

Proposed by the Social Partners of the European Construction Industry:

European Federation
of Building
and Woodworkers



European Construction
Industry Federation



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Posting Report Denmark

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Introduction

The labour market in Denmark differs to a great extent from other labour markets within the European Union in the way it is regulated.

In Denmark there is a more than 100 year old tradition for social partners to determine central issues, regulating the rights and obligations for companies and workers by laying down wages and working conditions. It is up to the social partners to negotiate and agree upon collective agreements, which establish the wages, the wage system, working hours, labour market pension schemes and access for workers to elect shop stewards and health and safety representatives and many other issues relating to working conditions in general.

This does not mean that there is no legislation regulating parts of the Danish labour market. However, it does mean that Denmark has fewer government and parliament regulations of labour market issues than it is the case in most other EU-countries.

Therefore the majority of workers in Denmark (87 %) are member of a Trade Union and companies (90 %) are member of an employers association.

To help the social partners to sign up collective agreements with posting companies with activities in Denmark, gives chapter 2a in the Danish Posting Law the social partners right to use collective measures to combat foreign companies in the same way as Danish companies. The social partners are informed about foreign company's activities in Denmark directly from the State via public publication of the mandatory declaration of the register for posting companies.

It is in this context that the following information concerning Posting will be elaborated upon for posting companies and posted workers, who are undertaking tasks within the building and construction industry in Denmark.

1. Mandatory declaration

Companies posting workers to Denmark are required to make two central declarations before undertaking any task.

- A) All foreign companies, delivering goods or services in Denmark, have to register themselves with the tax authorities for VAT purposes.
- B) All companies posting their workers to Denmark are also required to report additional information in the RUT-register (Register for posting companies).

The information to be provided by any such company in the RUT-register is the name and the address of the company, a Danish CVR or SE number (company identity number), (if this has been given to the company on a previous occasion), the date for both the beginning and the termination of the task to be undertaken by the company, the address where the work is to be carried out, the name of a contact person in Denmark and that person's address and telephone number. Furthermore the industry sector in which the company is operating, (construction, cleaning, etc.) must be identified, and finally the company concerned must provide the identity of the posted workers and the duration of each individual posted worker's posting period.

This registration can be reported electronically by visiting the homepage: www.virk.dk/rut Here the company can find the information and the right forms to be filled in, in order to fulfill its obligations.

Within 30 days after employment of any worker in Denmark the employer must ensure that the employee has a written contract of employment. For posted workers who are going to be posted for more than 30 days, the employment contract must be signed before posting begins. This contract must stipulate the hourly wage and in what currency, workplace, working time, notice period, holiday, pension, duration of posting, and any other benefits provided by the company (food, lodging, transport costs, etc.). The company or worker can obtain a standard work contract from the Employer's organization or the trade union. (See example of such a contract in appendix 9.2).

1.1. Posted workers

The rules and obligations for **foreign workers** enabling them to be posted to Denmark are that the workers have to be in regular employment in the company posting them to Denmark. Thus it is not sufficient that the posted workers are hired for the occasion and have a more random form of employment in the company. All workers from EU-countries can be posted to Denmark. Third country nationals posted from another EU-country to Denmark must, before being posted, be legal residents of that the country from which they are posted, and also have the right to work in that country.

After 3 months presence the posted worker shall obtain a residence permit in Denmark according to the Schengen rules.

Temporary-work agencies fall under the same rules and regulations as any other company. For temporary agency workers the same rules apply. If a temporary work agency is posting temporary agency workers to Denmark, the temporary-work agency and the temporary agency workers have the same rights and obligations as any other worker or company.

1.2 Useful homepages

On the homepage from The Labour Market Authorities: www.posting.dk additional information is available about the rights and obligations for companies and posted workers, and how to act according to the Danish rules and obligations.

A link to the homepages www.virk.dk, www.posting.dk and www.workindenmark.dk at the EU-countries' embassies in Denmark is also available. As part of the implementation of the Services Directive, a homepage with the function as "one entry" to Denmark for posting companies will be established.

The homepage www.businessindenmark.dk gives free advice on the relevant rules and registration in Denmark.

The homepage www.icitizen.dk gives advice for registration of workers with a longer presence in Denmark.

2. Minimum wages including overtime and night work

There is no fixed minimum wage within the construction industry set by law. Collective agreements are not generally applicable. The only way to make sure that the posted worker is working under a collective agreement, and thereby be entitled to a minimum wage, is to work in a company which is covered by a collective agreement!

Thus there is no legal obligation for a company posting workers to Denmark to comply with a certain minimum wage unless the company or site is covered by a collective agreement.

There are two ways of getting a collective agreement:

- A) Either you join the Employers' Association and thereby obtain a collective agreement as part of that membership, (The Employers' Association has negotiated a collective agreement covering all its members with respect to trade unions affiliated to the Danish Conference of Trade Unions and to the European Federation of Building and Wood Workers); or
- B) If a company wants to be covered by a collective agreement, but does not want to be a member of an employers' association, it can obtain a "sign-on agreement" with the respective unions that holds the collective agreements for the kind of work the company is undertaking.

The minimum wage set in the collective agreements is not a fixed minimum but a point of departure for local negotiations between employers and workers. It is also a point of departure for the piece-rate system that is the overriding principal in the wage system of the Danish construction industry.

