

Consolidated Danish Working Environment Act*)

Consolidated Act No. 268 of 18 March 2005 as subsequently amended issued by the Danish Ministry of Employment - unofficial version.

The Danish Working Environment Act is hereby promulgated, cf. Consolidated Act No. 784 of 11 October 1999 with the amendments provided for in Act No. 331 of 16 May 2001, Act No. 437 of 10 June 2002, section 2 of Act No. 191 of 24 March 2004, Act No. 425 of 9 June 2004, Act No. 442 of 9 June 2004, Act No. 1415 of 22 December 2004 and Act No. 300 of 19 April 2006.

Part 1 - Objective and scope

1. The provisions of this Act shall have effect with a view to creating:

(a) a safe and healthy working environment which shall at any time be in accordance with the technical and social development of society, and

(b) the basis on which the enterprises themselves will be able to solve questions relating to safety and health under the guidance of the employers' and workers' organisations, and under the guidance and supervision of the Danish Working Environment Authority.

2.-(1) The provisions of this Act shall apply to work for an employer.

(2) The following activities shall be excepted:

(a) work in the employer's private household, cf., however, section 59,

(b) work carried out exclusively by such members of the employer's family as belong to his household, cf., however, section 59,

(c) work which is carried out by military personnel and which may be classified as actual military service.

(3) The following provisions shall apply also to work not carried out for an employer and to the work mentioned in subsection (2) above:

(a) Section 20 on several employers, etc. at one workplace, sections 30 to 36 on suppliers, etc. and section 37 on builders, etc.,

(b) Sections 38 and 39 as far as work mentioned in section 39(1)(a) and (b) is concerned and section 41,

(c) Sections 45 to 47 on technical equipment, etc.,

(d) Part 8 on substances and materials,

(e) Section 58 on road transport.

3.-(1) The provisions of this Act shall apply to aviation only as regards work on the ground.

(2) The provisions of this Act shall apply to the shipping and fishing industries only as regards:

(a) loading and unloading of ships, including fishing vessels,

(b) shipyard work carried out on board ships and similar work.

4. The Minister of Employment may lay down that the provisions of this Act shall apply only to a limited extent to work carried out in the employee's own home.

Part 2 - Safety and health activities at enterprises

Personal contact

5. In enterprises with one to nine employees, the activities of the enterprises concerning safety and health shall be carried out through personal contact between the employer, supervisors, if any, cf. section 24, and the other employees. However, the Minister of Employment may lay down rules on the establishment of an Internal Safety Organisation where it is considered necessary, cf. section 8.

Internal Safety Organisation

6.-(1) In enterprises with ten or more employees, the activities of the enterprise concerning safety and health shall be organised.

(2) The supervisor of a department or a special field of activity shall, together with the safety representative, constitute a Safety Group for that particular department or field of activity.

(3) The employees shall elect a safety representative for each department or field of activity to be a member of the Safety Group and to represent them in all matters concerning the safety and health of the employees.

7.-(1) In enterprises with 20 or more employees, cf. however, section 8(7), a Safety Committee shall be set up. Where one or two safety groups have been set up in the enterprise, the members of such group or groups shall constitute the Safety Committee, together with the manager of the enterprise or a responsible representative of the manager. Where several safety groups have been set up, the safety representatives shall elect two members amongst themselves and the supervisors in the safety groups shall elect two members from amongst themselves for a Safety Committee. These members are joined by the manager of the enterprise or some responsible representative of the manager. The Safety Committee shall plan, manage, advise on, inform about and supervise the activities concerning safety and health within the enterprise.

(2) The inspector from the Danish Working Environment Authority shall regularly contact the safety representatives, safety groups and representatives from the Safety Committee when visiting the enterprise. These shall be free to submit to the Authority all questions concerning safety and health.

8.-(1) The Minister of Employment may lay down further rules on the organisation and functioning of the activities of the enterprises concerning safety and health including rules on the election of safety representatives, their rights and duties, the setting up of safety groups and safety committees and their activities and on the daily management of the safety activities.

(2) The Minister of Employment may lay down further rules on health and safety training, a health and safety programme for coordinators of health and safety work in the building and construction sector, teachers' qualifications and approval and quality assurance of the providers of training and programmes.

(3) According to agreement between the enterprise and its employees, the tasks of the Internal Safety Organisation may be extended to include environmental issues directly connected to the enterprise. The Minister of Employment may lay down rules which ensure that environmental issues at the enterprise are solved.

(4) With a view to enhancing and strengthening safety and health work at the enterprise, deviations from sections 6 and 7(1) may be granted under conditions specified by the Minister of Employment, cf. subsection (5) below, if:

(a) an agreement has been entered into between one or more employee organisations and the corresponding employer organisation(s), or the employer or those authorised for such purpose, and

(b) enterprises under agreements entered into under (a) above have entered into an agreement between the employer and the employees at the enterprise, or employees at part of the enterprise.

(5) The Minister of Employment shall lay down rules on whether the provisions of section 6 and section 7(1), may be departed from, cf. subsection (4) above. The Minister of Employment may further lay down rules for how agreements under subsection (4) above shall be established.

(6) Questions of interpretation and violations of the agreements entered into under subsection (4) above shall be solved according to the usual industrial procedure for the area. Violations of agreements entered into under subsection (4)(b) above may not, however, be brought before the Danish Industrial Court, but they shall be settled by industrial arbitration.

(7) Where it is deemed unnecessary or inexpedient to organise the safety activities according to the rules laid down in sections 6, 7(1), and 9(4), the Minister of Employment may - for certain trades, sectors or workplaces - grant exemptions from or adapt the said rules to meet the special conditions.

9.-(1) Where the employer is not himself a member of the Safety Committee, he shall be under an obligation to appoint a responsible person as his representative.

(2) The employer shall ensure that the members of the safety groups and the Safety Committee are given reasonable time according to the specific circumstances to execute their duties in connection with safety activities.

(3) The employer shall offer both the members of the Safety Committee and the safety groups the opportunity of obtaining the necessary information or training on matters concerning safety and health.

(4) The employer shall offer the safety groups and the Safety Committee the opportunity of participating in planning as far as matters of safety and health at work are concerned.

(5) In enterprises where one or several safety groups have been set up in accordance with section 6, but where a Safety Committee in accordance with section 7 is not required, the employer shall ensure that activities which are normally taken up by a Safety Committee shall be effectively carried out in cooperation with the safety group or groups.

10.-(1) The employer shall pay all expenses in connection with the activities of the safety representative and shall indemnify him for loss of earnings.

(2) The safety representative shall enjoy protection against dismissal and any other deterioration of his conditions in the same way as shop stewards within the same or any similar sector.

(3) Disputes concerning protection under subsections (1) and (2) above, including questions of what rules to apply and breach of or interpretation of the rules, shall be settled by the normal procedure for settling industrial disputes, cf. section 22 of the Danish Industrial Court Act.

11. Where a supervisor in the Safety Group is dismissed on the expiry of a trial period, and one of the parties alleges that the dismissal was caused by matters concerning safety and health, his employment shall not be terminated during the period of notice until the question has been subjected to negotiation by the organisations according to the rules of the collective agreement applying to the particular industry or examined in accordance with the rules of the Salaried Employees' Act on negotiation and conciliation. Negotiation and conciliation shall be expedited as much as possible.

Consultancy

12. If the employer does not have the necessary expertise to undertake the health and safety work of the enterprise, the employer shall seek external expert assistance with a view to ensuring the continued health and safety of the employees. The Minister of Employment may lay down further rules on this matter.

13.-(1))** The Minister of Employment may lay down rules requiring that occupational health services (OHS) shall be established at enterprises where it is considered necessary in order to ensure the health and safety of the employees.

(2) For groups of enterprises, the Minister of Employment may, under similar conditions, lay down rules requiring that a joint occupational health service shall be established.

(3) An occupational health service must be approved according to rules laid down by the Minister of Employment. The Minister of Employment may transfer the task of approving an occupational health service to public authorities or private institutions, and he may lay down rules for payment for such approval.

(4) The Minister of Employment may lay down rules on the organisation, responsibilities, function, and financing of the occupational health services. This applies to occupational health services established according to subsections (1) and (2) above and voluntary occupational health services. The responsibilities of the occupational health services may be extended to include environmental issues and health promotion directly related to the enterprises. The Minister of Employment may lay down further rules which ensure resolution of working environment issues at the enterprise.

