Establishment in Denmark

This memorandum on establishment has been prepared in cooperation between Accura Advokatpartnerselskab, DNB Bank ASA, Filial af DNB Bank ASA, Norge, and NDCC (the Norwegian-Danish Chamber of Commerce and Culture).

The purpose of the memorandum is to provide an overview of important formal aspects in connection with the establishment of companies in Denmark.

Since the rules governing these aspects are constantly under review, we will recommend the readers to obtain more detailed information if you want to set up a business in Denmark. Therefore, you may obtain further information by contacting us:

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1 Corporate forms in Denmark

Norwegian companies setting up businesses in Denmark may use several different corporate and business types, depending on their needs and wishes.

The most common corporate forms are:

- public limited company (A/S)
- private limited company (ApS)

Other business forms are:

- branch office
- sales office
- limited partnership company (P/S)
- sole proprietorship
- partnership (I/S)
- limited partnership (K/S)
- cooperative society (A.M.B.A.)
- commercial foundation

The corporate forms and the rules on branch offices which are most interesting from a Norwegian perspective are presented in the following:

2 Limited liability companies

2.1 Public limited company – A/S

The rules for forming a public limited company are set out in the Danish Companies Act (*selskabsloven*). The following requirements apply:

The minimum capital requirement for a public limited company is DKK 400,000. This amount may be paid up in cash or by way of other assets such as operating assets, patent rights, real estate, etc. Obligations to perform work or services cannot be used as a contribution.

It is a requirement that the company name includes the designation “aktieselskab” or “A/S”.

A public limited company may be formed by one or more promoters who will sign a memorandum of association. The document contains specific information about the company, including the company’s articles of association and provisions on whether the share capital is to be paid up in cash in full or in part or by way of other assets. In the case of a contribution in the form of assets other than cash, a valuation report must be prepared by an independent valuer and attached to the memorandum of association.

A public limited company may be formed by Norwegian companies based in Norway and by Norwegians resident in Norway. There is no requirement for residence or citizenship in Denmark, as this has been waived under the EEA agreement.

It is not a requirement that the promoter subscribes for shares.

Expenses for registration of a public limited company constitute formation expenses in the form of attorney's and accountant's fees, fees for the Danish Business Authority (*Erhvervsstyrelsen*), etc. Typically, the public limited company will pay the expenses relating thereto.

A public limited company may be managed by either an executive board and a board of directors or by an executive board and a supervisory board.

The majority of the board of directors or the supervisory board is elected by the general meeting. Both the board of directors and the supervisory board must consist of at least 3 members. The board of directors may consist of Norwegians resident in Norway if this is deemed appropriate. If, for the past 3 years, the company has had at least 35 employees, the board of directors must have at least 2 employee representatives if so requested by the employees.

The executive board is appointed by the board of directors or the supervisory board and must consist of at least 1 member. The majority of the members of the board of directors must be persons who are not executive officers in the company. The chairman or the vice-chairman of the board of directors cannot be part of the day-to-day management. A member of the executive board cannot be part of the supervisory board. The management may consist of Norwegians resident in Norway if this is deemed appropriate.

Any person who has been disqualified from holding a managerial position in a public limited company in Denmark or another EU/EEA country may not be appointed to such a position in a Danish public limited company or private limited company – whether as a member of the executive board, the supervisory board or the board of directors.

If the owner(s) of a newly establish company or the members of the management is residing outside of Denmark, it can be a challenge to set up a bank account in a Danish Bank. Banks are subject to the Anti-Money Laundering Act and must carry out a thorough Know Your Customer (KYC) procedure. Accura will in most cases be able to assist on opening a bank account though our network even where the owners and the management have no existing connection to Denmark. See section 4 for further details.

In addition to being in charge of the overall and strategic management and ensuring proper organisation of the limited liability company's activities, the board of directors must ensure:

- that the bookkeeping and financial reporting procedures are satisfactory, having regard to the circumstances of the limited liability company;
- that adequate risk management and internal control procedures have been established;
- that the board of directors receives adequate reporting about the limited liability company's financial position on a continuous basis;
- that the executive board performs its duties properly and according to the directions issued by the board of directors; and
- that the financial resources of the limited liability company are adequate at all times, including that the company has sufficient liquidity to meet its current and future liabilities as they fall due, and the board of directors is therefore required at all times to assess the company's financial position and ensure that the available capital resources are adequate.

