

## Consolidation Act on an Employer's Obligation to Inform Employees of the Conditions Applicable to the Employment Relationship. <sup>1)</sup>

An Act to consolidate the Act on an Employer's Obligation to Inform Employees of the Conditions Applicable to the Employment Relationship, cf. Consolidation Act no. 1011 of 15 August 2007 with the amendments that are consequences of section 5 in Act no. 482 of 12 June 2009.

### *Scope*

1. - (1) This Act shall apply to all employees having an employment relationship with a duration exceeding one month and with an average working week exceeding eight hours. The Act shall not apply to persons who are subject to the Merchant Shipping (Masters' and Seamen's) Act.

(2) Employees shall be taken to mean persons who receive remuneration for personal services.

(3) The Act shall not apply to the extent the employer is under an obligation to inform the employee of the employment relationship as a result of a collective agreement and this contains rules which as a minimum correspond to the provisions laid down in Directive 91/533 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship.

(4) The Act may not through an agreement be departed from to the disadvantage of the employee, but see subsection (3).

(5) The Minister for Employment may decide that employees having an employment relationship of a casual or specific nature shall not be subject to this Act.

### *The employer's obligation to provide information*

2. - (1) The employer must inform the employee of all essential conditions applicable to the employment relationship, including at least the information set out in subsection (2) (i)-(x). The information must be provided not later than one month after the commencement of the employment relationship. Unless the employee from the commencement of the employment relationship has an average working week exceeding eight hours, the employer's obligation to provide information shall apply where the employee within the last four weeks has had an average working week exceeding eight hours.

(2) The employer's obligation to provide information shall cover at least the following information:

(i) The names and addresses of the employer and the employee.

(ii) The location of the place of work or where there is no fixed or main place of work, the principle that the employee is employed at various places and the registered place of business or the domicile of the employer.

(iii) A description of the work or an indication of the employee's title, grade, nature or category of the work for which the employee is employed.

(iv) The date of commencement of the employment relationship.

(v) In the case of an employment relationship that is not of indeterminate duration, the expected duration thereof.

(vi) The employee's rights regarding holiday with pay, including whether pay is disbursed during holidays.

(vii) The length of the periods of notice to be observed by the employee and the employer or the rules thereon.

(viii) The current or agreed pay which the employee is entitled to at the beginning of the employment relationship, and allowances and other pay elements that are not included therein, for example pension contributions and any board and lodging. Furthermore, information must be provided on the dates of payment of remuneration.

(ix) The length of the normal working day or week.

(x) An indication of the collective agreements governing the conditions of work. In the case of collective agreements concluded by parties outside the business, information must, furthermore, be provided on the names of these parties.

(3) The information may be given in the following documents:

(i) a written declaration that contains information on all essential conditions applicable to the employment relationship apart from the information that may be given in one of the documents referred to below in (ii)-(iv),

(ii) a written contract of employment,

(iii) a letter of engagement, or  
(iv) one or more other documents, provided that at least one of these contains all the information referred to in subsection (2) (i)-(iv), (viii) and (ix).

(4) Apart from the information referred to in subsection (2) (i)-(v) and (x), the obligation to inform the employee of the essential conditions applicable to the employment relationship shall be considered fulfilled if the documents referred to in subsection (3) contain references to laws, regulations and administrative or statutory provisions or collective agreements governing those particular points.

#### *Expatriate employees*

3. - (1) Where an employee is required to work in one or several other countries and the duration of the employment exceeds one month, the document(s) referred to in section 2 (3) must be in the employee's possession before his/her departure. In addition to the information the employer must give the employee under section 2 (1) and (2), the document(s) for expatriate employees must include at least the following additional information:

- (i) the duration of the employment abroad,
- (ii) the currency to be used for the payment of remuneration,
- (iii) where appropriate, the benefits in cash or kind attendant on the employment abroad,
- (iv) where appropriate, the conditions governing the employee's repatriation, and
- (v) whether steps have been taken to have the necessary certificates issued in connection with expatriation.

