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# COVID-19 and Labour Law: Denmark

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### Abstract

In Denmark, the Corona-virus pandemic has led to a lock-down of society. Schools and shops are closed and many employees are sent home to work. The Government has adopted several measures aiming to mitigate the economic consequences for businesses, especially in respect of redundancies, both via statutory legislation and tripartite agreements.

**Keywords:** Covid-19; Labour law; Tripartite agreements; State funded compensations; Digital work; Online re-training; Re-allocation of workers; Unemployment benefits.

### 1. General Framework.

Albeit not explicitly defined as a national health emergency, the Danish government has adopted numerous restrictive measures in order to flatten the curve of the coronavirus pandemic.

The society has been locked down since 10 March, which includes closing of schools, public childcare services, universities, cultural institutions, restaurants, cafes, shopping malls, hairdressers, and the borders. Supermarkets and pharmacies remain open. Public gatherings of more than 10 people are prohibited. All schools and educations continue on-line, no classes are cancelled. All non-essential public employees are sent home to work. Private employers are strongly encouraged to send their employees home to work, or to let them take time off in lieu or take outstanding holidays. Society has to a very large degree adhered to all health recommendations.

The measures taken resulted in the spread of Covid-19 virus being very slow, and the numbers of critically ill or dead persons due to Covid-19 are developing very slowly – the curve is very flat. If health data continues to support it, the Government intends to lift certain restrictions on 15 April 2020. This slow and controlled partial opening applies first to all childcare services, schools (up to age 11), and persons in vulnerable circumstances. Parliament aims to enable private employees to report physically to work on 14 April 2020, with due care and diligent observance of health guidelines.

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By use of emergency legislative procedures, the Parliament has adopted several acts, as well as tripartite agreements, providing different measures aiming to mitigate the consequences of the covid-19 crisis, especially redundancies.

## 2. Emergency measures.

### 2.1. Effects of interruption of business operations on employment.

In order to avoid large-scale redundancies, a Tripartite Agreement of 14 March 2020 was concluded between the Government, the Danish Confederation of Trade Unions (FH) and the Danish Employers' Confederation (DA)<sup>1</sup>. It provides a *state financed temporary salary compensation scheme* to employers with risk of large-scale redundancies. For employees at risk of redundancy, the state pays the employer 75 per cent of the monthly salary, maximum 30,000 DKK (approx. 4,000 EUR), for every full-time employee. For employees paid per hour, the state compensation is 90 per cent, but maximum 30,000 DKK. The employees must take 5 days of outstanding holidays and/or time off in lieu during the salary compensation period. In return, the employee cannot be terminated.

In order to avoid redundancies in the service-, tourism-, hotel- and restaurant-industry, a number of new *30-day-online-retraining-course* has been established<sup>2</sup>. The course is full-time and is available to employed skilled and unskilled workers as an alternative to not working or being dismissed. The upgrading courses are established in collaboration between the largest union United Federation of Workers (3F), the Employers' Organization for the Restaurant, Hotel and Tourism Industry (Horesta), and the Ministry of Employment. Employers pay the course fee and salaries to the employees. Salaries are reimbursed with up to 100% from state and union funds. Subsequently, other industries have adopted similar models of online courses upgrading the skills of employees during the Covid-19 crisis.

There has been a strong focus on the *taking of holidays during the lock-down*. For private employees, taking of 5 holiday days is part of the salary compensation scheme mentioned above. For public employees, a Tripartite Agreement was concluded on 27 March 2020, which entails that all public employees that fully or partially do not perform work during the period 28 March – 13 April 2020 must take remaining holidays (*restferie*) or time off in lieu for up to five days<sup>3</sup>.