(5) to (7). (Repealed)

13a.-(1) Enterprises with a health and safety certificate obtained pursuant to the Danish Act on Health and Safety Certificates for Enterprises shall not be covered by the obligation to establish an occupational health service.

(2) The Minister of Employment may lay down further rules providing that other documentation concerning a safe and healthy working environment than that mentioned in subsection (1) may imply exemption from the obligation to establish an occupational health service.

13b. The obligation of enterprises to establish an occupational health service shall cease concurrently with the screening visit of the Danish Working Environment Authority, cf. section 72a. The Minister of Employment shall lay down further rules on this matter.

13c. The Minister of Employment shall lay down rules on the authorisation of health and safety consultants, including the obligation to use an authorised health and safety consultant when the Danish Working Environment Authority issues an improvement notice to seek consultancy, cf. section 77a.

Part 3 - Sector Working Environment Councils

14.-(1) After an opinion from the Working Environment Council, cf. section 66(2)(b), the Minister of Employment shall approve a number of sector working environment councils which are established to take part in the solution of safety and health problems within one or more sectors.

(2) Employees' and employers' organisations within the sectors covered by the individual sector working environment council shall each appoint an equal number of members to the council. The individual council shall itself determine the number of members it is to have. In the event that the council cannot reach agreement on this point, the number of members shall be determined by the Minister of Employment. Members and proxies are appointed for four years and may be reappointed. If an appointment takes place within the four-year period, such appointment shall only apply until expiry of the period.

(3) The individual sector working environment council shall elect a chairman and deputy chairman from amongst its members. The employers' and employees' sides shall alternate in holding the posts of chairman and deputy chairman every two years.

(4) The work of the sector working environment councils shall be subject to the provisions of the Public Administration Act and the Open Public Administration Act.

(5) The individual sector working environment council shall itself lay down its rules of procedure and establish a secretariat.

(6) Each year, the individual sector working environment council shall issue a report on its business to the Minister of Employment.

14a.-(1) The task of the individual sector working environment council is to assist individual enterprises within the sector to solve working environment issues, including

(a) to prepare information and sector guidelines, including guidelines to be used by the enterprises in preparing workplace assessments,

(b) to identify the special working environment problems in the sector and contribute to the preparation of sector documentation, and

(c) to develop and implement information and training activities.

(2) The individual sector working environment council may:

(a) give opinions or proposals to the Working Environment Council on amended and new rules,

(b) participate in and carry out special work and campaigns, and

(c) form and participate in local working environment fora.

(3) The Minister of Employment shall lay down detailed rules on the organisation, composition, and responsibilities of the sector working environment councils, including the tasks and functions of the councils.

(4) After negotiations with the Minister for the Environment and Energy, the tasks of the councils may be extended to include environmental issues directly connected to enterprises. The Minister of Employment may lay down rules which ensure resolution of enterprises' working environment issues.

Part 4 - General duties

Employer

15. It shall be the duty of the employer to ensure safe and healthy working conditions. Special reference is made to:

- (a) Part 5 on the performance of the work,
- (b) Part 6 on the design and fitting out of the workplace,
- (c) Part 7 on technical equipment, etc.,
- (d) Part 8 on substances and materials.

15a.-(1) The employer shall ensure the preparation of a written workplace assessment of the safety and health conditions at the workplace, taking due regard to the nature of the work, the work methods and work processes which are applied, as well as the size and organisation of the enterprise. The workplace assessment shall remain at the enterprise and be available to the management and employees at the enterprise, as well as the Danish Working

Environment Authority. A workplace assessment shall be revised when there are changes in work, work methods, work processes, etc., and these changes are significant for safety and health at work. The workplace assessment shall be revised at least every three years.

(2) A workplace assessment shall include an opinion on the working environment problems at the workplace, and how these are to be solved, in compliance with the principles of prevention stated in the occupational health and safety legislation. The assessment shall include the following elements:

- (a) Identification and mapping of the working environment conditions at the enterprise.
- (b) Description and assessment of the working environment problems at the enterprise.
- (c) Priorities and an action plan to solve the working environment problems at the enterprise.
- (d) Guidelines for following up the action plan.

(3) The employer shall involve the Internal Safety Organisation or the employees in planning, organising, implementation and following up the workplace assessment, cf. subsections (1) and (2) above.

(4) The Minister of Employment shall lay down further rules on the duties of the employer under subsections (1) to (3) above.

16. It shall be the duty of the employer to ensure that there is effective supervision that work is performed safely and without risks to health.

17.-(1) The employer shall inform the employees of any risks of accidents and diseases which may exist in connection with their work.

(2) Furthermore, the employer shall ensure that the employees receive the necessary training and instruction to perform their work in such a way as to avoid any possibility of risk.

(3) The Minister of Employment may lay down further rules on the duties of the employer under subsections (1) and (2) above.

17a.-(1) Employees shall have the right to leave their workplace or a danger zone in the event of serious or immediate danger which cannot be avoided.

(2) The position of the employee must not be adversely affected because the employee leaves the workplace or a danger zone, cf. subsection (1) above.

(3) Employees whose rights under subsections (1) and (2) above are violated may be awarded compensation.

17b.-(1) The employer shall ensure that the employees, taking account of their knowledge and access to technical aids, are able to decide upon appropriate measures themselves in order to avoid the consequences of serious and immediate danger to the safety of themselves or others, when it is not possible for the employees to contact the employer, manager or supervisor.

(2) The position of an employee shall not be adversely affected because the employee has taken measures as in subsection (1) above, unless the employee in such cases has acted intentionally or grossly negligently.

(3) Employees whose rights under subsection (2) above are violated may be awarded compensation.

17c. The provisions laid down in sections 17a and 17b above shall not apply in circumstances where a collective agreement gives the employees rights which as a minimum correspond to Article 8 (4) and (5) in Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work.

18. It shall be the duty of the employer to inform the safety representatives and shop stewards of the employees within the particular sector of any improvement notices in writing given by the Danish Working Environment Authority. The employer shall also have such duty to other representatives and shop stewards who request to be informed of the notices, cf. section 78.

19. The employer shall ensure that cooperation concerning safety and health in accordance with the provisions of Part 2 can take place and shall participate in such work.

20.-(1) Several employers who have work carried out at the same workplace and all persons employed at the same workplace shall cooperate to create safe and healthy working conditions for all employees.

(2) The Minister of Employment may lay down further rules concerning such cooperation.

21. At the request of the Danish Working Environment Authority, and whenever the situation calls for it, the employer shall arrange for the carrying out of examinations, tests or surveys, if required with the assistance of experts, to ascertain whether the working conditions are safe and healthy.

22.-(1) The employer shall give notification to the Danish Working Environment Authority and shall keep registers according to rules which shall be laid down by the Minister of Employment.

(2) The Director General of the Danish Working Environment Authority may require the employers to submit information for statistical purposes relating to:

(a) number, sex, age and health of the employees,

(b) machines, machine parts, containers, prefabricated constructions, appliances, tools and other technical equipment,

(c) substances and materials,

(d) other matters of importance to the working environment.

(3) Where statistics are published, no names or firms shall be mentioned.

22a. The Minister of Employment shall lay down further rules on the employer's obligation to incorporate sick absence in the health and safety work of the enterprise in order to reduce sick absence at the enterprise.

Management at enterprises, etc.

23. The provisions of this Act on the duties of the employer also apply to the manager or management of the enterprise.

Supervisor

24. »Supervisor« means a person whose work consists solely or primarily of managing or supervising, on behalf of the employer, the work in an enterprise or any part thereof.

25. The supervisor shall participate in the cooperation concerning safety and health, cf. Part 2, sections 20 and 37.

26.-(1) The supervisor shall contribute towards ensuring that the working conditions are safe and healthy within the field of activity of which he is in charge. In this connection he shall check the effectiveness of the measures taken to promote safety and health.

(2) Where the supervisor obtains knowledge of defects or faults which may involve a risk of accidents or diseases, he shall take steps to avert such danger. Where the danger cannot be averted by his intervention on the spot, he shall inform the employer hereof without delay.

