



Holiday Act¹⁾

Be it known that the Danish Parliament has enacted and WE, MARGRETHE THE SECOND, by the grace of God, Queen of Denmark, have given Our royal assent to the following Act:

Chapter 1

General provisions

The purpose of the act

Section 1 The act is to ensure that employees are entitled to annual holidays and holiday pay.

Areas of application

Section 2 Everyone who performs personal work in employment conditions in return for remuneration shall be entitled to holidays and holiday pay pursuant to this act, however, cf. Sections 42-45.

Deviations

Section 3 The provisions of this chapter, Section 4 item 2, Section 6(1) and Section 8(1) are mandatory. Chapter 4, except for Section 21(1)(1), Section 22(1)(1), Section 23(1)(1) and 23(2)(1), Section 24(1)(1) and 24(2)(1) and Section 25 and chapters 5, 6, 7, 8, 10 and 11 are also mandatory, however, cf. sub-sections 4 and 5. The entitlement to a paid holiday cannot be less than as stated in Section 4 item 1. The entitlement to a holiday without holiday pay cannot be less than as stated in Section 15.

Sub-section 2. With the exception of what results from the provisions of sub-sections 3-6, the provisions of this act cannot be deviated from if it does not favour the employee.

Sub-section 3 The provisions of the act, besides the provisions stated in sub-section 1, can be deviated from via collective agreements that have been entered into between the most representative labour market partners in Denmark or the employer side in an individual company. Such deviations may also occur via a local agreement entered into between the local parties at a company within the framework specified in a collective agreement covered by item 1, or in areas where there are no collective agreements, by having an

agreement entered into between the local parties at a company approved by the most representative employer organisation in the relevant profession area in Denmark. Deviations pursuant to items 1 and 2 may only occur if they are in accordance with the European Union directives on the scheduling of working hours.

Sub-section 4 It can be agreed in a collective agreement entered into by the most representative labour market partners in Denmark or by the employer side of an individual company that section 31(2) can be deviated from if in return each employee covered by the collective agreement is guaranteed at least 1 year of holiday pay after the deduction of taxes and labour market contribution.

Sub-section 5 An issuer of a guarantee can decide to expand such a guarantee scheme so that a company covered by the guarantee scheme can use the guarantee scheme on employees who are not covered by the collective agreement with the guarantee scheme and deviate from Section 31(2) by providing each employee notice in writing that they are covered by the guarantee scheme and its terms and conditions. The company shall notify of a decision pursuant to item 1 to the employer organisations that the company has a collective agreement with and if the members will be covered by the guarantee. If a company is covered by multiple guarantee schemes pursuant to sub-section 4, the access shall be to the guarantee scheme of the company that covers the most employees, also in relation to employees at the company that are not covered by a collective agreement with a guarantee scheme.

Sub-section 6 An employer and an employee may in a relevant and specific situation enter into an individual agreement on taking holiday that deviates from the provisions of Section 8(2) and 8(3), Section 9(2) and Section 11(1). It is a condition that the agreement does not limit the right to a continuous primary holiday period of at least 10 days.

Sub-section 7 Cases regarding whether the conditions stated in sub-sections 3 & 5 are met shall be settled by the Danish Labour Court.

Chapter 2

Entitlement to holiday

The length of the holiday and the holiday year

Section 4 An employee shall accrue 5 weeks of paid holiday per holiday year, however, cf. Section 5. The holiday year is the year in the period from 1 September to 31 August.

Accrual of paid holiday

Section 5 The entitlement to paid holiday is accrued by 2.08 days for each month of employment in the holiday year, however, cf. sub-sections 2 & 5. For periods of employment shorter than 1 month, the accrual is proportionate at 0.07 days paid holiday for each day of employment, however, at most 2.08 days.

Sub-section 2. If the employer is not paying salary in whole or in part, there is no accrued paid holiday under sub-section 1 during employment in the following periods:

- 1) Periods of illness, however, cf. sub-section 3.
- 2) Maternity/paternity leave periods or other leave of absence periods.
- 3) Periods where employers have been sent home based on collective agreements.

Sub-section 3 Employees who are not entitled to full pay during illness shall accrue paid holidays during their absence pursuant to sub-section 1 in the form of sickness holiday compensation, cf. Section 20, but only from the 2nd day of absence due to sickness for each period of sick leave, however, cf. sub-section 4.

Sub-section 4 If an employee covered by sub-section 3 is employed by the same employer throughout the holiday year, and if the employee has more than 52 periods of absence due to illness, the accrual takes place from and including the 53rd period of absence during the holiday year from the first day absence due to sickness so that the employee, despite the periods of absence due to illness, accrues at least 4 weeks of paid holiday. When employed by the same employer for part of a holiday year, or if the employee does not accrue holiday for certain periods of the holiday year, cf. sub-sections 2 & 5, the right to accrue holiday begins from the first day of absence due to illness based on a proportionately smaller number of periods of absence due to illness.

Sub-section 5 There is not accrued paid holidays in periods where the employee is involved in a strike or lockout.

Taking holidays and the holiday-taking period

Section 6 Accrued paid holidays are taken during the holiday-taking period, which includes the holiday year wherein the holiday is accrued and the subsequent 4 months from the end of the holiday year to the end of the calendar year, however, cf. Sections 21 & 22.

Sub-section 2. Holidays are taken with 5 days per week and in the same way in which the work is scheduled. Days with no work and turn-based duty shifts are included in the holiday proportionately. The holiday begins at the scheduled start of the workday on the first day of holiday and ends at the scheduled end of the workday on the last day of holiday.

Sub-section 3 A holiday cannot be taken during the weekly day off, public holidays or regular or collective agreement imposed days off or substitution days for such.

Agreement on taking paid holiday in advance

Section 7 If an employer and an employee have agreed that the employee can take a paid holiday during a period in which is it not yet accrued, then the holidays taken are deducted from the entitlement to paid holiday which is subsequently accrued in the holiday year in question. If the employee stops

working for the employer before this has been balanced, the employer is entitled to offset the value of the held non-balanced holidays from the employee's outstanding claims to salary and holiday pay.