By setting the wage for a company, Danish law relating to posted workers emphasizes that in raising the demands towards a company posting workers to Denmark in order to arrive at a collective agreement, the trade unions can consider application of the piece-rate system, the qualifications of the workers, their experience, the nature and the character of the work undertaken, etc.

The wage varies from trade to trade, carpenters, bricklayers, painters, concrete workers, electricians, plumbers – all have different collective agreements and different guaranteed payments for piece rate work. The guaranteed average however, is around 130 DKR (app. 17,40 €), the wage for the electricians being a bit a higher and for the painters being a bit lower. There are more than 30 different collective agreements between trade unions and employers' organizations covering all kinds of job functions in the construction industry.

The Danish law applicable to posted workers also emphasizes that in the Danish wage system applicable in the construction industry, remuneration consists of an hourly wage that is paid here and now, but there is also a wage, which is differed to a point in time when the workers are in certain circumstances.

That means in effect that differed payment for holidays, labour market pension schemes, maternity and paternity leave, etc. can be calculated and added to the hourly wage. If a company can prove that they already pay for such comparable and obligatory items in the home country, this can be deducted from the total wage paid in Denmark.

This “differed” salary that usually amounts to a percentage point on top of the hourly wage can thus be added to the wage in order to avoid social dumping.

The best advice to companies and workers is to approach the relevant employers’ organization or trade union in order to obtain specific information about the collective agreements (see appendix for contacts).

2.1. Extra pay for overtime etc.

In the collective agreement there are provisions for extra pay for overtime and night work. It varies for one collective agreement to another, but on average the extra pay for overtime and for night work is around 50 to 100%.

2.2 Backing of demands for collective agreements

The point is that no-one is obliged to sign a collective agreement. However, due to the nature of the way Denmark regulates its labour market, companies posting workers to Denmark as well as Danish companies alike can be affected by industrial action by the trade unions if they refuse to negotiate and sign a collective agreement.

In this respect it doesn’t matter whether the trade union concerned has any members working in the company in question. This is the case law from the Danish Labour Court. It’s a fundamental principal built on case law from the Danish Labour Court that the trade unions can support the demands for collective bargaining and a collective agreement by implementing:

- A) Strike action
- B) A blockade by pulling trade union members out of the company in question. It is not a physical blockade of the company’s access to a building site. To understand the word “blockade” it’s important to stress that it’s not a physical blockade; it means that trade union members can’t work for the company being subjected to the blockade.
- C) A sympathy conflict toward the company in question. If a company is working together with other companies on the building site, who are covered by a collective agreement, the trade union can pull out their members from these companies, so as to halt production.

This kind of industrial action usually helps the company not having a collective agreement to understand the vital importance of having one. The clients and other companies

affected by such industrial action usually harbour strong feelings towards a company that is not “playing by the rules”, and which is causing a costly postponement of a project. The company concerned can question the legitimacy of these industrial actions in the Danish Labour Court. However the case law is quiet strong on these issues.

If any advice is to be given on wages, collective agreements, etc. it is that companies posting workers to Denmark should join the Employers’ Association, thereby they are fully covered and can benefit from the professional assistance of their organisation.

It would be very useful, if companies posting workers to Denmark took a close look at the Danish labour market and the way it functions. The same goes for posted workers. Information can be found in more detail on www.posting.dk or www.lo.dk. One can also read “The Danish Model” By Jesper Due and Erik Strøjer Madsen.

See also an example of a standard collective agreement in the appendix 9.1.

3. Wage supplement and allowances

In some collective agreements there are provisions establishing compensation for housing, meals, transportation costs etc., if the company decides to send an employee somewhere else to work than that of the address of the company, (e.g. so far away from home that he/she cannot return home at night etc.)

Again it varies from collective agreement to collective agreement, and there is as such no general binding legal claim for posted workers to address these issues, unless subject to a collective agreement.

4. Maximum working time and minimum rest

The working time is generally regulated in the collective agreements. The average working time is 37 hours weekly in most collective agreements. The agreements have provisions for overtime with an additional pay and or benefits such as extra free time.

If there is no collective agreement regulating the working hours, the posted worker is allowed to work an average of 48 hours weekly in a period of 4 months. He also has the right to a break, if he works more than 6 hours per day. The break is 30 minutes.

There is also a rule indicating that all workers have the right to 11 hours rest after finishing work until they start working again, the so called 11-hours rule. For further information please visit: www.posting.dk

5. Health & Safety rules

Posted workers and companies posting workers to Denmark must of course follow all health and safety rules and regulations laid down in the Danish law on health and safety. It is the Danish Working Environmental Authority www.at.dk that is responsible for checking compliance with these regulations.

This Authority has the nature of a labour inspectorate but only on health and safety issues. Their representatives visit building sites on a regular basis to see if tasks are carried out under safe working conditions. This is unfortunately not always the case – this goes for both Danish as well as for foreign companies. Six times a year the Danish Working Environmental Authority undertakes a campaign directed towards the construction industry and in particular foreign workers and foreign companies. They can stop work activities at any site until work can be carried out safely, and they can fine employers who are responsible according to Danish law for ensuring that building sites are safe.

Further information is available on the homepage www.at.dk where safety guidelines in Polish, German and Lithuanian can be found. This might help companies posting workers to Denmark as well as posted workers prepare themselves for working on Danish building sites.

5.1. Sector working environment council within building and construction

The Danish social partners have established a joint health and safety centre. On its homepage www.bar-ba.dk information and data are currently being developed for companies and foreign workers enabling them to obtain assistance in organizing work on site and also instructions on how the work can be carried out safely.