Employees

27. The employees shall participate in the cooperation concerning safety and health, cf. Part 2.

28.-(1) The employees shall cooperate to ensure that the working conditions are safe and without risks to health within their field of activity and shall check the effectiveness of measures taken to promote safety and health.

(2) Where the employees become aware of any defects or faults which may adversely affect safety or health and which they cannot remedy themselves, they shall inform a member of the Safety Group, the supervisor or the employer hereof.

(3) Any person who has to remove a safety device temporarily to perform a job, such as repair work or installation, shall ensure that such device be restored immediately after the performance of the job or that an equally safe protective measure is taken.

29.-(1) Persons working at a workplace where several employers have work carried out shall comply with the rules applying to cooperation between enterprises, cf. sections 20 and 37, as well as with the rules applying to the work which they are to perform.

(2) Persons working on the premises of an enterprise other than their employer's enterprise shall comply with the rules on safety and health which apply to that enterprise as well as with the rules applying to the work which they are to perform.

Suppliers, fitters, repair workers and planners, etc.

30.-(1) Any person who supplies, makes available or displays machines, machine parts, containers, prefabricated constructions, appliances, tools, and other technical equipment shall ensure that such articles are provided with the necessary safety devices when supplied, made available or displayed and that they are safe and without risks to safety or health when properly used, cf. Part 7. Adequate and simple instructions for use, maintenance, transportation, and installation shall be made available on delivery

(2) The same obligations shall apply where technical equipment ready for use is supplied or made available for the purpose of being resold, hired out, or lent.

(3) At the request of the Danish Working Environment Authority, or whenever the situation calls for it, the importer or manufacturer shall arrange for the carrying out of examinations, tests or surveys, if required with the assistance of experts, to ascertain whether the technical equipment is safe and without risks to health.

(4) Where technical equipment is manufactured on the basis of the buyer's detailed instructions in writing, the importer or manufacturer shall be relieved from the obligations imposed by subsections (1) to (3) above.

31. Any machine which is supplied or displayed in Denmark shall be provided with the name and address of the manufacturer or, as far as imported machines are concerned, with the name and address of the importer, or with any other marking which facilitates identification of the manufacturer or the importer, as the case may be.

32.-(1) Any person whose business it is to install, convert, or recondition technical equipment shall ensure compliance with the safety rules and instructions applying to the equipment concerned.

(2) Where a repair affects only one or a few components of the object under repair, the person performing the repair shall ensure that the safety rules and instructions applying to the components are complied with. Where the repairer while performing his job becomes aware of other defects or faults which may affect safety, he shall inform the owner or user hereof.

33. Any person who makes a project for technical equipment, production plant, or building or construction work, shall in his project take into account safety and health in connection with the performance of the work and the functioning of the building or plant, etc. when completed. The same shall apply to any person giving advice on matters concerning the working environment.

33a.-(1) Any person who invites to tender for supply of services shall in the invitation to tender material ensure that account has been taken with respect to safety and health in the performance of the task. Furthermore, those inviting to tender shall ensure that the invitation to tender material contains relevant information on special, significant working environment conditions connected with the performance of the task, with a view to the person who carries out the task being informed of such matters.

(2) Any person who invites to tender shall furthermore help to ensure that the employer who is awarded the task can execute the task put out to tender appropriately in relation to safety and health matters.

34. The provisions laid down in sections 30, 31, 33, and 35(2) shall also apply to suppliers, etc. of substances and materials with properties which may involve a risk to, or in any other way adversely affect, safety or health.

35.-(1) The Minister of Employment may lay down further rules on the matters covered by sections 30 to 34.

(2) The rules laid down in sections 30 to 34 do not relieve the user of the duties under this Act.

36. The Minister of Employment may, under special circumstances, lay down rules or take decisions which dispense with the requirements under sections 30 to 34. Such decisions may also be made by the Director General of the Danish Working Environment Authority in individual cases and under special circumstances.

Building owners, etc.

37.-(1) For building and construction activities of a certain size where several employers are active at the same work site, the building owner shall plan, delineate and coordinate the measures to be taken to promote the safety and health of the employees.

(2) The Minister of Employment shall lay down further rules on the obligations of the building owner under subsection (1) above, including rules on:

(a) delineation of the tasks of the individual employers in common areas prior to the commencement of work,

(b) preparation of a plan for safety and health prior to the establishment of the construction site,

(c) coordination of measures to promote safety and health in common areas whilst work is in progress, and

(d) selection of a coordinator with the necessary knowledge on and training in safety and health matters to manage the coordination of the safety and health measures at the work site.

(3) The Minister of Employment shall lay down further rules on the obligations of the building owner to notify major building and construction activities to the Danish Working Environment Authority.

(4) Furthermore, the building owner shall help to enable the employer to carry out the building and construction activities appropriately in relation to safety and health matters.

Part 5 - Performance of work

38.-(1) The work shall be planned, organised and performed in such a way as to ensure safety and health.

(2) Approved norms and standards of importance to safety or health shall be complied with.

39.-(1) The Minister of Employment may lay down further rules on the requirements which shall be complied with in order that the work may be said to have been planned, organised and performed in such a way as to ensure safety and health, including rules on:

(a) measures relating to safety and health in connection with work, working processes and methods, e.g. to avoid collapses, falls, subsidence, vibration, radiation, noise, or risks of explosion or fire, or risks to health from gases, fumes, vapours, dust and smoke, heat, cold, smells, infections, or harmful working postures, movements or strains,

(b) prohibition against particularly dangerous work, working processes and methods,

(c) posters or adequate marking.

(2) The Minister of Employment may also lay down rules on special work clothing and personal protective equipment and on who is to pay for the expenses incurred.

40. Where necessary to ensure the safety or health of the employees, the Minister of Employment may lay down rules providing:

(a) that plans for working procedures, processes and methods shall be worked out, and

(b) that such plans or modifications of such plans shall be submitted for the opinion or approval of the Danish Working Environment Authority before being implemented.

41. The Minister of Employment may lay down rules:

(a) providing that work which may involve substantial risks of accidents or disease may only be carried out by persons who have been specially trained, have passed a test, or who are above a certain age,

(b) with regard to employment of persons with physical or mental disabilities or diseases which may involve an increased risk of accidents or disease in connection with certain activities,

(c) with regard to restrictions on the right to allow employees to work alone.

Part 6 – Design and fitting out of the workplace

42.-(1) The workplace shall be in such a condition that it is safe and healthy.

(2) Approved norms and standards which are of importance to safety and health shall be complied with.

43. The Minister of Employment may lay down rules with regard to the design and fitting out of permanent, temporary, varying, and outdoor places of work, including rules on:

(a) work rooms, e.g. ceiling height, air space, floors, walls, ceilings, lighting, temperature, ventilation and noise,

(b) welfare facilities, etc., e.g. rest rooms and canteens, cloakrooms, locker rooms, lavatories, washing and bathing facilities and sleeping facilities and seating,

(c) means of exit, e.g. passages, gangways, staircases, and exits.

(2) The rules laid down in pursuance of subsection (1) above may provide that they shall also apply to persons letting or leasing buildings, premises, areas, etc.

44. Where necessary to ensure the safety and health of the employees, the Minister of Employment may lay down rules providing that:

(a) projects, etc. for the building or reconstruction of enterprises shall be submitted to the Danish Working Environment Authority for its opinion or approval before they are implemented,

(b) plans for fitting out or altering premises, technical plant and equipment, etc. shall be submitted to the Danish Working Environment Authority for its opinion or approval before they are implemented,

(c) buildings, rooms, premises, etc. shall not be let out or leased for industrial purposes until the question of their suitability for the proposed purpose has been submitted to the Danish Working Environment Authority for its opinion or approval.

Part 7 - Technical equipment, etc.

45.-(1) Machines, machine parts, containers, prefabricated constructions, appliances, tools and other technical equipment shall be designed and used in such a way that they are safe and without risks to health.

(2) Approved norms and standards of importance to safety or health shall be complied with.

46. The Minister of Employment may lay down rules on the design and use of technical equipment, etc., including rules on:

(a) construction, manufacture, installation, registration and testing,

(b) submission to the Danish Working Environment Authority of plans for construction, manufacture or installation for its opinion or approval,

(c) approval by the Danish Working Environment Authority of technical equipment before it is supplied or made available to the user or put to use,

(d) use, maintenance, and tending.

