



NEW RULES ON THE EMPLOYER'S OBLIGATION TO INFORM EMPLOYEES OF THE CONDITIONS APPLICABLE TO THE EMPLOYMENT RELATIONSHIP AND CERTAIN WORK CONDITIONS

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Introduction

A new act on the Employer's Obligation to Inform Employees of the Conditions Applicable to the Employment Relationship and Certain working conditions (in Danish: "*Lov om ansættelsesbeviser og visse arbejdsvilkår*") (hereafter referred to as the "Act") has been adopted by the Danish parliament.

The Act implements the EU Directive on transparent and predictable working conditions in the European Union (2019/1152) (hereafter referred to as the "Directive").

The overall purpose of both the Act and the Directive is to secure sufficient information about material terms of employment and thus securing a sufficient level of transparency and predictability for the employee during the employment.

The Act is to come into force on 1 July 2023.

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For employees taking up new employment on or after 1 July 2023, the Employer is obligated to ensure that the employment contract complies with the minimum requirements of the Act. This applies even to employment contracts entered into before 1 July 2023 if the employee is employed on 1 July 2023 or later. Thus, such employment contracts must be adjusted in accordance with the requirements of the Act.

The Employer is not obligated to replace or update existing employment contracts unless requested by an employee. If the employer receives such a request, the employer must provide the employee with the updated employment contract no later than 8 weeks after the request has been made.

Below is a short summary of the main changes in the new Act that employers need to be aware of.

The Scope of the Act

Under the current regulation, employers must provide a written employment contract for employees with a weekly average of 8 hours of work during a 4-week period. According to the new Act, the Act applies to employees with a weekly average of only 3 hours of work during a 4-week period.

This means that the new Act will lower the average weekly work time requirements subject to the Act, which will significantly increase the number of employment relationships that will be protected by the provisions in the new Act.

Extended List of “essential Conditions”

According to the current regulation, the employer is required to notify the employees of certain employment terms categorized as “essential conditions” within 1 month after commencement of the employment.

With the new Act, the list of employment terms categorized as being “essential conditions” is extended, and the new Act will, in addition, reduce the deadline for providing information on such essential conditions. According to the Act, the employee must receive the information no later than 7 days after the commencement date. Consequently, this will also impose more requirements on the drafting of employment contracts.

Please note that the newly introduced 7-day timeline applies only to information on essential conditions, while the timeline for informing about other non-essential conditions remains 1 month from commencement. For practical purposes, the employer will most likely include all information in the same contract or batch of information.

With the new Act, the description of working patterns is now considered to be an essential condition. This is of relevance for employees working without fixed work hours or known shift plans, e.g., employees employed on on-call contracts. For such employees, the work hours are to some extent unforeseeable. According to the Act, the Employer must –the unforeseeable nature of the employment notwithstanding – provide information about how working schedules are planned and the time span in which the employees may expect to work.

Our Comments

Employers will be required to review and update existing employment contract templates in order to secure compliance with the new Act. This means changing the employment terms to include information on all relevant “essential conditions” as stated in the Act, but also amending any insufficient employment terms or any invalid employment terms pursuant to the new Act.

At Moalem Weitemeyer, we are experts in employment law, and we have teams ready to help any of our clients affected by the new Act and its implications as regards employment relationships.

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



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