Sub-section 2. An employee that accrues payment in lieu of untaken days of holiday pursuant to Section 16(2) and 16(3) is entitled to advance holiday pay pursuant to sub-section 1 which is calculated on the basis of the employee's usual pay in the last 4 weeks before the holiday.

The framework for scheduling the holiday

Section 8 The employee is entitled to have at least 4 weeks of accrued holiday scheduled for the holiday year.

Sub-section 2. The employee is entitled to take at least 3 weeks of accrued paid holidays in a consecutive period (the primary holiday) during the holiday-taking period. The employee is entitled to take the primary holiday in the period from 1 May to 30 September (the primary holiday period). An employee that is employed at a time of year where it will not be possible to take the accrued 3-week paid holiday during the holiday-taking period is entitled to take all of the holidays that are accrued in the primary holiday period.

Sub-section 3 The employee is entitled to take all holidays in periods of at least 5 consecutive days. If the other holidays amount to less than 5 days, these days must be offered consecutively. If operational issues make it desirable, however, the remaining holidays can be given as individual days.

Notice of holiday, changes and compensation

Section 9 The employer negotiates when the holiday should be taken in the primary holiday period with the employee. The employer must, taking into considering the company's operations, as far as possible accept the employee's wishes for when to take the holiday, including the employee's wishes for the primary holiday to be scheduled during a child's school summer holiday period.

Sub-section 2. The employer must as soon as possible notify the employee as to when the holiday is to be taken. The employer must notify of this at least 3 months before the start of the primary holiday and no later than 1 month before the start of other holiday periods unless there are special circumstances that prevent this.

Sub-section 3 If significant and unpredictable operational issues require it, the employer can change previously scheduled holiday periods. The employee must be compensated for any potential financial losses due to the rescheduling. Holidays that have already started cannot be interrupted.

Taking holidays during business shutdowns

Section 10 If a company is closed during a holiday, an employee that is not entitled to accrued paid holiday for all of the days the company is closed cannot raise claims against the employer, however, cf. sub-section 2 & 3.

Sub-section 2. To the greatest extent possible, the employer must ensure that the employee has accrued paid holiday for the days that the company is closed. If the employer does not do so, the employer must pay the employee's salary for the days in question. The salary is calculated on the basis of the employee's usual salary in the 4 weeks prior to the company shutting down.

Sub-section 3 If the company is closed during a period where an employee who has been employed throughout the past holiday year and up to the company's closure has not accrued paid holiday for all of the days the company is closed, the employer must pay the holiday pay in advance and then offset the amount from the subsequently accrued paid holidays. The calculation is to be made as per Section 7.

Taking holidays during notice of termination periods and garden leave

Section 11 An employee who is under notice cannot take the primary holiday during the notice of termination period if the notice of termination is 3 months or under. This applies regardless of what may have previously been agreed upon in terms of scheduling holidays. However, it does not apply if the notice of termination has been extended by the number of holiday days or if the employee wishes to still take the holiday.

Sub-section 2. If the employee is on garden leave, holidays are regarded as being taken regardless of whether the holiday has been scheduled if the periods mentioned in Section 9(2) and the holiday can be included in the period of garden leave. However, the holiday cannot be considered as taken if the employee has not had a work-free period equivalent to the length of the holiday after the end of the periods listed in Section 9(2).

Sub-section 3 Sub-section 2 item 2 shall not apply if:

- 1) the employee is on garden leave without the employer having the ability to offset the employee's salary from a new employer or
- 2) if the employer is insolvent and has stopped operations before the end of the notice of termination period.

Taking holidays and illness

Section 12 If an employee is sick when a holiday period begins, the employee is not obliged to take the holiday.

Sub-section 2. An employee who becomes sick during a holiday is, if medical documentation is provided, entitled to a replacement holiday after a total of 5 sick days during a holiday in the same holiday year. An employee who has not been employed by the employer throughout the holiday year is entitled to a replacement holiday based on a proportionately lower number of sick days. Holidays that have not been accrued by an employee during a holiday year pursuant to Section 5(2) and 5(5) are deducted from the sick days that do not qualify for replacement holiday based on items 1 & 2.

Sub-section 3 The employee pays for the medical documentation, however, cf. sub-section 2.

Sub-section 4 When calculating replacement holidays pursuant to sub-sections 1 & 2, sick days prior to the day where the employee notifies the employer of the illness are not included, unless the lack of notification cannot be considered the fault of the employee.

Sub-section 5 An employee covered by sub-sections 1 & 2 who recovers from an illness before the scheduled holiday period is over is entitled, in the context of reporting the recovery from illness, to take the remaining part of the holiday if the employee notifies of such a desire.

Taking holidays, strikes and lockouts

Section 13 If an employee participates in a strike or lockout when the holiday begins, the employee cannot begin the holiday. The employer must schedule a new holiday when the conflict has ended and provide at least 1 month notice for the primary holiday and 14 days for other holiday periods.

Taking holidays and other obstacles to holidays

Section 14 An employee is not obliged to take a holiday in a period where the employee, due to special circumstances other than those mentioned in Sections 12 & 13, is precluded from taking a holiday.

Sub-section 2. The Minister for Employment shall specify the specific rules for which special conditions might preclude an employee from taking a holiday.

Entitlement to holiday without pay from the employer

Section 15 An employee is entitled to take 5 weeks of holiday in each holiday-taking period, regardless of whether there has been accrued paid holiday pursuant to Sections 4 & 5 during the holiday year.

Sub-section 2. To the extent that there has not been accrued paid holiday, the employer shall take holiday without pay, however, cf. Section 7 and Section 10(3).

Sub-section 3 If an employee covered by Section 16(1) takes holiday without pay from the employer, 4.8 per cent of the monthly salary shall be deducted for each day of holiday.

Chapter 3

The right to payment

Payment during holiday

Section 16 An employee who is employed on a monthly contract or longer and which is entitled to full pay on public holidays and sick days shall be paid salary during holiday in addition to a holiday supplement of 1 per cent of the salary, however, cf. Sections 17 & 18.

Sub-section 2. An employee who is not covered by sub-section 1 shall receive payment in lieu of untaken days of holiday amounting to 12.5 per cent of the salary, cf. Section 19.

