Summary of rules for collective agreements, the industrial disputes procedure and other relevant issues relating to building and construction work in Denmark
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Rules and obligations under collective agreements

Coverage by collective agreement through membership of an employer's organisation

Where a foreign enterprise is covered by a collective agreement through membership of an employer’s organisation, its rights and duties under the collective agreement are the same as for the employer’s organisation's Danish members when performing work within the borders of Denmark.

It is therefore important for the enterprise to ascertain which collective agreement(s) will apply before agreeing pay and employment conditions with the employees and before making a final offer for the work order, in order to allow the requirements and conditions in the collective agreements to be factored into the price estimates.

Enterprises are therefore advised to contact the employer’s organisation for an explanation of the rules.

Coverage by collective agreement through an adoption agreement with a trade union

In their role of protecting and defending the Danish collective agreements system, the trade unions have historic rights and industrial sanctions for ensuring coverage by a collective agreement, and following the so-called Laval judgement (EC Judgment C 341/05), the Danish Posted Workers Act (udstationeringslov) has been amended to allow trade unions to initiate an industrial dispute with a foreign enterprise to ensure coverage by a collective agreement, provided that the enterprise has been presented with a clear Danish collective agreement.

If a foreign or Danish enterprise refuses to enter into an adoption agreement or to accept coverage by a collective agreement through membership of an employers association, notice of a dispute against the enterprise will be given, and a dispute can only be resolved by entering into a collective agreement.

As long as the dispute is in progress, no employer’s organisation may intervene unless otherwise agreed between the union and the employers association, and the conflict may only be terminated by the enterprise entering into a collective agreement.

Hourly pay

If the enterprise is covered by a collective agreement through membership of an employers association, the minimum requirement is the minimum pay rate in the basic agreement, or in local agreements between the enterprise and employees where these are more favourable for employees than the rules in the basic agreement.

In Denmark there are different pay rates depending on the nature of the task and the area of the agreement, so enterprises are strongly advised to contact their employers association for information on the current rates or to receive the current pay scale.

If the enterprise is covered by collective agreement through an adoption agreement, the pay rates stated in the adoption agreement shall apply.

Commencement date for coverage by collective agreement

Coverage by collective agreement through membership of an employer's organisation

The rules of the employers association will decide the commencement date on which a foreign enterprise may be covered by a collective agreement.

Within Dansk Byggeri (Danish Construction Association – employer’s association for the building and construction industry in Denmark), enterprises domiciled abroad will only be covered by a collective agreement when their application for membership has been approved and the first year’s membership fee has been paid.

There will normally be a period of two to three weeks from the application date until the enterprise is covered by a collective agreement.

Coverage by collective agreement through an adoption agreement

In this case the enterprise will be covered by a collective agreement from the commencement date named in the agreement.
**Holiday pay**

A distinction must here be made between German enterprises, affiliated with the German holiday funds (ULAK) and all others.

Enterprises which can show that they are affiliated to ULAK, either by confirmation from the ULAK or by a waiver from the Danish Pensions Agency, need not contribute holiday pay or public holiday pay in Denmark.

For all other enterprises covered by collective agreements in Denmark there are the following possibilities:

1. For the posted period in Denmark to pay 12.5% in holiday allowance and let the posted employee earn the right to 2.08 holiday days per months employment and pay it all down to the employee according the homelands holiday rules
2. For the posted period in Denmark to pay the different from the homelands holiday money level up to 12.5% (if any) to the Danish holiday fund
3. To pay the full holiday amount for the posted period to the Danish holiday fund

"Contributions for holiday pay"

If you decide to pay a part or the full holiday amount, the contributions must be paid in to:

3F Holiday Fund
Kampmannsgade 4
DK-1791 Copenhagen V
Denmark

Financial institution:
Arbejdernes Landsbank
Acc. No. 5322 0000510495
IBAN: DK9253220000510495
SWIFT: ALBADKKK

The contribution must be accompanied by a holiday pay return for the period, which can be requested from and mailed to feriekasse@3f.dk and which must contain the following information:

- Method of payment
- Company name, address and identity no.
- The identity no. of the individual employees
- Names and addresses of the individual employees
- Calculation of holiday pay for the period for the individual employee
- Statement for the period
- Information on whether the employment relationship has ended

**Disbursement of holiday pay contributions**

All foreign nationals who leave Denmark are entitled to have their accrued holiday pay disbursed.

