

Employer's Rights and Liabilities

Information for Foreign Employers



**Employer's Rights and Liabilities
Information for Foreign Employers**

Print: Pensionsstyrelsen

2. edition, 1. printing
Copenhagen, november 2011

Pensionsstyrelsen
Njalsgade 72 C
DK-2300 København S
Tlf. 33 95 50 00 hverdage 10-14
E-mail: penst@penst.dk
Hjemmeside: www.penst.dk

INDEX

INTRODUCTION	2
INSURANCE AGAINST OCCUPATIONAL INJURY	3
HOW TO TAKE OUT THE INSURANCE AGAINST ACCIDENTS AT WORK	3
INSURANCE AGAINST OCCUPATIONAL DISEASES.....	3
COVERAGE OF THE INSURANCE.....	3
NOTIFICATION OF ACCIDENTS	3
NOTIFICATION OF OCCUPATIONAL DISEASES.....	3
”ATP” THE LABOUR MARKET SUPPLEMENTARY PENSION.....	4
REGISTRATION.....	4
COMPULSORY CONTRIBUTION.....	4
PAYMENTS.....	4
REPORTS.....	4
FURTHER INFORMATION.....	5
DAILY CASH SICKNESS BENEFITS.....	6
EMPLOYER'S LIABILITIES	6
REFUND OF WAGES PAID DURING SICKNESS, ETC.....	6
NOTIFICATION OF ABSENCE	6
REQUESTS FOR REIMBURSEMENT	6
EMPLOYER’S CONTRIBUTION LIABILITY	7
INSURANCE FOR EMPLOYERS IN THE PRIVATE SECTOR.....	7
THE AMOUNT OF BENEFIT	7
DAILY CASH MATERNITY BENEFITS	8
REFUND OF MATERNITY BENEFIT.....	8
REQUEST FOR REIMBURSEMENT	8
CONTRIBUTIONS TO “BARSEL.DK” MATERNITY FUND.....	8
REGISTRATION.....	8
COMPULSORY CONTRIBUTION.....	8
PAYMENTS.....	8
REFUND.....	8
FURTHER INFORMATION.....	9
UNEMPLOYMENT INSURANCE	10
UNEMPLOYMENT BENEFIT RECOMPENSE FROM THE EMPLOYER.....	11

Introduction

In some cases, persons performing work in an EEA country or Switzerland for an employer or undertaking not established in Denmark are comprised by Danish social security Law.

This is governed by the EC-Regulation 883/2004 on the coordination of social security schemes (and EC-Regulation 1408/ 71 on the application of social security schemes to employed persons, self-employed persons and members of their families moving within the Community – which is still applicable for Norway, Iceland, Liechtenstein and Switzerland).

In such situations, the employer/undertaking has the same rights, and is subject to the same liabilities – inclusive of compulsory social security contribution – of Danish social security Law, as have the employers/undertakings that are established in Denmark and whose employees are performing work in Denmark.

In the following, a brief description is given of employers' rights and liabilities, describing also the procedures for contribution payment, etc. under the Danish social security schemes.

Insurance against occupational injury

The employer is liable for the consequences of accidents and industrial diseases to which his employees are exposed.

To cover his liability for injuries, the employer must take out insurance for them with an insurance company eligible for occupational risks insurance according to the Danish Industrial Injuries Act, and to cover them through affiliation to the Labour Market Occupational Diseases Fund.

Any employer who fails to effect insurances and affiliations as mentioned above will be fined. He will also be ordered to pay, himself, the amount of damages due together with a fee for the case dealing of the National Board of Industrial Injuries, in the event that his employee is the victim of an industrial injury.

How to take out the insurance against accidents at work

The insurance must be contracted with an insurance company eligible for occupational risks insurance according to the Danish Industrial Injuries Act. The premium will depend of the trade or industry and the category of risk – the latter being fixed by insurance companies individually. At the address www.forsikringogpension.dk you can see the companies eligible for industrial injuries, and their average premiums for each trade or industry – and you may also collect their offers. The coverage will be the same whichever the insurance company, and whichever the amount of the premium.

Insurance against occupational diseases

The employer must affiliate the employee to the Labour Market Occupational Diseases Fund. A fixed contribution will be levied the amount of which depends of the trade or industry in question. At the address www.aes.dk you can see the rates of contribution and the procedure for affiliation.

Coverage of the insurance

The insurance comprises: compensation for permanent injury, compensation for loss of earning capacity, and the cost of certain treatments. If the industrial accident or disease causes death, a compensation for the loss of breadwinner is due to the survivors. The cash benefits of the Danish industrial insurance scheme are fixed by Law, they are payable wherever in the World the entitled person resides.

