

Act on the legal rights of temporary agency workers upon assignment by a temporary-work agency, etc.

Part 1 *Scope of the Act, etc.*

1.- This Act applies to workers with a contract of employment or employment relationship with a Danish or foreign temporary-work agency, who are assigned by the temporary work agency to user undertakings in Denmark to work temporarily under their supervision and direction.

(2) This act applies to public and private undertakings which are temporary-work agencies or user undertakings engaged in economic activities, whether or not they are operating for gain.

(3) This Act does not apply to employment contracts or relationships concluded under a specific public or publicly supported programme concerning social or employment-related vocational training, integration or retraining programmes.

2.- For the purpose of this Act:

1) "Temporary-work agency" means any natural or legal person who concludes contracts of employment or employment relationships with temporary agency workers in order to assign them to user undertakings to work there temporarily under their supervision and direction.

2) "Temporary agency worker" means a worker with a contract of employment or an employment relationship with a temporary-work agency with a view to being assigned to a user undertaking to work temporarily under its supervision and direction.

3) "User undertaking" means any natural or legal person for whom and under the supervision and direction of whom a temporary agency worker works temporarily.

4) "Assignment" means the time period during which the temporary agency worker performs work temporarily for the user undertaking under its supervision and direction.

Part 2

Duties of the temporary-work agency

3.- The temporary-work agency must ensure that the temporary agency worker, during his or her assignment, as regards the duration of working time, overtime, breaks, rest periods, night work, holidays, public holidays and pay, has conditions that, at least, equal those that would have been valid under legislation, collective agreements, and other legally binding general provisions that would have been applicable, had the temporary agency worker been employed by the user undertaking directly for the purpose of performing the same work.

(2) Upon application of (1), the rules that are in effect in the user undertaking pursuant to legislation, collective agreements, or other general provisions regarding protection of pregnant or nursing women, children and youths, equal treatment of men and women, as well as provisions laid down to fight discrimination on grounds of gender, race or ethnic origin, religion or belief, disability, age or sexual orientation shall apply.

(3) Upon request to the temporary-work agency, a temporary agency worker has the right to be informed of employment conditions that are applicable under (1) and (2) during the assignment of the temporary agency worker to a user undertaking.

(4) A temporary-work agency may not apply successive assignments of a temporary agency worker without a valid cause.

(5) (1)-(4) do not apply in the event that the temporary-work agency is included by or has joined a collective agreement that has been concluded by the most representative social partners in Denmark, and which is valid within the entire Danish area, by which the general protection of temporary agency workers is respected.

4.- Clauses that forbid, or in reality prohibit, that a contract of employment or an employment relationship may be concluded between the temporary agency worker and the user undertaking after the conclusion of the assignment, cannot be claimed by the temporary-work agency. Regardless of (1), temporary-work agencies may receive a fair compensation for services provided to user undertakings in connection with assignment, employment and training of temporary agency workers.

(2) Temporary-work agencies shall not charge workers any fees in exchange for arranging for them to be recruited by a user undertaking, or for concluding a contract of employment or an employment relationship with a user undertaking after carrying out an assignment in that undertaking.

Part 3

Obligations of the user undertaking

5.- The user undertaking must ensure that temporary agency workers are informed of any vacant positions in the user undertaking to give them the same opportunity as other workers in that undertaking to find permanent employment, see however (2) below.

(2) (1) shall not apply if the user undertaking can provide documentation that that temporary agency workers are ensured rights equal to those laid down in (1) under a collective agreement.

6.- Temporary agency workers shall be given access to the amenities or collective facilities in the user undertaking, including canteen, child-care facilities and transport facilities under the same conditions as workers employed directly by the undertaking, unless the difference in treatment is justified by objective reasons, see however (2) below.

(2) (1) shall not apply if the user undertaking can provide documentation that that temporary agency workers are ensured rights equal to those laid down in (1) under a collective agreement.

7.- User undertakings that are covered by the Danish Act on information and consultation of workers or a collective agreement as laid down in section 3 of the above-mentioned Act must provide suitable information on the use of temporary agency workers to bodies representing workers, who are to be informed and consulted on behalf of the employees of the user undertaking, see however (2) below.

(2) (1) shall not apply if the user undertaking can provide documentation that that temporary agency workers are ensured rights equal to those laid down in (1) under a collective agreement.

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Penalties

8.- Violations of section 4 (2) and section 7 (1) are punishable by fine.

(2) A temporary-work agency that violates section 3 (1) – (4) wilfully or under gross negligence is punishable by fine.

(3) A temporary agency worker, whose rights under section 3 (1)-(4), section 5 (1) and section 6 (1) have been violated, may be awarded remuneration.

(4) For temporary agency workers, who are covered by a collective agreement as mentioned in section 3 (5), section 5 (2) or section 6 (2), cases concerning violations the rights under such a collective agreement, including remuneration as mentioned in (3), that are not tried in the industrial court system, may be tried in the civil court system.

(5) Undertakings etc. (legal persons) may be made liable under the rules laid down in chapter 5 of the Danish Criminal Code.

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Entry into force etc.

9.- The Act shall come into force on 1 July 2013.

10.- The following amendment is inserted in the Danish Act on fixed-term work, cf. Consolidation Act no. 907 of 11 September 2008:

1.- section 2 (2) no 1 is rephrased as follows:

“workers, who are covered by the Danish Act on the rights of temporary agency workers upon assignment by a temporary-work agency, etc.”

11.- This Act shall not apply to Greenland and the Faroe Islands.