Requests may be made to the Holiday Fund in Copenhagen or the nearest 3F branch, which can be found on the following link:

www.3f.dk/3f.dk/om%203f/afdelingsoplysninger.aspx

The holiday pay may be disbursed in cash or to a Danish bank account. Payment to a foreign account will incur a fee of DKK 150, to be deducted from the holiday pay.

A declaration must be completed confirming that the person is leaving the country.

**Payment of public holiday pay**

See above.
The basis for calculating public holiday pay is the public holidays mentioned in the Danish collective agreements.

**Labour market pension**

In the case of coverage by a basic collective agreement, labour market pension contributions must always be made to PensionDanmark.

Current rates are 4.0% by the employee and 8.15% by the enterprise, i.e. 12.15% in total.

The labour market pension contribution is an additional pension savings scheme under the terms of the collective agreement, and cannot be compared with any statutory pension savings scheme in the host country, and which is therefore not offset against any similar schemes in the parent country.

**Payment date:**
The 10th of each month together with a returns form, even if there have been no posted workers in the previous month, for as long as the enterprise is covered by collective agreement.

The pension contribution must be paid in to:
PensionDanmark
Kongens Vænge 8
DK-3400 Hillerød
Denmark
By each payment please send as Excel-file the following information via E-mail: kontakt@pension.dk

1) Name of the employee
2) Address of the employee
3) Date of birth if the employee not have a Danish CPR-no.
4) Amount per employee
5) Period of work
6) Percentage (normal 12,15 %)
7) Collective agreement code 66663 (foreign enterprises)

**Working hours rules**

The normal effective working hours are 37 hours per week, worked between 06:00 and 18:00 on the first five days of the week. Total meal and rest breaks must not add up to more than one hour or less than one-half hour.

For limited periods, written agreement may be reached to increase or decrease the daily or weekly working hours, but not to more than ten effective hours per day.

It is also permitted to make agreements regarding part-time working, overtime, offset working hours or shift operation.

Rules for the various types of working hours and their remuneration vary in the different collective agreements, so it is important that any agreements reached are in accordance with the applicable collective agreement and are understood by the parties to the collective agreement in order to avoid subsequent grievances.

Deviations from normal working hours must always be agreed in writing before work commences.

**Mileage allowance**

The basis for calculating mileage allowance is the area of validity of the collective agreement, i.e. travel within the Danish borders only.

In the case of mileage allowance in connection with outward and home journeys, holidays and weekends, the shortest distance between the border and the temporary place of residence in Denmark is used for calculations.

During posting in Denmark, the temporary place of residence in Denmark is the basis for mileage allowance calculations.

Note that the rules for mileage allowance vary from one collective agreement to another. It is therefore advisable that any agreement is approved by the enterprise's trade union before it comes into force.

**Travel allowance in case of posting in Denmark**

Employees posted in Denmark are generally granted travel allowance (tax-free foreign posting allowance) in accordance with the rules of the parent country.

The basis for calculating travel allowance under Danish collective agreements is the employee's temporary place of residence in Denmark during the period of posting.

Note that the rules for travel allowance vary from one collective agreement to another. It is therefore advisable that any agreement is approved by the enterprise's trade union before it comes into force.

**Building and Construction Industry's Training Fund**

Applies only to enterprises which employ persons within the collective agreements for building and construction, bricklayers and unskilled bricklayers (3F Mur) and unskilled bricklayers (BJMF).

In the case of coverage by a basic collective agreement through membership of Dansk Byggeri, the enterprise must pay 20 Danish øre (cents) per working hour actually worked in Denmark.

In the case of coverage by a collective agreement through an adoption agreement, the sum is 35 Danish øre (cents) per working hour actually worked in Denmark.
The Fund is administered by Administration og Service, a subsidiary of PensionDanmark, and the demand for payment is sent out twice a year.

