



EARMARKED PATERNITY LEAVE

24 September 2021

The trade union movement's main organization (FH - Danish Trade Union Confederation) and the Danish Employers' Association (DA) have agreed on a new parental leave model. The agreement is a result of the EU Leave Directive implemented by the European Parliament in April 2019, the overall purpose of which is to help bridge the gender gap by earmarking part of the parental leave and thus reducing the flexibility of the parents to divide the parental leave among themselves.

The EU Leave Directive imposes EU member states to implement national rules of minimum 2 months of earmarked non-transferable parental leave to each parent. The current parental leave rules in Denmark guarantee only 2 weeks of earmarked leave for the father.

The EU Leave Directive must be implemented by 1 August 2022 in Denmark.

The New Model

As a result of the EU Leave Directive, FH and DA have been negotiating a new model for the distribution of parental leave. In a joint press release issued 15 September 2021, FH and DA confirmed that they have agreed on a new proposed model that can form the basis for the implementation of the EU Leave Directive.

With the new model, both parents will be entitled to 11 weeks of non-transferable parental leave. If the leave is not taken by the relevant parent, the right to take the leave will lapse.

The right to take leave follows from the Danish Act on Parental Leave. According to the Act, the mother is currently entitled to 4 weeks' leave prior to the birth of the child and 14 weeks of earmarked leave after the birth. The father, meanwhile, is entitled to 2 weeks of earmarked paternity leave after the birth.

In addition to the 14 weeks, the parents are now entitled to 32 weeks, which may be distributed freely among the parents, however, these 32 weeks are initially granted to the mother.

The new model implies a greater degree of an equal distribution of leave, as each parent can take 11 weeks of earmarked parental leave. In addition to the 11 weeks, both parents have the option of taking 13 weeks of parental leave, however, those weeks can either wholly or partly be transferred to the other parent.

The new model does not entail any change in the total number of weeks which the parents may take as leave, and there is no change to the 4 weeks of maternity leave prior to giving birth.

Today, pay during either pregnancy, maternity, paternity, and parental leave is not regulated by law, except for salaried employees. The Danish Salaried Employees Act entitles female salaried employees to 50% pay for 4 weeks before the expected birth and 50% pay for 14 weeks after the birth. In addition, pay during leave may be regulated in individual employment contracts or in company employment handbooks. It may also be regulated by collective agreements.

Our Comments

Private employers using individual employment contracts must be aware of whether their employment contracts need to be amended to comply with the new model. Also, employers must be aware of not violating the Danish Equal Opportunities Act and/or the Danish Employment Certificate Act when the new model is implemented in national legislation.

If you have any questions or require further information regarding any of the above, please do not hesitate to contact us:



Pernille Nørkær
Partner
pernille.noerkaer@moalemweitemeyer.com



Poul Guo (Quach)
Senior Associate
poul.guo@moalemweitemeyer.com



Sarah Bernadette Stage High
Associate
sarah.high@moalemweitemeyer.com

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