In order to avoid redundancies and as an income support, the Government has introduced *more flexibility with supplementing unemployment benefits*<sup>4</sup>. According to existing collective agreements, employers can - in periods with lack of work – choose to distribute available work between all employees rather than dismissing employees. Part-time employees

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<sup>1</sup> [https://bm.dk/media/12873/trepartsaftale\\_corona.pdf](https://bm.dk/media/12873/trepartsaftale_corona.pdf). Act L141 of 24 March 2020: [https://www.ft.dk/ripdf/samling/20191/lovforslag/1141/20191\\_1141\\_som\\_vedtaget.pdf](https://www.ft.dk/ripdf/samling/20191/lovforslag/1141/20191_1141_som_vedtaget.pdf).

<sup>2</sup> <https://bm.dk/nyheder-presse/pressemeddelelser/2020/03/ny-mulighed-for-opkvalificering-frem-for-afskedigelse-af-medarbejdere-i-service-og-restaurationsbranchen-under-corona-krisen/>.

<sup>3</sup> <https://www.medst.dk/media/4515/aftale-om-visse-ansattelsesmaessige-forhold-om-afvikling-af-frihed-i-forbindelse-med-covid-19.pdf>.

<sup>4</sup> Employment Ministry information, 13 March 2020: <https://star.dk/til-virksomheder/arbejdsfordeling-som-alternativ-til-afskedigelse/>.

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are entitled to receive supplementing unemployment benefits in the interim period. Companies may now put a distribution of work scheme into effect immediately upon giving notice to the Jobcenter.

As an income support measure, the Parliament has decided to *extend the use of unemployment benefits*, with the effect that unemployment benefits received during the covid-19 crisis do not count as ‘used’, and the total period is extended accordingly<sup>5</sup>. Unemployment insurance benefits are conditional upon membership of an Unemployment Insurance Fund (voluntary membership).

The Government has decided to *increase financial support to employment initiatives for redundant persons*. The redundancy fund (*varslingspuljen*) assist employees, who are made redundant as part of collective redundancies, with targeted efforts. The fund is increased with 10 million DKK (approx. 1,340,000 EUR)<sup>6</sup>.

Finally, a number of measures has specifically been targeted at *sick leave benefits*. The employer paid benefits during sick leaves relating to Covid-19 virus has been transferred to be paid by the Municipality, and the overall period of right to sick leave benefits is extended with 3 months<sup>7</sup>.

## 2.2. Health and Safety.

The National Health Service (*Sundhedsstyrelsen*) have issued guidelines, which includes *social distancing, hand hygiene and cleaning standards*. These apply to all workplaces. Specific guidelines have also been drafted for employers and managers<sup>8</sup>.

Many public and private employees currently work from home, and, thus, the *use of remote work* is prevalent throughout the community. The Danish society is very digital, and e.g. all schools and universities continue teaching and education on-line.

## 2.3. Childcare.

In connection with the closing of schools and public childcare services, *emergency daycare services* were established<sup>9</sup>. This service is available to children between the age of 0 and 9 years, whose parents are not sent home to work, i.e. public employees in essential functions, or private employees not working from home. The emergency daycare service is available also to special needs children.

Schooling for children aged 6 and up continue online from their private homes. All homes have private digital devices or they are on loan from the schools. Teachers communicate online and organize online learning activities in all topics for all children.

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<sup>5</sup> [https://www.ft.dk/ripdf/samling/20191/lovforslag/1142/20191\\_1142\\_som\\_vedtaget.pdf](https://www.ft.dk/ripdf/samling/20191/lovforslag/1142/20191_1142_som_vedtaget.pdf).

<sup>6</sup> Governmental Fact Sheet, 12 March 2020: <https://bm.dk/media/12861/faktaark-om-varslingspuljen.pdf>.

<sup>7</sup> Act no. 135 of 17 March 2020:

[https://www.ft.dk/ripdf/samling/20191/lovforslag/1135/20191\\_1135\\_som\\_vedtaget.pdf](https://www.ft.dk/ripdf/samling/20191/lovforslag/1135/20191_1135_som_vedtaget.pdf). Act no. 275 of 26 March 2020: <https://www.retsinformation.dk/Forms/R0710.aspx?id=213710>.

