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Denmark: Staff information and consultation on restructuring plans

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Denmark

Phase:

Anticipation

Type: Staff information and consultation on restructuring plans

Last modified: 22 July, 2017

Native name:

Bekendtgørelse af lov om varsling m.v. i forbindelse med afskedigelser af større omfang (LBK nr 291 af 22/03/2010); Lov om information og høring af lønmodtagere (LOV nr 303 af 02/05/2005)

English name:

The Danish Act on Collective Redundancies (Consolidation Act no. 291 of 22 March 2010); The Danish Act on Information and Consultation of Employees (Act no. 303 of 2 May 2005)

Article

Section 5 Danish Act on Collective Redundancies, Section 4 Danish Act on Information and Consultation of Employees

Description

If the restructuring plan is expected to involve redundancies on a scale falling within the scope of the Danish Act on Collective Redundancies (within 30 days, at least 10 dismissals in companies with 21-99 employees, at least 10% of workforce in companies with 100-299 employees or at least 30 dismissals in larger companies), the employer must, as soon as possible, initiate negotiations with the employees or employee representatives.

The negotiations must aim at preventing or reducing the expected redundancies or, if this is not possible, alleviate the consequences of the redundancies.

The employer must, through employee representatives, provide the employees with adequate information on matters which affect them. Further, the employer must consult the employee representatives on these matters.

This means that the preparation of the restructuring has to take place in a timely manner in order for the information, consultation and negotiation to be carried out in accordance with the Danish Act on Collective Redundancies and/or the Danish Act on Employees' Rights in the event of Transfers of Undertakings and/or the Danish Act on Information and Consultation of Employees.

It is important to stress that the restructuring exercise is not subject to the 'approval' of the employees or employee representatives.

The employer is obliged to give the written notices to the works council at least 30 days in advance and inform them about the reasons for the dismissals, the proposed number, the criteria to be used in selecting the employees for dismissal and whether any employees are entitled to severance pay and if so how this will be calculated.

According to the Act on notification in connection with collective redundancies, the employees' representatives can call for expert advice from the national confederation.

A minimum period of consultation is only specified in those cases where at least 50% of a workforce of 100 or more employees is being made redundant, in which case, the minimum period is 21 days.

The minimum 21-days period of consultation can change during the process of negotiation and possible mediation, if new information or new possibilities (e.g. a new owner of the company) change the situation.

The legislation specifies that employers are required to consult on the:

- reasons for the projected redundancies;
- number and types of workers to be made redundant;
- number and types of workers normally employed;
- period over which the projected redundancies are to be effected;
- criteria proposed for the selection of the workers to be made redundant;

- method to be used for calculating any redundancy payments.

Employers have no specific legal obligations to modify their plans regarding redundancies as a result of the consultation.

Comments

The Industry Agreement (DI) and all other important agreements have implemented the legislation on collective redundancies. The agreement must, as a minimum, contain the same protection as the act in order to take precedence. Collective agreements are enforceable in labour law (the Industrial Court) and non-compliance is sanctioned.

Cost covered by

Not applicable

Involved actors other than national government

Regional/local government

Trade union

Works council

Thresholds

Company size by number of employees:

21

Number of affected employees:


10


Sources

 [Bekendtgørelse af lov om varslings m.v. i forbindelse med afskedigelser af større omfang](#)

 [Bekendtgørelse af lov om lønmodtageres retsstilling ved virksomhedsoverdragelse](#)


 [Lov om information og høring af lønmodtagere](#)


 DG Employment, Social Affairs and Equal Opportunities/Héra (2011), Selected companies' legal obligations regarding restructuring

 Ius Laboris (2009), Collective Redundancies Guide, Brussels

 [EMCC actors in restructuring](#)

 [EMCC legal framework of restructuring](#)

 Watson Wyatt (2006), Employment Terms & Conditions Report Europe, Volume I, Brussels, Belgium

 Alpha Consulting (2003), Anticipating & Managing Change - A dynamic approach to the social aspects of corporate restructuring, Brussels, European Commission

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