

# Hiring culture workers: As employee or self-employed

## Manual

There are various systems under which a person can work professionally and obtain his or her professional income, as a primary or secondary occupation, on an occasional, regular or permanent basis. Clients can therefore also choose from among the different ways to hire someone. An overview of the possibilities follows below. The possibilities are:

1. Working as employee
  - a. Directly with an employment contract
  - b. Employee under “1 bis”
  - c. Indirectly: via a social bureau for artists or temporary employment agency
2. Working with the self-employed

## 1 Working as employee

### 1.1 Directly with an employment contract

An employer who hires someone directly has an obligation to comply with the requirements of various authorities. It must meet many conditions when hiring personnel. An overview of these conditions can be found in our [employers checklist](#).

The employer enters into an employment contract with the employee that establishes the conditions of employment in addition to wages (and any extralegal benefits such as luncheon vouchers or expense allowances).

### Elements of an employment contract

If there is an agreement, labour, wages and authority (subordinate relationship), we speak of an employment contract.

### Types of employment contracts

There are 4 types of employment contract for direct employment:

- ✓ For an indefinite period;
- ✓ For a fixed period;

- ✓ For clearly defined work;
- ✓ To replace a permanent employee.

The employment can be full-time or part-time. Contact your payroll services firm for a model contract for each of these types of employment.

## Wage components

The **gross wage** that you agree should never be lower than what is established in the sectoral CLAs (also see [our agreement concerning payment!](#)). A number of deductions (employee social security contribution and withholding tax) are taken from the gross wage to arrive at the **net wage**. In addition to the gross wage, the employer also pays 'employer's contributions' to the National Social Security Office.

When calculating social security contributions, different rates apply to white-collar workers than to blue-collar workers. Thanks to the payment of social security contributions under the employee system (as blue-collar worker or white-collar worker), the employee accrues social security rights. These relate to sickness, disability and occupational illnesses, retirement, family allowances, unemployment, annual holidays and work-related accidents. Each of these areas has specific conditions for joining and receiving social benefits.

## Special arrangement for artists

Although artists are considered white-collar workers, social security contributions are calculated as if they were blue-collar workers. This means, among other things, that the social security contributions are calculated at 108% of the gross wage and that the holiday allowance (the wages for holidays and the double holiday allowance) are not paid by the employer, but by the National Office for Annual Holidays.

As an employer, you also receive a discount on social security contributions on the wages of artists of up to 517 euros per quarter. This is called the artist discount. In order to benefit from this scheme and to be eligible for artist status in the case of unemployment, the employee must provide artistic services. Which means: *the creation and/or performance or interpretation of artistic works in the audiovisual and visual arts, in music, literature, shows, theatre and choreography.*

If this is the case, it is important to include this in the employment contract and also let your payroll services firm know that it concerns artistic services. Your payroll services firm will use a specific code (employee code 046) when declaring the work with the National Social Security Office, so that it will be considered artistic.

More information about wage components, gross wages, net wages and wage costs can be found in the [wage calculation tool](#) and [the wage cost babushka](#).

## 1.2 Employee under “1 bis”

Artists who work on commission and receive remuneration for this can also work under so-called Article 1 bis of the Social Security Act. This is on the condition that at least one of the elements of the employment contract (see above at 1.1) is missing. This will usually be the presence of authority.

To be able to work under this system, the artist must be in possession of an artist visa. He can apply for such a visa with [the Artists Commission](#). In practice, this arrangement will usually be used for creating artists (composers, writers,...).

The payroll accounting for this way of working can also be done through the client’s payroll services firm.

The artist visa has advantages and disadvantages:

- ✓ **Advantages:** The artist is considered an artist-employee under labour law. As a result, reduced social security contributions are paid and the artist builds up rights in all areas of social security, including unemployment. The annual holiday system for artists with an employment contract also applies.
- ✓ **Disadvantages:** Labour law does not apply. This means, for example, that the minimum wages under the CLA do not apply and that the regulations regarding working hours do not apply. As a result, the artist enjoys less protection.

