

# GMS Flash Alert

## Immigration

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## Netherlands – New Extended Stay Policy for Visa-Exempt Persons When Residence Permit Expires

Starting 15 February 2024, people with visa-exempt nationality whose Dutch regular residence permits expire can stay within the Netherlands and the Schengen Area for another 90 days,<sup>1</sup> according to a new interpretation of the Schengen Borders Code.<sup>2</sup> This period comes into immediate effect from the first day following the permit's expiry.

### WHY THIS MATTERS

Before 15 February 2024, all persons whose Dutch regular residence permits expired had to leave the Netherlands and Schengen Area immediately. For those whose regular residence permits were sponsored by their employers, this meant that they had to leave the Schengen Area before or on their last official day of employment.

The new visa-exempt period to stay in the Schengen Area and the Netherlands should therefore bring some flexibility to employees with visa-exempt nationalities, allowing them, for example, to take care of administrative-, work-, and relocation-related matters, and, generally, just tie up some loose ends in the Netherlands – or visit other Schengen member states – before having to leave the Schengen Area.

### Effect of Visa-Exempt Period on Employer Sponsor Obligations

For employers, this change also affects their sponsor obligations. Previously, employers could be responsible for any costs incurred by immigration authorities of returning a foreign employee to his or her country of origin for up to one year after the sponsorship of the employee's residence permit was terminated. However, immigration authorities' ability to recover deportation costs from employers now ends as soon as the visa-exempt period starts. This means that if a previously-sponsored foreign employee stays in the Netherlands for longer than the permitted 90-day period, the cost of returning him or her to the country of origin will not be recoverable from the employer.

## Visa-Exempt Period Does Not Apply to All Nationalities

For those who do not hold a visa-exempt nationality, the situation remains the same as before 15 February 2024; meaning that they are required to leave the Netherlands and Schengen Area before the expiry of their regular residence permit and will need to obtain a Schengen visa before being allowed to return. For this group, employers' sponsor obligations also remain unchanged.

### KPMG INSIGHTS

In lieu of receiving an entry stamp in their passports, those who come under the new visa exempt period will need to be able to demonstrate the start date of the visa-exempt period to avoid issues when leaving the Schengen Area.

In the Netherlands, when someone leaves via a Dutch external border, the official responsible for checking the lawfulness of their residence uses a central information system (*Basis Voorziening Vreemdelingen* or BVV) in which all basic data of foreign nationals in the Netherlands is stored.

However, other Schengen countries do not have access to this database. This means that for those employees who will be travelling outside the Netherlands to visit other Schengen countries, and only then exiting the Schengen Area, border officers could question the start date of the visa-exempt period (as there will be no entry stamp in the passport). It is therefore recommended to always carry relevant supporting documents (for instance the expired residence permit card or a copy of the document).

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### FOOTNOTE:

1 *Immigratie- en Naturalisatiedienst*, "Business newsletter" (in English) at: <https://ind.nl/en/business-newsletter> .

For related information see:

["Short stay after end of residence permit"](#) (last update 19 March 2024).

["Kort verblijf na einde verblijfsvergunning"](#) (laatste update: 19 maart 2024)

2 Article 6, paragraph 2, of Regulation 2016/399 (Schengen Borders Code).

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## Contact us

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*\* Please note the KPMG International member firm in the United States does not provide immigration or labour law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

**The information contained in this newsletter was submitted by the KPMG International member firm in the Netherlands.**

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