If a management structure with a supervisory board is chosen, the supervisory board must ensure:

- that the bookkeeping and financial reporting procedures are satisfactory, having regard to the circumstances of the limited liability company;
- that adequate risk management and internal control procedures have been established;

- that the supervisory board receives adequate reporting about the limited liability company's financial position on a continuous basis;
- that the executive board performs its duties properly; and
- that the financial resources of the limited liability company are adequate at all times, and that the company has sufficient liquidity to meet its current and future liabilities as they fall due. The supervisory board is therefore required at all times to assess the company's financial position and ensure that the available capital resources are adequate.

In connection with the formation, the limited liability company must register information about the company's legal and beneficial owners. The company's legal owners are owners holding at least 5% of the shares or voting rights in the company. Any holder of shares in a company must notify the company no later than 2 weeks after the ownership interest has been obtained if the ownership interest represents at least 5% of the voting rights attaching to the shares or 5% of the share capital. In addition thereto, any change in the existing ownership interest must be notified every time the thresholds of 5, 10, 15, 20, 25, 50, 90 and 100% are reached and when the ownership interest constitutes one-third or two-thirds of the voting rights or the nominal value. Notification of ownership interests will be recorded in the company's register of majority shareholders and for some companies also in the company's financial statements. No later than 2 weeks after the company has received notification of a change in the ownership interests, the company must register the information with the Danish Business Authority's Public Register of Shareholders.

The company's beneficial owners are natural persons who ultimately either (i) hold or control, directly or indirectly, more than 25% of the shares or voting rights in the company, or (ii) exercise control of the company by other means than shares or votes, or (iii) through a combination of (i) and (ii). If the company cannot identify the beneficial owners, or if the company has no beneficial owner that meets the definition of a beneficial owner, e.g. because no natural person holds, directly or indirectly, more than 25% of the shares or votes or holds any other form of control, the management body must be registered as beneficial owner(s). The company must document its attempt to identify the ultimate beneficial owners by presenting a complete ownership structure and documentation of the ownership in each entity within the ownership structure. The company must at least once a year examine whether changes to the registered information on beneficial owners have been made and present such examination at the meeting when the company's central management body adopts the annual report.

Danish company law provides for the option of dividing a company's shares into more classes – e.g. A and B shares with different voting rights, different rights to receive dividends, etc. The company's articles of association must state the rights attached to each share class.

Following the submission of the first annual report, it is possible to authorise the central management body to resolve to distribute extraordinary dividends. This authorisation is granted at the company's general meeting.

Where a shareholder holds more than nine-tenths of the shares in a company and a corresponding share of the votes, such shareholder may decide on a compulsory redemption of the other shareholders' shares.

Where a shareholder holds more than nine-tenths of the shares in a company and a corresponding share of the votes, each of the other shareholders may demand that their shares be compulsorily redeemed by that shareholder.

Auditing and accounting are regulated in the Danish Financial Statements Act (*årsregnskabsloven*). An annual report must be audited by a state-authorised or registered public accountant approved in

Denmark. If, for two consecutive financial years, the company does not exceed two of the following thresholds: a balance sheet total of DKK 4 million, net turnover of DKK 8 million, and an average of 12 full-time employees, it is possible to opt out of having the annual report audited. However, it is always required that a company prepare and submit an annual report to the Danish Business Authority.

The annual report must be submitted to the Danish Business Authority without undue delay after its approval by the board of directors and must be received by the Authority no later than 6 months after the end of the financial year and 4 months after the end of the financial year for listed companies.

Under the Danish Companies Act, shareholders' agreements are not binding on the company. However, certain provisions from a shareholders' agreement can be incorporated into the company's articles of association and thereby have legal effect for the company and third parties.

The company must be registered with the Danish Tax Agency following the registration of the incorporation with the Danish Business Authority.

2.2 Private limited company – ApS

The rules applicable to private limited companies are also set out in the Danish Companies Act and are in many ways similar to those applicable to public limited companies. However, in fundamental areas they are less extensive. These areas are set out below:

The minimum capital requirement for a private limited company is DKK 20,000.

It is a requirement that the company name includes the designation "anpartsselskab" or "ApS"

A private limited company may be managed by an executive board, by an executive board and a board of directors, or by an executive board and a supervisory board. The board of directors, the executive board and the supervisory board must consist of at least 1 member.

A private limited company cannot be listed.