47. The Minister of Employment may lay down rules prohibiting the manufacture, import, supply, transfer, display and use of particularly dangerous technical equipment.

Part 8 - Substances and materials

48.-(1) Substances and materials with properties which can be hazardous to, or in any other way adversely affect, safety or health, may only be produced and used in working processes and methods which effectively protect the employees against accidents and diseases.

(2) Approved norms and standards of importance to safety or health shall be complied with.

49.-(1) The Minister of Employment may lay down further rules concerning the manufacture, import, storage, transportation and use of substances and materials with properties which may constitute a hazard to or in any other way adversely affect safety and health, including rules concerning packing, repackaging and labelling.

(2) The Minister of Employment may lay down rules prohibiting the manufacture, import, and use of particularly dangerous substances and materials.

49a.-(1) With a view to preventing and addressing health problems and injuries from accidents in the working environment, the Minister of Employment may lay down rules providing that anyone manufacturing or importing a substance or material shall carry out examinations or acquire necessary documentation of previous examinations, and submit notifications. In this connection, rules may be laid down for all substances and materials, for individual substances and materials, for specific groups of substances and materials or for substances and materials for special applications.

(2) The following contents for the notification may be laid down:

(a) Information on conditions which are of significance to the assessment of the properties or effects of the substance or material, including whether it has properties which can be hazardous to, or in any other way adversely affect, safety or health.

(b) Proposals for classification, packaging, and labelling.

(c) Information on preventive measures which effectively secure employees against adverse effects on safety and health.

(3) It may further be laid down that new substances and materials may be utilised no sooner than one month after the date of the notification. There shall be opportunity to extend this time limit in situations where the notification is incomplete or in error, such that the substance or material may be utilised no sooner than one month after the information the notification is to contain has been received.

(4) The Minister of Employment shall lay down rules for the establishment, operation, and use of a register of substances and materials.

49b. The Minister of Employment may lay down rules providing that technical data sheets and similar which are issued by the manufacturer or importer of substances and materials shall contain all important information on the effects of the substance or material on safety and health in the working environment.

49c.-(1) The Minister of Employment may lay down rules providing that a substance or material which can be hazardous to, or in any other way adversely affect, safety or health may not be utilised if it can be substituted with a non hazardous, less hazardous or less problematic substance or material.

(2) The Minister of Employment may lay down rules providing that substances or materials which can be hazardous to, or compromise, safety and health may not be utilised for specific purposes or within specific areas, before an opinion or approval from the Danish Working Environment Authority has been issued.

Part 9 - Rest periods and rest days

50.-(1) The hours of work shall be organised so as to allow a rest period of at least 11 consecutive hours within every period of 24 hours.

(2) The rest period may be reduced to eight hours in the case of:

(a) change of shifts in enterprises with several shifts when it is not possible to hold the daily or weekly rest period between the end of the work of one shift and the start of another shift,

(b) agricultural work up to 30 days in any calendar year.

(3) The rules in subsections (1) and (2) above shall not apply to loading and unloading mainly carried out by casual workers and necessary activities incidental hereto. The Minister of Employment may lay down rules for a minimum rest period before the relevant employee returns to work after completing overtime.

51.-(1) Within each period of seven days, the employees shall have a weekly 24-hour period off which shall be in immediate connection to a daily rest period. The weekly 24-hour period off shall, as far as possible, fall on a Sunday, and, as far as possible, at the same time for all employees at the enterprise.

(2) The rules in subsection (1), 2nd sentence, above do not apply to agriculture or horticulture.

(3) For work caring for people, animals, or plants, and for work which is necessary to preserve objects of value, the weekly 24-hour period off may be deferred and replaced by a corresponding period off later, when this is necessary for reasons of protection or to ensure continuous provision of services or sustained production. The Minister of Employment may lay down further rules on this matter.

52. Where the normal operation of an enterprise is being, or has been, disturbed by acts of nature, accidents, breakdowns of machinery or similar unforeseeable events, the provisions of sections 50 and 51 may be set aside to the necessary extent. The fact that the provisions have been set aside shall be recorded in the inspection book or any similar documentation.

53. For trades, sectors, or special types of work, where special conditions make it necessary, the Minister of Employment may lay down rules concerning:

(a) the daily rest period, including concerning reductions in the daily rest period to eight hours, and concerning the timing of the rest period, and

(b) the weekly 24-hour period off, including adjustments to the 24-hour period off.

54. Sections 50 and 51 shall apply to persons in senior positions and to representatives and agents working outside the permanent premises of the enterprise only to the extent laid down by the Minister of Employment.

55. The Minister of Employment may lay down rules concerning the conditions under which sections 50 and 51 may be departed from by agreement.

56. In situations where there are variations to rules under sections 50 to 55, corresponding compensatory rest periods or 24-hour periods off shall be provided, or appropriate protection shall be provided in exceptional circumstances of such a nature that it is not possible to provide compensatory rest periods or 24-hour periods off. The Minister of Employment may lay down that the 1st sentence above does not apply to persons in senior positions.

57. The Minister of Employment may lay down rules concerning reduced working hours in respect of work which may involve a special risk to safety and health.

58. The rules laid down in pursuance of sections 53 and 57 may apply to any person who is a driver or a member of the crew of a vehicle, including persons who are not engaged in work for an employer.

Part 10 - Young persons under the age of 18

59. The rules in this part shall apply to work performed by young persons for an employer, including work which is mentioned in section 2(2)(a) and (b).

60.-(1) For the employment of young persons under the age of 18, planning, organisation and performance of work shall take account of the age, development, and health of the young person, as well as the work's effect on schooling or other education.

(2) Young persons who are under the age of 15, or who are subject to compulsory education shall not perform work.

(3) The Minister of Employment may lay down further rules concerning employment of young persons, including fixing a higher age limit than 15 years for specific types of work with a view to ensuring that work can be performed in a safe and healthy manner. Special rules may be laid down for young people receiving education.

(4) The Minister of Employment may lay down rules providing that occasional or short-term work which is either performed in the private household of the employer, or exclusively by members of the employer's family who belong to the household,

including agricultural enterprises, are exempt from the provisions of subsection (2) above and sections 61 and 62, subject to other conditions and restrictions which may exist. Such work shall not involve danger to the safety and health of the young person.

(5) By stating conditions and restrictions, the Minister of Employment may lay down derogations from the age limits provided for in subsection (3) above for young persons who are members of the family or household of the employer, including agricultural enterprises, due to the special knowledge of agriculture the young person may have.

(6) Furthermore, the Minister of Employment may also lay down rules providing that

(a) young persons who have reached the age of 13 years may undertake light duties within limited types of work, and under specific conditions and restrictions,

(b) the prohibitions in subsection (2) above and section 61 may be departed from for young persons who have reached the age of 14 years and who work as part of their education course, and

(c) the prohibitions in subsection (2) above and sections 61 and 62 may, under specific conditions and restrictions, be departed from in respect of young persons taking part in performances, etc. of a cultural or artistic nature, sports events, or film making, or similar provided that permission has been obtained in each case for young persons under the age of 13 years.

(7) When employing young persons under the age of 15 years or young persons who are receiving compulsory education, the employer shall inform the young person's parents or guardians of the employment, including working hours, and risks of disease or accidents which may be connected with the work as well as measures implemented concerning safety and health.

(8) When employing young persons under the age of 18 years, the employer shall inform the local authority with a view to offering educational guidance. Such information shall be reported after the young person has been employed full time for a period of three consecutive months. Notification shall not be made if the employment is part of an educational course. After consultation with the Minister of Education, the Minister of Employment may lay down further rules on obligations regarding the duty to provide information and educational guidance.

61.-(1) The hours of work for young persons under the age of 18 must not exceed the normal working hours for adults employed in the same sector, and working hours must not exceed eight hours per 24-hour period and 40 hours per week.

(2) Daily working hours for young persons under the age of 15 years, or young persons subject to compulsory education, must not exceed two hours on school days, and seven hours on other days than school days. However, young persons who have reached 15 years, but who are subject to compulsory education, may work eight hours on days which are not school days. The total working hours per week may not exceed 12 hours in weeks with school days, and 35 hours in weeks other than school weeks. However, young persons who have reached 15 years, but who are still subject to compulsory education may work 40 hours in weeks other than school weeks. Children who are under 15 years, but who are no longer subject to compulsory education may not work for more than seven hours per day and 35 hours per week.