Trade unions' and employers' organisations also provide guidance and education for their members on health and safety issues.

6. Minimum paid annual holiday

“By law it’s established that everyone working in Denmark earns the right to 2,08 holiday day per months employment (25 holiday days per year) and the right to 12,5 % holiday money on top their annual pay for holidays-with-pay.

Anyone covered by a collective agreement will be entitled to 12, 5 % holiday money and 7, 2 % public holiday money.

Holiday money is saved on the holiday account in the calendar year and can be paid out in the following holiday year, which run from the 1th of May to the 30th of April.

Public holiday money should be paid out the last pay day before a public holiday day according the actual rate agreed in the collective agreements and the account goes into zero the 31th of December.

Foreign companies paying for posted workers to the holiday fund agreed in the collective agreements will get holiday money and public holiday money (totally 19, 7 %) paid down as holiday money either by holiday in the holiday year or when the posted workers leave Denmark”

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 a 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.

Denmark and Germany have mutually recognition of their holiday rules, and ULAK and the Danish holiday rules are on an equal footing.

For all other enterprises covered by collective agreements in Denmark between the BAT-kartellet trade union grouping and Dansk Byggeri, Dansk Byggeri has agreed with the 3F Holiday Fund that enterprises must contribute holiday pay and public holiday pay, currently amounting to 19.7%.

On providing the necessary documentation, enterprises may subsequently apply for a refund of holiday pay and public holiday pay already contributed under the rules of the parent country, as double payments are not intended.

In addition, there are the public holidays, i.e. New Year's Day, Maundy Thursday, Good Friday, Easter Monday, Whit Monday, Store Bededag, Ascension Day, Constitution Day, Christmas Day and Boxing Day, together with a right to a further 5 additional days of holiday ("feriefridage").

Contributions for holiday pay and public holiday pay 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:

<http://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.

7. Additional Information

VAT

As from 1st January, 2009, any company hiring a worker for the purposes of undertaking a task as a subcontractor is responsible for paying the VAT on behalf of the company posting the worker. That means in effect that when a company posting a worker has finished its work for a Danish company, the Danish company must pay the VAT to the Danish tax authorities.

However, if the company posting the worker is undertaking a task for a private citizen, the company concerned still has an obligation to pay the VAT to the Danish tax authorities.

How to be registered for VAT can be found at the homepage www.businessindenmark.dk

After page 12 must be add the following:

7.1. Temporary employment and taxation as temporary employment

The Danish tax authority SKAT informed June 20.2014 about new praxis of the tax legislation for posted workers (temporary employees) in Denmark as follow:

Definition of temporary employment

It is temporary employment, when a foreign worker personally is doing paid work for a company in Denmark, when the work is an integrated part of the company.

- It is no longer the point of reference, that the foreign workers work is a part of the Danish company's business area. This means, that it will be accepted, that companies' after the circumstance can use subcontractors, hereunder also from the same branch, without the workers shall pay income tax according the rules for taxation of temporary employment.
- The temporary employment tax rules takes effect for all branches. It is essential, if the concerned person according a concrete judgment works as a wage earner for a Danish company or do the work as a part of the work for an independent foreign company.
- By cooperation with a foreign one-man-firm, the taxation rules for temporary employees will not be used. Here will the foreign one-man-firm either be wage earner in the Danish company and limited income tax payer according Danish PAYE tax (KLS § 2. 1 or 9.2) or independent businessman, eventual with a branch in Denmark according Danish PAYE tax(KLS § 1.1.4). The judgment will take place according Danish rules independent how the owner of the one-man-firm according

the legislation in the country of origin is considered to be an independent businessman.

As assessment if the work is to be considered as temporary employment or independent subcontracting, shall especial the following circumstances be taken into consideration:

- The character of the work delivered by the worker from the foreign company and if it is the Danish or the foreign company that has the responsibility and the risk for the result of the work.
- The work, the foreign company are doing for the Danish customer, must be clearly separated and delimited. If this is not the case, the work will be considered as an integrated part of the Danish company, because the work not has character of independent foreign enterprise.

As supplement to above mentioned assessments will also be used the following criteria:

- 1) Who has the right to give instruction to the workers?
- 2) Who control and have the responsibility for the place where the work is done?
- 3) Has the formal employer charged the Danish company receiving the services payment for the person?
- 4) Who deliver necessary tools and material to the person?
- 5) Who decide number of persons to do the work and theirs qualifications?
- 6) Who has the right to choose the person to do the work and the right to give notice to terminate the contract there has been agreed with the person regarding the job?
- 7) Who has right to order sanctions to the person, related to the persons job?
- 8) Who decide the persons working hours and holiday?

None of the mentioned criteria will have decisively relevance and can have different meaning in the different situations. In general it will have great importance, weather the Danish company directly or indirectly, supervise, direct or control the way the work is done.

Tax rate

8 % AM-Bidrag (Labour marked contribution) and 30 % temporary employment tax of the salary / wages the foreign subcontractor pay out to his workers. If the salary / wages not are separately mentioned on the bill, the 8 and 30 % shall be taken of the full amount of the bill.

Who is responsible for paying the tax?

The Danish company

When shall the tax be paid?