A private limited company may not offer equity interests to the public unless the equity interests are offered pursuant to the Regulation of the European Parliament and of the Council on European Crowdfunding Service Providers for Business or in connection with specific types of offerings.

2.3 Conversion

A private limited company may be converted into a public limited company, subject to the majority required for amending the articles of association and provided that the share capital amounts to at least DKK 400,000.

A public limited company may be converted into a private limited company, subject to the majority required for amending the articles of association.

3 Establishment of a Norwegian branch in Denmark

A Norwegian private limited company/limited liability company (AS) or a public limited company (ASA) being lawfully registered in Norway may operate a business in Denmark through a branch. A branch is not a separate legal entity, but a locally delimited part of a foreign parent company with its own management with the power to bind the parent company. The parent company is liable

for the branch's obligations towards the branch's creditors. Contrary to a public or private limited company, it is not a requirement that the branch be established with a share capital.

3.1 Address service / virtual office in Denmark

If you need to be registered with your business in the Danish Central Company Register (CVR), this is possible without having to establish a physical office. For detailed rules as to when a foreign business is obligated to register in Denmark, please see **Registration of Non-Danish Company.**

The representative in Denmark may for instance be a shipping agent, an office hotel or similar. The only requirements from the Danish Business Authority are that a physical address must be registered and that a person must be present at the address to represent the business. The representative is not liable for the activities in Denmark when the business is Norwegian. A postal box address does not qualify as a company address.

Please note that dependent on the activities in Denmark, the authorities may require that a permanent establishment in Denmark must be set up, which entails an obligation to establish a branch office.

3.2 Duty to register

A Norwegian company is obligated to apply to the Danish Business Authority for registration of the branch if it wants to operate the business directly in Denmark. The branch must not commence its activities until an application for registration has been submitted.

The branch must be operated from an address in Denmark. Actual activities must be performed at the address of the place of business and, accordingly, such address must not be a pro forma address.

Moreover, it is a condition that the objects of the branch fall within the objects of the Norwegian parent company.

3.3 Registrering

The registration of a branch with the Danish Business Authority requires that the following information be stated on the application form:

- Full names, private addresses, titles and copies of the passports of the persons authorised to bind the Norwegian company.
- Names, addresses and copies of the passports of the members of the board of directors and the executive board in the Norwegian company.
- Full name, private address and copy of the passport of the branch manager.
- The branch manager's title/job function in the Norwegian company (if any).
- Basic information about the Norwegian company: Name, secondary name and registered office, registration authority, registration number, VAT number, corporate form, most recent date of articles of association and financial year.

- Power to bind the Norwegian company.
- Power to bind the branch.
- Objects of the Norwegian company.
- Industry of the Norwegian company.
- Name, address, objects of the branch and industry. (The objects of the branch must fall within the objects of the Norwegian parent company.)
- The Norwegian company's capital: Currency, subscribed capital, current paid-up capital and any date for remaining payment.

The following must be submitted to the Danish Business Authority as schedules:

- Official confirmation that the company is lawfully registered in Norway, either in the form of a transcript from the Brønnøysund Register Centre (*Brønnøysundregistrene*), preferably a so-called register transcript (must not be more than 3 months' old).
- Documentation for the persons authorised to bind the Norwegian company if this is not stated on the transcript from Brønnøysund Register Centre (*Brønnøysundregistrene*).
- General power of attorney to and formal appointment of the branch manager.

The Danish Business Authority may demand that the submitted documents be translated into Danish. However, if the documents are in Norwegian (*norsk bokmål*), the Danish Business Authority generally will not demand that the documents be translated.

The branch must also be registered with the Danish Tax Agency.

The application for registration with the Danish Business Authority must be submitted no later than 2 weeks from the parent company's decision to establish the branch.

3.4 Name

The full name, the word "branch" and the nationality of the foreign parent company must be included in the name of the branch. For example: NAME, filial av X AS, Norge.

3.5 Management

The management of the branch must consist of one or more branch managers appointed by the Norwegian company. A branch manager must have full power to bind the branch and the power to bind the branch may only be restricted to the effect that more branch managers will only be entitled to bind the branch jointly. Moreover, the same requirements apply to a branch manager as apply to those who may be appointed to the management of a limited liability company.

The branch manager must have full legal capacity under Danish law, and it is not a requirement that the branch manager resides in Denmark.

