Positive outcomes of flexibility and security act

Published on: 03 February 2009

The second evaluation of the Dutch Flexibility and Security Act indicates that in 2006 employers were more inclined to offer employees a new temporary contract after the first one ended, as compared to 2001 when they were unsure about the consequences of the new law and were more likely to offer the workers a permanent contract. The act has also extended some protection to flexible workers, and most employers and flexible employees evaluate it positively.

Law on flexibility and security

In line with the European Commission's emphasis on 'flexicurity' in the labour market, the Dutch Flexibility and Security Act (Wet Flexibiliteit en Zekerheid) aims to establish a balance between employers' need for flexibility and employees' need for employment security. This is done by a number of measures such as offering employees more security regarding their employment contract, but also by extending the possibilities for employers to conclude temporary employment contracts. The act came into force on 1 January 1999 (NL9901117F, NL9905140F) and was evaluated for the first time in 2001 and again in 2006. The findings of the most recent evaluation will be outlined in the following paragraphs.

About the study

The 2006 evaluation of the act was financed by the Dutch Ministry of Social Affairs and Employment (Ministerie van Sociale Zaken en Werkgelegenheid, SZW). The Netherlands Organisation for Applied Scientific Research (Nederlandse Organisatie voor toegepast-natuurwetenschappelijk onderzoek, TNO) and lawyers at the Hugo Sinzheimer Institute (HSI) conducted the study; the latter ensured the correct interpretation of the complex legal background. The evaluation took into account a wide range of outcome parameters, such as established changes in flexible employment contracts, the effect of these changes on labour market strategy, changes in the administrative burden of employers, and opinions about the law.

Information was collected using a telephone interview survey among a stratified representative sample of 1,050 employers, comprising 150 companies per sector of economic activity; the total also included a group of 150 temporary work agencies. In addition, an internet survey was conducted among a representative sample of 450 workers with flexible employment contracts. Furthermore, the researchers held qualitative interviews, and reviewed and interpreted the literature on collective agreements and socioeconomic trends in the context of implementation of the law.

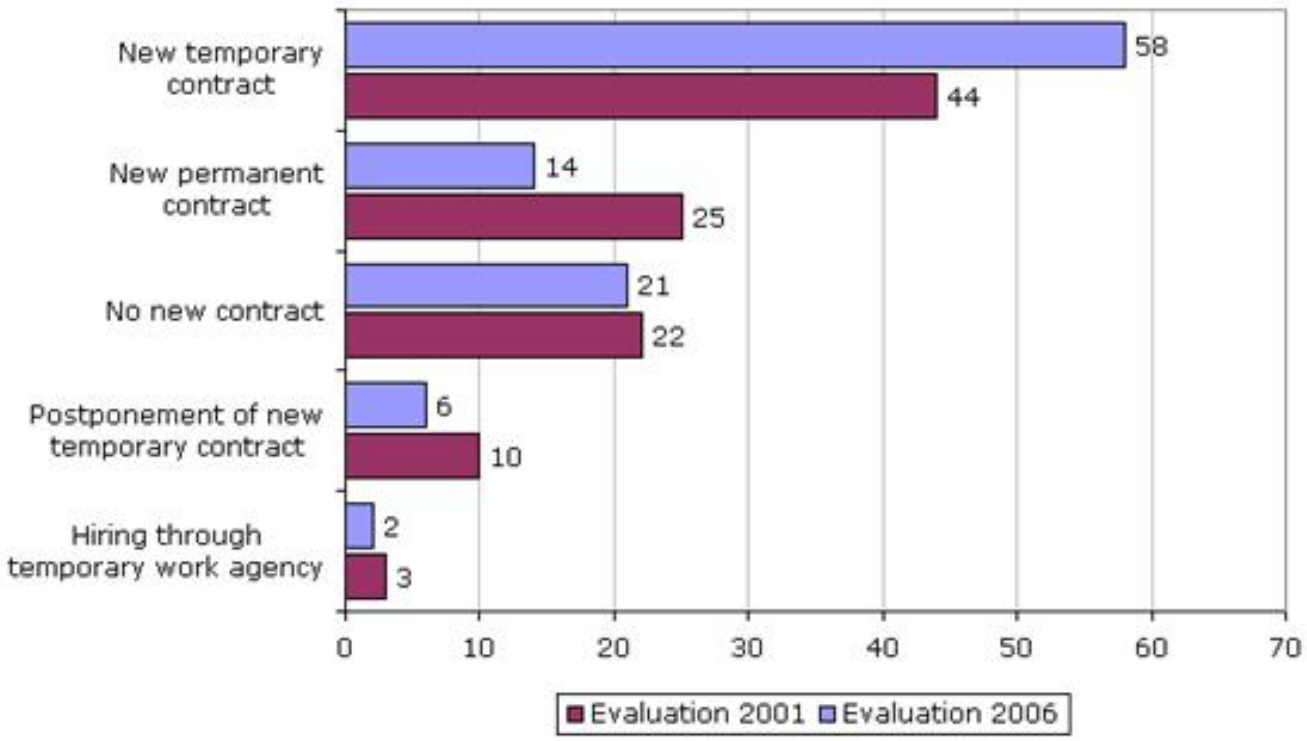
Greater use of temporary contracts

The Flexibility and Security Act does not seem to have had a strong impact on employers. Companies with a need for flexibility had already implemented measures before the enforcement of the law. This included organisational measures to adapt to market change, working time flexibility and external flexibility by means of hiring employees on temporary employment contracts, hiring independent contractors or outsourcing work.