The 10th in every following month

7.2. Labour marked pension

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

Current rates are 4.0% by the employee and 8.00 % by the enterprise, i.e. 12.00 % 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:

Pension Danmark
Kongens Vænge 8
DK-3400 Hillerød
Denmark

Tel.: +45 70 12 13 30
Fax: +45 70 12 13 31
E-mail: service@pension.dk
www.pension.dk

Financial institution:

Nordea
Acc. No.: 2149-0367251875
IBAN: DK1220000367251875
SWIFT: NDEADKKK

The following information must be forwarded:

- 1) Company name + Identity No.
- 2) Collective agreement code
- 3) Name and date of birth of the individual employee

- 4) Pension contribution statement for the individual employee
- 5) Percentage rate
- 6) Information on method of payment

7.3. Health care scheme

If the enterprise covered by collective agreement was not registered with Pension Danmark's health care scheme on 10 December 2010, it will automatically be covered by Pension Danmark'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"

7.4. Documentation requirements regarding Pay slips for enterprises covered by an agreement.

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

Allowance for first, second and third day of unemployment (only relevant if employees are members of a Danish unemployment fund)

7.5. Documentation requirements regarding Employment certifications for enterprises covered by an agreement.

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

7.6. 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).

7.7. 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.

7.8. 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 recognised 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

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

Arbejdstilsynet
Kontor for Videngrundlag
Postboks 1228
DK-0900 Copenhagen C
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.

7.9. Work in connection with electricity, water, heating, gas and drain installation

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

7.10. 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

7.11. Social security, if covered by social security schemes in the country of residence during posting to Denmark

Enterprise from EU and EES 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 A 1 where the expiry date has not yet been reached or a letter of confirmation from the employee's sickness fund in the country of residence in the case of EU / EES citizens.

7.12. 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 posted workers earns less than 25% in his / hers 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 the 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 approach the nearest tax centre and apply for registration as an ATP employer without a permanent operation in Denmark.

The nearest tax centre can be located on www.skat.dk

The enterprise may also visit the website of the Danish Commerce and Companies Agency and complete the form "Registration of non-Danish Company" on the following link.

www.businessindenmark.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.

7.13. mandatory requirement to ID and signposting

By control by the authorities (Labour Inspection, Tax and Police) everybody must be able to identify him / her selves with an ID-card with photo (ex. Passport, identity card from country of residence, etc.)

By all building projects with a value of more than DKK 50.000 there shall be a sign identifying each service provider with name and CVR / RUT- number. The sign must be readable from public road during the working hours.

At all working vehicles up to 3.500 kg must a sign with name and CVR/RUT-number with minimum 30 mm high script and for vehicles more than 3.500 kg with minimum 100 mm script. Name and CVR-numbers on both sides of the vehicles and name and RUT-number in the windscreen.

8. Useful links to national information sources

Useful addresses and homepages

Trade Unions:

United Federation of Danish Workers (3F)
Kampmannsgade 4 – DK-1790 Copenhagen V
Phone: +45 70 300 300 (Masons, concrete workers, ironworkers etc.)
www.3f.dk

The Danish Plumber and Pipeline Union
Immerkær 42 – DK-2650 Hvidovre
Phone: +45 36 38 36 38 (Plumbers, pipefitters, welders, sanitation etc.)
www.blikroer.dk

National Painters Union in Denmark
Lersø Parkallé 109 – DK-2100 Copenhagen Ø
Phone: +45 3916 7900 (Painters)
www.maler.dk

The Danish Union of Electricians
Vodroffsvej 28 – DK-1900 Frederiksberg C
Phone: +45 3329 7000 (Electricians)
www.def.dk

HK Denmark
Weidekampsgade 8, Box 470 – DK-0900 Copenhagen C
Phone: +45 3330 43 43 (Office workers)
www.hk.dk

The Danish Metalworkers' Union
Nyropsgade 38, Box 308 – DK-1780 Copenhagen V
Phone: +45 3363 2000 (Pipefitters, welders).
www.danskmetal.dk

The Danish Association of Professional Technicians
Nørre Voldgade 12 – DK-1358 Copenhagen K
Phone: +45 3343 6500 (Technical assistants)
www.tl.dk

The Danish Confederation of Trade Unions
Islands Brygge 32 D – DK-2300 Copenhagen S
Phone: +45 3524 6000
www.lo.dk

Building-Construction and Woodworkers Cartel
Kampmannsgade 4, DK – 1790 Copenhagen V.
Phone +45 88 92 11 05
www.batkartellet.dk

Employers associations:

The Danish Construction Association
Nørre Voldgade 106, Box 2125 – DK-1015 Copenhagen K
Phone: +45 7216 0010
www.danskbyggeri.dk

Association of Danish Painting Contractors
Islands Brygge 26, Box 1989 – DK-2300 Copenhagen S
+45 32630370
www.malermestre.dk

TEKNIQ
Paul Bergsøes Vej 6 – DK-2600 Glostrup
Phone: 4343 6000
www.tekniq.dk

Authorities:

The National Labour Market Authority
Holmens Kanal 20, Box 2150 – DK-1016 Copenhagen K
Phone: +45 3528 8100 (Liason office for issues regarding posting).
www.ams.dk

Ministry for Employment
Ved Stranden 8 – DK-1061 Copenhagen K
Phone: +45 7220 5000
www.bm.dk

Danish Working Environment Authority
Box 1228 – DK-0900 Copenhagen C
Phone: +45 7012 1288
www.at.dk