Notification of accidents

The employer must notify the insurance company of an accident for which he may be held liable. Notification can be made on a form to be found at the address www.ask.dk. In the case of death The National Board of Industrial Injuries must be notified within the 48 hours at phone nr. +45 20 42 63 97, even though the accident was already notified to the insurance company.

Notification of occupational diseases

Doctors, not employers, are responsible for the notification of an occupational disease. Notification can be made on a form to be found at the address www.ask.dk.

”ATP” the Labour Market Supplementary Pension

Employers must pay contributions to the Danish scheme of ”ATP”.

Registration

Employers who are not established in Denmark, and who must pay ”ATP”-contributions for their employees, are to be registered with either the Danish Commerce and Companies Agency, or the Danish tax Agency ”SKAT”. The agency of registration will allot them a Central Business Registration No or V.A.T. No. (CVR or SE No.) to be used any time they make payments or reports of contributions to the ATP Office.

An employer must make his report to the Commerce and Companies Agency not later than 8 days after he first paid wages.

According to agreement between employer and employee, the employer may have all ATP guidelines, bills, etc. sent to himself, or have it sent to his employee who will, as his agent, make the payments due to ATP and keep himself posted of that scheme. If the employer wants to have bills, etc. sent to himself, he will have to inform the ATP-Office not to use the C/O address of his agent but his own forwarding address abroad.

If the employer is making report to the Income Register of the SKAT Agency (”e-indkomst”), information of the Central Business Registration No. or V.A.T. No. allotted him, and his registration as an employer liable to ATP will be automatically transmitted to the ATP Office. The employer (or his agent) will then receive further information of the ATP scheme from ATP direct. Other employers will have to make contact with the ATP.

Compulsory contribution

Member of the ATP is any person above age 16 who is engaged for work with the same employer for at least 9 hours a week (weekly pay), at least 18 hours within a period of 14 days (fortnightly pay), or at least 39 hours a month (monthly pay). The amount of the contribution is fixed according to the number of hours of work performed within a period.

The employer must calculate the ATP contribution to be withheld from the employee’s wages. The part to be withheld from wages constitutes one third of the contribution, the other two thirds being paid by the employer. For a fulltime wage earner paid by the month, the total employee's and employer's contribution amounts to 3,240 DKK a year, or DKK 810 a Quarter.

Payments

Contributions are paid by the employer quarterly in arrear, i.e. they are due on any 1st Day of May, August, November and February. Payment can be made at the latest on the 7th Day of the due month. If the final due date is a Saturday or a public holiday, however, payment can be made on the next weekday following.

The ATP contribution due for a Quarter is calculated and levied by the ATP-Office on the basis of the reports of employers. Employers availing themselves of a wages service bureau must themselves calculate the ATP contribution due for a Quarter.

Reports

Employers who are not established in Denmark are not comprised by the liability to report to the SKAT income register. They must in stead report to the ATP direct on the sum of ATP contributions

due for each of their employees. In practice, reporting to the ATP is done through the ATP home page.

ATP reports must be filed after the end of any Quarter, i.e. they are due on any 10th Day of April, July, October, and 17th Day of January.

Further information

of the ATP scheme is obtainable from the Guidelines for employers "atp-vejledning - for arbejdsgivere" at the ATP home page www.atp.dk or on application to:

ATP
ATP-huset
Kongens Vænge 8
DK-3400 Hillerød
Phone +45 48 20 49 14
Email: www.atp.dk -> Kontakt

Daily cash sickness benefits

The employer is liable to pay sickness benefit to an employee who has been employed with him and working for him for a specified period.

Employer's liabilities

Unless he pays full wages during sickness, the employer is liable to pay his employee statutory daily cash benefits for the so-called "employer's period", i.e. the first 21 calendar days (30 calendar days as from 2 January 2012). This liability presupposes that the employee has been in his employ for a continuous period of 8 weeks and has, during that period, been working for him for at least 74 hours.

The employer is also liable to pay statutory daily cash benefits to an employee who has previously been in his employ (e.g. as temporary manpower), and has, during the preceding 8 weeks, been working for him for at least 74 hours. The employer's liability, however, presupposes that the employee was working for him on the very day of onset of sickness, or was working for him on the last day before the first day of absence and would otherwise have gone to work on the first day of absence.

The employer is also liable to invite an employee who is reported sick for an interview to find out how and when it will be possible to start working again. Such interview must be arranged within four weeks of the first day of absence.