<sup>8</sup> <https://www.sst.dk/-/media/Udgivelser/2020/Corona/Informationsmateriale/SST-Covid-19-Gode-raad-arbejdsgivere.ashx?la=da&hash=91E7B4C9BDBBCDCD37BE527A9E82272F5D82D626>.

<sup>9</sup> Ministerial Order, no. 217 of 17 March 2020: <https://www.retsinformation.dk/eli/lta/2020/217>.

## 2.4. Particularly vulnerable workers.

The Danish Health Authority has issued guidelines on ensuring safe work for employees, who are at risk of serious complications if contracting covid-19<sup>10</sup>. This is particularly relevant for public employees, who are not sent home, and work in situations of close physical contact, such as the health-, social- and elder sectors, and (from April 15 2020) in childcare and schools.

For self-employed and freelancers, a temporary *compensation scheme for lost revenue* has been adopted by the Parliament<sup>11</sup>. Companies, that expect to incur a loss in revenue of at least 30 per cent, may apply for compensation amounting to 75 per cent of the expected loss in revenue, but maximum 23.000 DKK (3.080 EUR) per month (per person, if there are several owners).

Self-employed, that are not registered in the Central Business Register, may also apply for a compensation of 75 per cent of lost income, but maximum 23.000 DKK. It is yet unclear, whether zero-hour employment contracts are covered by this scheme.

In addition, the payment of *premiums for sick leave benefit insurance* for self-employed persons is delayed for three months<sup>12</sup>. Self-employed persons can take out voluntary additional sick leave insurance, which allows them to receive reimbursement of sick leave benefits from day 1 or 3, rather than from day 15.

## 3. The role played by Social Partners.

Following the lock-down, the Government has adopted several help packages to Danish companies, employees, self-employed and others. The Social Partners have played a substantial role in the design of the measures taken.

Tripartite Agreements have been struck at both the private labour market (salary compensation scheme) and the public labour market (taking of holidays during lock-down, re-allocation of public employees to care functions). Furthermore, the model of offering online retraining courses to workers at home is a result of an industry level collaboration, and it is now being adopted in other industries.

A Tripartite Agreement between the Municipalities and the negotiation group for public employees (*Forhandlingsfællesskabet*) allows for *re-allocation of public employees*<sup>13</sup>. Public employees,

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<sup>10</sup> [https://www.sst.dk/-/media/Udgivelser/2020/Corona/Notat-frontpersonale-s%C3%A5rbare/SST-notat-frontpersonale-i-saerlig-risikogruppe\\_15\\_03\\_20.ashx?la=da&hash=F93C1CF738367EFDABC2E8A3F685698971C31070](https://www.sst.dk/-/media/Udgivelser/2020/Corona/Notat-frontpersonale-s%C3%A5rbare/SST-notat-frontpersonale-i-saerlig-risikogruppe_15_03_20.ashx?la=da&hash=F93C1CF738367EFDABC2E8A3F685698971C31070)

<sup>11</sup> Agreement, 19 March 2020:

[file:///C:/Users/AU231538/Downloads/Aftale%20om%20COVID\\_19\\_initiativer.pdf](file:///C:/Users/AU231538/Downloads/Aftale%20om%20COVID_19_initiativer.pdf).

<sup>12</sup> Amendment of Executive Order on Sick Leave Benefit Insurance for Self-employed: <https://www.retsinformation.dk/Forms/R0710.aspx?id=213587>.

<sup>13</sup> [https://www.kl.dk/media/23794/faelleserklaering-coronavirus\\_stor-gensidig-fleksibilitet-hurtighed-og-vilje-til-at-finde-smidige-loesninger-centralt-og-lokalt.pdf](https://www.kl.dk/media/23794/faelleserklaering-coronavirus_stor-gensidig-fleksibilitet-hurtighed-og-vilje-til-at-finde-smidige-loesninger-centralt-og-lokalt.pdf)

who are sent home, can be re-trained and re-allocated to assist with caring for children, the elderly, the disabled, those with special needs, and in health-care.

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