The branch manager must be in charge of the day-to-day management of the branch. In addition, the branch manager is personally liable for all public law obligations which the branch may have, including the obligation to submit the Norwegian company's annual report to the Danish Business Authority every year and to pay any withheld taxes. The branch will be deleted if the annual report for the Norwegian company is not submitted to the Danish Business Authority in accordance with Danish law.

4 Bank account

Both companies and branches may choose to open an account in Denmark or in Norway.

All Danish companies and branches are required to have a NemKonto which is an account used by all public authorities to transfer money to the company/branch. It is possible to designate a foreign bank account as NemKonto. It is also possible to designate a bank account as NemKonto even if the bank account is not registered in the company's or in the branch's CVR number and name.

For further information about NemKonto, please go to **www.nemkonto.dk**

5 MitID

When a company or a branch has been established with the Danish Business Authority, the company/branch must sign up with MitID Erhverv (the digital identification (eID) solution for organisations (companies, associations and authorities) in Denmark).

With MitID Erhverv, the company's owners, executive officers, members of the board of directors and employees are able to identify themselves on behalf of the company/branch when accessing digital private and public self-service solutions. In this way, MitID Erhverv is used when communicating with public authorities, filing company changes with the Danish Business Authority, signing documents online, etc.

MitID Erhverv can be set up by following the guidelines on **How to get MitID Erhverv - MitID Erhverv (mitid-erhverv.dk)**

For further information about MitID Erhverv, please go to **About - MitID Erhverv (mitid-erhverv.dk)**

6 Digital mailbox

It is a statutory requirement for anyone with a CVR number to be able to receive digital post from public authorities. Therefore, all Danish companies and branches must set up a digital mailbox.

For further information, please go to **www.virk.dk** (digital mailbox).

7 E-commerce

Denmark has implemented the EU Directive on certain aspects on information society services in the Internal Market (2000/31) into the Danish Electronic Commerce Act (*e-handelsloven*).

The purpose of the Danish Electronic Commerce Act is to ensure that online services such as internet access services, search engines and advertising or offers for sale of goods on the Internet are freely available throughout the EU/EEA. Accordingly, suppliers of online services may provide their services throughout the EU/EEA subject to the rules and the regulatory control in the member state in which they are established. A Danish company's offer for online services is therefore only subject to the Danish Electronic Commerce Act. Under the Danish Electronic Commerce Act, the supplier of online services must perform several duties to disclose information to its customers.

The price for the product must be clear and unambiguous and specify whether the price includes taxes and delivery costs. Further information about the supplier of online services must also be stated in connection with the sale. In the case of sales to consumers, the Consumer Contracts Act – including the consumer's 14-day right to cancel the purchase in the case of distance selling – as

well as the Danish Marketing Practices Act must also be observed. Furthermore, the EU's Digital Services Act (DSA) imposes requirements on certain intermediary services.

8 Company tax, depreciation, social contributions, VAT and customs

The Danish tax system is composed of indirect taxes as well as direct taxation of income and assets.

Due to the complexity of the tax system and the continuous adjustment in relation to EU's Internal Market, we recommend that a Danish advisor be consulted on a regular basis.

8.1 Company taxation

Companies and branches subject to Danish taxation must pay a company tax of 22% of taxable profits.

Companies must pay taxes on a regular basis (tax on account). The tax on account is a preliminary tax. The tax on account is charged on the basis of the tax for the preceding 3 years. It is charged in two instalments payable no later than on 20 March and 20 November. It may also be paid voluntarily together with the charged tax on account, just as voluntary preliminary tax may be paid at the latest on 1 February in the year following the income year. Subject to certain conditions, a request may be made for the reduction of the tax on account. If tax on account is paid voluntarily after 20 November and no later than 1 July of the following year, interest on tax paid late will be charged. For the assessment year 2025, the interest rate charged on tax paid late was 3.7%. For payments made after July 1 of the following year, a residual tax surcharge of 5.7% applies. In the event of tax paid in excess, companies will be credited interest on the excess amount. For the assessment year 2025, the credit interest rate was 0%.

Denmark has mandatory joint taxation for Danish group companies and permanent establishments.

However, it is a partial territorial source principle for companies to the effect that income from permanent establishments and real estate abroad cannot be included in a company's taxable income unless international joint taxation is chosen or if it is CFC income which, in brief, constitutes financial income.

International joint taxation is optional. If international joint taxation is chosen, all foreign and Danish group companies and permanent establishments/real estate are included in the joint taxation.