Sub-section 3 Before the start of the holiday year, an employee can instead of salary and holiday supplement demand payment in lieu of untaken days of holiday calculated pursuant to Section 19 with 12 per cent of the salary in the holiday year.

Sub-section 4 An employee that stops working for the company will have a payment in lieu of untaken days of holiday calculated pursuant to Section 19 for the accrued paid holidays that the employee has not taken, however, cf. sub-section 2.

Holiday pay

Section 17 Holiday pay, cf. Section 16(1), is the usual and expected salary at the time of taking the holiday. In addition, there is added the value of any potential employee benefits that the employee is not able to access during the holiday. For commission-based salary, during the holiday the employee is entitled to compensation for the commission lost due to being on holiday.

Sub-section 2. In the event of changes to the normal daily or weekly working hours or changes to the scope of the work that the employer is legally required to notify the employer about, the employee is entitled to holiday pay proportionate to the normal daily or weekly working hours or scope of work at the time the holiday pay was accrued.

Holiday supplements

Section 18 Holiday supplements, cf. Section 16(1), are calculated similarly to payments in lieu of untaken days of holiday pursuant to Section 19. Holiday supplements are paid either at the same time as the equivalent holiday begins or, alternatively, holiday supplements from 1 September to 31 May are paid out with the salary for the month of May while the holiday supplements for the rest of the holiday year are paid with the salary for the month of August. If holiday supplements have been paid, a claim cannot be made to have them paid back, however, cf. Section 7(1)(2).

Payment in lieu of untaken days of holiday

Section 19 Payment in lieu of untaken days of holiday, cf. Section 16(2-4), is calculated from any taxable salary amount and the value of any potential employee benefits that the employee cannot access during the holiday and which are not deductible from earnings and which are remuneration for paid work during employment. For commission-based salary, the employee is only entitled to the payment in lieu of untaken days of holiday from the part of the commission-based salary that is lost due to taking the holiday.

Sub-section 2. The employer shall also calculate a payment in lieu of untaken days of holiday from the employee's contributions to

- 1) pension schemes, etc. that are covered by section I of the Danish Pension Tax Act,
- 2) labour market contributions, cf. the Danish Act on Labour Market Contributions and
- 3) employee investment funds, cf. the Danish Tax Assessment Act's Section 7 N.

Sub-section 3 Payment in lieu of untaken days of holiday that concern a salary period across 2 holiday years is regarded as being accrued in the new holiday year.

Sub-section 4 The employer shall not calculate payment in lieu of untaken days of holiday from payments in lieu of untaken days of holiday, paid holidays or holiday supplements.

Sickness holiday compensation

Section 20 Sickness holiday compensation, cf. Section 5(3), amounts to 12.5 per cent of a salary that is calculated on the basis of the employee's usual salary in the last 4 weeks before the absence. For an employee who is entitled to partial salary during sick leave, the sickness holiday compensation amounts to the difference between the sickness holiday compensation pursuant to item 1 and the holiday pay pursuant to Section 19 from the partial salary.

Chapter 4

Excess holiday

Agreement on transferring holiday days in excess of 4 weeks

Section 21 An employee can agree with his/her employer that accrued holiday pay in excess of 4 weeks can be transferred to the subsequent holiday-taking period. In such cases, the transferred holidays will be taken first - however, cf. Section 22(2).

Sub-section 2. The employer and employee must enter into a written agreement pursuant to sub-section 1 no later than 31 December in the holiday-taking period. An employer must no later than by 31 December in the holiday-taking period notify FerieKonto or the entity that will be paying the holiday pay that the holidays are being transferred.

Transfer of holiday days of up to 4 weeks when prevented from taking a holiday

Section 22 If, due to extraordinary circumstances, an employee, cf. Section 12-14, is prevented from taking accrued paid holiday before the end of the holiday-taking period, up to 4 weeks of annual paid holiday is transferred to the subsequent holiday-taking period. The employer shall notify FerieKonto or the entity paying the holiday pay that the holidays are to be transferred by no later than 31 December in the holiday-taking period.

Sub-section 2. Holidays pursuant to sub-section 1 shall be taken before any other holidays and are not included in the calculation of the 4 weeks in the current employment pursuant to Section 21(1), Section 23(1-2) and Section 24(1-2).

Agreement on payment of holiday in excess of 4 weeks after the end of the holiday year

Section 23 After the end of the holiday year, an employee and employer can agree that accrued paid holidays and holiday supplements in excess of 4 weeks can be paid before the end of the holiday-taking period. If the employee has not been employed by the employer for the whole holiday year on a full-time basis, the employer must declare in writing that the paid holiday and holiday supplement concerns accrued holidays in excess of 4 weeks and that the employee during the vacation year has not received public benefits as mentioned in Section 27(1).

Sub-section 2. After the end of the holiday year, an employee and employer may agree that accrued holidays with holiday pay and sickness holiday compensation in excess of 4 weeks is paid out before the end of the period in which the holiday must be taken. The employee must declare in writing that the conditions of item 1 are fulfilled. If the employee has not been employed by the employer for the whole holiday year on a full-time basis, the employer must declare in writing that the payment in lieu of untaken days of holiday concerns accrued holidays in excess of 4 weeks and that the employee during the vacation year has not received public benefits as mentioned in Section 27(1). The employer is obliged to save the declaration pursuant to the Danish Bookkeeping Act's rules on the storing of bookkeeping material.

Sub-section 3 The Minister for Employment can specify the rules for payment pursuant to sub-sections 1 & 2, including how it is to be ensured that the employee has not received benefits as stated in Section 27(1).

Payment of holiday in excess of 4 weeks after the end of the holiday-taking period

Section 24 After the end of the holiday-taking period, the employer shall pay accrued paid holidays and holiday supplements in excess of 4 weeks if the employee has been working for the employer full time throughout the holiday-taking period. If the employee has not been employed by the employer for the whole holiday year on a full-time basis, the employee must declare in writing to the employer that the holiday pay and unpaid holiday supplements concern accrued holidays in excess of 4 weeks and that the employee during the holiday-taking period has not received public benefits as mentioned in Section 27(1). The employer is obliged to save the declaration pursuant to the Danish Bookkeeping Act's rules on the storing of bookkeeping material.