As an example of the changes brought about by the legislation to facilitate employers, the number of consecutive temporary employment contracts that employees can hold with the same employer is now limited to either three times or to three years plus three months. However, after three months without a contract with the same employer, the counting restarts. This '3x3x3' rule seems to be a restriction of the practice, but is in fact an extension; before 1999, the second temporary contract was assumed to be a permanent employment contract.

Figure 1 indicates the change in the consequences after a temporary employment contract has ended. In 2006, employers were more willing to offer the employee a new temporary contract than was the case five years before, whereas in 2001 they had been more likely to offer a permanent employment contract than would be the case now.

Figure 1: Employees reporting different consequences after termination of temporary contract (%)



Source: TNO and HSI, 2006

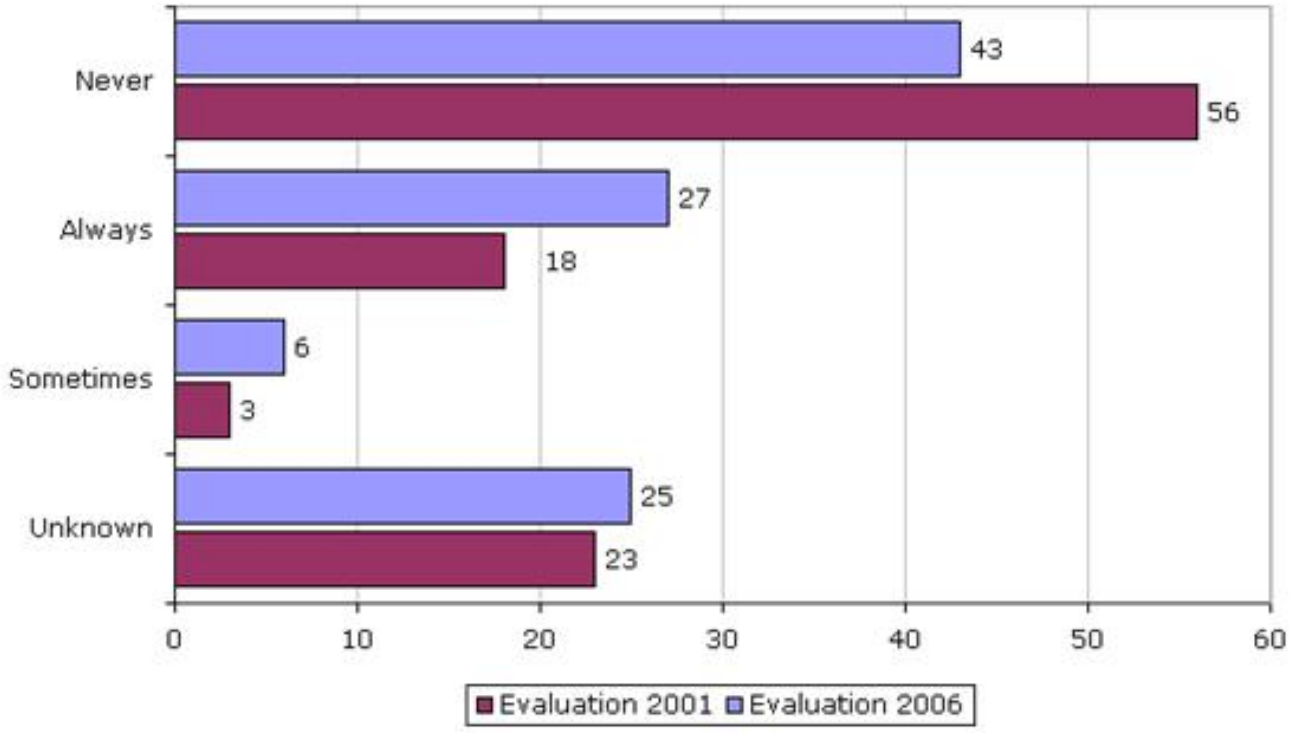
Employees reporting different consequences after termination of temporary contract (%)

Greater protection for irregular work

At the same time, the Flexibility and Security Act added or extended six regulations on protecting employees to the Dutch employment legislation. One of these rules is that ‘on-call’ work – carried out for at least three successive months on a weekly basis or for at least 20 hours a month – is considered as an employment contract, with the average number of working hours a month determining the contract’s volume in hours. Another rule is that the minimum payment should amount to at least three hours of wages per call, even when the work per call is less than three hours.

As an example of the changes resulting from the act to the benefit of employees, Figure 2 indicates that the proportion of on-call workers who report always receiving at least three hours of wages after a work call increased from 18% in 2001 to 27% in 2006. The number of on-call workers not receiving three hours of wages after each call decreased, from 56% to 43%. Nevertheless, many employees still report that they do not receive the three hours of wages to which they are entitled.

Figure 2: On-call workers indicating whether they receive at least three hours of wages after a call (%)



Source: TNO and HSI, 2006

On-call workers indicating whether they receive at least three hours of wages after a call (%)

Benefits of act recognised

The study indicates that the Flexibility and Security Act is relatively well accepted and integrated in the Dutch employment situation, although some employers still violate the conditions of the law. This is possible because the often young flexi-workers are not aware of the precise conditions of the legislation and the rights that they have. Many flexi-workers are afraid to complain to their employer because this may harm their position.

The act also obliged employers to keep a better administration of flexi-workers. The administrative burden increased for 25% of the employers and for two third of the temporary work agencies. Nonetheless, weighing the benefits and disadvantages of the law, most employers evaluate the benefits as being more significant. However, differences arise in this regard between the individual economic sectors, depending on the number of rules that apply to them.

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