In brief, this means that the joint taxation rules aim at jointly calculating the tax for the entire group under Danish rules, i.e. the loss of one or more group companies may be set off against profits of other group companies. Furthermore, companies will have to file their income tax returns under local rules. If the group opts for international joint taxation, the choice will be binding for 10 years. If the joint taxation is terminated within this period, utilised losses will be re-taxed in full.

These special and complex rules should be discussed with your attorney/accountant.

8.2 Personal taxation

A taxable income is calculated for individuals liable to pay tax (taxpayers).

In addition to the taxable income, the following is calculated:

- Personal income
- Capital income
- Share income
- CFC income

Taxable income comprises the personal income and the capital income.

Personal income comprises all the income included in the taxable income which is not capital income. Examples of such income are salary, value of non-salary benefits such as free company car/ residence and salary from other activities, pension, etc.

Capital income includes the net value of interest revenue/interest expenses, taxable capital gains/ deductible capital losses, etc.

Share income includes the total dividends on, including profits from sales of, shares and other similar securities.

CFC income comprises the CFC income of foreign companies controlled by the taxpayer.

The taxation of personal income is progressive. Personal income is taxable by up to 60.5% including labour market contribution (2026). The final tax depends on the municipality of residence. Any person having attained the age of 18 has a personal allowance of DKK 54,100 per year (2026).

Researchers and highly educated employees (with a minimum income of DKK 65,400 per month after deduction of Danish Labour Market Supplementary Pension (ATP) in 2026) recruited abroad may under certain circumstances choose to pay a flat gross tax of 27% + labour market contribution of 8%, a total of 32.84%, of the salary for seven years. The conditions for being subject to taxation under this scheme should be assessed before taking up work in Denmark in order not to forfeit the right to make use of this scheme.

Capital income is taxable by up to 42%.

CFC income of the natural person is taxed at 22%.

Share income up to DKK 79,400 for unmarried people and couples and DKK 158,800 for married couples (2026) is taxable by 27%. Other share income is taxable by 42%.

The property value tax is not included in the taxable income. The property value tax rate is 5.1 per thousand of the property value minus 20% (2026) which does not exceed DKK 9,007,000 (2026) and 14 per thousand of the rest (2026).

In addition to the property value tax, a municipal property tax (grundskyld) must also be paid, which is calculated as 1 per thousand of the land value of the property. The rate is between 3.1 and 17.1 per thousand and the precise rate per thousand may be found on the individual municipality's website (2026).

8.3 Depreciation

Operating equipment is depreciated according to the diminishing balance method by up to 25% per year.

The depreciation base of certain new, green items of operating equipment (other than passenger cars and vessels) acquired in the period from 23 November 2020 up to and including 31 December 2022 is 116%.

Operating equipment and vessels for trial and research business, other than operating equipment and vessels used for raw material exploration, may be written off immediately at 130% in the years 2020-2022, at 108% in the years 2023-2025 and at 114 % in 2026. The deduction percentage is 116% in 2027 and 120% in 2028

Buildings and installations acquired on 1 January 2023 or later will be depreciated according to the straight-line method by up to 3% per year based on the cash value at the acquisition date. Buildings and installations acquired before 1 January 2023 may be depreciated by up to 4% per

year on a straight-line basis. Office buildings, hotels divided into commonhold units etc. cannot be depreciated.

8.4 Social costs

The social costs are lower than in Norway. Employers pay no social security contributions, but the employer pays some small, mandatory contributions and the Danish Labour Market Supplementary Pension (ATP) (*Arbejdsmarkedets Tillægspension*), the Labour Market Insurance (AES) (*Arbejdsmarkedets Erhvervssikring*) and an industrial injury insurance constitute most of them.

The total contribution to ATP constitutes DKK 3,564 per year (2026) for a full-time employee. The employer pays the entire amount and retains one-third (DKK 1,188) from the employee.

In addition, the employer must pay (2026):

- DKK 2,200 per year for each full-time employee to the maternity scheme Barsel.dk.
- DKK 2,821 per year for each full-time employee to the Employers' Reimbursement System (*Arbejdsgivernes Uddannelsesbidrag (AUB)*) and the Labour Market Fund for Posted Workers (*Arbejdsmarkedets Fond for Udstationerede (AFU)*).
- Between DKK 284 and DKK 10,892 per year for each full-time employee to the Labour Market Insurance (AES).
- DKK 328 per year for each full-time employee to the Financing Contribution (*Finansieringsbidrag*).
- A mandatory insurance for industrial injuries must be taken out by a company and the costs for this depend on the agreement concluded with the insurance company.
- DKK 20 per year to cover administration fee to the LD Pensions (*Lønmodtagernes Feriemidler*) for each full-time employee.
- DKK 48 per year for each full-time employee as an administrative fee to FerieKonto (Danish Holiday Fund).

