

## DENMARK

### **I. Legal notice - disclaimer**

This sheet aims to provide a general overview of the main substantive rules concerning the terms and conditions of employment to be met by legislation transposing Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (OJ L 18 of 21.1.1997). By its very nature, such a sheet can only summarise and does not necessarily contain all the relevant information in this context. In no way can it replace legislative, regulatory or administrative texts, or applicable collective agreements. The information below has been provided by the authorities of the Member States, which have made every effort to ensure its accuracy. Neither the Commission nor the Member States concerned can, however, guarantee that the information provided is always precise, complete, accurate and up to date. Furthermore, publication on the portal of the European Commission does not imply in any way that the latter or its DGs and Services consider the rules presented in this way to be in conformity with Community law.

### **II. Instrument transposing Directive 96/71/EC**

The Directive has been implemented by Act No 755 of 30 June 2004 concerning the posting of workers. This Act consolidates the Act concerning the posting of workers, cf. Consolidation Act No 964 of 2 November 2001, with subsequent amendments by Act No 1031 of 17 December 2002.

Internet link: For more information [www.posting.dk](http://www.posting.dk)

Link to the Act on Posting to Denmark:

[http://www.posting.dk/en/act\\_on\\_posting/act\\_concerning%20posting\\_of\\_workers.pdf](http://www.posting.dk/en/act_on_posting/act_concerning%20posting_of_workers.pdf)

### **III. Information on legislation applicable in accordance with the Directive**

Information on legislation applicable to undertakings which, for a limited period of time, post workers to the territory of another Member State can be obtained at the following address:

#### **The National Labour Market Authority,**

Holmens Kanal 20,

DK-1060 Copenhagen K.

Tel. +45 35 28 81 00

Fax: + 45 35 36 24 11

e-mail: [ams@ams.dk](mailto:ams@ams.dk)

Website: [www.ams.dk](http://www.ams.dk)

The National Labour Market Authority is the national liaison office for the posting of workers. Thus, it coordinates information activities in relation to foreign employers and employees concerning the rules on the posting of workers in Denmark. The National Labour Market Authority is also responsible for the EURES network in Denmark.

Information on rules concerning posting of workers: [www.posting.dk](http://www.posting.dk)

Information concerning EURES: [www.eures.dk](http://www.eures.dk)

Contact person at the Liaison Office:

Gabriella Nagy

E-mail: [gna@ams.dk](mailto:gna@ams.dk)

**Other relevant contacts:**

## *1. Authorities*

### **The Ministry of Employment**

Ved Stranden 8  
DK-1061 Copenhagen K  
Tel. +45 33 92 59 00  
E-mail: [bm@bm.dk](mailto:bm@bm.dk)

The Ministry of Employment is the state authority in the labour market field in Denmark. The Ministry has overall responsibility for Denmark's participation in EU cooperation in this field.

Website: [www.bm.dk](http://www.bm.dk)

Relevant information in the following publications: "Manual on staying and working in Denmark" and "Working in Denmark – a guide to the Danish labour market". Both publications are available on: [www.bm.dk](http://www.bm.dk)

### **The Working Environment Authority**

Landskronagade 33  
DK-2100 Copenhagen Ø  
Tel. + 45 70 12 12 88  
E-mail: [at@at.dk](mailto:at@at.dk)

The Working Environment Authority is responsible for ensuring a safe, sound and good working environment at all workplaces in Denmark through inspection, information and regulation. The Working Environment Authority can provide more detailed information on occupational health and the rules in this field.

Website: [www.at.dk](http://www.at.dk)

### **The National Directorate of Labour**

Stormgade 10  
Postboks 1103  
DK-1009 Copenhagen K  
Tel. + 45 38 19 60 11  
E-mail: [adir@adir.dk](mailto:adir@adir.dk)

The National Directorate of Labour administers legislation on, for example, unemployment insurance and sickness benefits, holiday, active social policy and social assistance and can provide further information in these fields.

Website: [www.adir.dk](http://www.adir.dk)

### **The Immigration Service**

Ryesgade 53  
DK-2100 Copenhagen Ø  
Tel.: + 45 35 36 66 00  
E-mail: [udlst@udlst.dk](mailto:udlst@udlst.dk)

The Immigration Service handles most of the applications and cases concerning foreigners' stay in Denmark, including issues concerning the Danish transitional scheme, the trainee

scheme, stays for family members of foreigners working in Denmark and stays as posted workers in Denmark for more than three months.

The Immigration Service also gives advice in cases where there are doubts as to a person's basis for staying in Denmark. The Immigration Service may provide more detailed information on the rules and administration of the Aliens' Act as well as answer specific questions in relation to foreigners' stays in Denmark.