Refund of wages paid during sickness, etc.

An employer who pays wages during sickness is entitled to reimbursement of the sickness benefit which would otherwise be payable to the employee by the municipality. The employer is entitled to reimbursement as from the first day of absence following the period for which he was paying statutory daily cash benefits.

If an employee has a chronic affliction causing at least 10 days of absence in a year, an agreement for the reimbursement of statutory daily cash benefits may be concluded between the employer and the employee, subject to approval by the municipality (a section 56 Agreement). The maximum amount of statutory daily cash benefits which may be reimbursed is, in 2011: 3830.00 DKK a week.

For persons employed on a flexible basis (i.e. for 1/3 of normal working hours), finally, there is no period of statutory daily cash benefits or "employer's period".

Notification of absence

The employer must notify any periods of sickness exceeding the period of his statutory daily cash benefits liability to the employee's municipality of residence within four weeks of the first day of absence. Notification can be made digitally, through "NemRefusion" (Easy Refund) to be found at the address www.virk.dk.

Requests for reimbursement

Also for claiming reimbursement the solution is the "NemRefusion" (Easy Refund). Decisions in matters daily cash benefits for the employee and statutory daily cash benefits refund for the employer are made by the employee's municipality of residence. If the employer did not fail to notify the sickness within four weeks of the first day of absence, his time-limit for claiming refund is extended to three months of the first day of absence. Otherwise he will be entitled to refund only as from the date of notification of the absence.

If the employer fails to observe the time limit, exemption may be granted by the municipality, if his inobservance was due to the employee, bad advice, or special circumstances. No exemption is possible as for refunds claimed later than six months of the first day of absence.

As an employer's entitlement to reimbursement is of a derived nature, payment presupposes that the conditions of the Daily Cash Benefit (Sickness or Maternity) Act are satisfied by his employee.

Employer's contribution liability

Employers are liable to pay an annual contribution which in part covers the ATP contributions which municipalities are paying for recipients of sickness benefit.

Insurance for employers in the private sector

Private employers can contract an insurance guaranteeing them reimbursement from the municipality of their statutory daily cash benefits expenditure, provided their wage expenditure did not in the preceding calendar year exceed a specified amount, in respect of 2011: 6,702,500 DKK, and provided they have an active V.A.T. No (CVR No). The reimbursement of statutory daily cash benefits expenditure to insured employers cannot exceed the maximum weekly cash benefit amount, which is for 2011 fixed at 3,830 DKK.

The insurance premium is calculated on the basis of the employer's wage expenditure. For 2011 it has been fixed at: 0.69 % of expected wage expenditure.

Request for affiliation should be sent on a form which you may get from the municipality of residence of the employee, or find at the address: www.statens-adm.dk.

The form should be sent to:

Statens Administration
Landgreven 4
Postboks 2191
DK 1017 København K.

The amount of benefit

As from 1st January 2011, sickness benefit is payable at the rate of 103.51 DKK per hour for which work would have been performed, were it not for the sickness. The amount of benefit cannot, however, exceed the hourly wage which the employee would have earned, were he not absent.

Daily cash maternity benefits

Refund of maternity benefit

An employer who pays wages during absence owing to pregnancy, childbirth or adoption is entitled to reimbursement of the maternity benefit which would otherwise be payable to the employee by a public authority (the municipality).

Request for reimbursement

An employer's claim for refund of statutory maternity pay on account of pregnancy, childbirth or adoption must be filed with the municipality on a form DP401 or DP402 not later than 8 weeks of the expiration of maternity leave; otherwise his claim will be forfeited. Refund payment presupposes that the conditions of the Daily Cash Benefit (Sickness or Maternity) Act are satisfied by his employee.

Contributions to "Barsel.dk" maternity fund

Barsel.dk is a scheme for employers in the private sector which enables them to share and compensate for their expenditure for wages paid during maternity leave. This also tends to promote the equality of men and women on the labour market.

If he is member of the ATP supplementary pension scheme, an employer must pay contributions to Barsel.dk, as well. Any wages paid during maternity leave will be reimbursed by Barsel.dk.

Special rules apply, however, in the case of part or full membership of another, recognized scheme for compensation of statutory maternity pay or wages paid during maternity leave. See the address www.atp.dk or contact Barsel.dk.

Registration

As soon as it has been registered as liable to pay ATP-contributions, an undertaking automatically becomes liable to pay Barsel.dk. contribution and reimbursement payments are made by means of the same V.A.T. No (CVR No) as the employer uses for the ATP-scheme.

