



# GMS Flash Alert

## Employment Law

2020-433 | October 20, 2020



# Denmark - New Legislation Relating to Posting of Workers

Denmark's Ministry of Employment has proposed a new bill which contains significant changes to posted employees' working conditions in Denmark.<sup>1</sup> The new bill will implement the revised Posting of Workers Directive ("PWD")<sup>2</sup> and is expected to enter into force on 1 January 2021, however with retroactive effect from 30 July 2020.

The revision of PWD introduced changes in three main areas:

1. remuneration of posted workers;
2. long-term postings;
3. rules on temporary agency workers.

If the draft bill is adopted in its current form, it will lead to several changes, which we highlight in this *GMS Flash Alert*.

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## WHY THIS MATTERS

The proposed Danish bill implementing the amendments in the PWD will have significant impact on employers posting employees to Denmark.

The bill will change the existing Danish regulations significantly, increasing equal treatment for posted employees in relation to the pay and working conditions to be applied in Denmark.

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## Employment Law

- The list of "hard core" conditions that apply to posted employees (i.e., the conditions that apply regardless of which country's law otherwise applies to the posting) will be expanded to include:

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- o accommodation, and
  - o allowances or reimbursement of expenses to cover travel and meals.
- A new maximum time period establishes that employees posted for longer than 12 months (with the possibility of prolongation to 18 months) will be subject to working conditions in addition to “hard core” conditions.
  - Companies can prolong the maximum time period to 18 months by informing the Danish registry (RUT) no later than the day the employee has been posted for his or her 12 months’ posting.
  - Companies that replace a posted employee with another employee to carry out the same tasks at the same place should be aware that the postings will together be calculated as one continuous period.
  - When the effective duration of the posting exceeds 12 months, a company that is posting its workers to Denmark will be required to apply all mandatory employment conditions in force in Denmark – in addition to “hard core” (e.g., rules on a guaranteed salary in the event of illness for salaried employees). However, the Danish rules relating to concluding and terminating employment contracts, including non-compete clauses and the rules on complementary pensions, do not apply.
  - The term “minimum wage” is changed to “remuneration” to enhance equality by making sure posted employees have the same remuneration as locally-hired employees. No mandatory minimum wage exists in Denmark, and the bill does not introduce this. This obligation for equal treatment in relation to wages therefore still only applies in relation to collective bargaining agreements that the company may have signed up to. Companies without collective bargaining agreements will consequently not be required to apply payment terms in collective bargaining agreements. A detailed overview of what should be included in “remuneration” will be published on [workplacedenmark.dk](http://workplacedenmark.dk).
  - And finally, where employees are posted through a temp agency, the agency must be notified about the pay and working conditions the employee will be entitled to.

## Registrations

- Registration requirements within the European Union (EU) – such as under the RUT in Denmark – in regard to posted workers will not be affected by the change in the Posted Workers Directive.

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## KPMG NOTE

It is furthermore clear that the amended directive (effective from 30 July 2020) already has consequences for all employers posting employees to any EU member state. Since the implementation of the amendments in the PWD differs from member state to member state, we recommend that companies that are posting employees to perform work in any EU member state consult with their usual service provider or their KPMG contact in order to understand the steps that need to be taken to foster compliance.

The draft bill is at present in the hearing phase.

The KPMG team in Denmark will follow the development closely and endeavour to provide *GMS Flash Alert* readers with more information when it becomes available.

## FOOTNOTES:

1 See *Lovforslag om ændring af lov om udstationering af lønmodtagere m.v. (Implementering af det reviderede udstationeringsdirektiv m.v.)* (in Danish) at: <https://hoeringsportalen.dk/Hearing/Details/64252>.

2 For related coverage of the amended Posted Workers Directive, see GMS [Flash Alert 2020-329](#), 27 July 2020.

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## You Are Invited to a 21 October Webcast!

There is a GMS TaxWatch webcast scheduled for 21 October 2020 from 11:00 a.m. – 12:00 p.m. (EDT, UTC -4). This webcast will focus on European legislative updates and the global mobility considerations for companies outside the European Union. You can obtain additional information and register for the webcast (and access the replay when it becomes available) from the [webcast landing page](#).

Also, please join us at **our 2020 KPMG Global Mobility Forum virtually!** The online registration for the 2020 KPMG Global Mobility Forum is open! Join us online at the “Virtual KPMG International Airport.” Pre-boarding is available from 19 October and your journey will begin on 27 October. Please [register](#) (we recommend you use Google Chrome, Mozilla Firefox or Microsoft Edge web browsers for an optimal online experience). We look forward to connecting with you. Details are available [here](#).

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## Contact us

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**The information contained in this newsletter was submitted by the KPMG International member firm in Denmark.**

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