

## Physically demanding occupations regulations for umcs - final

Version after confirmation by LOAZ on 15-6-2023

### Preamble

The physically demanding occupations regulations were agreed within the frameworks of the 'Wet bedrag ineens, RVU en verlofsparen' [Lump Sum Payment, Early Retirement and Leave Savings Scheme Act] and the 'Maatwerkregulations duurzame inzetbaarheid en eerder uittreden (MDIEU)' [temporary early retirement scheme]. They cover the period from 1 November 2022 through 31 December 2025.

### Article 1 - Definitions

In these regulations the following definitions are used:

1. **AOW-age:** the state retirement age, as specified in article 7a, first paragraph, of the General Old Age Insurance Act.
2. **Employee:** the employee as specified in article 1.1. of the cao, assuming that this involves an employment contract for an indefinite period.
3. **Employer:** the employer specified in article 1.10 of the cao.
4. **The regulations:** the temporary Physically demanding occupations regulations, as documented in this appendix of the cao umc; hereafter referred to as 'the regulations'.
5. **Physically demanding occupations benefit:** the gross sum that an employee receives on the basis of the regulations; hereafter referred to as 'the benefit'.
6. **Benefit recipient:** the employee who meets the conditions of the regulations and the agreements made and is thus entitled to a Physically demanding occupations benefit.
7. **Date of retirement:** the day on which the employment contract between the employee and their employer actually ends through unilateral termination by the employee.
8. **Physically demanding occupation:** a job position included in appendix I.
9. **Cao:** collective labour agreement for university medical centres
10. **Cao-parties:** employer and unions.
11. **Voluntary work:** A volunteer is someone who is not in an actual or fictitious employment relationship as defined for income tax/social security purposes, in other words not employed or 'in an official capacity', who works for:
  - an organisation that does not have to submit a corporation tax return,
  - a sport organisation or
  - a Public Benefit Organisation (ANBI); and – only receives compensation within the limits of the volunteers' compensation as specified in article 2 par. 6 Wages Tax Act 1964
12. **Unions:** CNV Connectief, FBZ, FNV Zorg en Welzijn, LAD and NU'91.

### Article 2 - Entitlement to benefit/participation under regulations

1. Employees are entitled to a benefit, under the conditions elaborated in these regulations, if they:
  - a. in the period from 1 November 2022 to 31 December 2025 have reached an age on the date of retirement that is at most three years and at least six months less than the state retirement age; and
  - b. immediately preceding the date of retirement has been working for the employer for at least one year on the basis of an employment contract in a physically demanding occupation (see job listing in appendix I); and
  - c. the job is placed in a salary scale up through salary scale 11; and
  - d. has at least 20 years of participation in the pension scheme of the umcs (ABP) and/or the Pensioenfonds Zorg & welzijn (PFZW), to be confirmed by the employee using the appropriate format; and
  - e. in the context of terminating the employment contract is not claiming a benefit to replace wages on the basis of the Unemployment Insurance Act (WW); and

- f. before, on or after the date of retirement does not accept a new position, or continue an existing ancillary job(s), unless this is voluntary work; and
- g. does not establish themselves before, on or after the date of retirement as an entrepreneur who obtains income from that company as a freelancer or continues an existing company.

- 2. Participation in the scheme is voluntary. The employee determines how many months they would like to participate. The maximum period for participation is 36 months and the minimum period is six months.
- 3. The employee with a partial benefit from the Return to Work Scheme for the Partially Disabled (WGA), who meets the conditions set in par. 1, is entitled to a benefit for the partial salary he receives along with the benefit. The employee who is entitled to a sickness (ZW) or an IVA (Income Provision (Fully Disabled Employees) Regulation) benefit is not entitled to this benefit.

### **Article 3 - Duration, amount and payment of benefit**

- 1. The benefit recipient receives a monthly benefit in the sense of these regulations starting from the date of retirement. The benefit is awarded for at most 36 months.
- 2. Awarding of the benefit in the sense of these regulations cannot be done with retroactive effect.
- 3. The gross monthly benefit amounts to the sum specified in article 32ba par. 7 Wages Tax Act 1964. This applies to the benefit recipient who was working prior to the date of retirement on the basis of a full-time employment contract for an average of 36 hours per week as described in article 1.1 of the cao.
- 4. The benefit recipient who was working part-time prior to the date of retirement is entitled to a benefit proportional to the number of contract hours compared to a full-time position at the time of submitting the application as specified in par. 3 of this article. If the number of hours worked increased in the 12 months preceding the starting date of the regulations, the number of contract hours is used that the employee worked on the last day before this increase. For an employee participating in a generational arrangement on 31 October 2022 (for example, 80-90-100), the reduction in the work week due to participation in this generational arrangement is not taken into account.
- 5. Participation in the scheme starts on the first day of the month.
- 6. In the month in which the benefit recipient reaches the state retirement age, the benefit is paid proportionally, with the number of calendar days from the first day of the month to the day on which the state retirement age is reached being divided by the total number of calendar days of the month in question.
- 7. Payment is made monthly along with the standard salary payment by the employer.
- 8. The existing and future monthly gross benefits are indexed according to the sum specified in article 32ba par. 7 Wages Tax Act 1964. The benefit never exceeds the exempt amount in the sense of the specified article.
- 9. The benefit is paid monthly by the employer to the benefit recipient, with deduction of the legally obligatory deductions.
- 10. The benefit recipient receives a monthly statement (digital or paper) of the benefit paid and an annual statement once a year (digital or paper).