Sub-section 2. Payment in lieu of untaken days of holiday and sickness holiday compensation for accrued holidays in excess of 4 weeks are paid by FerieKonto, the employer or the entity administering the payment in lieu of

untaken days of holiday after the end of the period in which the holiday must be taken if the employee has been employed full time throughout the period in which the holiday must be taken and worked for the same employer. If the employee has not been employed by the employer for the whole holiday year on a full-time basis, the employer must declare in writing that the payment in lieu of untaken days of holiday concerns accrued holidays in excess of 4 weeks and that the employee during the holiday-taking period has not received public benefits as mentioned in Section 27(1).

Sub-section 3 The Minister for Employment can specify the rules for payment pursuant to sub-sections 1 & 2, including how it is to be ensured that the employee has not received benefits as stated in Section 27(1).

Payment of holiday in the event of being prevented from taking holidays

Section 25 If an employee is prevented from taking a holiday pursuant to Section 22(1), illness or maternity/paternity leave, and if it is not possible to take the holiday by the end of the subsequent holiday-taking period, the holiday pay can be paid to the employee.

Payment of holidays when leaving employment

Section 26 Payment in lieu of untaken days of holiday for accrued paid holidays that have not been taken before the end of the holiday-taking period and which have been accrued during an employment that has ceased by no later than the end of the holiday-taking period shall be paid upon request to the employee by the employer, FerieKonto or the entity administering the payment in lieu of untaken days of holiday, however, cf. Section 27. It is a condition for payment that the employee declares in writing that the amount is from an employment that has ended by no later than the holiday-taking period's end and that the employee has not received public benefits during the holiday-taking period as stated in Section 27(1).

Sub-section 2. The employee must by no later than 30 September after the holiday-taking period's end request payment in writing pursuant to sub-section 1.

Sub-section 3 If the employee stops working for the employer, the payment in lieu of untaken days of holiday and sickness holiday compensation for holidays not taken that have been transferred pursuant to Sections 21 & 22 shall be paid out by the employer, FerieKonto or the entity administering the payment in lieu of untaken days of holiday.

Sub-section 4 If the employee leaves the labour market, including due to age-related or health reasons, or if the employer stops being registered with the Danish Central Person Registry due to moving abroad, the payment in lieu of untaken days of holiday shall be paid to the employee. The employee must declare and document that the conditions are fulfilled.

Sub-section 5 The entitlement to the payment in lieu of untaken days of holiday pursuant to sub-section 4 shall be lost if the employee does not at the latest within 6 months of the conditions of sub-section 4 being met request that

the employer, FerieKonto or the entity administering the payment in lieu of untaken days of holiday pay out the amount in question. In very special circumstances, FerieKonto can grant a dispensation from the deadline.

Sub-section 6 In the event of the employee's death, the payment in lieu of untaken days of holiday shall be made to the estate.

Sub-section 7 The Minister for Employment can specify the rules for payments in lieu of untaken days of holiday pursuant to sub-section 1, including specifying how the request for payment is to be made, the specific requirements for documentation, etc.

Payment based on prior approval from FerieKonto

Section 27 If the employee has received unemployment benefits, temporary labour market benefits, cash benefits, early retirement pension, benefits under the Danish flexi job scheme, unemployment benefits for persons accepted into a subsidised flexible employment scheme, resource course grants or welfare benefits during the holiday year, cf. Section 23, or during the holiday-taking period, cf. Sections 24 & 26, payment pursuant to Section 23(1)(2) and sub-section 2 item 3, Section 24(1)(2) and sub-section 2 item 2 and Section 26(1) then payment can only take place with FerieKonto's prior approval.

Sub-section 2. The number of days with the benefits mentioned in sub-section 1 must be deducted from the number of holiday days that the remaining holiday pay amounts to, unless the employee due to special circumstances has been prevented from taking the holiday before the end of the holiday-taking period, cf. Sections 12-14. If there are holiday days left, FerieKonto shall process the payment in lieu of untaken days of holiday or notify the employer or the entity administering the payment in lieu of untaken days of holiday of how many days can be paid out to the employee.

Sub-section 3 The Minister for Employment can specify the rules for payments in lieu of untaken days of holiday pursuant to sub-section 1, including whether FerieKonto shall approve the payment.

Chapter 5

Non-transferability, offsetting, withholding and time barring

Non-transferability

Section 28) The right to holiday and holiday pay cannot be transferred and cannot be made the subject of litigation.

Offsetting and withholding

Section 29 The employer can offset an employee's claim for salary during holiday, holiday supplements or payment in lieu of untaken days of holiday if:
1) the employee has acted unlawfully during employment which has resulted in a claim that is due from the employer's side and the employer can document the size of this counterclaim and,

2) the employee has admitted the unlawful conduct or the unlawful conduct has been determined by a court of law.

Sub-section 2. If the employer has filed a civil suit, started a labour law proceeding or reported the employee to the police, or if the employee is charged with the offence, the employer can withhold an amount equivalent to the counterclaim until the case has been settled.

Time barring

Section 30 If a payment lieu of untaken days of holiday, paid holidays or holiday supplements pursuant to Section 34 are paid to either Arbejdsmarkedets Feriefond or to a private holiday fund, and if the holiday has been taken or can be paid, the claim to payment in lieu of untaken days of holiday shall become time barred if the employee does not within 5 years after the end of the holiday-taking period contact the holiday fund.

Sub-section 2. If payment in lieu of untaken days of holiday, paid holidays or holiday supplements are not paid to either Arbejdsmarkedets Feriefond or a private holiday fund, the claim to payment in lieu of untaken days of holiday, paid holiday or holiday supplement shall become time barred if the employee does not within 5 years after the end of the holiday-taking period pursue the claim via a legal case, labour law process, police report or the filing for bankruptcy. If the claim is not accepted, the claim must be pressed via one of the methods stated in item 1 without undue delay.

Chapter 6

Contributions to and receiving payment in lieu of untaken days of holiday

Reporting and contributions to FerieKonto

Section 31 The employer shall report information on holiday pay to the income register when it concerns people covered by Section 7(2) and Section 16(2-4) and shall report information on sickness holiday compensation pursuant to Section 5(3). For employees whose payment in lieu of untaken days of holiday are calculated pursuant to Section 16(4), the employer, however, does not have to report information on payment in lieu of untaken days of holiday that have been paid out in connection with dismissal/resignation pursuant to Section 26(3-6).

