

New rules regarding residence and work permit in Denmark

The Danish Parliament has set forth new legislation regarding the option to obtain residence and work permits under the Danish Aliens Act. The rules have not yet been adopted but are expected to be adopted on 23 March 2023 and enter into force on 1 April 2023.

These new rules include lowering the amount required for the Pay Limit Scheme, allowing companies with at least ten full-time employees to apply for a Fast-track certification, expanding the list of professions on the Positive List and the rules for establishing a company in Denmark.



The Pay Limit Scheme

Currently, it is possible to apply for a work and residence permit based on the Pay Limit Scheme, if the offered salary is above DKK 465,000 per year (2023 level).

If the new legislation is implemented, the current rules will be supplemented with a new Pay Limit Scheme, after which the employee must be offered a salary above DKK 375,000 (2023 level) in order to obtain the permit. In addition, it is a requirement for obtaining a residence permit after the supplementary Pay Limit Scheme that the seasonally adjusted gross unemployment within the last three months does not exceed 3.75%. It will also be a requirement that the position for which the work permit is applied for has been advertised for a minimum of two weeks on Jobnet and the EURES-Portal.

Both the current and the new supplementary Pay Limit Scheme requires that the employee's salary and employment conditions are in accordance with Danish standards.

Residence and work permit under the new Pay Limit Scheme can be granted for up to five years. It is, however, possible to apply for an extension.

The Fast-track scheme

The Fast-track scheme allows companies to recruit foreign employees with special qualifications to work in Denmark, if the Danish employer has been certified by SIRI.

Currently, a company must have at least 20 full-time employees in Denmark to apply for Fast-track certification, which will be lowered to 10 full-time employees in Denmark allowing more companies to apply for a certification.

- The pay limit track
- The short-term track
- The researcher track
- The educational track

The pay limit track will – also when applying after the Fast track scheme – be lowered to DKK 375,000 (2023 level) with the new legislation. The other three tracks and the remaining requirements for obtaining a residence and work permit after all for tracks will remain the same.

The Positive List

The Positive List can be used for the categories of workers that are particularly in short supply in Denmark. It has two tracks:

- The Positive List for People with a Higher Education
- The Positive List for Skilled Work

For each of these groups, there are specific professions listed where employers experience shortage of labour.

If the new legislation is adopted, the categories of workers on this list will be expanded to include further professions experiencing a shortage of either highly educated or skilled labour. Once a profession has been included on the list, the position will stay on the list for at least 2 years.

The Positive List will be updated twice a year. However, if an acute shortage of a certain type of labour, it can be added to the list in the intervening period.

The Start-up Denmark Scheme

The current Start-up Denmark Scheme is applicable if a foreign entrepreneur requires a Danish residence permit in order to establish and run an innovative growth company.

The new legislation will expand the Start-up Denmark Scheme to include foreign business owners who already has a business abroad but wishes to open a branch in Denmark and business owners, who has started a business in Denmark, while being in Denmark on another residence and work permit.

It will, however, continue to be a requirement that the business idea – in a Danish context – is considered innovative, which will be determined by a panel of experts appointed by the Danish Business Authority.

Smaller trading, import and export companies, as well as companies in the restaurant and retail sector, will as an outset, not be able to apply under the Scheme.



LARS LOKDAM
ATTORNEY AT LAW,
PARTNER
(+45) 40 16 35 06
LL@NJORDLAW.COM



JULIE NIELSEN
ATTORNEY AT LAW (ON
LEAVE)
(+45) 77 40 10 68
JNL@NJORDLAW.COM



SARA MARGON MÆNG
ATTORNEY AT LAW
(+45) 77 40 11 33
SMP@NJORDLAW.COM



TINA DAHLMANN JORDT
ATTORNEY AT LAW (ON
LEAVE)
(+45) 77 40 10 47
TDJ@NJORDLAW.COM