(3) If daily working hours exceed 4½ hours, young persons under 18 years shall have a rest period of at least 30 minutes. Such rest period shall be at an appropriate time, and, if possible, continuous.

(4) Young persons under the age of 18 shall not work between the hours of 8.00pm and 6.00am.

(5) The Minister of Employment may lay down rules concerning:

(a) the organisation of working hours, including calculations in cases where young persons work as part of an education course, or where young persons work for more than one employer,

(b) the extent to which subsection (1) above may be departed from for young persons who have reached the age of 15 years and who are no longer subject to compulsory education,

(c) that young persons who are subject to compulsory education shall have a period in the school holidays which is entirely free of work, and

(d) that the provisions of subsection (4) above may be departed from for trades or sectors in situations where circumstances make it necessary or desirable for young persons who have reached the age of 15 years, and who are no longer subject to compulsory education. However, the young person must under no circumstances work between the hours of 12.00pm and 4.00am.

62. Young persons under 18 years shall be allowed a rest period of at least 12 consecutive hours during a period of 24 hours. Young persons under 15 years, or young persons who are subject to compulsory education shall be allowed a rest period of at least 14 consecutive hours during a period of 24 hours.

(2) Within each seven-day period, young persons under 18 years shall be allowed two consecutive 24-hour periods off. If it is not possible to place the two 24-hour periods off consecutively, one 24-hour period off shall be immediately before or after a daily rest period. One of these 24-hour periods off shall, as far as possible, be a Sunday.

(3) For trades or sectors, or special types of work, in situations where circumstances make it necessary or desirable, the Minister of Employment may lay down special rules concerning:

(a) the duration of the rest period for young persons who have reached the age of 15 years and who are no longer subject to compulsory education, when the young person is allowed a compensatory rest period,

(b) postponement of a 24-hour period off for young persons who have reached the age of 15 years and who are no longer subject to compulsory education, when the young person is allowed a compensatory 24-hour period off,

(c) interruption of a rest period,

(d) restriction of 24-hour periods off, although the young person shall always be allowed no less than 36 consecutive hours off within each period of seven days.

62a. The Minister of Employment may also lay down rules concerning derogations from section 61(1)(c) and (d) in the circumstances mentioned in section 52 for young persons who have reached the age of 15 years and who are no longer subject to compulsory education.

Part 11 - Medical examinations, etc.

63.-(1) In respect of enterprises, trades, sectors or other groups of employees whose work involves a risk to the health of the employees, the Minister of Employment may lay down rules requiring:

(a) medical examination of the employees before they are employed, during their employment and after the termination of their employment - if necessary, at regular intervals, and

(b) regular or individual examinations or surveys of health conditions from the point of view of occupational medicine, occupational hygiene, etc.

(2) The Minister of Employment may lay down rules concerning similar examinations to establish whether a particular activity may involve risks to health.

(3) The costs in connection with such examinations shall be paid by the employer or the State according to rules laid down by the Minister of Employment.

(4) The employer shall ensure that the examination can take place without loss of earnings for the employees and, if possible, within normal working hours.

(5) Employees and former employees shall be under an obligation to undergo examination in accordance with the rules laid down.

64.-(1) The Minister of Employment may lay down special rules concerning medical examinations of young persons under the age of 18 with a view to their entering employment. The provisions of section 63 (3) to (5) shall be correspondingly applicable.

(2) The rules may provide that a school doctor shall make a medical certificate on the basis of an examination arranged before the pupil leaves school stating whether the pupil is or has been suffering from diseases which may influence his safety and health in the course of employment. Similar rules may be laid down for young persons under the age of 18 receiving vocational training.

(3) Furthermore, the rules may require that the employers on engaging a young person under the age of 18 shall satisfy themselves that the work for which the young person is employed is compatible with his health.

65.-(1) The Minister of Employment may appoint a representative Board of experts to make decisions according to the rules issued in pursuance of this Act on questions as to whether a young person under the age of 18 shall be allowed to perform a particular type of work considering his health.

(2) The decisions of the Board cannot be appealed to a higher administrative authority.

(3) The Minister of Employment shall lay down rules concerning the composition and activities of the Board and the financing of its activities.

Part 12 - The Danish Working Environment Council

66.-(1) The Working Environment Council shall participate in the organisation and performance of all working environment work by providing consultancy for the Minister of Employment and issuing recommendations to the Minister of Employment on:

(a) the overall objectives and setting of priorities for working environment work,

(b) allocations of the resources which are made available under section 68 between sector working environment councils and the Working Environment Council,

(c) following up the work of the Working Environment Council.

(2) The Working Environment Council shall on its own initiative discuss matters which it finds to be of importance to the working environment and shall give its opinion on such matters to the Minister of Employment. For the purpose of the Council's political discussions and setting of priorities, it may implement development and analysis activities of a cross-disciplinary nature. The Council shall issue opinions before the Minister of Employment approves sector working environment councils in pursuance of section 14(1).

(3) The Working Environment Council shall submit opinions on and proposals for amendments to acts and new rules. Through representatives appointed by the Council from amongst its members or from the outside, the Council shall participate in the drafting of rules subject to the authority provided in this Act. Furthermore, the opinion of the Council shall be obtained before such rules are laid down.

(4) Each year, the Working Environment Council shall submit a report to the Minister of Employment concerning developments in the working environment field and improvements which the Council considers desirable.

66a.

(Repealed)

67.-(1) The Working Environment Council shall consist of a chairman and the following other members:

(a) Six members proposed by the Danish Confederation of Trade Unions.

(b) Two members proposed by the Confederation of Salaried Employees' and Civil Servants' Organisation.

(c) Two members proposed by the Confederation of Professional Associations.

(d) Four members proposed by the Danish Employers' Confederation.

(e) One member proposed by the Association of Managers and Executives.

(f) One member proposed jointly by the Confederation of Employers' Associations in Agriculture and the Agricultural Council of Denmark.

(g) One member proposed by the Employers' Association for the Financial Sector.

(h) Two members proposed collectively by the regions jointly with Local Government Denmark.

(i) One member proposed by the Ministry of Finance.

(2) The chairman and the other members of the council, as well as their proxies, shall be appointed by the Minister of Employment for a term of four years, and they may be reappointed. In cases where a member is reappointed during a four-year term, the appointment shall only apply until the expiry of that term.

(3) Decisions of the Working Environment Council shall be adopted by simple majority amongst members in attendance. In cases where voting is equal, the chairman shall have the casting vote.

(4) The following may attend meetings of the Council with one representative but without voting rights:

(a) The Ministry of Employment.

(b) The Danish Working Environment Authority.

(c) The National Institute of Occupational Health.

(d) The National Board of Industrial Injuries.

(e) The Danish Ministry of the Interior and Health.

(5) The Council may set up working committees and appoint members for such committees, also from outside the Council itself.

(6) The Council may procure expert opinions and initiate inquiries for the purpose of its work.

(7) The Minister of Employment shall approve the rules of procedure of the Council.

(8) The Minister of Employment shall establish a secretariat for the Working Environment Council.

(9) The Minister of Employment shall establish a working environment knowledge centre and may lay down more detailed rules in this respect.

Part 12a - Financing the working environment work of the social partners

68.-(1) Funding for the performance of the activities of the Working Environment Council, and the work of the sector working environment councils to improve the working environment, shall be procured through contributions, cf. subsections (2), (3) and (6) below, from the State, the Labour Market Occupational Diseases Fund, insurance companies which issue industrial injury insurance as well as local authorities, regions and other employers which have been exempted from compulsory industrial injuries insurance, cf. section 48(1) to (5), and section 88 in the Industrial Injuries Insurance Act.

(2) The contribution under subsection (1) above shall appear in the annual Finance Act and shall comprise an amount of DKK 45 million. This amount shall be adjusted by the Minister of Employment on the recommendation of the Working Environment Council. The amount shall be appropriated proportionally to the organisations obliged to make contributions under subsection (1) above, on the basis of their share of the total payments for injuries and compensation for loss of ability to work which the National Board of Industrial Injuries has approved according to the Industrial Injuries Insurance Act in that year in which the contribution is levied.