Website: [www.udlst.dk](http://www.udlst.dk)

The website has a number of application forms and specific information on the various types of stay in Denmark.

### **SKAT (the Danish Tax Authority)**

Hovedcentret

Østbanegade 123

DK-2100 København Ø

Tel.: + 45 72 22 18 18

E-mail: [skat@skat.dk](mailto:skat@skat.dk)

SKAT can provide information on the Danish tax rules, including the rules applying to foreigners who stay in Denmark and foreign enterprises with activities in Denmark.

Website: [www.skat.dk](http://www.skat.dk)

### ***2. Social partners***

Minimum wage is not covered by the Danish Act on Posting as there is no statutory minimum wage in Denmark. Instead, wages are primarily regulated through collective agreements concluded between trade unions and employers or employer organisations. These organisations can be contacted for further information concerning wages:

### **LO (The Danish Confederation of Trade Unions)**

Islands Brygge 32D

DK-2300 Copenhagen S

Tel.: + 45 35 24 60 00

E-mail: [lo@lo.dk](mailto:lo@lo.dk)

Website: [www.lo.dk](http://www.lo.dk).

### **DA (The Danish Confederation of Danish Employers)**

Vester Voldgade 113

DK-1790 Copenhagen V

Tel. + 45 33 38 90 00

E-mail: [da@da.dk](mailto:da@da.dk)

Website: [www.da.dk](http://www.da.dk)

### **SALA (The Danish Confederation of Employers in the Agricultural Sector)**

Vester Farimagsgade 1, 5<sup>th</sup>

Postbox 367

DK-1504 Copenhagen V

Tel. + 45 33 13 46 55

E-mail: [info@sala.dk](mailto:info@sala.dk)

Website: [www.sala.dk](http://www.sala.dk)

#### **IV. Failure to comply with the prescribed terms and condition of employment**

Cases of failure to comply with the prescribed terms and conditions of employment in Denmark and possible cases of illegal transnational activities can, for instance, be reported to The Working Environment Authority regarding work environment, to The Gender Equality Board regarding gender discrimination and the social partners regarding collective agreements. For contact information reference is made to section III. Further contacts:

The Gender Equality Board (Ligestillingsnævnet)  
Holmens Kanal 22  
1060 København K  
Tel. + 45 33 92 33 11  
Website: [www.ligenaevn.dk](http://www.ligenaevn.dk)

The Gender Equality Board deals with complaints about gender discrimination and the Board's decisions are final within the administrative system. The decisions can be brought to the court of law. The Board also offers counselling and guidance to citizens, organisations, authorities and enterprises on how to bring complaints concerning gender discrimination before the board or other bodies. The board can award compensation in the case of violation of gender equality legislation and in special cases overrule a dismissal.

The Complaints Committee for Ethnic Equal Treatment (Klagekomiteen for Etnisk Ligebehandling)  
Institute for Human Rights  
Strandgade 56  
1401 København K  
Tel. + 45 32 69 89 44  
Fax. + 45 32 69 88 80  
E-mail: [klagekomite@humanrights.dk](mailto:klagekomite@humanrights.dk)  
Website: [www.humanrights.dk](http://www.humanrights.dk)

The Complaints Committee's task is to handle individual complaints of differential treatment on the basis of race or ethnic origin. The Committee can take up cases of differential treatment both within and outside the labour market.

#### **V. Situations constituting a posting [Article 1 of the Directive]**

The Danish Act applies in those situations where enterprises in connection with the supply of services post workers to Denmark and is not limited to the building sector.

The following situations are covered:

- a) an undertaking posts a worker, working for it and under its management, to the territory of a Member State, under a contract concluded between the sending undertaking and the recipient of the services being provided working in this Member State, provided that there is an employment relationship between the sending undertaking and the worker during the period of posting;
- b) an undertaking posts a worker to the territory of a Member State, in an establishment or in an undertaking belonging to the group, provided that there is an employment

relationship between the sending undertaking and the worker during the period of posting;

- c) An undertaking, as a temporary employment undertaking or an undertaking hiring out workers, posts a worker to a user undertaking established or active in the territory of a Member State, provided that there is an employment relationship between the sending undertaking and the worker during the period of posting.

## **VI. Posted workers [Article 2 of the Directive]**

Directive 96/71/EC applies to workers who, for a limited period of time, carry out their work on the territory of a Member State other than the State in which they normally work.

A posted worker is defined in Article 3 of the Danish Act as follows:

*“A worker posted to Denmark shall be taken to mean a worker who is habitually performing work in another country than Denmark and who is temporarily performing work in Denmark.”*

In Denmark a worker is understood to be a person receiving remuneration for personal work in an employment relationship irrespective of the person's title in the country of origin.