Administration og Service will automatically receive the enterprise's address from PensionDanmark on initial payment of the pension contribution.

Administration og Service will calculate the number of hours to be paid on the basis of the pension contributions made to PensionDanmark and the notified collective agreement codes, so it is up to the enterprise to check that the hourly figures are correct and to make payments for the correct number of hours.

Fund assets cannot be sought directly by the individual enterprise, but are used for common initiatives, such as the Bambus project for enhancing safety and the working environment in Danish workplaces.

### Building and Construction Industry's Development Fund

In the case of coverage by a collective agreement, DKK 520 is payable per posted employee per year. This sum is currently converted to DKK 0.33 per working hour.

The Fund is administered by Administration og Service, a subsidiary of PensionDanmark, and the demand for payment is sent out twice a year.

Administration og Service will automatically receive the enterprise's address from PensionDanmark on initial payment of the pension contribution.

Administration og Service will itself convert the sums per working hour on the basis of the pension contributions made to PensionDanmark, so it is up to the enterprise itself to check that the hourly figures are correct and to make payments for the correct number of hours.

The object of the Development Fund is to allow enterprises to seek grants for employees' supplementary training course activities. The Fund's focus is on training and skills development, allowing employees to maintain and strengthen their employment potential on the labour market.

Applications for grants can be made online via the website www.uddannelsesfonde.dk

### DA/LO Development Fund

In case of coverage by a collective agreement, payment of 36 Danish øre (cents) per working hour worked in Denmark is required.

The Fund is administered by the Danish Employers Association at the address:

DA/LO Development Fund  
Vester Voldgade 113  
DK-1790 Copenhagen V  
Denmark

Tel.: +45 33 11 36 88  
Fax: +45 33 93 30 86  
E-mail: MOL@da.dk  
Web: www.da-lo.dk

Demands for payment are sent out twice a year in February and August, and the enterprise itself must count the number of working hours worked in Denmark.

What does the enterprise get out of its contributions to the DA/LO Development Fund?

Enterprises can offer their employees training within areas such as the shop stewards courses and other Danish trade union (FIU) courses. The employer organisations can use their share of the contributions for training employers in member enterprises. The total contribution after deduction for costs is divided, with three quarters to the Danish Confederation of Trade Unions (LO) and one quarter to the member organisations of the Confederation of Danish Employers (DA).

### Maternity rights

If the enterprise is not covered by another maternity compensation scheme, then through membership of Dansk Byggeri or of an employer's organisation which is a member of the Confederation of Danish Employers, it will be covered by DA-Barsel scheme, providing the enterprise has a Danish Central Business Registration (CVR) No. – i.e., has a permanent operation in Denmark.

The DA-Barsel scheme compensates the enterprise's expenses in respect of maternity rights.

The current cost is DKK 325 per quarter for each employee between the ages of 18 and 67.
The scheme is administered by
DA-Barsel
Vester Voldgade 113
DK-1790 Copenhagen V
Denmark

Health care scheme
If the enterprise was not registered with PensionDanmark's health care scheme on 10 December 2010, it will automatically be covered by PensionDanmark's health care scheme after 1 January 2011, and an additional 0.15% will be levied via the employer's labour market pension contribution.

The sum is collected in connection with the enterprise's payment of the labour pension contribution.

See under the section "Labour market pension"

Documentation requirements
Pay slips
Pay slips from the parent country can be accepted if they contain the minimum information required by the collective agreement, which is:
1) Enterprise identity number, time work (statement of number of hours worked)
2) Statement of piecework/profit sharing
3) Statement of overtime
4) Sick pay, accrued holiday and public holiday entitlement
5) Mileage allowance
6) Supplementary Earnings-Related Pension Scheme (ATP) (if covered by Danish social security)
7) Pension
8) Allowance for first, second and third day of unemployment (only relevant if employees are members of a Danish unemployment fund)

Employment certifications
Employment certifications from the parent country can be accepted if they contain the minimum information required by the collective agreement, which is:
1) Enterprise name, address, telephone no. and identity number, Employee's name, address, telephone no. and identity number
2) The collective agreement applicable to the employment relationship during the posting in Denmark.
3) Payment form – time or piecework payments
4) In the case of time pay, the agreed starting pay shall be indicated
5) Payment frequency
6) Permanent or non-permanent workplace
7) Employment date
8) Parties' signatures

Weekly timesheets
There are no formal requirements for weekly timesheets

48-hour meetings
The parties to the Danish collective agreements have agreed that all work in building and construction in Denmark should be performed under the conditions of the collective agreements, thereby securing employees' pay, working hours and working conditions.