(2) The information referred to in subsection (1) (ii) and (iii) may be given in the documents referred to in section 2 (3) in the form of a reference to the laws, regulations and administrative or statutory provisions or collective agreements governing those particular points.

#### *Modification of the conditions of employment*

4. Any change in the details referred to in section 2 (1) and (2) and section 3 (1) must be the subject of a written document to be given by the employer to the employee at the earliest opportunity and not later than one month after the date of entry into effect of the change in question. This shall, however, not apply where the change is caused by changes in the laws, regulations and administrative or statutory provisions or collective agreements which the employer may refer to under section 2 (4) or section 3 (2).

#### *Non-compliance with the obligation to provide information*

5. - (1) Questions as to whether the employer has complied with his/her obligation to provide information under the Act shall be decided by the National Social Appeals Board's Employment Committee.

6. - (1) Where the employer has failed to comply with his/her obligation to provide information, the employee may be awarded compensation by the courts. The compensation which for the individual may not exceed 13 weeks' remuneration shall be fixed in consideration of the circumstances of the case, including whether the lack of information has been of specific importance to the employee. In case of aggravating circumstances, the compensation may be increased up to 20 weeks' remuneration.

(2) The compensation may, however, not exceed DKK 1,000 if the lack of information is excusable and in all other respects has been of no specific importance to the employment relationship.

#### *Commencement*

7. - (1) The Act shall come into force on 1 July 1993 and shall apply to agreements on employment relationships concluded on 1 July 1993 or subsequently.

(2) The Act shall not extend to the Faroe Islands and Greenland.

#### *Transitional provision*

8. - (1) With respect to agreements on employment relationships that are concluded prior to 1 July 1993, and which remain in force after 1 July 1993, the employer shall, at the request of the employee, be obliged no later than two months after the request to provide the employee with the information which the employee has not already received in writing regarding the points referred to section 2 (1) and (2) (i)-(x), where appropriate supplemented with information on the points referred to in section 3 (1) (i)-(v).

(2) With respect to agreements on employment relationships that are concluded prior to 1 July 2002, and which remain in force after 1 July 2002, the employer shall no later than one month after 1 July 2002 inform the employee in writing of any essential conditions applicable to the employment relationship of which the employee has not already been informed in writing, but see subsection (1).

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Act no. 1061 of 22 December 1993, section 1 of which has amended section 2 (1) and section 8, contains the following commencement provision:

**Section 2**

The Act shall come into force the day after its publication in the Danish Law Gazette. <sup>2)</sup>

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Act no. 138 of 25 March 2002, section 1 of which has amended section 2 (1)-(4), section 3 (1), section 4, first sentence and section 8, contains the following commencement provision:

**Section 2**

The Act shall come into force on 1 July 2002.

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Act no. 174 of 27 February 2007 to amend the Act on an Employer's Obligation to Inform Employees of the Conditions Applicable to the Employment Relationship (Amendment of the compensation level), which amends section 6 of the Act, contains the following commencement provision:

**Section 2**

The Act shall come into force on 1 March 2007 and shall apply to claims for compensation made after the commencement of the Act.

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Act no. 482 of 12 June 2009 to amend the Act on Unemployment Insurance etc, the Act on Legal Protection and Administration in Social Matters and other Acts, which amends section 5 of the Act, contains the following commencement provision:

**Section 14**

(1) This Act shall come into force on 1 August 2009 ---

(2)---

(3)---

(4)---

(5)---

(6)---

(7)---

*Ministry of Employment, 17 March 2010*

*Claus Hjort Frederiksen*

*/Lise Fangel*

**Official notes**

<sup>1)</sup> This Act contains provisions that implement Council Directive 91/533 (Official Journal L 288, 18/10/1991 P. 0032-0035)

<sup>2)</sup> This Act was published on 23 December 1993 in the Danish Law Gazette.