All employer contributions are paid collectively.

In addition to the above contributions, other contributions may be payable, for example if a company employs students etc.

There are alternative schemes in which the employers may participate, e.g. through membership of an employers' association. With respect to some of these schemes, the contribution may be slightly lower. The other contributions depend on industry and number of employees.

Employees in Denmark accrue the right to 5 weeks' paid holiday per year. Depending on the employment terms, the payment will be made either as holiday pay by 12.5% of the salary or as holiday with usual pay plus a holiday supplement of 1% of the salary which has been accrued in the current holiday year. In addition to the 5 weeks' holiday, many employees are entitled to 5 additional days' paid holiday, either by way of a collective agreement or by individual agreement.

8.5 Value added tax – VAT

The VAT rate in Denmark is 25% on the sale of goods and services.

However, some goods and services are exempted from VAT. This e.g. applies to most transactions in the financial sector, all export if the recipient itself is registered for VAT purposes, securities, medical practices, and qualifying education and teaching activities, etc.

If a business registered for VAT in Denmark sells goods and services to a business registered for VAT in another EU member state, it will usually not have to charge Danish VAT as the VAT-registered buyer itself is required to calculate and settle VAT in the EU member state in which that buyer is registered for VAT.

In general, the concept import VAT means that 25% VAT is imposed on all imported goods. If the company imports goods to Denmark, the company must be registered as an importer with the Danish Business Authority. If the company sells goods and services on which VAT must be paid, a separate registration for VAT must also be made with the Danish Business Authority. In case of a Norwegian business liable to pay VAT in Denmark as a result of the supply of goods or services subject to VAT in Denmark, it is not a requirement that the business has a representative/address in Denmark in order to be registered for VAT purposes in Denmark.

In principle, the difference between input VAT and output VAT must be paid in the initial phase to the Danish Tax Agency on a quarterly basis. Subsequently, the payment date will be changed depending on the amount of the annual revenue. For businesses whose total taxable deliveries exceed DKK 50m per year, payment must be made each month. For businesses whose revenue subject to VAT does not exceed DKK 5m per year, payment must be made every 6 months. Generally, however, start-ups must pay VAT on a quarterly basis for at least 1½ years and until the Danish Tax Agency determines otherwise.

8.6 Special scheme for e-commerce businesses etc. – OSS

Special VAT rules apply to distance selling of goods and services, including electronic services (e.g. hosting of websites, telecommunication services or delivery of music and film), to private consumers in the EU.

VAT on certain supplies must generally be calculated, stated and paid in each of the countries where the consumer is resident. The business needs to register for and declare VAT in only one EU member state, e.g. Denmark, according to the One Stop Shop scheme (OSS), which replaced the former MOSS scheme as of 1 July 2021. The business must continue to calculate VAT separately for each individual consumer country but can declare and report the total VAT via Denmark. As a general rule, a Norwegian business with no establishment in the EU must use the non-EU scheme when supplying services.

8.7 Import and customs processing of goods to Denmark from EU member states

If a Norwegian business only wants to be able to sell goods in Denmark and in that connection to import goods from other EU member states to Denmark (but does not want to import from countries outside the EU), such business must be registered for VAT purposes in Denmark.

The VAT registration also provides the basis for the duty payable to the Danish customs authorities in the event of import to Denmark from countries outside the EU.

8.8 Import and customs processing of goods to Denmark from third countries

However, if a Norwegian business wants to import goods from third countries, such as China, as part of the business it wants in Denmark, a registration of the importers must be made as a result of the Danish customs rules.

This requires a liable representative resident in this country or the provision of security; see below.

This may typically be done by the business' permanent carrier, an agent resident in this country or, as a last resort, by paying a specialised business to be in charge of this function.

The representative resident in this country agrees to be jointly and severally liable for the Norwegian business' current outstanding balance towards the Danish customs authorities.

It will be possible for the business to pay customs in one of the following ways (The Danish Customs Agency):

1. The most frequently used possibility for making payments to the Danish Customs Agency is a security scheme according to which 1.1 per thousand is to be paid of the outstanding duty on import which is an amount in addition to the amount of the duty. On the face of it, we recommend this scheme.