If one of the parties to the collective agreement can demonstrate circumstances which suggest that the provisions of the collective agreement are not being observed, a so-called 48-hour meeting will be convened.

This means that within 48 hours (unless otherwise agreed), a meeting must be held at the building site, a so-called organisational meeting, at which the parties jointly attempt to determine whether the provisions of the collective agreements are being observed.

If relevant background information is not available for presentation at the organisational meeting, it must be presented to the union no later than 72 hours after the organisational meeting.

If no immediate agreement can be reached as to whether the provisions of the collective agreements are being observed, the committee may be joined by a permanent arbitrator appointed by the Industrial Court for the purpose of reaching an arbitration award as soon as possible (see under the industrial disputes procedure).

Industrial disputes procedure
With regard to the industrial disputes procedure in Denmark, two types of cases are distinguished:
- Breach of collective agreements
- Interpretation (or application) of collective agreements

If a breach of the collective agreement has occurred, e.g. employees quit working or the enterprise neglects to pay wages, the case must be heard in the Industrial Court. The Industrial
Court is part of the ordinary Danish courts system, but exclusively hears labour market cases.

Before the case is heard in the Industrial Court, a joint meeting is convened. The joint meeting is held at the Confederation of Danish Employers. Urgent joint meetings are convened with seven days' notice. At the joint meeting, it is determined whether a breach of the collective agreement has occurred.

If the complainant wishes to bring the case before the Industrial Court, a statement of claim is drawn up and sent to the other party and the Industrial Court. In the same way the defendant draws up a statement of defence. There are no time limits for submitting cases to the Industrial Court. Once the statements have been exchanged, the case is decided at a hearing of the court.

In practice, getting a case heard before the Industrial Court may take up to two years.

Disagreements on the interpretation of the collective agreements, or to put it another way, the application of the collective agreements, are treated according to the disputes procedures in the individual collective agreement. The parties to the collective agreements are thus agreed that all disagreements must be handled by negotiation between the organisations. The provisions are not identical for all areas governed by collective agreements, but in principle the rules are as follows:

**Local negotiation**
The disagreement is discussed within the enterprise between the parties directly involved.

**Conciliation**
If the local parties cannot agree, the case is referred by the complainant for consideration by the organisations. The time limits for referring the case are typically relatively short. Following this a conciliation meeting is agreed between the parties. All involved parties are under an obligation to participate in the industrial disputes procedure.

At the conciliation meeting, an attempt is made to resolve the matter by negotiation between the parties. If agreement is reached on the correct reading of the disputed point, the case is settled.

**Industrial arbitration**
If the organisations cannot agree on a resolution of the disputed points at the conciliation meeting, the case may be referred for industrial arbitration.

In principle, industrial arbitration is a private tribunal where the parties agree that an arbitrator shall decide the case. Industrial arbitration must be agreed within approximately three months.

At the arbitration hearing, the case is presented by the parties and a decision is made by the arbitrator. The arbitrator’s decision cannot be referred to any other tribunal and the case is thereafter settled.
Rules for performing building and construction work in Denmark which fall outside the collective agreements

**Documentation requirements**

**professional skills**
Apart from the professional skills requirements in the individual collective agreements, there are central government obligations for foreigners intending to carry out work in Denmark, either temporarily or occasionally, requiring them to have their professional qualifications checked by the Danish Working Environment Authority before starting work in the following areas:
- Work with asbestos
- Telescopic handler driver
- Work as lift fitter
- Work as fork lift truck driver
- Work as crane driver (mobile cranes, tower cranes and lorry-mounted cranes over 25 tonne metres)
- Work as a refrigeration engineer
- Erection of scaffolds, except erection of tower and trestle scaffolds
- Welding work under the Cancer Prevention Regulations

Foreigners who take up permanent residence and work in Denmark must with regard to the above areas and all other areas requiring special training under the working environment legislation, have their professional qualifications recognised via CIRIUS (www.ciriusonline.dk) before work starts.