The Danish Tax Directory
Østbanegade 123, DK 2100 Copenhagen Ø
Phone +45 70 15 73 00
www.skat.dk

See also:

www.posting.dk

www.workindenmark.dk

www.businessindenmark.dk

www.icitizen.dk

and highlight the last link

Sectoral Working Environment Council within Building and Construction.
Bygmestervej 5, DK – 2400 Copenhagen NV.
Phone +45 36 14 14 00
www.bar-ba.dk

Legal notice

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August 2014

National Expert : Søren Lange Nielsen

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www.posting-workers.eu

ANNEX

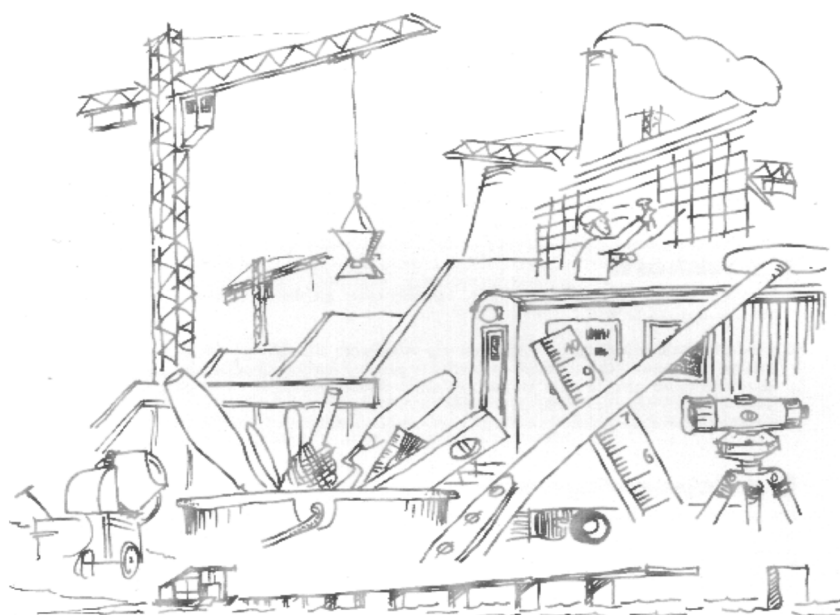
Examples of a “sign on” collective agreement or adhesion agreement

The following example is of a draft standard collective agreement, as it is presented to a company posting workers to Denmark as an invitation to negotiate a collective agreement with the trade union. Collective agreements are available in English, German, Polish and many more languages.

The procedure is that a trade union invites the company in question to talks and negotiations regarding a collective agreement. If they agree the case is closed. If not the trade union can take industrial action against the company, as described in an earlier paragraph (3.2). The company can dispute the legitimacy of such industrial action in the Danish labour court.

Adhesion agreement for enterprises posting workers abroad

Tiltrædelsesoverenskomst for udstationerende virksomheder



between the

Indgået imellem

Name of local branch

Name of union

Afdelingens og forbundets navn

and

og

Name of firm/company

(the Employer)

Virksomhedens navn

1 – The agreement

The undersigned parties agree that they will comply with all and any collective agreements, schedules of wages, etc applying between the Danish Construction Association (Dansk Byggeri) and the United Federation of Danish Workers (3F Fagligt Fælles Forbund) at any point in time.

At the time of signing this agreement, the parties accede to the Main Agreement applying at any point in time between the Danish Confederation of Trade Unions (LO) and the Confederation of Danish Employers (DA), to the rules on labour disputes laid down in the collective agreement and to the cooperation agreement in force at any time.

The Employer has read and agrees to comply with the collective agreement conditions stated below together with the schedules of wages and time and the Guideline Times associated with those conditions.

For bricklaying work: The Collective Agreement for Bricklayers and Bricklayers' Labourers

For building and construction work: The Collective Agreement for Building and Construction, and for work in industry: The Industry Agreement.

The following clauses of the collective agreement do not apply; see the Posting of Workers Directive.

The Collective Agreement for Bricklayers and Bricklayers' Labourers:
Clauses 32, 36, 40-51, 56, 59 and 60.

The Collective Agreement for Building and Construction:
Clauses 49, 53, 55-66, 72, 73 and 74.

§ 1 - Overenskomsten

Undertegnede forpligter sig herved til at overholde samtlige til enhver tid mellem Dansk byggeri og 3F Fagligt Fællesforbunds gældende overenskomster, prisfortegnelser m.v.

Undertegnede tiltræder den mellem LO og DA til enhver tid gældende Hovedaftale, de i overenskomsten anførte regler for behandling af faglig strid, og den til enhver tid gældende samarbejdsaftale.

Undertegnede arbejdsgiver er bekendt med og indforstået med nedenstående relevante overenskomstforhold med tilhørende priskurant eller tidskurant og vejledende tider.

For murerarbejde på Murer- og Murerarbejdsmandsoverenskomsten.

For bygge- og anlægsarbejde, Bygge- og Anlægsoverenskomsten, og for arbejde på Industriooverenskomsten.

Følgende bestemmelser i overenskomsten er ikke gældende jf.

Udstationeringsdirektivet:

For Murer og murerarbejdsmandsoverenskomsten:

§ 32, 36, 40 - 51, 56, 59 og 60.

For Bygge- og Anlægsoverenskomsten:

§ 49, 53, 55-66, 72, 73, 74

2 - Hourly rates

At the time of the signing of this agreement, the hourly rate payable is DKK 171.40 for bricklaying work. The rate must be adjusted in accordance with amendments to the relevant collective agreements.