2. Immediate cash payment. In connection with this scheme, customs duty, taxes and other duties must be paid before the goods can be imported (and no later than 5 days after receipt).

3. Provision of security in the form of a bank guarantee, a guarantee certificate under which the primary guarantor assumes primary liability (*selvskyldnerkautionsbevis*) or a bearer security. A provision of security must be approved by the Danish Customs Agency prior to import.

If customs are to be paid on goods from a third country, the establishment of a branch will be less attractive in most cases. This means that a branch manager cannot be appointed without being resident in this country.

9 Employment relationship

In Denmark, there is no general employment act which covers all employee groups. However, there is various employment legislation on certain employment relationships such as salaried employees.

Moreover, employment relationships are widely governed by collective bargaining agreements between the parties on the labour market. However, an employer will only be subject to a collective agreement if the employer is a member of an employers' association or if the employer has concluded an agreement with a trade union or another type of a collective group of employees.

When establishing an employment relationship in Denmark, the set of rules that is to apply to the specific employment relationship must be identified and reviewed before the employee is engaged.

In addition to the above collective agreements, there is more specific employment legislation, such as the Danish Salaried Employees Act (*funktionærloven*), the Danish Act on Statement of Employment Terms and Certain Working Conditions (*lov om ansættelsesbeviser og visse arbejdsvilkår*), the Danish Holiday Act (*ferieloven*), the Danish Maternity Leave Act (*barselsloven*), the Danish Equal Treatment Act (*ligebehandlingsloven*), the Danish Non-Discrimination Act (*forskelsbehandlingsloven*), the Danish Equal Pay Act (*ligelønsloven*), the Danish Transfer of Undertakings Act (*virksomhedsoverdragelsesloven*), the Danish Act on Restrictive Employment Clauses (*ansættelsesklausulloven*), the Danish Collective Dismissals Act (*lov om kollektive afskedigelser*), the Danish Working Environment Act (*arbejdsmiljøloven*) and the Danish Whistleblower Protection Act (*lov om beskyttelse af whistleblowere*).

Finally, several fundamental employment law principles may be inferred from Danish case law.

In the following, we will provide a brief description of some of the provisions of the Danish Salaried Employees Act. We assume that these provisions will apply to the majority of the employment relationships in connection with establishing a business in Denmark. At the end of section 9, the requirements for employments agreements will be described.

9.1 Scope of the Danish Salaried Employees Act

The following conditions must be met before an employee is covered by the Danish Salaried Employees Act:

- An employment relationship must exist in which the employee is subject to the employer's instructions (therefore, a chief executive officer generally will not be covered by the Act).
- The employee must be employed for an average of at least 8 hours per week.
- Generally, the employee must be a commercial or office assistant/employee, providing technical or clinical assistance, or a person whose work consists of managing or supervising the work of others (therefore, skilled workers generally will not be covered by the Act).

9.2 Termination

Except in case of gross breach, the employment relationship between the employer and the salaried employee may only be terminated subject to prior notice.

The Danish Salaried Employees Act stipulates the following notices of termination:

Length of employment on termination	Employer's notice	Employee's notice
0-2,5 month (if a trial period has been agreed)	14 days	14 days (if agreed)
0-5 months	1 month	1 month
5 months – 2 years and 9 months	3 months	1 month
2 years and 9 months – 5 years and 8 months	4 months	1 month
5 years and 8 months – 8 years and 7 months	5 months	1 month
More than 8 years and 7 months	6 months	1 month

It may be agreed that the employee's notice of termination may be extended. However, this requires that the employer's notice of termination is extended correspondingly.

9.3 Trial period

If a trial period has been agreed on before the commencement of the employment relationship, such trial period may be up to 3 months. During that period, the employer may terminate the employment agreement at 14 days' notice. It is also possible to agree that the employee may terminate the employment agreement at 14 days' notice. However, if no term of notice is agreed upon, the employee may terminate the employment without notice. The salaried employee must have left the company no later than at the end of the third month.

9.4 Protection against termination

The Danish Salaried Employees Act also contains rules on protection against unfair dismissal. Under those rules, a salaried employee is protected against unfair dismissal after 1 year's employment.

This means that the reason for the employer's dismissal of the salaried employee must be fair either based on the employer's affairs (e.g. reorganisations, cutbacks or the like) or based on the employee's affairs. If the dismissal is based on the employee's affairs, it will generally require that the employee has received a written warning in advance and has had the opportunity to rectify such affairs.

