



From NOW 2 to NOW 3

Extension and Changes

- Extension NOW by three periods of three months
- Gradual reduction
- Various material changes

Introduction

The impact of the coronavirus on jobs, employment and the economy is continuing, and the economic recession is far from over. This is why the Government on the 28th of August once again announced a support and recovery package for entrepreneurs and employees. The new package runs until mid-2021, and has three pillars: support, helping to adapt and investing. One of the components of this new support package is the extension of the NOW 2 to the NOW 3. In a letter to the House of Representatives, the Government has announced the main outlines of the NOW 3. The precise conditions of the NOW 3 are currently being worked out in greater detail, and will be announced no later than the 1st of October. In this whitepaper you will find the outlines and most important characteristics of the NOW 3. As soon as the official NOW 3 Scheme has been published, we will of course update this whitepaper. For earlier information on the NOW, please see the previously published whitepapers and the FAQs on the [Corona desk on our website](#).

Extension NOW 2 to NOW 3

The NOW will be extended by three three-month periods as from 1 October 2020, and will thus last until 1 July 2021. The Government is thus providing a compensation for wage costs for the periods October up to and including December 2020, January up to and including March 2021 and April up to and including June 2021.

Compared to the NOW 2, there will be some changes in the NOW 3. These changes in particular regard the phasing out of support. What in any case remains in the NOW 3 is the obligation for the employer to make every effort to provide training, and the ban on payment of dividends and bonuses. The fixed lump-sum surcharge for the employer's costs, such as holiday pay and pension contributions, also remains the same at 40%, and, as in NOW 1 and NOW 2, the employer receives an advance of 80% of the subsidy amount upon application and the remaining 20% upon determination.

We will now list the announced changes for you.

Changes in the NOW 3

Minimum loss of turnover

In the first period, entrepreneurs must have a minimum loss of turnover of 20% in order to qualify for NOW 3. As from the second tranche, i.e. as from January 2021, the NOW will only be open for companies suffering 30% or more loss of turnover.

The expectation is that the manner in which you have to calculate the loss of turnover will remain the same. This would mean that you will have to compare the turnover for the subsidy period (e.g. October up to and including December 2020) with the average quarterly turnover for 2019. We will only know this for sure once the NOW 3 Scheme is published and the details of the scheme are made known.

Reduction of subsidy percentage

The subsidy percentage will be lower. The Government wants to use a small part of the NOW for training and job-to-job trajectories. That is why the maximum subsidy percentage in the first tranche of the NOW 3 will be reduced from 90% to 80%. Subsequently, the subsidy percentage will be reduced further as from the second tranche onwards. In the second period (January up to and including March 2021), the subsidy percentage will be 70%, and in the third period (as from April 2021) 60%. According to the Government, a slow phasing out of the support will prevent a major shock on the labour market, and will enable employers and employees to consider together what is needed to get through the crisis.

Possibility of gradual reduction of wage bill

The Government believes that the longer the crisis lasts, companies should also be able to adapt their business operations. In the NOW 3, employers are therefore given the opportunity, as from the first period (from October) onwards, to reduce part of the wage bill without this leading to a reduction of the subsidy at the time of determination. The exemption percentage for the reduction of the wage bill rises from 10% in the first period to 15% in the second period and to 20% in the third period.

In return for the reduction of the compensation, it is possible to reduce the wage bill gradually, without this being at the expense of the subsidy.

As an explanation, the Government states that the employer can in consultation with the employees (representation body) determine whether and how he wants to reduce the wage bill. This can be done, for example, through natural wastage, dismissal or a voluntary wage sacrifice on the part of the employees. In the latter case, however, the employment conditions cannot be adjusted unilaterally by the employer.

Penalty in case of dismissals for business-economic reasons expires

Although the main objective of the NOW 3 is still the preservation of employment, the Government also realises that this for a variety of reasons is not always possible. For this reason, the Government has decided that the penalty, which is still applied in the NOW 2 in case of dismissals for business-economic reasons, will not return in the NOW 3. The current protection against dismissal that employees have, will, of course, remain in place.

The maximum wage to be compensated per employee changes in the third period

The maximum wage to be compensated per employee in the first two periods will be equal to that in the NOW 1 and the NOW 2, namely a maximum of twice the daily wage, which amounts to € 9,538 per month. In the third period this will be reduced to a maximum of once the daily wage, or € 4,769 per month. This brings the last period of the NOW 3 more in line with regular social security.

No dividend payments, bonus payments and share buybacks

It may happen that the NOW creates room for companies to pay out bonuses and dividends or to buy back shares. To avoid this, companies must declare and confirm prior to submitting an NOW application that they will not pay out any dividends, will not pay out any bonuses to managers and/or directors, and will not repurchase own shares. For the NOW 1 and the NOW 2, this obligation applies for 2020 up to and including the shareholders' meeting for the adoption of the annual accounts for 2020 in 2021. At this moment it is still unclear for which period this obligation will apply under the NOW 3.

Under the NOW 2, the prohibition to pay out bonuses is limited to bonuses paid to managers and directors. This is not expected to change in the NOW 3.

The concept of managers and directors has to be interpreted in a broad sense. The registration in the Chamber of Commerce is not decisive in this respect, not even whether the persons involved have the power to make decisions or are authorised to sign. Board members, (managing) directors and managers who determine policy are covered by these terms. The internal name given to them is not relevant. This provision also includes persons who have temporarily filled the position.

It is permitted, however, to reward other employees working in the company with variable bonuses. Bonuses include both profit-sharing and other bonus payments.

Moreover, this prohibition under the NOW 2 only applies to the extent that the legal entity applies for subsidy under the NOW and an auditor's report is required. The limit for an audit opinion has in NOW 2 been set at € 100,000 or more on the basis of an 80% advance, or € 125,000 or more in final NOW subsidy per group, or, if there is no group, for the separate legal entity. We have to wait for the final NOW 3 scheme to obtain certainty on whether the dividend and bonus prohibition also applies under the NOW 3 only if an auditor's report is required.

Retraining and reskilling

Participation in the NOW 3 means that the employer has an obligation to make an effort to encourage employees to undergo further retraining and reskilling so that they can adapt to the new economic situation. Employers will probably have to submit a declaration regarding this, just like for the application for subsidy under the NOW 2.

When to apply?

The UWV aims to open the next application period on 16 November 2020. It will then be possible to apply retroactively for the first period from 1 October up to and including 31 December. The second period runs from 1 January up to and including 31 March 2021, and the third period runs from 1 April 2021 up to and including 30 June 2021. For each period, the employer may decide whether or not to submit an application. Even if the employer has not made use of the NOW 1 or the NOW 2, the employer can make use of the NOW 3.

As with the NOW 1 and the NOW 2, the employer receives an advance of 80% of the subsidy amount after the application, and the remaining 20% upon determination. The subsidy will be determined at the end of the three periods, starting in the summer of 2021.