Sub-section 2. Payments in lieu of untaken days of holiday that have been reported pursuant to sub-section 1 are paid to FerieKonto, however, cf. Section 3(4).

Sub-section 3 In the event of a delayed transfer of payment in lieu of untaken days of holiday to FerieKonto, the employer must pay interest on this amount of 1.5 per cent per commenced month from the due date. In special circumstances, FerieKonto can override the requirement to pay interest pursuant to item 1.

Sub-section 4 The Minister for Employment specifies the rules for reporting on information concerning holidays to the income register after negotiation with the Minister for Taxation, cf. the act on an income register.

Sub-section 5 The Minister for Employment can specify rules for reporting and processing of payments in lieu of untaken days of holiday, including the deadlines for such. The Minister for Employment can also specify the detailed rules for notifying the entity paying the holiday pay about the transfer of holidays, cf. Sections 21 & 22.

Payment to employees

Section 32 The employee must request the payment in lieu of untaken days of holiday via Feriepengeinfo, which shall then forward the request to the entity that will be making the payment in lieu of untaken days of holiday.

Sub-section 2. FerieKonto can demand that the employee must sign a sworn statement that the conditions for receiving payment in lieu of untaken days of holiday are fulfilled.

Sub-section 3 The entity processing the holiday pay cannot release payments in lieu of untaken days of holiday that have been reported unless that entity has received a request for making the payment via Feriepengeinfo.

Sub-section 4 The payment in lieu of untaken days of holiday for the requested holidays is paid as soon as possible once a request has been made. The entity paying the holiday pay must pay the amount for the number of days that are requested or reject the request.

Sub-section 5 The Minister for Employment shall specify the rules for requesting and processing payments in lieu of untaken days of holiday, including specifying the employee's, Feriepengeinfo's or the entity processing the holiday pay's tasks in this context.

Holiday pay received on an unwarranted basis

Section 33 If an employee is working for remuneration during his/her holiday or if the employee has otherwise received holiday pay that was unwarranted, FerieKonto can demand that the equivalent payment in lieu of untaken days of holiday, the equivalent salary during the holiday period or the equivalent holiday supplement is paid to FerieKonto.

Unclaimed holiday pay

Section 34 Payments in lieu of untaken days of holiday that have not been requested and received by the employee before the end of the holiday-taking period or salary during a holiday or holiday supplements that have not been paid to the employee before the end of the holiday-taking period and which are not paid pursuant to Sections 23-25 or Section 26(1) or which have been transferred pursuant to Sections 21 & 22 shall be allotted to Arbejdsmarkedets Feriefond, however, cf. Section 35(7).

Sub-section 2. In the areas where a collective agreement with a guarantee scheme pursuant to Section 3(4) allows for it, unclaimed holiday pay pursuant

to sub-section 1 can be used for a private holiday fund with the purpose of using the funds for holidays instead of being allocated to Arbejdsmarkedets Feriefond. Arbejdsmarkedets Feriefond oversees the use of such funds.

Sub-section 3 The entity processing the holiday pay must by no later than 15 November after the end of the holiday-taking period settle amounts covered by sub-section 1 with Arbejdsmarkedets Feriefond or a private holiday fund, cf. sub-section 2.

Sub-section 4 In the event of delayed contributions of unpaid holiday pay pursuant to sub-section 3, the employer or the entity pursuant to Section 3(4) that is administering the payment in lieu of untaken days of holiday shall pay interest on that amount of 1.5 per cent per commenced month calculated from the due date to Arbejdsmarkedets Feriefond or a private holiday fund, cf. sub-section 2.

Sub-section 5 When a holiday fund dissolves pursuant to sub-section 2, the funds that are unclaimed holiday payments are allotted to Arbejdsmarkedets Feriefond. Unclaimed holiday pay that has been allotted to a holiday fund cannot be distributed to the founder of the fund.

Sub-section 6 The Minister for Employment can specify the rules for the use of funds that are allotted to a private holiday fund and rules for Arbejdsmarkedets Feriefond's oversight of the use of such funds, cf. sub-section 2, including the rules for the fund's foundation, accounting rules, use of capital, etc.

Financing of FerieKonto and Feriepengeinfo

Section 35 Expenses for the administration of FerieKonto must be paid by the employers who contribute payments in lieu of untaken days of holiday to FerieKonto, cf. Section 31(2).

Sub-section 2. The collection of employers' payments for FerieKonto's administration pursuant to sub-section 1 can be part of a shared collection from Arbejdsmarkedets Tillægspension. The payment is collected together with the contributions that Arbejdsmarkedets Tillægspension collect from employers under the law. Outstanding amounts due for payment can be included in the shared collection process.

Sub-section 3 If payments are not made on time, the employer shall pay interest on the claim for payment of 1.5 per cent for each commenced month from the due date.

Sub-section 4 Arbejdsmarkedets Tillægspension has the power to issue a distraint order for outstanding amounts for a shared collection process, cf. sub-section 2. This also applies to interest and processing fees.

Sub-section 5 For the purposes of calculation, collection and processing of payments as part of a shared collection process, cf. sub-section 2, FerieKonto can to the required extent pass on information to Arbejdsmarkedets Tillægspension. The information may be transferred electronically.

Sub-section 6 Decisions made by Arbejdsmarkedets Tillægspension about the collection and contribution of funds, etc. that are part of a shared collection process pursuant to sub-section 2 can, within a deadline of 4 weeks from

the day the decision was announced, be brought before the board of appeal for Arbejdsmarkedets Tillægspension (the ATP board of appeal). The complaint is sent to Arbejdsmarkedets Tillægspension which shall then reassess the case. If Arbejdsmarkedets Tillægspension upholds its decision in whole or in part, the case is sent to the ATP board of appeal and the parties of the case shall be notified of this. The board of appeal's decisions cannot be brought before another administrative authority.

