide by the rules. That is why it is important that you are aware of the rules that apply to your employer. You also have your own responsibilities.

The employer’s obligations

**Information obligation**
Your employer must notify the IND of any changes that could impact upon the employee’s right to reside. For example:
- If the employee no longer fulfills the wage requirement;
- If the contract has been terminated;
- If you obtain another position;
- If you go back to your country of origin;
- If he is no longer able to monitor you.

**Administration obligation**
- Your employer must collate and retain relevant information about you. For example:
  - The employment contract, the appointment decision or the hosting/work placement agreement;
  - The work permit;
  - A copy of your passport.

If he is no longer functioning as your sponsor, the employer must still retain the relevant details and documents for 5 years. The IND can request these details at any moment in order to check whether he is fulfilling his obligations.

**Duty of care for recognized sponsors of highly skilled migrants, (guest) lecturers, trainee doctors and spiritual ministers.**
Are you a highly skilled migrant and is your employer a recognized sponsor? Then he has a duty of care. This means that he should have recruited and selected you carefully. He must also inform you of the admission and residence conditions that he and you must fulfill.
Your sponsor

- Your employer is your sponsor until:
- You no longer work for the organization and the employer has notified the IND;
- You have left the Netherlands and will no longer be returning and the employer has notified the IND;
- You have obtained a permanent residence permit or a residence permit for another residence purpose;
- Your residence permit has been withdrawn;
- Your employer can no longer function as a (recognized) sponsor;
- You have taken Dutch nationality.

Your obligations

As an employee, you are always subject to an information obligation. You are also, therefore, obliged to pass on details of any changes to the IND. You must, in any case, notify them if you are changing employer.

If you submit an application for a residence permit for family-members or relatives, you function as their sponsor. In this regard, you also have an information, administration and retention obligation. See the publication “Allowing a family-member or relative to come to the Netherlands” on www.ind.nl.

I have been informed of the residence conditions under the Modern Migration Act.
Name: ........................................
Date: ..........................