The Danish Working Environment Authority can be contacted at the following address:

Danish Working Environment Authority
Postboks 1228
DK-0900 Copenhagen C
Denmark
Tel.: +45 70 12 12 88
Fax: +45 70 12 12 89
E-mail: at@at.dk
Internet: www.at.dk

Cases can take two to three months to process, so applications for recognition should be made in good time.

**Work in connection with electricity, water, heating, gas and drain installations**

Enterprises may only carry out work in Denmark in connection with electricity, water, heating, gas and drainage installations if they have Danish authorisation.

If the enterprise has an approved authorisation or licence in the parent country, it will normally be able to obtain authorisation in Denmark on that basis.

Applications for Danish authorisation should be made to:

Danish Safety Technology Authority
Nørregade 63
DK-6700 Esbjerg
Denmark
Tel.: +45 3373 2000
Fax: +45 3373 2099
E-mail: sik@sik.dk
Internet: www.wik.dk

Cases will normally take three to four months to process, so applications should be made in good time.

**Employees’ membership of trade unions**

Membership of a trade union is voluntary in Denmark, but in the case of a lengthy posting, Dansk Byggeri recommends membership of a trade union.

Membership of employer’s organisation for enterprises

Joining an employer’s organisation in Denmark is voluntary, but for foreign enterprises planning a lengthy stay in Denmark and without prior knowledge of the customs and practice of the Danish building and construction industry, membership will often be advantageous for the enterprise, as it will allow direct access to and assistance in understanding the current rules.
Membership of an unemployment fund
Posted employees are recommended to ascertain whether they are covered by the parent country’s unemployment insurance scheme while they are posted abroad, and if not, apply for membership of a Danish unemployment fund to avoid having no resources if the employment ends after the posting period.

Membership must be sought within eight weeks of starting work in Denmark to allow employment periods in the parent country to be transferred to the Danish unemployment fund (form E 301).

Employees will be full-time insured if within the last 12 weeks/three months they have worked at least 296 hours and are available for work on the Danish labour market.

Duty of notification for foreign service providers
Foreign enterprises which, either themselves or through posting of employees to Denmark, provide services in Denmark must, no later than by the commencement of such provision, notify the activity to the Register of Foreign Service Providers (the RUT register)

Such enterprises also have a duty, no later than by the commencement date of the provision, to supply the Danish assignor (client) with proof that the notification has been made.

Notification can be made online via the website www.virk.dk/rut, which contains digital notification forms in Danish, English, German and Polish.

The only exception is if:
1) Provision of the service will not last for more than eight days;
2) Provision of the service is part of the delivery to a technical plant or installation; and
3) The posted employee or sole trader enterprise has been tasked with or specialises in or is qualified in the assembly, installation, service, repair or provision of information on a technical plant or installation in Denmark.

Industrial injury insurance
The enterprise must ensure that posted employees are covered by the company’s industrial injury insurance during the period of posting.

If this cannot be done, a supplementary insurance must be taken out, covering any industrial injuries which may occur during posting in Denmark.

Social security, if covered by social security schemes in the country of residence during posting to Denmark
The enterprise must ensure that the posted employees are covered by the social security scheme in the country of residence during the period of posting in Denmark and that employees bring valid documentation of coverage.

The documentation is a form E 101 where the expiry date has not yet been reached, a form A1 if issued after 1 May 2010 or a letter of confirmation from the employee’s sickness fund in the country of residence in the case of EU citizens.

For EES citizens (Norway, Liechtenstein and Iceland) and Switzerland, the documentation is a valid form E 101 ændres til For EES citizens (Norway, Liechtenstein and Iceland) and Switzerland, same documentation as EU citizens.