Sub-section 7 Expenses for the administration of Feriepengeinfo are covered by unclaimed payments in lieu of untaken days of holiday pursuant to Section 34(1). To the extent that unclaimed payments in lieu of untaken days of holiday do not cover the expenses for the administration of Feriepengeinfo, the expenses must be covered by the remainder of the amounts that have been contributed to FerieKonto, cf. Section 31(2), and the interest on late contributions of payments in lieu of untaken days of holiday, cf. Section 31(3). The remaining interest payments are allotted to Arbejdsmarkedets Feriefond. To the extent that administration costs for Feriepengeinfo cannot be covered pursuant to items 1 & 2, they are covered by sub-section 1.

Sub-section 8 The Minister for Employment can specify the detailed rules for the calculation of employers' payments to FerieKonto's administration pursuant to sub-section 1, including the rules for how the payments are to be distributed.

Sub-section 9 The Minister for Employment, if so requested by Arbejdsmarkedets Tillægspension, can specify the detailed rules for the collection of payments pursuant to sub-section 2, including payments for the collection process and whether Arbejdsmarkedets Tillægspension can give a grace period or forgive the payment of interest on the amount owed, etc.

Chapter 7

FerieKonto

FerieKonto's administration

Section 36 The Minister for Employment manages the administration of FerieKonto with technical administrative assistance and financial advice from Arbejdsmarkedets Tillægspension.

Sub-section 2. FerieKonto decides on cases concerning:

- 1) granting dispensation from deadlines in Section 26(5)
- 2) payment of amounts pursuant to Section 27(1)
- 3) payment of interest pursuant to Section 31(3) and Section 34(4)
- 4) payments made to FerieKonto when an employee works for remuneration during the holiday or otherwise has received holiday pay on an unwarranted basis, cf. Section 33, or
- 5) withholding and offsetting pursuant to Section 29 when the payment in lieu of untaken days of holiday is to be made to FerieKonto, cf. Section 31(2).

Sub-section 3 FerieKonto administers the Danish-German holiday agreement of 14 May 2002 concerning the mutual recognition of holiday systems and similar agreements on the mutual recognition of holiday systems.

Sub-section 4 Each year, FerieKonto shall select a number of companies and employees for spot checks for payments pursuant to Section 23(1)(2) and sub-section 2 items 1 and 3, Section 24(1)(2) and sub-section 2 item 2 and Section 26(1).

Exchanging information

Section 37 FerieKonto can retrieve and process information on employees and employers to be used for the administration and control of compliance with this act, including comparing and verifying information across registries. Information can be retrieved from employees and employers and their organisations, other public authorities, unemployment insurance funds, LG (the Employees' Guarantee Fund) and Arbejdsmarkedets Tillægspension.

Sub-section 2. Submitting information pursuant to sub-section 1 must take place within 10 working days upon request.

Sub-section 3 For administrative and control purposes, FerieKonto can with this act get terminal access to information in the income register, cf. Section 7 of the act on an income register. This access includes all information on incomes, including public benefits, salaries and employment periods and holidays, etc.

Sub-section 4 For the purposes of administering this act, FerieKonto can compare and verify information across registries as part of its control functions with data from its own registries, including data collected pursuant to sub-sections 1 & 3.

Sub-section 5 FerieKonto may pass on information to recognised unemployment insurance funds, Udbetaling Danmark and municipal and state authorities about accrued holidays, accrued payments in lieu of untaken days of holiday, scheduled holidays and the payment of holiday pay. FerieKonto can pass on information about unclaimed holiday pay to Arbejdsmarkedets Feriefond for the purposes of correctly settling such amounts, cf. Section 34(3).

Sub-section 6 Arbejdsmarkedets Feriefond can retrieve bookkeeping information, etc. that is relevant in the context of controlling the entity administering the amounts covered by Section 34(2). Arbejdsmarkedets Feriefond can retrieve and pass on information about unclaimed holiday pay, cf. sub-section 5, to a private holiday fund for the purposes of a correct settlement of such amounts, cf. Section 34(3).

Sub-section 7 The Minister for Employment can specify the rules for unemployment insurance funds, Udbetaling Danmark and municipal and state authorities' payments for access to FerieKonto's information, including the size of the payment.

Sub-section 8 The Minister for Employment can specify the rules for which information FerieKonto can retrieve and process for the purposes of administration and controls, cf. sub-section 1.

Information from guarantee schemes

Section 38 In the event of deviations from the requirement to pay FerieKonto pursuant to Section 31(2), cf. Section 3(4), the guarantee scheme is obliged to notify FerieKonto of which companies are covered by the guarantee scheme.

Sub-section 2. FerieKonto can pass on information to the guarantee scheme concerning which employees and reports are covered by the guarantee. In the event of a company going bankrupt or being contacted by an employee, FerieKonto can pass on information to the guarantee scheme about other reports made to FerieKonto that concern the employees covered by the guarantee.

Sub-section 3 The Minister for Employment can specify the rules for the guarantee schemes' obligation to report pursuant to sub-section 1 and specify the detailed rules for passing on the required information that are to be used for the guarantee schemes' case processing pursuant to sub-section 2.

Complaint procedure

Section 39 FerieKonto's decisions made pursuant to Section 36(2) can, by the person whom the decision concerns, be brought before the ATP board of appeals within 4 weeks after the parties of the case have been notified of the decision.

Sub-section 2. The complaint is sent to FerieKonto which will then re-assess the case. If FerieKonto upholds its decision in whole or in part, the case is sent to the ATP board of appeals and the parties of the case shall at the same time be notified of this. The board of appeal's decisions cannot be brought before another administrative authority.

Chapter 8

Arbejdsmarkedets Fieriefond (Labour Market Holiday Fund)

The fund

Section 40 Arbejdsmarkedets Fieriefond is a self-governing institution.

Sub-section 2. The fund's assets consist of interest and other returns on capital and amounts that are allocated to the fund pursuant to legislation.

Sub-section 3 The fund's assets are used for holiday purposes for employees, including providing special support to institutions or organisations that facilitate holiday options for employees. Arbejdsmarkedets Fieriefond must as far as possible accept applications for holiday purposes for vulnerable families and children.

Sub-section 4 The Minister for Employment shall appoint the fund's governing board, including the chairman. The governing board shall be appointed for 3-year terms.