Compulsory contribution

Barsel.dk automatically collects contributions from the employer; the amount is calculated on the basis of the ATP contribution paid by the undertaking for the last three months period. As at 1st January 2011, yearly contributions for a full time employee amount to 825.00 DKK. In accordance, the employer's Quarterly payment to Barsel.dk amounts to 206.25 DKK while his Quarterly payment to ATP amounts to 810.00 DK.

Payments

Quarterly contributions to Barsel.dk are collected by the Danish payments system NETS (formerly PBS). They are due on any 1st Day of April, July, October and January, the final due date being the 14th Day of April, July and October and the 20th Day of January.

Refund

If the undertaking pays wages during the maternity leave, the employer is automatically reimbursed by Barsel.dk – provided always that wages were in a higher amount than maternity benefits, and that the employer was entitled to be reimbursed, i.e. subrogated to his employee's claim to maternity benefit from the municipality. Further, there are limits to the fraction of wages which Barsel.dk may refund, and the periods for which refund is allowed. An employer does not himself have to make the claim, as Barsel.dk will automatically receive all details pertaining to his claim to reimbursement from the municipality.

Further information

Barsel.dk is governed by an Act on compensation to employers in the private sector of statutory maternity pay or wages paid during maternity leave, and the Promulgation of it.

More information of Barsel.dk can be found at home page www.atp.dk, from which an employer may also log on to self-service and inspect his information.

You may also contact:

Barsel.dk
Kongens Vænge 8
DK-3400 Hillerød
Phone +45 70101611
Fax +45 48204800
Email: www.atp.dk -> Kontakt

Unemployment insurance

In Denmark, it is optional for an employee whether to insure himself against unemployment by joining an unemployment fund. Accordingly, there is no liability for non Danish employers to insure their employees against unemployment, although they are comprised by Danish social security Law during their employment. A non Danish employer is not in any other ways liable for his employees' unemployment insurance situation.

Danish unemployment funds (A-kasser) are private associations; their object is to guarantee that members are helped in the event of unemployment etc. unemployment funds pay, among other things: unemployment benefit, holiday pay and voluntary early retirement pay. The number of State recognized unemployment funds in Denmark is 27.

If he wants to become insured against unemployment, an employee must see to it himself. He must send a written application for membership to the unemployment funds he prefers. His membership starts at the earliest at the time when his written application is received by the unemployment funds.

For a list of Danish unemployment funds and further details of Danish unemployment insurance, you should apply to the National Board of Industrial Injuries:

ASK
Centre for complaints re unemployment insurance
Sankt Kjelds Plads 11
Postboks 3000
2100 København Ø
Phone: 72 20 60 00
www.ask.dk

Unemployment benefit recompense from the employer

If his employee is a member of an unemployment fund, the employer is under an obligation to pay daily cash unemployment benefit for the first 3 days of full or partial unemployment, the so-called G-days.

It is a condition that the employee had – within the last 4 weeks before cessation of work - a number of working hours with the same employer which corresponds to a normal full time occupation according to collective agreement for 2 weeks in the aggregate (normally 2 X 37 hours).

An employer is liable to pay for G-days, if his employee

- is fired,
- is laid off temporarily,
- has completed the job or task for which he was temporarily hired or the like,
- is transferred to short time, or
- passes to part time.

A G-pay equals the maximum rate of daily cash benefit. If the employee is entitled to G-pay for half a day, the amount is half the maximum rate of daily cash benefit. For 2011, rates have been fixed at 766 DKK for a full G-day and 383 DKK for half a G-day.

For more details of conditions for G-pay, you should apply to the National Board of Industrial Injuries:

ASK

Centre for complaints re unemployment insurance

Sankt Kjelds Plads 11

Postboks 3000

2100 København Ø

Phone: 72 20 60 00

www.ask.dk

Employer's Rights and Liabilities

In some cases, persons performing work in an EEA country or Switzerland for an employer or undertaking not established in Denmark are comprised by Danish social security Law.

This is governed by the EC-Regulation 883/2004 on the coordination of social security schemes (and EC-Regulation 1408/ 71 on the application of social security schemes to employed persons, self-employed persons and members of their families moving within the Community – which is still applicable for Norway, Iceland, Liechtenstein and Switzerland).

In such situations, the employer/undertaking has the same rights, and is subject to the same liabilities – inclusive of compulsory social security contribution – of Danish social security Law, as have the employers/undertakings that are established in Denmark and whose employees are performing work in Denmark.

In the following, a brief description is given of employers' rights and liabilities, describing also the procedures for contribution payment, etc. under the Danish social security schemes.