For building and construction work, the hourly rate payable is DKK 165.82 in Copenhagen and in Zones 1 and 2. Outside those areas, the rate is DKK 156.24.

§ 2 - Timeløn

Timelønnen aftales til 171,40 kr. på Murerområdet. pr. dags dato og følger de ændringer, der sker i den relevante overenskomst.

På bygge- og anlægsområdet aftales timelønnen til 165,82 kr. i København og 1. og 2. zone og til 156,24 kr. i provinsen.

3 – Deferred pay

The parties agree that, for bricklaying work, an amount of DKK 39.50 out of the hourly pay of DKK 171.40 will be paid into a personal account in the TIB-3F holiday fund. This amount is composed as follows: holiday allowance, DKK 16.48; allowance for work on Sundays and public holidays, DKK 9.10; pension, DKK 12.60; and maternity/paternity allowance, DKK 1.32.

For building and construction work the amounts are DKK 38.22 out of the hourly rate of DKK 164.54, composed as follows: holiday allowance, DKK 15.95; allowance for

work on Sundays and public holidays, DKK 8.80; pension, DKK 12.19; and maternity/paternity allowance, DKK 1.27. For zones outside Copenhagen, the amount is DKK 36.01 out of the hourly rate of DKK 156.24, composed as follows: holiday allowance, DKK 15.03; allowance for work on Sundays and public holidays, DKK 8.30; pension, DKK 11.48; and maternity/paternity allowance, DKK 1.20.

The money will be paid to workers when they leave Denmark or after twelve months of employment at the earliest.

The amounts may be set off against holiday payments, payments for work on Sundays and public holidays, pension payment or maternity/paternity payments paid to the worker in his or her home country, provided that documentation for such payments is given to the union.

The amounts are based on the rules on pension, maternity/paternity pay, holidays, and work on Sundays and public holidays set out in the collective agreements.

The total amount set off is DKK _____.

§ 3 - Opsat løn

Det aftales, at der på murerområdet indsættes 39,50 kr. af timelønnen på 171,40 kr. på en personlig konto i TIB's og 3F's Feriekasse. Beløbet indeholder 16,48 kr. i feriepenge, 9,10 kr. i SH, 12,60 kr. i pension samt 1,32 kr. i barsel.

På bygge- og anlægsområdet er beløbene henholdsvis 38,22 kr. af timelønnen på 164,54 kr., beløbet indeholder 15,95 kr. i feriepenge, 8,80 kr. i SH, 12,19 kr. i pension samt 1,27 kr. i barsel. For provinsen 36,01 kr. af timelønnen på 156,24, beløbet indeholder 15,03 kr. i feriepenge, 8,30 kr. i SH, 11,48 kr. i pension og 1,20 kr. i barsel.

Beløbet udbetales til medarbejderne, når de forlader Danmark eller tidligst efter 12 måneders ansættelse.

Beløbene kan modregnes indbetalte feriepenge, SH, pension eller barsel, som betales til medarbejderen i hjemlandet og som kan dokumenteres overfor fagforeningen.

Beløbene er beregnet på baggrund af bestemmelserne om pension, om Barsel, om ferie, om SH, i overenskomsterne.

Modregningen er i alt på kr.:_____

4 – Travelling allowance – *Board and lodging*

1. For work performed within a distance of between five and thirty-five kilometres from the worker's home address, the standard mileage rate approved by the Danish government for mileages in excess of 20,000 km is payable for each day on which the worker goes to work.
No mileage allowance is payable for distances of up to five kilometres or when the Employer provides a means of transport free of charge.
2. For distances in excess of thirty-five kilometres, a special agreement must be made.
3. Distances will be calculated on the basis of the shortest possible route.
4. In connection with a running pay arrangement, workers will not be entitled to any increase in their mileage allowance even if the mileage from home to work changes in connection with a change of address.
5. If a worker has to spend the night away from home by agreement with the Employer, a written agreement must be made concerning payment of board and lodging. To cover small needs, the rate set by the Assessment Council at any time will apply. The current rate is DKK 110 a day.

§ 4 - *Rejsegodtgørelse – Kost og Logi*

1. *For arbejde, der udføres i en afstand af 5 km. til og med 35 km. fra arbejderens bopæl, betales pr. dag arbejderen er mødt på arbejdet den af Staten godkendte takst over 20.000 km.
For afstande indtil 5 km. samt i tilfælde, hvor arbejdsgiveren vederlagsfrit stiller transportmiddel til rådighed, ydes ingen kørselsgodtgørelse.*
2. *For afstande over 35 km. skal der akkorderes særskilt.*
3. *Afstande regnes ad korteste farbare vej.*
4. *Under en løbende akkord har en arbejder ikke krav på forhøjelse af kørselsgodtgørelse, selv om afstanden øges ved bopælsændring.*
5. *Hvor arbejderen efter aftale med arbejdsgiveren må overnatte ude, træffes der skriftlig aftale om betaling for kost og logi. Til dækning af udgifter til småforbrødenheder udbetales der i henhold til ligningsrådets gældende satser, pt. 110,00 kr. pr. døgn .*

5 - Insurance

By signing this agreement, the Employer undertakes to take out industrial injury insurance and professional indemnity insurance covering the Employer's employees.