Sub-section 5 The capital that the fund had at its disposal as of 1 July 1974 is to remain untouched. However, under special circumstances the Minister for

Employment can approve that Arbejdsmarkedets Feriefond uses this capital to fulfil the fund's purposes, cf. sub-section 3, and to fulfil the fund's legal obligations.

Sub-section 6 The fund's financial statements must be audited by at least two auditors, of which at least one must be a state-authorised public accountant. The governing board shall appoint the auditors for 3 years at a time, but can revoke this appointment at any time.

Sub-section 7 The audited annual report is sent to the Minister for Employment after it has been approved by the governing board.

Sub-section 8 The Minister for Employment shall specify the articles of association for the fund.

Controlling for unclaimed holiday pay

Section 41 Each year, Arbejdsmarkedets Feriefond requests that 150 randomly selected companies that settle unclaimed payments in lieu of untaken days of holiday, paid holiday and holiday supplements with the fund send sufficient documentation for the correct settlement with the fund within a reasonable deadline. Arbejdsmarkedets Feriefond shall pay for the usual expenses for auditor's statements.

Sub-section 2. A private holiday fund, cf. Section 34(2), shall each year request that an appropriate number of randomly selected companies that settle unclaimed payments in lieu of untaken days of holiday, holiday pay or holiday supplements with the fund send sufficient documentation for the correct settlement with the fund within a reasonable deadline. The fund can demand an auditor's statement in return for paying the usual expenses for such.

Sub-section 3 Arbejdsmarkedets Feriefond can decide upon the administration of the amounts that are used for other holiday purposes, cf. Section 34(2) and also decide upon the settlement of these amounts with Arbejdsmarkedets Feriefond in the cases where Arbejdsmarkedets Feriefond cannot sufficiently control that the holiday fund's assets are used in accordance with their purpose.

Sub-section 4 Arbejdsmarkedets Feriefond's decisions made pursuant to sub-section 3 cannot be brought before any other administrative authority.

Chapter 9

Special provisions for certain groups of persons

Trainees

Section 42 Trainees with an education agreement based on the act on vocational training programmes are entitled to 5 weeks of holiday for the first and second whole holiday-taking period after the commencement of their employment. The employer shall pay salary during the holiday to the extent that the trainee has not accrued holiday pay or payment in lieu of untaken days of holiday.

Sub-section 2. If the employment has not commenced from the period from 2 September to 31 October, the trainee shall have an equivalent right to paid holiday for 5 weeks in the holiday-taking period associated with the whole holiday year.

Sub-section 3 If the employment has commenced in the period from 1 November to 30 June, the trainee shall be entitled to 3 weeks of paid primary holiday in the primary holiday period and 5 days of paid holiday during company shutdowns before the primary holiday period.

Private domestic help and au pairs

Section 43 A private domestic help worker or any other person working to assist a private household that on average works 8 hours per week shall receive holiday pay. If a domestic help worker does not have a fixed number of hours to work per week, the salary is calculated on the basis of the domestic help worker's usual salary for the 4 weeks prior to the start of the holiday's start. The household must notify the domestic help of when the holiday is to be taken with reasonable notice. The domestic help worker's wishes must be taken into account to the greatest extent possible. Receivable pay for untaken holidays shall be paid out when leaving employment.

Sub-section 2. An au pair with a residence permit pursuant to the Danish Aliens Act's Section 9 shall be paid when on holiday. Pay for au pairs is to be understood as the pocket money that au pairs are entitled to from the host family and the cost of food. For an au pair person, a holiday shall be agreed upon in writing with the host family. The host family shall provide reasonable notice to the au pair as to when the holiday is to be taken. The au pair person's wishes must be taken into account to the greatest extent possible. Receivable pay for untaken holidays shall be paid out when leaving employment.

The Danish Defence and the police

Section 44 For groups of personnel that carry out special activities for Danish Defence, the state emergency services or the police, the hiring authority can decide that up to 5 days of holiday are to be postponed to the subsequent holiday-taking period if there are special work-related conditions that have resulted in it not being possible to take the full holiday in the holiday-taking period in question. The postponement cannot take place in two consecutive holiday-taking periods. For compensation for postponement pursuant to item 1, there is provided at least half a day of paid liberty for each postponed day of holiday.

Sub-section 2. For groups of personnel that carry out special activities for Danish Defence, the state emergency services or the police, the hiring authority can decide that the primary holiday, cf. Section 8(2), shall in whole or in part be scheduled outside of the primary holiday period if very special work-related conditions require it. For compensation for the scheduling of holiday pursuant to item 1, there is provided at least 1.8 hours of paid liberty for each day of holiday scheduled outside of the primary holiday period.

Sub-section 3 The Minister for Defence can specify the rules for holiday for conscripts in the Danish Defence and, after consulting with the relevant employee organisations, other holiday rules for women hired by the Danish Defence on conscript-like terms, for trainee constables and for personnel in the reserve armed forces.

Sub-section 4 The Minister for Defence can specify the rules for conscripts in the state emergency services and, after consultation with the relevant employee organisations, other holiday rules for women hired on conscript-like terms in the state emergency services.

Seafarers

Section 45 For seafarers, the Minister for Industry, Business and Financial Affairs exercises the powers delegated to FerieKonto under this act.

Sub-section 2. The Minister for Industry, Business and Financial Affairs can, after consultation with the relevant employee and employer organisations, specify other rules for holidays for seafarers.

Chapter 10

Penalty clause

Section 46 The employer shall be penalised with a fine if it despite a claim and without a valid reason fails to pay owed holiday pay. An au pair person's host family is penalised similarly, cf. Section 43(2).

Sub-section 2. There can be specified a fine for violating the regulations issued pursuant to this act.

Sub-section 3 Companies, etc. (legal persons) may be subject to criminal liability pursuant to the provisions of the Danish Penal Code's chapter 5.

Chapter 11

Commencement and interim provisions

Section 47 The act shall enter into force on 1 September 2020, however, cf. sub-section 2.

Sub-section 2 Section 49 shall enter into force on 1 January 2019.

Sub-section 3 Holiday Act, cf. Executive Order no. 1177 of 9 October 2015 shall be abolished.