### **Article 4 - End of entitlement to benefit**

- 1. The entitlement to the benefit on the basis of these regulations ends on the day on which the benefit recipient reaches the state retirement age applicable to him.
- 2. The entitlement to the benefit ends before the date specified under par. 1 if the benefit recipient:
  - a. dies, unless the benefit recipient cohabited with a partner as specified in article 1.1 of the cao. In that case the partner, while alive, receives the benefit for the remaining period;

- b. in the framework of the termination of this employment contract, receives a benefit replacing wages on the basis of the Unemployment Insurance Act (WW);
- c. starts a new job starting on the first day on which he began working in it, or continues an existing ancillary position(s);
- d. establishes himself as an entrepreneur before, on or after the date of retirement and receives income as a freelancer from that company starting on the first day he is working as a freelancer or continues an existing company.

#### **Article 5 - Submitting an application under the regulations**

1. The employee who would like to be considered for a benefit on the basis of these regulations can submit a suitable application to the employer at the earliest six months before the date of retirement to evaluate whether the criteria for the regulations are met.
2. The application is submitted using the appropriate application form that is completely and truthfully completed and signed by the employee and accompanied by documentation confirming that the employee has participated for at least 20 years in the pension scheme of the umcs (ABP) or the Pensioenfonds Zorg & welzijn (PFZW).

#### **Article 6 - Decision on meeting the criteria**

1. The employer decides within two weeks after receipt of the application whether the conditions for the regulations have been met. The decision is communicated to the employee in writing. If conditions hinder making a decision within two weeks, the employee will be informed of this delay in writing, explaining the reason for the delay, and the deadline by which the decision can be expected (maximum of four weeks).
2. The employee who does not agree with the employer's decision can submit a suitable objection to the Arbitration committee for Physically demanding occupations regulations.
3. Only fully completed applications will be handled by the employer.
4. Incomplete applications must be resubmitted. In that case, after completing the incomplete application, the date of receipt is considered the date of receiving the completed application.

#### **Article 7 - Definitive participation under the regulations**

1. In order to participate, the employee who meets all conditions of the regulations terminates his employment contract promptly and legally by unilateral resignation, taking into account the applicable period of notice.
2. The employee who wishes to be considered for the benefit declares his agreement with the rights and obligations applicable to him deriving from these regulations.
3. The benefit recipient promptly provides the employer with information of his own accord about accepting a job and/or conducting work as a freelancer and/or requesting a benefit replacing wages on the basis of the Unemployment Insurance Act (WW) before, on or after the date of retirement.
4. During the duration of the benefit, the benefit recipient is obliged, in addition to the specifications in par. 3, to supply all information voluntarily or upon first request of the employer which can reasonably affect the continuation of the entitlement, amount and duration of the benefit.

#### **Article 8 - Withdrawal and modification of the decision to pay benefit**

1. If the benefit recipient or his next of kin does not, not promptly, incompletely or incorrectly provide information required on the basis of these regulations upon request or voluntarily, a decision can be made about withdrawing and stopping future benefit, or a current benefit. The benefit recipient or his next of kin is considered to have not, or not promptly, provided the information specified in this paragraph if the employer has not received the information within two months after receipt of the first request or immediately after the fact that is to be reported voluntarily is known to the benefit recipient or his next of kin.

2. The employer is entitled to claim back from the benefit recipient or his next of kin the direct or indirect damage incurred by the employer as a result of the information not provided, not promptly, incompletely or incorrectly by the benefit recipient or his next of kin or otherwise not meeting the conditions set in these regulations, whether or not consisting of benefits paid in excess, social security contributions and interest. In this case, the employer retains the right to seek redress by reducing the current benefit.
3. In the case of fraud, falsification in writing or any other criminal offence as specified in the Criminal Code, the employer can report it to the authorities. This does not affect the possibility of claiming any damages in civil proceedings or otherwise, whether or not in the form of undue payments, from those involved.
4. The previous paragraphs are not applicable if the benefit recipient or his next of kin cannot reasonably be accused of a behaviour as specified there, excluding the appeal to ignorance of the content of these regulations.
5. The employer sends the decision to take steps as specified in this article to the benefit recipient or his next of kin in writing and accompanied by supportive rationale, with mention in any case of why this measure is being imposed and what its scope and duration are.