§ 5 - Forsikring

Ved indgåelse af denne overenskomst forpligter undertegnede arbejdsgiver sig til at forsikre medarbejderne med henholdsvis arbejdsskade- samt erhvervsansvarsforsikring

6 – Legal basis

1. This agreement is governed by Danish law.
2. Any disputes concerning this agreement, the collective agreement or the Main Agreement mentioned above may only be settled with binding and final effect on the parties by the Danish Labour Court in Copenhagen or by industrial arbitration in Denmark in conformity with Danish labour market legislation and the "Rules concerning industrial disputes" set out in the above collective agreement.

§ 6 - Retsgrundlag

1. *Nærværende aftale er undergivet dansk ret.*
2. *Eventuelle tvistigheder vedrørende nærværende aftale, ovenfor nævnte overenskomster og Hovedaftale kan kun indbringes for og med endelig og bindende virkning for parterne afgøres af Arbejdsretten i København eller Faglig Voldgift i Danmark i overensstemmelse med almindelige danske arbejdsretslige regler og nævnte overenskomsts "Regler for behandling af faglig strid".*

7 – Control measures

On request, the Employer must present copies of employment certificates and pay slips for all employees covered by the collective agreement signed with the local 3F branch.

§ 7 - Kontrolforanstaltninger

Arbejdsgiveren skal på forlangende udlevere kopi af ansættelsesbeviser og lønsedler for alle arbejdere under de respektive overenskomster til den lokale 3F afdeling.

8 – Termination

The parties agree that this contract will not be affected by any industrial action in other labour market areas in the event of termination of the federation's national agreements on their ordinary expiry.

This agreement may be terminated by three months' notice for termination at the end of a collective agreement period.

§ 8 - Opsigelse

I forbindelse med opsigelse af forbundets landsoverenskomster ved ordinært udløb er parterne enige om, at nærværende overenskomsts gyldighed ikke berøres af eventuelle konflikter på det øvrige arbejdsmarked.

Nærværende overenskomst kan opsiges med 3 måneders varsel til en overenskomstperiodes udløb.

9 – Information to employees

In accordance with this adhesion agreement, the undersigned Employer undertakes to issue information about the rules set out in the Holiday Rules for the TIB-3F Holiday Fund.

§ 9 - Information til medarbejderne

I henhold til nærværende indgåede tiltrædelsesoverenskomst forpligter undertegnede arbejdsgiver sig til at informere om reglerne indeholdt i

Ferieregler for TIB's og 3F's Feriekasse.

_____, _____
Place/sted Date/dato

Name and address of the Employer:
Virksomhedens navn og adresse

Company registration number: _____
CVR nr.
Telephone number: _____
Telefonnummer

Name _____
(UPPER CASE LETTERS)
Navn med blokbogstaver

Signature: _____
Underskrift

3F branch: _____
3F v/afd.

Signature: _____
Underskrift

NOTE: In the event of a change of address, a change of company registration number or some similar change applying to the Employer, the Employer must immediately inform the above-mentioned local 3F branch of the change.

N.B. Ved eventuel adresseændring, ændring af CVR-nr. eller lignende for arbejdsgiveren, er denne pligtig til omgående at give ovennævnte afdeling af 3F meddelelse herom.

Hourly rates laid down in the Collective Agreement for Building and Construction for enterprises posting workers abroad

Clause 43

Minute factor for Copenhagen and Zones 1 and 2 in North Zealand
Rate per 1 March 2009 exclusive of fixed supplement DKK 1.9380

Outside the above zones DKK 1.8015

Fixed hourly supplement DKK 25.50

Hourly rate, Copenhagen (DKK193.80 x 0.6 hour + DKK 25.50) DKK 141.78

Hourly rate, outside Copenhagen (DKK 180.15 x 0.6 time + DKK 25.50) DKK 133.59

Clause 44

Pre-payment of piecework pay

90% of piecework pay payable on each pay date

Copenhagen and North Zealand, zones 1 and 2	DKK 127.60
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Outside the above zones	DKK 120.23
-------------------------	------------

Deferred pay

Holiday pay according to clause 59 (DKK 15.95), payment for work on Sundays and public holidays according to clause 65 (DKK 8.80), pension according to clause 49 (DKK 12.19), and maternity/paternity pay according to clause 53 (DKK 1.27)

Copenhagen and North Zealand, Zones 1 and 2, total	DKK 38.22
--	-----------

Outside the above zones: holiday pay (DKK 15.03), payment for work on Sundays and public holidays (DKK 8.30), pension (DKK 11.48), and maternity/paternity pay (DKK 1.20)	DKK 35.21
---	-----------

Total pay in Copenhagen and North Zealand, Zones 1 and 2: DKK 127.60 + DKK 38.22	DKK 165.82
--	------------

Outside the above zones: DKK 120.23 + DKK 35.21	DKK 156.24
---	------------

Hourly rates laid down in the Collective Agreement for Bricklayers and Bricklayers' Labourers for enterprises posting workers abroad

applicable from 1 March 2009

Clause 13, minimum hourly rate	DKK 109.40
Clause 23, compensatory allowance for lack of piecework rate	DKK 20.00
<u>Clause 13(6), tool allowance</u>	<u>DKK 2.50</u>
Total	DKK 131.90

Deferred pay:

Clause 32, pension, 8% of DKK 157.48	DKK 12.60
Clause 44, holiday allowance, 12.5%	DKK 16.48
Clause 50, allowance for work on Sundays and public holidays, 6.90%	DKK 9.10
<u>Clause 36, maternity/paternity allowance</u>	<u>DKK 1.32</u>
Total	DKK 39.50
Total hourly rate	DKK 171.40

Hourly rates laid down in the Collective Agreement for Building and Construction for enterprises posting workers abroad Roofing

Clause 43

Minute factor for work carried out within a radius of 27 km from
City Hall Square in Copenhagen

Rate per 1 March 2009, inclusive of fixed supplement	DKK 2.3713
--	------------

For zones outside Copenhagen:	DKK 2.3073
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Hourly rate, Copenhagen (DKK 237.13 x 0.60 hour)	DKK 142.28
--	------------

Hourly rate outside Copenhagen (DKK 230.73 x 0.60 hour)	DKK 138.44
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Clause 44

Advance piecework payment

90% of piecework pay payable on each pay date

Copenhagen	DKK 128.05
------------	------------

Outside Copenhagen	DKK 124.60
--------------------	------------

Deferred pay

Holiday allowance according to clause 59 (DKK 16.01), allowance for work on
Sundays and public holidays according to clause 65 (DKK 8.84), pension
according to clause 49 (DKK 12.23), and maternity/paternity allowance
according to clause 53 (DKK 1.28)

Copenhagen, total	DKK 38.36
-------------------	-----------

Holiday allowance (DKK 15.57), allowance for work on Sundays and
public holidays (DKK 8.60), pension (DKK 11.90), and maternity/paternity
allowance (DKK 1.25)

Outside Copenhagen, total	DKK 37.32
---------------------------	-----------

Total pay	
Copenhagen DKK 128.05 + DKK 38.36	DKK 166.41
Outside Copenhagen, DKK 124.60 + DKK 37.31	DKK 161.92

9.2 Employment contract.

EMPLOYMENT CONTRACT

Between employee: and employer:

Name:

Address:

CRN-no.:

Tel. no.:

Financial inst.: reg. no.: Account no.:

Name:

Address:

CVR-no.:

Tel. no.:

1 Engaged as per: Date: Month: Year:

The employee is engaged in: Construction industry (non permanent work places)

The employee is engaged on : Permanent work places . Insert address:

Engaged as: Spec. worker Bricklayer Stone-mason Paver Timber / Joiner Thatcher Glazier Painter

Wood worker / Woodcutting machinist Floor layer Electrician Industrial lacquerer Metal worker / Plumbing, heating and sanitation

Others:

2 For the conditions of employment between:

(employers' association) and (employees' organisation)

exists this agreement:

The employee confirms that he/she is informed that some agreements imply a particular demand for the employee being member of a specific trade union.

3 Labour market pension, Yes No . If "no", please note lack of seniority, in months:

4 The personal time rate of wages amounts at the time of employment with time work to: DKK

The wages are paid: Weekly Every two weeks Others:

Further there might also be overtime pay; addition for staggered hours, payment for outdoor and travelling work and nuisance bonus, according to the abovementioned agreement. Holiday rules must also comply with the abovementioned agreement.

In case of piecework the price will be fixed according to the provisions of the agreement, and the task duration is limited. Different incentive payment systems may also exist, which have to be fixed according to the agreement, too. Local agreements may be entered.

5 Number of working hours at part-time employment: hours/week

6 Health:

The employee confirms that he does not suffer from a chronic or another disease, which may be essential to the capacity for work of the employee at the work in question.

7 Absence - sickness:

In case of sickness you have to phone the company: Phone no.: at the latest the first day of sickness at the beginning of the working day.

If a solemn declaration has been delivered, you have to forward this to the company – valid from the first day of sickness.

If the period of sickness exceed four days, it may be necessary to show a medical certificate.

Absence – in other respects:

Absence, as for example holiday etc. has to be agreed.

8 The employee is engaged in the company to carry out work according to the abovementioned conditions of agreement.

Date

Company Employee BYG 201/sep. 2001

Guidance

Re. point 1:

Date of employment has to be stated.

Please refer to the rules of the agreement as to the definition of permanent work places.

If from the date of employment work is carried out as well in the workshop as outdoor, please fill in both spaces.

Please mark with an X the employee's trade.

After the space »others« you can state the trades, which are not categorized, e.g. upholsterer, boy etc.

Re. point 2:

As employers' association is stated either Danish Building Employers Confederation (BYG) or Danish Contractors' Association (DE).

As employee organisation, please state the trade union, which is the employees' party of the agreements, which BYG and DE have entered with the members of the BAT-cartel.

Please state the employees' party and not the trade union, of which the employee is a member.

Members of the BAT-cartel:

General Workers' Union in Denmark

Including (bricklaying)

The Timber, Industry and Construction Workers' Union in Denmark

Danish Metal

Painters Union in Denmark

Electric Workers' Union in Denmark
Plummer's Union in Denmark

Re. point 3:

The information has to be given by the employee.

The seniority in the branch of trade or with another labour market pension is six months.

This means that the seniority is made in defiance of company affiliation.

If the seniority of six months is not yet reached, please state the exact number of months/weeks left, before the seniority is obtained.

Re. point 4:

If any other wage system is valid, please attach it to this contract.

(According to the agreement between BYG and Painters Union in Denmark the employment is only on piece rates).

Re. point 6 and 7:

If the employee manual includes other provisions, you have to cancel point 6 and 7 and deliver the current provisions together with the employment contract.