Social security, if employees cannot be covered by social security schemes in the country of residence during a posting to Denmark
If employees are not covered by the welfare legislation of the sending country, e.g. because the sending enterprise earns less than 25% of its turnover in the parent country or the employee resides in a third country and it is impossible to enter into a so-called Article 16 agreement according to EU Regulation 883/2004 (which came into force on 1 May 2010), then in this case employees must be covered by the Danish social security legislation.

This means the following:

- **Occupational injury insurance**
  The sending enterprise must insure the employee against the consequences of accidents and harmful effects in accordance with Danish legislation.

- **Contributions to Danish Labour Market Occupational Diseases Fund**
  The sending enterprise must pay contributions to the Labour Market Occupational Diseases Fund (AES)

- **Supplementary Earnings-Related Pension Scheme (ATP)**
  The sending enterprise and the employee must pay contributions to the Danish Supplementary Pension Scheme (ATP). This means that employers not domiciled in Denmark must be assigned a so-called CVR number and be registered as ATP
employers. The enterprise must apply for registration as an ATP employer with form 40110 which can be found on www.skat.dk.

**Sickness or childbirth benefits**
The sending enterprise has a duty to pay sickness or childbirth benefits under the same rules as Danish employers and is entitled to a refund, again under the same rules as for Danish employers.

**Health insurance card**
Posted employees must approach the municipality in which their work place is located for the issuance of a yellow health insurance card, a blue EU health insurance card and a form E 106 for use by the welfare authorities of the country of residence.

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**VAT**

If work is performed for a Danish VAT-registered customer, the customer must be invoiced without VAT, and the invoice must bear the customer's Danish VAT number.

If work is performed for a private Danish customer, the enterprise must be VAT registered in Denmark, and the invoice must include a charge for 25% Danish VAT.

The enterprise can register for VAT in Denmark by visiting https://secure.capevo.net/XForm/frontend/irsvirk.aspx?alias=40112+PDF&groupid=122 and completing the form "Registration of non-Danish Company".

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**Taxation**

When a foreign enterprise provides a service in Denmark, the service is as a rule covered by the agreement for avoiding double taxation between the enterprise's parent country and Denmark.

However, a distinction must be made between a service in the form of a works contract and in the form of supply of labour for working under the assignor's (client's) responsibility, risk and instructions.

In the case of supply of contract performances, the double taxation rules apply, but in the case of hiring out of labour, the Danish assignor must withhold and pay 38% labour hire tax, to be deducted from employees' gross pay during the posting period.

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**Working environment**

Information on the Danish working environment and safety rules is available on the following websites:

- www.byggesikkerhed.dk
- www.sicheren-arbeitsplatz.dk
- www.build-ryzykuj.dk
- www.safe-construction.dk

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**Contractual relationships**

**AB 92**

AB 92 is a set of general conditions for work and deliveries in the Danish building and construction industry, and is generally used for contracts between professional builders. Foreign enterprises are therefore recommended to familiarise themselves with and use the same rules when entering into contracts for building and construction work for delivery in Denmark.

**ABT 93**

ABT 93 is a similar set of general conditions for turnkey contracts, which it is recommended to use for turnkey contracts within the building and construction sector in Denmark.

**AB Forbruger**

AB Forbruger is a set of contracts for use in contracts between a building company and a private client, which are recommended for use for contracts for building and construction work for private clients in Denmark.

**Public Tenders Act**

The Danish Public Tenders Act (tilbudsloven) governs invitations to tender for public building and construction contracts below the threshold value in the Public Supply Contracts Directive. In most cases the threshold value is ECU 5,150,548, but for certain building and construction contracts under the Utilities Directive it is ECU 5,000,000.

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**Contact**

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Phone: +45 72 16 00 94  
Mail: SLN@danskbyggeri.dk
The Danish Construction Association is the trade and employers’ organisation for the building, construction and building industry sectors. Approximately 5,700 member companies, which represent all stages of the construction process, ensure a wide coverage of various branches and a vast geographical scope of the association.

The main objectives of the Danish Construction Association are the exertion of influence on relevant economic and political issues, participation in the public debate, provision of consulting and advice services and conclusion of collective labour agreements, in order to enable its member enterprises to achieve the best possible development to the benefit of employment and competitive excellence.