(3) The contribution under subsection (1) above shall furthermore comprise an amount which totals two per cent of the total payments for injuries and compensation for loss of ability to work which the National Board of Industrial Injuries has approved according to the Industrial Injuries Insurance Act in the calendar year which is two years before the year of contribution. The amount shall be levied from the organisations obliged to make contributions under subsection (1) above, apart from the Labour Market Occupational Diseases Fund, on the basis of their share of the total payments for injuries and compensation for loss of ability to work which the National Board of Industrial Injuries has approved according to the Industrial Injuries Insurance Act in that year in which the contribution is levied.

(4) Irrespective of the insurance contracts entered into, the insurance companies may increase the premiums of compulsory industrial injuries insurance proportionately to cover the contributions under subsections (2) and (3) above.

(5) In order to cover contributions under subsection (2) above, the Labour Market Occupational Diseases Fund may increase contributions for compulsory insurance against sudden lifting injuries and occupational diseases.

(6) In addition to the State's proportion of the contributions mentioned in subsections (2) and (3) above, the State shall provide an annual contribution which shall be laid down by the Minister of Employment.

(7) The Minister of Employment shall lay down further rules on the calculation, levy period and payment of the contributions under subsections (2) and (3) above.

68a.-(1) On the recommendation of the Working Environment Council, the Minister of Employment shall appropriate the resources obtained under section 68 and report on subsidy frameworks to the activities of the Working Environment Council and to the individual sector working environment councils. The Minister of Employment shall also lay down more detailed conditions for application of the resources.

(2) Within the reported frameworks for subsidies and the more detailed conditions for application, the Working Environment Council and the individual sector working environment councils shall lay down decisions on the activities which are to be executed.

(3) The Minister of Employment may determine that subsidies shall be withheld, cancelled or repaid, if the requirements for application of the resources are not complied with.

(4) Unused resources, including cancelled or withheld subsidies under subsection (3) above, shall be included in a new appropriation according to the rules in subsection (1) above.

(5) The Minister of Employment may lay down further rules concerning the payment of subsidies, presentation of accounts and subsequent adjustment, etc. The Minister of Employment may determine that subsidies be paid on account. Audit and accountancy shall be the responsibility of the Auditor General pursuant to the rules in the Danish Act on the Audit of the Public Accounts, etc.

68b.

(Repealed)

Part 13 - The Danish Working Environment Authority

69. The Minister of Employment shall be the supreme administrative authority in matters concerning the working environment.

70. The Danish Working Environment Authority shall be an agency under the auspices of the Ministry of Employment, and shall comprise a central unit and a number of regional inspectorates. The Director General of the Danish Working Environment Authority shall lay down the division of responsibilities between the inspectorates.

71. The Director General of the Danish Working Environment Authority shall be in charge of the Danish Working Environment Authority.

72.-(1) It shall be the duty of the Danish Working Environment Authority:

(a) to advise enterprises, sector working environment councils, workers' and employers' organisations and the public in all matters concerning the working environment,

(b) to assist the Ministry of Employment in working out rules under this Act,

(c) to issue rules under the authority of the Minister of Employment,

(d) to be informed of technical and social developments with a view to improving the activities to promote safety and health in the working environment,

(e) to examine plans for working processes, workplaces, technical equipment, etc. and substances and materials and issue licences under this Act or administrative orders,

(f) to ensure that this Act and the rules laid down under the provisions of this Act are complied with, except sections 17a-c.

(2) (Repealed).

72a. The Danish Working Environment Authority shall make screening visits in order to identify enterprises in need of inspection.

72b.-(1) The Minister of Employment may lay down rules providing that the Danish Working Environment Authority shall not be under an obligation to ensure compliance with rules issued pursuant to this Act when a similar obligation is covered by a collective agreement between a national authority or employers' organisation of the one part and a national employees' organisation of the other part.

(2) The employer shall document that a similar obligation is covered by a collective agreement, cf. subsection (1).

(3) Notwithstanding subsection (1), the Danish Working Environment Authority shall undertake to ensure compliance with the rules if the party to the collective agreement does not intend to initiate industrial disputes procedures due to violation of obligations covered by a collective agreement, cf. subsection (1).

(4) Notwithstanding subsection (1), the Danish Working Environment Authority shall undertake to ensure compliance with the rules in relation to employees who are not covered by a collective agreement.

(5) Subsections (1) to (4) shall not apply to agreements concluded pursuant to sections 8(4), 17c and 55.

73. The Minister of Employment may authorise the Director General of the Danish Working Environment Authority to exercise powers which have been conferred upon the Minister of Employment by this Act. In this connection the Minister of Employment may, after consultation with the Working Environment Council, provide that section 66(2), 2nd sentence, and (3) shall be set aside.

74.-(1) The Minister of Employment may direct that the activities of the Danish Working Environment Authority, to a specified degree, shall be transferred to another public authority or a private institution, and to what extent the Danish Working Environment Authority shall supervise such inspection activities.

(2) The Minister of Employment may lay down rules concerning the acceptance of tests and other documentation to prove that instructions on safety and health have been complied with.

(3) The Minister of Employment may lay down rules on the payment, possibly in the form of charges according to a fixed rate, for enquiries, etc. carried out or commissioned by the Danish Working Environment Authority.

(4) The Minister of Employment may lay down further rules providing that upon request the Danish Working Environment Authority may issue binding advance notice to employers, designers and consultants concerning the performance of a specific, planned job before it is commenced.

(5) The Minister of Employment may empower private enterprises to authorise health and safety consultants.

(6) The Minister of Employment may select private enterprises and public authorities to carry out approval and control tasks pursuant to EU legislation. The Minister of Employment may lay down rules on selection and on inspection and control of selected enterprises and authorities.

(7) The Minister of Employment may lay down rules on fees, including charge and payment, in settlement of costs incurred by the Danish Working Environment Authority for:

(a) approval and quality assurance of providers of health and safety training and the health and safety programme for health and safety coordinators in the building and construction sector, cf. section 8(2),

(b) processing of applications for binding advance notice, cf. section 74(4),

(c) processing of applications for empowerment to authorise health and safety consultants, for approval and control tasks and changes thereto, cf. section 74(5) and (6),

(d) processing of applications for authorisation as well as changes and control thereof, cf. section 13c.

(8) Interest of 1.5 per cent per month or a fraction of a month from the due date shall, pursuant to subsection (7), be paid on any fees to the Danish Working Environment Authority which are not paid on time. The fees shall be recoverable by execution.

(9) Fees to the Danish Working Environment Authority pursuant to subsection (7) shall be regulated automatically according to the general price and pay index.

(10) The Minister of Employment may lay down rules on payment to the party to which the Danish Working Environment Authority has delegated or assigned tasks, cf. sections 8(2) and 74(5) and (6).

75.-(1) The Minister of Employment may lay down rules making it a duty to give notification of industrial accidents, cases of poisoning, occupational diseases and other matters of importance to the working environment.

(2) Any person who, in the course of public service or in the performance of a public function, obtains knowledge of matters which are in contravention of this Act or rules issued in pursuance of this Act shall inform the Danish Working Environment Authority.

(3) Any physician who finds, or has a suspicion, that a person has been exposed to harmful influences at his workplace shall notify such cases to the Danish Working Environment Authority. The Minister of Employment may lay down further rules in this respect.

76.-(1) Any person who is subject to obligations under this Act shall, on request, provide the Danish Working Environment Authority with all information necessary for the performance of its work.

(2) If there is specific reason to suspect that a legal person has committed an offence that may be punishable, the obligation for natural persons associated with the legal person to submit information pursuant to subsection (1) hereof shall apply to the extent that information is sought for the purpose of considering other matters than assessment of penalties, cf. section 10(2) of the Danish Act on Due Process in Connection with the Administration's Use of Compulsory Intervention and Duties of Disclosure.

(3) The staff of the Danish Working Environment Authority shall, without a court order, but on production of proper identification, have access to public and private workplaces, cf. however subsection (4) below, to the extent required to enable them to execute their duties. The police shall provide the necessary assistance. Further rules for such assistance may be laid down by the Minister of Employment, after consultation with the Minister of Justice.