Sub-section 4 The act shall not apply to holidays that before the entry into force of the act have been scheduled to be held in whole or in part in September 2020 or to holidays that have been accrued under the previously applicable holiday act and which are not pursuant to Section 48 of this act transferred to be taken under this act or transferred to Lønmodtagernes Fond for Tilgodehavende Feriemidler pursuant to the act on the management and administration of receivable holiday funds. For such holidays, the previously applicable rules shall apply.

Sub-section 5 Rules stated pursuant to the Holiday Act, cf. Executive Order no. 1177 of 9 October 2015, shall remain in force until they are abolished or replaced by provisions specified in this act.

Section 48 Holidays accrued in the period from 1 January 2019 to 31 August 2019, holiday transferred from prior holiday years and holidays for employees covered by Section 2 of the Holiday Act, cf. Executive Order no. 1177 of 9 October 2015, which an employee has not taken or had paid out by no later than 31 August 2020 and which have not been scheduled to be taken in September 2020 are transferred to be taken under this act. The employer can request to have accrued paid holidays in excess of 20 days paid out.

Sub-section 2. Accrued holidays which pursuant to Section 48 a(2) of the Holiday Act, cf. Executive Order no. 1177 of 9 October 2015, which by this act's Section 49(3) cannot be taken or paid out are processed pursuant to the rules of the act on the management and administration of receivable holiday funds.

Section 49 In the Holiday Act, cf. Executive Order no. 1177 of 9 October 2015, as amended by Section 5 of Act no. 1868 of 29 December 2015, the following amendments are made:

1. In *Section 12(1)* after "the accrual year" there is inserted: "however, cf. Section 48 a"

2. In *Section 29* there is inserted as *sub-section 3*:

"*Sub-section 3* Holiday pay covered by Section 48 a cannot be paid pursuant to this chapter and chapter 5 a."

3. After Section 48, there is inserted:

"**§ 48 a.** Holiday accrued in the period from 1 January 2019 to 31 August 2019 and holidays transferred from prior holiday years can in the period from 1 May 2020 to 31 August 2020 be taken pursuant to this act and subsequently the new Holiday Act which enters into force to replace this act, cf. the new Holiday Act's Section 47, though in such a manner that the primary holiday, cf. Section 14(1), shall be taken in the period from 1 May to 30 September 2020 and so that until the entry into force of the new Holiday Act there can be given notice of a scheduled holiday before 30 September 2020 pursuant to this act.

Sub-section 2. Holidays accrued in the period from 1 September 2019 to 31 August 2020 cannot be taken or paid out pursuant to this act, however, cf. sub-section 3, unless the employee is covered by Section 2 a of this act. Such accrued holidays are processed pursuant to the provisions of the act on the management and administration of receivable holiday funds. Payments in lieu of untaken days of holiday, holiday pay and holiday supplements that concern a salary period across the month of August and September 2019 are regarded as being accrued in September 2019. Payments in lieu of untaken days of holiday, holiday pay and holiday supplements that concern a salary period across the month of August and September 2020 are regarded as being accrued in September 2020.

Sub-section 3 An employee who has accrued holidays in the period from 1 September 2019 to 31 December 2019, but who has not accrued holidays in the period from 1 January 2019 to 31 August 2019, or who in this period has accrued less than 8.3 days of holiday, shall be entitled to take up to 8.3 days of holiday accrued in the period from 1 September 2019 to 31 December 2019 as special fund holidays pursuant to the act on the management and administration of receivable holiday funds with payment from Lønmodtagernes Fond for Tilgodehavende Feriemidler.

Sub-section 4 The Minister for Employment shall specify the rules for which employees are covered by sub-section 3."

Chapter 12

Amendments to other legislation and territorial applicability

Section 50 In the Act on the Labour Court and Professional Arbitration Courts, cf. Executive Order no. 1003 of 24 August 2017, the following amendments are made:

1. In *Section 9(1)(8)*, "Section 32, and" is changed to: "Section 32".
2. In *Section 9(1)(9)*, "cf. the act's Section 3(7)" is changed to: "cf. the act's Section 3(7), and".
3. In *Section 9(1)*, there is inserted as *no. 10*:
"10) to what extent the stated conditions in the Holiday Act's Section 3(3-5) are fulfilled, cf. the act's Section 3(7)."
4. In *Section 9*, there is inserted as *sub-section 7*:
"*Sub-section 7* Cases pursuant to sub-section 1(10) can be brought before the Labour Court by an employee, an employee's employee organisation or employer or an employee or employer organisation that has a concrete and current interest in the case in question, however, cf. Section 13(1)."

Section 51 In the Act on Udbetaling Danmark, cf. Executive Order no. 1507 of 6 December 2016, as amended by Section 9 in Act no. 285 of 29 March 2017, Section 26 in Act no. 287 of 29 March 2017 and Section 16 in Act no. 674 of 8 June 2017, the following amendments are made:

1. *Section 12 c, sub-section 3*, is written as follows:
"*Sub-section 3* Udbetaling Danmark, as per an agreement with the Ministry of Employment, can retrieve and correlate information pursuant to Section 37(1) and 37(4) of the Holiday Act to use for FerieKonto's administration of the Holiday Act."

Section 52 In the act on the posting of employees, etc., cf. Executive Order no. 366 of 12 April 2017, the following amendments are made:

1. In *Section 6(1)*, "the Holiday Act's Sections 7, 23, and 24" is changed to: "the Holiday Act's Sections 5 and 16-19."

Section 53 In the act on an income registry, cf. Executive order no. 49 of 12 January 2015, as amended by Section 14 of Act no. 1555 of 19 December 2017 and Section 2 in Act no. 1682 of 26 December 2017, the following amendments are made:

1. In *Section 3(1)(9)*, “the Holiday Act’s Section 27” is changed to: “the Holiday Act’s Section 31(1)” and “the Holiday Act’s Section 33(1)” is changed to: “the Holiday Act’s Section 31(4).”

Section 54 This act shall not apply to the Faeroe Islands or Greenland.

Submitted at Amalienborg, 30 January 2018

Under Our Royal Hand and Seal

MARGRETHE R.