

SECONDMENTS AND VISAS

Danish law contains extensive regulation on foreign working capacity and immigration in general. More specific regulation, such as the Danish Secondment Act, applying to foreign employees temporarily seconded to Denmark, also regulates this area of law.

Who needs working permits in order to work in Denmark?

Nationals of the Nordic countries are entitled to enter, reside and work in Denmark freely without working permits or visas.

The EU regulation on the free movement of persons and services imply that citizens of the EU/EEA countries and Switzerland may reside freely in Denmark for a period of up to three months. If the purpose of the stay is to seek employment in Denmark, the period may be prolonged by up to six months. EU residents may work in Denmark without having obtained a working permit. Certain third-country citizens related to EU/EEA citizens are conferred special rights under the EU regulation on free movement of persons and services.

The ordinary rules for EU/EEA citizens also apply to Cyprus and Malta (see the above).

The above EU/EEA citizens are required to hold a registration certificate in order to stay in Denmark for more than three or six months respectively. Third-country citizens are required to hold a residence card.

A registration certificate or residence card constitutes the proof of rights already conferred on the EU/EEA citizen under the free movement regulation.

For other nationalities, a permanent or temporary residence and work permit is normally required in order to engage in work in Denmark. It is the responsibility of the employee to obtain a working permit if required. Both the employer and the employee risk fines and imprisonment if work is performed illegally in Denmark. Additionally, the employee risks deportation from Denmark.

Foreign citizens who have already been granted certain types of residence permits by another Schengen country are exempt from the ordinary visa and permit requirements to enter Denmark.

Does the working area make a difference as to the access of obtaining a working permit?

Persons who have been offered a job with an annual pay of at least DKK 375,000 may be offered a residence and working permit under the so-called 'Pay Limit Scheme'. There are no specific requirements under the Pay Limit Scheme with regards to education, field or the specific nature of the job. The applicant is required to present a written job contract or job offer which specifies salary and employment conditions corresponding to Danish standards. Permits may be granted or extended for up to three months before the person's passport expires. This means that if the person's passport expires within 12 months, permits may only be given or extended for nine months.

Persons who have been offered a job in a profession experiencing a shortage of qualified professionals may be offered easy access to the Danish labour market under the so-called 'Positive List Scheme' containing jobs as lawyers, various types of engineers, various types of teachers etc. The Positive List is made public by the authorities. The applicant must present an employment contract or a written job offer specifying terms of contract corresponding to standard employment terms in Denmark. In some cases, a special authorisation is required.

Persons may also be offered corporate residency permits under the Corporate Scheme, enabling companies with operations in Denmark to transfer employees with special abilities or qualifications to Denmark to work on projects or with innovative or educational work. For the duration of the permit, the person is permitted to perform work in Denmark as well as abroad. The conditions for obtaining such permits relate mainly to the company. Generally, a corporate approval may be granted to Danish companies that are part of international corporations that have a foreign parent company, sister company, subsidiary or active departments abroad, provided that a number of specific further requirements are met.

The Green Card Scheme enables highly qualified professionals to travel to Denmark in order to seek work and, subsequently, to work in Denmark.

Other special groups are researchers, trainees, athletes, religious workers, self-employed persons, diplomats, certain musicians and performing artists, transport personnel and some Turkish citizens.

Does it affect the access to obtain work in Denmark as a foreign resident if the applicant has a connection to the country?

If a person for example is married to a Danish citizen, the access to family reunification and thereby the access to work in Denmark is easier, provided that certain requirements are met. These requirements include an age limit of 24 years, a requirement that

the spouses are living together and a combined attachment to Denmark that must be greater than to another country. Moreover, there are requirements to permanent residence in Denmark, the disposal of adequate accommodation and bank-backed collateral of DKK 63,0413.39 (2011-figures). Furthermore, the person coming to Denmark has to pass a certain immigration test in Danish and in knowledge about Denmark.

Also, persons under the age of 15 who have a parent or parents living in Denmark may be eligible for a Danish residence permit, provided that certain requirements are met. These include a requirement that the child is under the age of 15 at the time the application is submitted. Furthermore, the residing parent or this parent's spouse must either be a citizen of a Nordic country, hold a residence permit on the grounds of asylum or Protected Status or hold a permanent Danish residence permit or temporary residence permit with a view to permanent residence. Moreover, the authorities make an assessment of whether staying in Denmark is in the child's best interest.

As mentioned above, the EU regulation on the free movement of persons and services offers certain rights to reside in Denmark to persons related to an EU/EEA national.

Who needs a visa in order to enter into Denmark?

A list of all the countries, the residents of which need a visa to enter into Denmark, may be obtained from the Danish authorities. These are countries other than the Nordic and EU/EEA countries. However, a number of other countries' residents have been exempted from the visa requirement by a publicly available list from the Danish Authorities. These include the USA, Canada and Australia.

What are the requirements for a secondment by Danish law?

The secondment of foreign employees by foreign companies into Denmark is regulated by the Danish Secondment Act.

The Danish Secondment Act regards employees that normally carry out their work outside of Denmark for a foreign employer and only temporarily work in Denmark. This could, for example, be the performance of a specific service or a secondment in Denmark by a foreign company within the same group. The Danish Secondment Act implements an EU Directive on secondments.

Pursuant to the Danish Secondment Act, there are a number of requirements that must be met, such as maximum working hours (48 hours per week), minimum resting time and the right to a minimum of five weeks of holiday in accordance with the Danish Holidays Act.

Furthermore, the Danish Secondment Act contains requirements regarding equal pay

between men and women, equal treatment and non-discrimination, safeguard measures for pregnant women and women who have recently given birth, as well as requirements regarding protection of children and youths.

Finally, if a working relation is covered by the Danish Secondment Act, the Danish regulation on work environment, such as safety, health and hygiene, must also be complied with.

What formal requirements must a foreign employer comply with when seconding an employee?

The foreign employer must report certain information to the Danish Commerce and Companies Agency. The information required is the name of the foreign company and its business address, the duration of the secondment and the place for the performance of the service. The foreign employer must also report the stationing company's contact person in Denmark and the code for the company's type of business. Finally, the identity of the stationed employee must be reported. The form to be used when reporting to the Danish Commerce and Companies Agency is found at www.virk.dk. Please note that non-compliance with the duty to report to the Agency may result in fines to the stationing company.

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