If the dismissal is not fair based on either the employee's or the employer's affairs, the employee will be entitled to claim compensation. As a starting point, the compensation cannot exceed half of the notice period applicable to the company. However, if the employee is 30 years old at the time when notice of termination is served, the compensation may constitute up to 3 months' salary. The compensation may constitute up to 4 months' salary if the employee's length of service exceeds 10 years, and up to 6 months' salary if the employee's length of service exceeds 15 years.

Some collective agreements contain a similar protection.

Moreover, the Danish Equal Treatment Act and the Danish Non-Discrimination Act contain rules protecting employees against discrimination due to sex, pregnancy, pregnancy/maternity/paternity/parental leave, age, disability, religion, race, ethnic origin, sexuality, gender, gender identity/expression/characteristics, etc. The level of compensation in such matters is relatively high; typically 6-12 months' salary depending on the employee's length of service and other circumstances relating to the matter.

Furthermore, certain employees enjoy special protection against dismissal as a result of their roles as employee representatives. Such employees include shop stewards, working environment representatives, employee representatives on the board of directors, etc.

Finally, the Danish Whistleblower Protection Act contains rules protecting whistleblowers reporting under the Act against retaliation. Moreover, the Act imposes an obligation on employers, depending, however, on the number of employees, to establish an internal whistleblower system.

9.5 Other provisions

In addition to the above provisions concerning notice of termination and protection against unfair dismissal, the Danish Salaried Employees Act contain rules on e.g., the salaried employee's sickness and maternity leave.

9.6 Employment agreements and certain working conditions

On 1 July 2023, the Danish Act on Statements of Employment and Certain Working Conditions entered into force. The act applies to all employees with agreed or actual working hours exceeding 3 hours per week on average within any 4 consecutive weeks as well as for employees with no guaranteed minimum working hours. In practice, almost all employees will thus be covered by the act. However, employees employed before 1 July 2023, are not required to receive a new employment contract, even if their current document does not include all the new mandatory information. Nevertheless, if an employee requests it, the company must provide the additional information within 8 weeks.

However, the Act does not apply if a corresponding obligation follows from collective agreements.

The employer must provide information about all terms material to the employment, including 1) the employer's and the employee's names and addresses, 2) place of work, 3) description of the work and the employee's job title, position or job category, 4) the commencement of the employment, 5) term of employment (unless the employment is indefinite), 6) for employees from temporary staffing agencies, if any, the identity of the user company as soon as it is known, 7) duration and terms of a probationary period, if any, 8) the employee's entitlement to paid leave 9) duration of the employee's

and the employer's notice periods, 10) the agreed salary and non-salary benefits, including payment intervals, 11) working hours and any rules regarding overtime and change of shifts, 12) if it is not possible to indicate a fixed work schedule because of the nature of the employment, then some specific information must be provided, 13) education entitlements offered by the employer, if any, 14) collective bargaining agreement which governs the employment, if any, and possibly the parties to the agreement, and 15) identity of the social security institutions receiving social security contributions from the employer, and any protection in relation to social security from the employer.

Some of the information must be provided no later than 1 month after commencement of the employment, but most of the information must be provided no later than 7 days after commencement, so this is the most relevant deadline. However, as employees normally receive their employment agreement with all the relevant information in advance of commencement of the employment, these deadlines are not that relevant in practice.

If the employee's employment terms are amended, the employer will be responsible for describing such new terms either in an addendum to the employee's current employment agreement or in a new employment agreement. Information about the amendments must be provided as soon as possible and no later than on the effective date of the amendments.

If the employer fails to comply with this obligation, the employee may be granted a compensation. In practice, the rule is subject to very restrictive enforcement. However, the compensation rarely constitutes more than DKK 10,000.

The Danish Act on Statements of Employment Terms and Certain Working Conditions has among other things also introduced a restriction in Danish employment law entailing that the employer may not prohibit an employee from taking up employment with other employers unless the employer has objective reasons for deeming such sideline employment incompatible with the existing employment.

10 Applying for jobs and finding employees in Denmark

The Danish Agency for Labour Market and Recruitment (*Styrelsen for Arbejdsmarked og Rekruttering*) has set up the following website where you can apply for jobs and find employees in Denmark.

For further information, please go to **www.workindenmark.dk.**

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