According to the case law of the Court of Justice of the European Communities, the temporary nature of an activity carried out on the territory of a Member State in the context of free provision of services cannot be determined abstractly but should be judged on a case-by-case basis, depending on the duration, frequency and periodicity or continuity.

The Danish legislation does not define what is understood by a limited period.

It should be noted that if an occupational activity in Denmark can no longer be considered as being exercised temporarily, taking account of the above-mentioned criteria, but is stable and continuous, *all* the binding rules and regulations in force in Denmark will apply.

## **VII. Work periods and rest periods [Article 3(1)(a) of the Directive]**

In Denmark, working time is laid down - as a rule - by the social partners in collective agreements. In most sectors, the agreed weekly working time is 37 hours. This has had a rub-off effect on many of the sectors which are not covered by a collective agreement.

However, the working time act lays down minimum provisions on the maximum weekly working time, breaks, and night work. An employee may, as a maximum, work for 48 hours on average per week over a period of four months. An employee has a right to a break if the daily working time exceeds six hours. In the case of night work the employee is not allowed to work for more than eight hours during a 24-hour period over a period of four months.

The working environment legislation (which is also covered by the Act concerning the posting of workers) also contains rules concerning rest hours and rest periods. Reference is made to Sections 50, 51, 53-58 of the Working Environment Act.

The Danish Employers Confederation (DA) and the Danish Confederation of Trade Unions (LO) can be contacted for further information concerning working hours.

Link: [http://www.posting.dk/en/act\\_on\\_posting/act\\_concerning%20posting\\_of\\_workers.pdf](http://www.posting.dk/en/act_on_posting/act_concerning%20posting_of_workers.pdf)

## **VIII. Paid annual holidays [Article 3(1)(b) of the Directive]**

Foreign enterprises posting salaried employees in Denmark must, with respect to holidays, act in conformity with the holiday regulations of the country which are the more favourable for the employee. In practice, the rules of the home country will apply, but if the Danish holidays regulations offer a more favourable right with respect to period or remuneration of the

holiday, the holidays to which the individual is entitled must be supplemented to the level of Danish regulations.

On the Danish Holiday Act:

All salaried employees in Denmark earn a right to holidays and a holiday allowance under the Holiday Act. The holiday allowance may consist of a holiday with pay or a holiday allowance of 12½ percent of the salary earned during one calendar year.

The holiday year does not follow the calendar year, but runs from 1 May in the year following the qualifying year until 30 April the next.

## **IX. Pay [Article 3(1)(c) of the Directive]**

There is no legislation on minimum wage in Denmark. Instead, the social partners on the labour market have been entrusted with the regulation of wages and salaries through collective agreements. Collective agreements regulate, besides minimum wage, a number of working and employment conditions. The collective agreements cover around 80 percent of workers on the Danish labour market. According to Danish legal principles, a collective agreement is applied to all workers at a workplace, both organized and non-organised, when the employer has signed an agreement. There is no mechanism to declare collective agreements generally applicable through law or decision.

It is an absolutely fundamental principle of employment law that industrial organisations may support a claim for a collective agreement by launching a strike, a blockade or a sympathy action against an employer. This applies both to Danish and to foreign employers on the Danish labour market. Cases concerning the issue of whether or not a strike or a blockade is lawful may be brought before the Danish Labour Court.

The Social Partners have information on collective agreements. The Danish Employers Confederation (DA) or the Danish Confederation of Trade Unions (LO) can be contacted for further information concerning salaries, see section III.

## **X. Rules concerning hiring-out of workers and the terms and conditions applying to temporary workers [Articles 3(1)(d) and 3(9) of the Directive]**

Denmark has no legislation on the employment conditions of temporary workers. The working conditions of temporary workers are exclusively regulated by collective agreements concluded between the social partners. Nor is there any specific legislation concerning the establishment or operation of temporary employment undertakings.

## **XI. Health, safety and hygiene at work [Article 3(1)(e) of the Directive]**

Under the Working Environment Act, workers have a duty to participate in cooperation concerning safety and health. Persons working at a workplace where several employers are having work performed must comply both with the rules applying to the cooperation of undertakings and with the rules which apply to the work to be performed. Workers performing work at the place of another undertaking must comply both with rules on safety and health which apply for this undertaking and with the rules which apply to the work they are to perform. Reference is made to Sections 27 to 29 of the Working Environment Act.