#### **Article 9 - Recovery of paid undue benefit**

1. If the partially or entirely undue benefit has already been paid out, that benefit or that part of the benefit are recovered from the person to whom undue payment has been made. With undue payment of the benefit, the gross paid sum of the benefit is recovered from the benefit recipient or his next of kin. If possible, the recovery will be offset against future benefit.
2. No recovery is possible later than five years after the date on which the employer ascertained that the undue benefit was paid.
3. If there are compelling reasons for it, the employer can waive all or some of the recovery.

#### **Article 10 - Further stipulations**

Cao parties are competent to create further stipulations as required for a responsible implementation of the regulations.

#### **Article 11 - Hardship clause**

If the implementation of these regulations would lead in an individual case to an unreasonable situation in the judgement of the cao-parties, the cao-parties can decide to deviate from the regulations in favour of the employee concerned. Each employee can submit the relevant request to one of the cao-parties. For cases not provided for in these regulations, the cao-parties will act according to the spirit of the regulations (with any decision not creating a precedent for other situations).

#### **Article 12 - Arbitration committee for Physically demanding occupations regulations**

1. The employee or benefit recipient who cannot accept a decision that concerns him and that follows from the application of these regulations can submit a written appeal to the national arbitration committee for Physically demanding occupations regulations, with the request to review a decision arising from these regulations. The arbitration committee consists of three members: the NFU and the unions each appoint one committee member who then jointly choose a third person as the independent chair.
2. The Arbitration committee for Physically demanding occupations regulations prepares a written weighty opinion supported by justifications for the employer. A copy of this is sent to the employee or benefit recipient.
3. The Arbitration committee for Physically demanding occupations regulations documents its working procedure in a regulation.



**Article 13 - Anti-cumulation**

The employee who participates in these regulations may not participate in any other regulations (legal or otherwise) and/or receive compensation deriving from the employment contract (its termination), cao, company regulations, and/or otherwise.

**APPENDIX I List of physically demanding occupations in umcs**

<b>Job family/reference jobs</b>	<b>Job titles</b>
<i>Nursing and Care job family</i>	Home care assistant/care assistant
home care assistant 2, ward assistant 3	Carer
care assistant	Maternity assistant
carer 5	Nurse,
carer 6	Specialised nurse (MC,HC,IC,CCU,NEON, SEH, Diabetes, Onco, Haemat, Obstetrics, Dialysis, Transfer, organ donation, etc.)
nurse 7	Socio-psychiatric nurse
nurse 8a, 8b	Nursing expert/practitioner
Nursing consultant 8	Nursing consultant
ICU nurse 8b	Nursing specialist
ICU nurse 9a	Nursing team leader (if working >50 % in physically demanding occupation)
ICU nurse 9b	
nursing consultant 9b	
research nurse	
nurse scientist	
nursing specialist 10	
<i>Analytical job family (except research analyst)</i>	Laboratory assistant
Scientific laboratory employee 11	Analyst
Scientific laboratory employee 10	Biotechnician (analyst)
Analyst 8	
Analyst 7	
Analyst 6	
Analyst 5	
Analytic assistant 4	
Laboratory assistant 2	
<i>Functional family Facilities (except ICT and the central operator)</i>	
Facility employee 2	Cook/Diet cook
Facility employee A3	Domestic worker/Service employee/Dressing assistant/Dishwasher/Department assistant
Facility employee B3	Catering employee/Catering facilities employee
Facility employee 4	Nutrition and household assistant
Facility employee 5	Facility employee/logistics staff
Facility employee 6	Sterile medical supplies staff

Sterilisation assistant 4	Security guard/Security assistant
Catering facilities employee 3	Technician/Instrumentation technician/Radiotherapy technician
Catering facilities employee 5	Work planner/implementer/service technician/operator/
Technical staff 5	
Technical staff 7	
medical instrument technician 6	
medical instrument technician 8	
<b>Independent job names</b>	
Operation assistants	Operation assistant
Anaesthesia assistants	Anaesthesia assistant/Sedation practice specialist/Clinical perfusionist
Midwives	Midwife
Radiodiagnostic lab technician	Radiodiagnostic/therapeutic/nuclear lab technician
Radiotherapeutic lab technician	Radiodiagnostic/therapeutic/nuclear lab technician
Physician assistant	
Physiotherapist	
Occupational therapist	
Remedial therapist	
Cast technician	
(ambulatory) sociotherapist	

If the cao-parties ascertain when implementing the regulations that a job position needs to be added, this list can be adjusted in the interim. Both cao-parties can take the initiative to do so. The party taking the initiative submits a clearly supported proposal to the other cao-party. If the cao-parties jointly agree, the job position is added to the list from that time.

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