(4) Subsection 3 above shall not apply to inspection by the Danish Working Environment Authority of work of a non-commercial nature carried out by persons at their private residence, holiday residence, land associated hereto, vehicles, leisure vessels, and other property or items belonging to the household. The Minister of Employment may, however, lay down that the Danish Working Environment Authority may continue to carry out inspection and supervision of elevators and other lifting equipment as well as equipment under pressure without a court order.

(5) The staff of the Danish Working Environment Authority may, in performance of its work, without a court order demand presentation of all available documentation, including taking photographs and similar, and taking samples for further analysis or examination. The employer, or the employer's representative, cf. sections 23 and 24, shall be informed of such action.

77.-(1) The Danish Working Environment Authority may direct that matters which are in contravention of this Act, or in contravention of rules or decisions in pursuance of this Act, be remedied immediately or within a specified period.

(2) Where the Danish Working Environment Authority finds it necessary in order to avert an imminent serious risk to the safety or health of the employees or any other persons, it may direct that the risk be eliminated immediately and in this connection direct:

(a) that those present shall leave the danger zone immediately,

(b) that the use of a machine, machine part, container, prefabricated construction, appliance, tool, or other technical equipment or a substance or material shall be discontinued, or

(c) that work as such shall be discontinued.

(3) The Director General of the Danish Working Environment Authority may direct that any person who has supplied or marketed technical equipment or personal protective equipment or a substance or material which turns out to present a risk to safety and health, despite being utilised in accordance with its relevant instructions, shall take the necessary measures to remedy the matter. In this connection the Director General may direct:

(a) that supply or marketing be discontinued,

(b) that the relevant technical equipment, personal protective equipment, substance or material be withdrawn from the market.

77a. The Minister of Employment shall lay down rules providing that the Danish Working Environment Authority may order an employer to seek assistance from an authorised health and safety consultant, including for a specified period, and on the content, scope and duration of the improvement notice to seek consultancy and the specific terms, including the obligations of the employer.

78. The Minister of Employment may lay down rules providing for the keeping, at all places of work, of an inspection book or other similar documentation of the inspections, notices and other communications from the Danish Working Environment Authority concerning matters related to the working environment, and for the use and keeping of such inspection book or documentation.

78a.-(1) The Minister of Employment shall lay down further rules on publication and, thus, recognition of the health and safety conditions of individual enterprises based on decisions made by the Danish Working Environment Authority in connection with inspections at the enterprises.

(2) The Minister of Employment may lay down rules providing the way and form in which health and safety conditions of named enterprises shall be made available to the public, including electronic publication.

79.-(1) Authorities and persons performing functions in pursuance of sections 13 to 14a (sections 14 and 14a) and Parts 11, 12, 13 and 14, as well as any person providing assistance in such functions, are subject to a duty of silence in accordance with sections 152 and 152b(1) of the Danish Criminal Code.

(2) The staff of the Danish Working Environment Authority shall not disclose to an employer or an employer's representative the fact that an inspection is carried out as a result of a complaint.

80. After consultation with the appropriate minister, the Minister of Employment shall lay down rules concerning the cooperation between the Danish Working Environment Authority and other public authorities.

Part 13a - The National Institute of Occupational Health

80a. The National Institute of Occupational Health is a sector-research institute under the Ministry of Employment.

Part 14 – Right of appeal

81.-(1) The decisions of the Danish Working Environment Authority which are made in pursuance of this Act, cf. however subsection (6) below, may be appealed to the Council of Appeal on Health and Safety at Work within four weeks after the decision was notified to the person concerned.

(2) The appeal shall be submitted to the Danish Working Environment Authority. If the Danish Working Environment Authority upholds the appeal, the appeal shall be forwarded to the Council of Appeal for further consideration.

(3) The submission of an appeal within the period allowed shall have the effect of suspending the decision until the Council of Appeal makes a decision or disposes of the appeal otherwise. Appeals against decisions under section 77(1), which shall be remedied immediately as well as decisions under section 77(2) and (3) shall not act as a stay of execution.

(4) Under special circumstances the Council of Appeal may hear an appeal and grant stay of execution, although it has not been brought within the period mentioned in subsection (1) above.

(5) Decisions made by the Council of Appeal may not be brought before other administrative authorities.

(6) Appeals against the decisions of the Danish Working Environment Authority in relation to regulations laid down in pursuance of sections 68(7) and 68a.(5) can be brought before the Minister of Employment within four weeks after the decision was notified to the person concerned.

81a.-(1) The Council of Appeal on Health and Safety at Work shall comprise a chairman and the following duly appointed members:

(a) Three members proposed by the Danish Confederation of Trade Unions.

(b) One member proposed by the Confederation of Salaried Employees' and Civil Servants' Organisation.

(c) One member proposed by the Confederation of Professional Associations.

(d) One member proposed by the Danish Employers' Confederation.

(e) One member proposed jointly by the Confederation of Employers' Associations in Agriculture, and the Agricultural Council of Denmark.

- (f) One member proposed by the Employers' Association for the Financial Sector.
- (g) One member proposed collectively by Local Government Denmark and the regions jointly with the Ministry of Finance.
- (h) One member proposed by the Association of Managers and Executives.
- (i) One member with special legal knowledge proposed by the Ministry of Justice.
- (j) One member with special technical knowledge proposed by the Technical University of Denmark.
- (k) One member with special knowledge of occupational medicine proposed by the Ministry of the Interior and Health.
- (2) The chairman and his proxy shall be appointed by the Minister for Social Affairs at the recommendation of the Minister of Employment. On the date of their appointment, both shall have passed a legal, economics or similar examination.
- (3) The duly appointed members, and their proxies, shall be appointed by the Minister of Employment for a period of four years, and they may be reappointed. In cases where a member is appointed during a four-year term, the appointment shall only apply until the expiry of that term.
- (4) Decisions of the Council of Appeal shall be made by the chairman or his proxy, and the members referred to in subsection (1)(a) to (h) duly appointed by the Council, or their proxies, cf. also subsection (5). Decisions of the Council of Appeal shall be by simple majority. In cases where voting is equal, the chairman or his proxy shall have the casting vote. Each appointed member may attend with one or more observers without voting rights.
- (5) The decisions of the Council of Appeal on Health and Safety at Work according to rules issued in pursuance of section 8(2) concerning approval of providers of health and safety training and providers of the health and safety programme for health and safety coordinators in the building and construction sector shall be made by the chairman or his proxy.
- (6) The chairman, or his proxy, may make decisions on behalf of the Council in the following cases:
- (a) appeals which solely concern the time limit for compliance with notices under section 77(1),
- (b) decisions in pursuance of section 81(3), 1st sentence, on withdrawal of the stay of execution of an appeal,
- (c) decisions in pursuance of section 81(4) concerning late submission of appeals.
- (7) The chairman, or his proxy, may, upon written consultation of the appointed members of the Council, make decisions on behalf of the Council in cases where there is a fixed, recognised practice, or under other circumstances where there is no reason for doubt.
- (8) Members of the Council shall be informed of all appeals which are submitted to the Council for decision, and the members may request that a case be dealt with by the whole Council of Appeal.
- (9) The Council of Appeal shall, each year, submit a report on its activities to the Working Environment Council and the Minister of Employment.
- (10) The secretariat function of the Council of Appeal on Health and Safety at Work shall be the responsibility of the Social Appeals Board.
- (11) The Minister of Employment shall lay down the rules of procedure of the Council of Appeal on Health and Safety at Work.
- 81b.**-(1) Decisions made by a private enterprise empowered in pursuance of section 74(5) may be appealed to the Danish Working Environment Authority within four weeks after the decision was notified to the person concerned.
- (2) Decisions made by a private enterprise or a public authority selected in pursuance of section 74(6) may be appealed to the Danish Working Environment Authority within four weeks after the decision was notified to the person concerned.

Part 15 - Penalties

- 82.**-(1) Unless a more severe penalty is prescribed by other legislation, a person shall be liable to a fine or imprisonment of up to one year where he:

(a) contravenes sections 15, 15a, 16, 17(1) and (2), 18, 19, 20(1), 21, 23, 25 to 34, 37(1) and (4), 38(1), 42(1), 45(1), 48(1), 63(5), 75(3), or 76(1),

(b) allows work to be carried out in contravention of Parts 9 and 10, manages or supervises such work, or carries out work in contravention of Part 9,

(c) fails to comply with notices under section 77, section 77a or

(d) fails to submit information under section 22(2).

