

European (& the GCC) Employment Law Update

Jurisdiction: Denmark

Date: May 2019

Impact date	Development	Impact
1 January 2019	New rules on employee share-based incentive schemes providing increased freedom of contract when it comes to good leaver and bad leaver regulation.	<p>On 1 January 2019, the amended Danish Stock Option Act entered into force.</p> <p>Under the previous regime, share-based incentive schemes, making it possible for employees to acquire e.g. warrants and options, were subject to a strict good leaver/bad leaver regulation.</p> <p>The amended Act has removed these restrictions, providing more flexibility when it comes to the drafting of good leaver and bad leaver provisions in employee share plans. By way of example, it will now be possible to validly agree that unvested options are to lapse on termination of the employment, no matter who terminates the employment or for what reason. Also, it will be possible to agree on a shorter period for exercise of vested options after termination of employment.</p> <p>With the amendments, it will be easier for Danish companies in foreign groups to use foreign share plans without the need for separate "Danish" adjustments.</p> <p>Share-based incentive schemes established before 1 January 2019 will not be affected by the amendments.</p>
1 January 2019	Adoption of Bill amending the Danish Equal Treatment Act following the #MeToo campaign. The amended Act clarifies the scope of the existing ban on sexual harassment and increases the level of the potential compensation.	<p>On 20 December 2018, the Danish Parliament passed a Bill amending the Danish Equal Treatment Act, following the #MeToo campaign. The primary purpose of the amendment was to increase the general level of compensation by one third. Additionally, the courts may - when ruling on compensation in specific cases - take account of the general trend in wages and salaries.</p> <p>The existing rules already include a ban on sexual harassment, but the amendment clarifies its scope. Previously, Danish courts would consider the social conventions and general tone of communication of the workplace when ruling in sexual harassment cases. The amendment changes this practice as</p>

		<p>the social conventions and general tone of communication can no longer be given any weight in such cases. The Parliament has therefore introduced a more "objective" test, providing for the same level of protection regardless of the industry or sector of trade in which the employee is employed.</p>
1 September 2020	Adoption of Bill amending the Danish Holiday Act and introducing concurrent holiday	<p>A new Danish Holiday Act has been adopted which will fundamentally change the Danish holiday system when it enters into force on 1 September 2020. The purpose of the amendment is to align Danish holiday legislation with EU law.</p> <p>The transitional arrangement which facilitates the transition from the current staggered holiday system to the new concurrent holiday system is of high relevance even now.</p> <p>The current holiday year running from 1 May 2019 to 30 April 2020 will continue as usual, and employees may spend holiday accrued from 1 January 2019 to 31 August 2019 in the period from 1 May 2020 to 31 August 2020.</p> <p>With effect from 1 September 2020, employees will accrue holiday each month to be taken in the following month.</p> <p>Under the transitional arrangement, holiday pay accrued under the current Holiday Act in the period from 1 September 2019 to 31 August 2020 will be frozen and can neither be taken nor paid in lieu. In connection with such freezing; a separate fund will be set up to administer the frozen funds. The frozen holiday pay will be paid to the employee when he or she reaches the retirement age.</p>