## 1.3 Indirectly: Via a social bureau for artists or temporary employment agency

For temporary engagements or replacements, you can appeal to a temporary employment agency or a social bureau for artists (SBK). Many temporary employment agencies have their own SBK. In this case, the temporary employment agency or SBK takes over the administrative employer’s obligations and makes the employee available to the ‘user’. Which is then the client of the artist. Most temporary employment agencies or SBKs charge a commission fee of approximately 10%. The ‘service’ they invoice is then increased by 21% VAT.

In principle, you can only make use of such an agency in the following cases:

- ✓ For employees you can make use of a temporary employment agency in the following cases:
  - When replacing a permanent employee whose contract was suspended (e.g. due to illness, career break ...) or terminated (in this case limited to 6 months);
  - In the case of a temporary increase in workload;

- For performing exceptional work;
- With a view to hiring permanently ('inflow').
- ✓ For **employee artists and stage technicians** you can make use of an SBK if you conduct no activities in the arts sector or if you do not have other registered personnel (you are then an 'occasional user'). In practice, non-occasional users often work on the basis of the scheme that applies to employees in general, including artists.

You can only go through recognised temporary employment agency or SBK. For more information about temporary agency work, please visit the [FPS Employment](#) website. [Here](#) you will find a list of recognised temporary employment agencies.

The [SBK Manual](#) contains more information about working with an SBK. The SBK tool scheme (which you can download separately with [this global tool for hiring culture workers](#)) contains an overview of the most important aspects of temporary work.

## 2 Working with the self-employed

The law states that employee status is present when an agreement exists whereby an employee undertakes to perform work in exchange for wages, under the authority of an employer. The **contract for services** means something else, namely that one party, the contractor, undertakes to another party, the client, to carry out certain work at a specific price.

The social security status of the contractor is that of **self-employed**. The self-employed person must meet specific criteria and conditions. We list some essential ones here, without this list being complete:

- ✓ There is no 'subordinate relationship' between the client and the self-employed person. The self-employed person therefore freely determines the methods, frequency and content of the job. This freedom of course is not absolute. After all, the client indicates the result it wants, and by when.
- ✓ It should be clear from the relationship that 'sham self-employment' is not present. The final judgement on this is left to the courts. Many lawsuits are the result of improper treatment of the self-employed or the result of findings by inspection services. This also means that the self-employed person works for several clients and therefore is not economically dependent on one client.
- ✓ An artist who would like to have his status as self-employed artist confirmed by an independent body can apply for an independent contractor's statement at the [Artists](#)

Commission. If you are unsure whether the artist is self-employed and can therefore issue invoices, you can ask for his independent contractor's statement or for proof of his registration with a social insurance fund.

- ✓ It is also recommended to record the arrangements in a contract for 'services'. In this you agree, among other things, the level of remuneration, when the self-employed person will be paid, when he or she will send an invoice and within what period it will be paid. For a model contract see the tool [Model contract for self-employed culture worker](#).
- ✓ You can agree on a fee (per hour, per assignment, ...) as well as a possible expense reimbursement (for example for travel or a budget for realising a work of art, ...).
- ✓ Don't forget to also request the VAT status of the self-employed person. Perhaps he/she is exempt (as a 'small business', for example), but perhaps he/she is obliged to charge VAT, which means an increase in costs for the client if it itself is not VAT registered.
- ✓ The self-employed person is responsible for social security and tax payments and obligations, for insurance, for visas and work permits, as well as for required certificates such as A1.
- ✓ The self-employed can place their rights and obligations in a company (but this is not an obligation), or can work as a sole proprietorship (in which case they themselves are jointly and severally liable), or be registered as a secondary occupation (in addition to another main occupation).
- ✓ Self-employed artists who are not an EU national must also have a "professional card". However, they are exempt from this obligation if they are able to demonstrate international fame, and work and reside in Belgium for less than 3 months. This also applies to their supervisors.

For the sake of completeness, we note that there is also a third working status: that of a civil servant. Because this only applies to working for the government, we will not examine it further.

**Important!** Only these three statuses provide social protection. If you are paid for your services, earn an income from your work, social security protection is only possible within one of these three professional frameworks.

The "Self-employed with contract for services" tool scheme (which you can download separately with [this "Hiring culture workers" global tool](#)) contains an overview of the most important aspects of working with the self-employed.