(2) The penalty may increase to imprisonment of up to two years if the contravention was committed intentionally or with gross negligence.

(3) When setting penalties under subsection (1)(a) above, it shall, insofar as the employer has discharged his duties pursuant to Part 4 of the Act, be considered aggravating circumstances that employees intentionally or grossly negligently contravene the legislative requirements concerning

(a) use of personal protective equipment,

(b) use of extraction measures,

(c) use of safety equipment or safety measures,

(d) use of safe working methods or

(e) certificates for cranes and fork-lift trucks.

(4) Apart from the cases mentioned in subsection (3), when setting penalties under subsections (1) and (2) above, the following shall be considered aggravating circumstances:

(a) that the contravention has caused loss of life or health or brought about danger of such,

(b) that an improvement notice under section 77(1) or (2) has previously been issued for the same or similar conditions, or

(c) that the contravention has resulted in, or was intended to result in, financial benefit for the person in question or another person.

(5) Specially aggravating circumstances shall apply when young persons under the age of 18 are subject to loss of life or health, or brought into danger of such, cf. subsection (4)(a) above.

(6) If the benefits acquired through the contravention are not to be confiscated, fines and supplementary fines shall be set which take special account of the size of the benefits which were acquired or which were intended to be acquired.

(7) Section 23 of the Danish Criminal Code concerning complicity shall apply to the liability to penalty referred to in subsections (1) and (2) above.

(8) The time limits for liability to penalty shall be five years for contravention of sections 30 to 34, and for contravention of the rules issued in pursuance of section 35.

82a.-(1) In specific cases of infringements of working environment rules which are not judged to be subject to higher penalties than fines, the Minister of Employment may lay down rules on how the Danish Working Environment Authority may, in notification of a fine, declare that the case can be settled out of court. This applies if the party accused of the infringement admits his guilt and declares his willingness, within a given time limit, to pay the fine indicated in the notification of the fine. The liability to pay a fine shall be on condition that the violation can be ascribed to one or more persons associated with the enterprise or the enterprise per se

(2) The provisions laid down in the Danish Administration of Justice Act on requirements concerning the content of indictments and on the right of the accused to remain silent, shall apply correspondingly to notifications of fines.

(3) Further prosecution shall be discontinued on acceptance of a fine.

(4) Accepted fines shall be subject to statutory distraint.

83.-(1) For contravention of sections 15, 15a, 16, 38(1), 42(1), 45(1), 48(1), and 82(1)(b) and (c) an employer may be liable to pay a fine even if he has not acted intentionally or negligently, cf. also subsection (3). The liability to pay a fine shall be on condition that the violation can be ascribed to one or more persons associated with the enterprise or the enterprise per se. There shall be no alternative sentence in lieu of the fine.

(2) When setting the fine, section 82 (4) and (5) shall be applied.

(3) Insofar as the employer has discharged his duties pursuant to Part 4 of the Act, the employer may not be held liable to pay a fine if employees contravene the legislative requirements concerning

(a) use of personal protective equipment,

(b) use of extraction measures,

(c) use of safety equipment or safety measures,

(d) use of safe working methods or

(e) certificates for cranes and fork-lift trucks.

84. Rules made in pursuance of this Act may provide for penalties in the form of a fine or imprisonment of up to two years in respect of contravention of provisions in the rules and contravention of improvement or prohibition notices in pursuance of the rules. Furthermore, it may be laid down that an employer who contravenes such provisions and notices as mentioned above may be liable to pay a fine even if he has not acted intentionally or negligently. The liability to pay a fine shall be on condition that the violation can be ascribed to one or more persons associated with the enterprise or the enterprise per se. There shall be no alternative sentence in lieu of the fine.

85. Liability to pay a fine under sections 83 and 84, 2nd sentence, may not be imposed on managers, etc., cf. section 23.

86. Criminal liability may be imposed on limited liability companies, etc. (legal persons) pursuant to the rules set out in Part V of the Danish Criminal Code. The provisions of section 83(3) shall be correspondingly applicable.

87. Where young persons under the age of 18 are employed in contravention of the provisions of this Act or any rules laid down in pursuance of this Act, the parents or guardian may be liable to pay a fine if the work has been carried out with their knowledge.

87a. (Repealed).

Part 16 - Commencement, etc.

88.-(1) This Act shall enter into force on 1 July 1977. However, section 13 shall enter into force on 1 May 1978.

(2) (Transitional provision has been omitted).

89.-(1) Acts No. 226, 227 and 228 of 11 June 1954 on Health and Safety at Work (General), Health and Safety at Work (Commercial and Clerical Activities) and Health and Safety at Work (Agriculture, Forestry and Horticulture), respectively, are hereby repealed.

(2) In respect of matters on which further rules shall or may be laid down administratively under this Act, the Minister of Employment may direct that the relevant provisions of the Acts mentioned in subsection (1) above shall remain in force, until they are replaced by provisions laid down under this Act. The same shall apply to rules laid down in pursuance of the said Acts and to rules which remain in force by virtue of section 76 of the Health and Safety at Work (General) Act.

(3) Contravention of the provisions which remain in force under subsection (2) above shall be punishable by fine or imprisonment of up to two years. Sections 83 and 85 to 87 shall be correspondingly applicable.

90. This Act shall not extend to the Faroe Islands or Greenland.

Section 5 of the Danish Act No. 187 of 30 March 1999 lays down the following provisions:

5.-(1) This Act shall enter into force on 15 May 1999, cf. also subsections (2) and (3).

(2) to (4) (Transitional provisions have been omitted.)

(5) Rules issued pursuant to section 41(2) or section 58(2) of the Danish Working Environment Act, cf. Consolidated Act No. 497 of 29 June 1998, shall remain in force until they are revoked or replaced by rules issued pursuant to section 86a of the Danish Road Traffic Act as drawn up in section 1(b) of the said Act.

Section 4 of the Danish Act No. 191 of March 2004 lays down the following provisions:

4.-(1) The Act shall enter into force on 1 April 2004, cf. also subsection (2).

(2) Section 1(a) and (d) and section 2(a) shall apply at the first appointment of chairman and his proxy after 1 April 2004.

Section 2 of the Danish Act No. 425 of 9 June 2004 lays down the following provisions:

2.-(1) The Act shall enter into force on 1 July 2004, cf. also subsections (2) to (5).

(2) Section 13a(1) of the Danish Working Environment Act as drawn up in section 1(j) of this Act, section 72a of the Danish Working Environment Act as drawn up in section 1(n) of this Act, and section 74(4) of the Danish Working Environment Act as drawn up in section 1(o) of this Act shall enter into force on 1 January 2005.

(3) Section 1(i) with regard to the revocation of section 13(1) to (4) of the Danish Working Environment Act shall enter into force on 1 January 2009.

(4) Sections 13a and 13b of the Danish Working Environment Act as drawn up in section 1(j) shall be valid only until 1 January 2009.

(5) Section 1(r) shall enter into force on 1 January 2009.

Section 24 of the Danish Act No. 442 of 9 June 2004 lays down the following provision:

24. This Act shall enter into force on 1 January 2005.

Section 2 of the Danish Act No. 300 of 19 April 2006 lays down the following provisions:

2.-(1) This Act shall enter into force on 28 April 2006, cf. also subsection (2).

(2) Section 1(a) to (d) shall enter into force on 1 January 2007.

(3) Section 1(e) to (k) shall apply to contraventions committed after 28 April 2006.

The Danish Ministry of Employment, 18 March 2005

Claus Hjort Frederiksen/Lis Gamborg

**) This Act contains provisions to implement Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work, Official Journal of the European Communities 1989, L 183, p. 1; certain provisions in Council Directive 94/33/EEC of 22 June 1994 on the protection of young people at work, Official Journal of the European Communities 1994, L 216, p. 12; and provisions to implement Council Directive 03/88/EC of 4 November 2003 concerning certain aspects of the organisation of working time, Official Journal of the European Communities 2003, L 299, p. 9.*

****) Section 13(1) to (4) shall be repealed on 1 January 2009.*