

January 2016

Collective Redundancies and Reorganisations

Denmark

Scope

The rules in Denmark are based on EU directive 98/59.

The rules apply when the number of redundancies contemplated by an employer within a period of 30 days is:

- a) at least 10 in companies normally employing 20 to 100 employees,
- b) at least 10% of the number of employees in companies normally employing 100 to 300 employees, or
- c) at least 30 in companies normally employing 300+ employees.

Requirements: Information and Consultation-process

Works Councils

If an employer is about to lay off workers covered by the rules on collective redundancies, the employer must as early as possible go into negotiations with the employees or their representatives. Negotiations must aim to reach agreement to avoid or reduce the number of redundancies.

The employer must provide employees or their representatives with all information relevant to the redundancies and give written notice of: 1) the reasons for the redundancies, 2) the number of employees to be made redundant, 3) what categories they belong to, 4) the period over which the redundancies will take place, 5) the number of employees normally employed at the company and their categories, and 6) the criteria proposed for the selection of the employees to be made redundant and whether there are employees who have an entitlement to redundancy payments provided by individual or collective agreement, and if so, how these allowances are calculated.

The employer must submit a copy of the notification to the regional employment council.

Public Authorities



If, after negotiating, the employer decides to continue to lay off employees covered by these rules, the employer must send its decision to the regional employment council.

In cases where the number of redundancies is at least 50% of the number of employees in the workplace and the workplace normally employs at least 100 employees, the employer must negotiate for at least 21 days before sending the notice, unless otherwise agreed in a collective agreement.

The notification must contain all information relevant to the planned redundancies and negotiations.

The employer shall as soon as possible and within ten days after the notice is sent, notify the regional employment council of the persons who will be made redundant. These persons must be informed within the same time limit.

The employer must promptly provide the regional employment council with details of the final outcome of the negotiations. At the same time, the employer must forward a copy to the employees or their representatives, who can then submit their observations to the regional employment council. The regional employment council cannot prevent the redundancies but can take appropriate measures if the employer fails to follow the applicable rules.

Sanctions

If the process is not followed the employer must compensate the redundant employees with an amount equivalent to 30 days' salary. If the number of redundancies is at least 50% of the number of employees at a workplace, and the workplace normally employs at least 100 employees, the compensation increases to eight weeks' salary unless otherwise agreed in a collective agreement.

Violation of the law on collective redundancies is punishable by a fine.

Companies may also face criminal liability under the rules of the Danish Criminal Code.

Requirements pertaining to employees

Freedom of selection criteria: Employers are free to determine the selection criteria, as long as it is objective criteria.

Protected class of employees: There are no special classes of protected employees.

Costs / Employee benefits



Notice period: The Danish act on collective redundancies does not change the existing notice periods provided for the individual employees. The layoffs take effect no earlier than 30 days after the notice is sent to the regional employment council.

In cases where the number of redundancies is at least 50% of the number of employees at a workplace, and the workplace normally employs at least 100 employees, the redundancies do not take effect until eight weeks after the notice is sent to the regional employment council, unless otherwise agreed in a collective agreement.

Severance payment: See the above mentioned regarding compensation if the process is not followed.

Other benefits: Compensation is determined according to the circumstances of any workers who have had special benefits during the time they have worked for the employer.

Termination process

Duty to work: The employee is required to work during notice period as if the layoff was “normal”.

Garden Leave: This is not normally used in ordinary circumstances.

Settlement agreements: The employer and employee are allowed to make individual settlements.

Court proceedings: This depends of the case and the conflict.

This material is for general information only and is not intended to provide legal advice.

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