Link: [www.posting.dk](http://www.posting.dk)

## **XII. Rules concerning the terms and conditions of employment of pregnant women and women who have recently given birth [Article 3(1)(f) of the Directive]**

The Danish Act on posting refers to the Equal Treatment Act. The rules laid down in part 3 of the Act concerning women's right to absence in connection with pregnancy and maternity also apply to posted workers. Under the Act, a woman has a right to absence of 4 weeks before the expected time of the birth. The woman has a duty to be absent for 2 weeks after the birth. After this period, the woman has a right to 44 weeks of absence with the possibility of extension for a further 14 weeks.

Under Section 7 of the Salaried Employees Act, a female employee has a right to 50 percent of her normal salary for 4 weeks before the expected birth and 14 weeks after the birth. If the woman becomes sick due to the pregnancy before the start of the maternity leave period, she has a right to full pay during the sickness period. Salaried employees include the following categories, among others: office workers, shop assistants, salespersons, engineers, doctors and dentists.

Link: [www.posting.dk](http://www.posting.dk)

### **XIII. Rules concerning the terms and conditions of employment of children and young people [Article 3(1)(f) of the Directive]**

The Working Environment Act contains certain rules on the terms and conditions of employment of children and young people under the age of 18. The working hours are restricted, as is the type of work. For the employment of young persons under the age of 18, planning, organisation and performance of work must take account of the age, development, and health of the young person, and of the work's effect on schooling or other education. Young persons who are under the age of 15, or who are subject to compulsory education, will not as a rule perform work. There are some exemptions. Reference is made to Sections 59 - 62a of the Working Environment Act: <http://www.at.dk/sw12403.asp> or [www.posting.dk](http://www.posting.dk)

### **XIV. Equality and non-discrimination [Article 3(1)(g) of the Directive] The Danish Act on the posting of workers refers to the Equal Pay Act, Section 7 of the Salaried Employees Act and the Discrimination Act.**

Under the Equal Pay Act, men and women are entitled to equal pay for the same work or work of the same value. Assessment of the value of the work will be based on an overall evaluation; this means that factors such as education, training, experience and other qualifications should be taken into account.

Under the Discrimination Act, an employer may not discriminate against workers on the grounds of race, colour of skin, religion, political opinion, sexual orientation or national, social or ethnic origin. It is thus unlawful for employers to treat employees differently in relation to recruitment, dismissal, transfer, promotion and other pay and working conditions. Furthermore, no discrimination may take place in relation to access to vocational guidance, vocational training and retraining. Advertisements for labour may not state that persons of a specific race, religion, etc., are preferred and the employer may not in connection with recruitment seek or use such information. The Act does not apply to employers whose business has the express purpose of promoting a specific political or religious belief.

Link: [www.posting.dk](http://www.posting.dk)

### **XV. Terms and conditions of employment concerning other matters [Article 3(10) of the Directive]**

No requirements.

### **XVI. Procedural and administrative requirements**



An undertaking wishing to provide services in Denmark but is not established or represented in Denmark has to be registered with the Customs and Tax Administration (ToldSkat) in order to pay VAT. The undertaking must be registered at the latest 8 days before the provision of services starts.

When another EU Member State issues a E 101 form to persons who are to be temporarily posted to Denmark, a copy must be forwarded to the Danish National Social Security Agency. The form is used as documentation to show which country's law concerning social security will apply to posted workers. The form contains data about the posted workers and the sending undertaking. The information may form part of an assessment as to whether a posting is in accordance with the rules.

## **XVII. Mediation mechanisms in case of conflict**

There are two public institutions established by statute:

The Public Conciliation Service is competent to assist the social partners to enter a collective agreement or to renew collective agreements:

The Public Conciliation Service (Forligsinstitutionen)

Sct. Annæ Plads 5 A,

1250 København K

Tel. + 45 33 95 67 21

Fax. + 45 33 15 49 22

The Labour Court is competent, inter alia, to make decisions in cases involving violation of collective agreements, including cases concerning the lawfulness of a strike:

Arbejdsretten – The Danish Labour Court

Arbejdsmarkedets Hus

Sankt Annæ Plads 5

1250 København K

Tel. + 45 33 95 67 21

Fax. + 45 33 15 49 22

Website: [www.arbejdsretten.dk](http://www.arbejdsretten.dk)

## **XVIII. Information on judicial enforcement procedures**

Information on possible judicial remedies in Denmark can be obtained from the following address:

Domstolsstyrelsen

St. Kongensgade 1-3

1264 København K.

Tel. + 45 70 10 33 22

Website: [www.domstol.dk](http://www.domstol.dk)

Arbejdsretten – The Danish Labour Court

Arbejdsmarkedets Hus

Sankt Annæ Plads 5

1250 København K

Tel. + 45 33 95 67 21

Fax. + 45 33 15 49 22

Website: [www.arbejdsretten.dk](http://www.arbejdsretten.dk)