

Agreement between the Danish government (the Danish Social Democrats and the Danish Social-Liberal Party), Denmark's Liberal Party, the Danish People's Party and the Conservative People's Party

Stronger health and safety initiatives - everyone is entitled to a safe and healthy working environment.

Workplaces in Denmark should be safe, secure and healthy.

The parties to this agreement (the Parties) agree to strengthen health and safety initiatives to provide more people with a good and long working life. Firstly, health and safety initiatives must target the enterprises with the biggest problems. Secondly, poor health and safety must never become a competitive advantage.

The current health and safety initiatives are based on the 2020 OSH Strategy announced in 2011, see the political agreement of March 2011 between the Danish Social Democrats, the Danish Social-Liberal Party, Denmark's Liberal Party, the Conservative People's Party and the Danish People's Party. The 2020 OSH Strategy contains a prioritisation of three health and safety problems: industrial accidents, the psychological working environment and musculoskeletal disorders.

The following ambitious targets have been set for the three areas up to 2020:

- 25% fewer serious industrial accidents
- 20% fewer people with occupational psychological problems
- 20% fewer people with musculoskeletal strain and overload.

In connection with establishment of the agreement on the 2020 OSH Strategy, it was also agreed to implement 19 initiatives to support the targets in the strategy.

The Parties agree to maintain the targets in the 2011 Agreement. However, it is necessary to strengthen health and safety initiatives further, if the ambitious targets of fewer industrial accidents, and fewer people with physical and psychological overload are to be achieved by the end of 2020.

Therefore, the Parties will supplement the 2011 Agreement with stronger health and safety initiatives by implementing 15 new initiatives to contribute to achieving the 2020 targets. 2

Initiative 1: More inspection of enterprises with the biggest health and safety problems

The Parties agree that the risk-based inspection introduced from 1 January 2012 as part of the 2020 OSH Strategy is to be targeted further.

This will be by selecting about 80% of the enterprises that are to have annual risk-based inspection by using the index model. This is an increase from the approximately 55% selected today using the model, while the rest are selected via sampling.

The new procedure will help prioritise enterprises assessed to have problems within the three areas: fewer industrial accidents, fewer people with psychological strain and overload, and fewer complaints because of musculo-skeletal impacts.

Conducting more inspections at enterprises with health and safety problems will mean that, in the period up to 2020, the Danish Working Environment Authority (Danish WEA) will visit more often enterprises that

are expected to have problems, and the Authority will reduce the number of visits to enterprises that are unlikely to have problems.

The sample of about 20% means that there is still a real probability that an enterprise will be selected for inspection. The sampling will be weighted; for example enterprises with large numbers of employees will be weighted relatively high.

Enterprises with at least one full-time employee (FTE) can be selected for risk-based inspection, either via the index model, or via the sampling.

If a specific assessment by the Danish WEA reveals that it is not possible to cover the full health and safety situation in one visit, the risk-based inspection can continue for another day and possibly several more days.

If an enterprise has been issued with an improvement notice on tangible aspects of health and safety, the current procedure is that a new risk-based inspection will always be arranged 12-18 months later. In future, however, the follow-up inspection will be organised more flexibly. This flexibility will mean that the Danish WEA is no longer bound to the 12-18-month follow-up. This will lead to better planning possibilities to optimise resources.

The initiative will be implemented from 1 January 2016. The Parties will be briefed annually on the results of the initiative.

Initiative 2: More information to be included when an enterprise is selected for inspection

The Parties agree that, as a new measure, following a specific assessment, reports of occupational diseases can be included in the basis for selecting enterprises for risk-based inspection. It is expected that more enterprises will be visited on the basis of reported occupational diseases. This part of the initiative will be implemented from 1 January 2016.

The Parties also agree to investigate how reported and recognised occupational injuries can be included as a parameter in the index model, and how information on workload in the report and from occupational-injury cases can be included in preparations for the inspection visit. The investigation will be completed as analysis work collaboratively between the Danish WEA, the National Board of Industrial Injuries and the National Research Centre for the Working Environment (NRCWE).

The analysis work will be initiated on 1 July 2015 and completed in mid 2016. The full specification of the investigation is to be submitted to the Working Environment Council before the analysis is initiated, and the results of the analysis are to be discussed with the Working Environment Council on completion.

Initiative 3: Inspection to be conducted where work is being performed

The Parties agree that risk-based inspection is to be conducted on-site, where work is being performed and where health and safety problems can actually arise. The Parties also agree that the Danish WEA is to be able to contact all enterprises with temporary and changing workplaces before risk-based inspection. The proposal does not mean that the Danish WEA should not visit the permanent address of the enterprise when relevant.

Risk-based inspection will continue to be unannounced, in that the Danish WEA does not give notice about exactly when and where inspection is to take place.

The initiative will be implemented on 1 July 2015 and evaluated in 2016. The results of the evaluation will be submitted to the Parties.

Initiative 4: Newly established enterprises are to be inspected earlier

The Parties agree that the two-year period of grace from risk-based inspection for newly established enterprises is to be repealed. This means that newly established enterprises assessed to have a high risk of

health and safety problems can now be selected for risk-based inspection in line with other enterprises. This means that new enterprises are on the same footing as other enterprises assessed to have a high risk of health and safety problems.

A change in the regulations for the period of grace will not mean that all new enterprises will be visited by the Danish WEA immediately. The Parties agree that newly established enterprises should continue to receive a starter kit immediately after they employ staff.

The initiative will be implemented from 1 January 2016.

Initiative 5: Enterprises with a working environment certificate but with problems can be inspected

The Parties agree that enterprises with a working environment certificate work systematically with health and safety and their working environment, and that the “crown smiley” symbolises this.

If an enterprise with a working environment certificate receives a reaction from the Danish WEA because the enterprise has breached the occupational safety and health regulations, like any other enterprise breaching the regulations, it will be issued with a yellow or red smiley and lose its crown smiley. The yellow and red smileys are always issued for at least six months.

The Parties agree that when an enterprise with a working environment certificate has received a substantive reaction on breach of the Working Environment Act in cases of serious or immediate and significant danger, the Danish WEA must always check in a new inspection visit whether the enterprise has complied with the improvement notice before the enterprise is reissued its crown smiley.

Today, the Danish WEA follows up by assessing whether the feedback that enterprises always submit to the Danish WEA is satisfactory. If the Danish WEA is in doubt, a further inspection is carried out to ensure that the health and safety situation is in compliance.

Enterprises with a working environment certificate cannot be selected for risk-based inspection.

The initiative will be implemented from 1 January 2016.

Initiative 6: Better control of working environment certification

The Parties agree that high-quality work by certification bodies is crucial to ensuring the quality of certification.

Therefore, the Parties agree that an investigation is to be carried out into whether there is a need to enhance the quality of certification and auditing by the certification bodies, and if so, how this is to be done. For example, whether it is possible to establish greater certainty that the auditors from the certification bodies have the required qualifications, knowledge about the sector and knowledge about health and safety in the individual sectors.

The investigation will be initiated on 1 July 2015 and conducted over one year by the Danish WEA in collaboration with the Danish Accreditation Fund (DANAK) which is responsible for accreditation of the certification bodies. The Working Environment Council will be involved in the work. The results will be submitted to the Parties.

Initiative 7: The Danish WEA and the sector working environment councils are to coordinate their work

The Parties agree that, within the framework of risk-based inspection, the Danish WEA is annually to stipulate a number of focus areas within the relevant sectors that are judged to have special potential and needs to prevent specific issues. Prior to stipulating these focus areas, the relevant sector working environment councils will be able to submit proposals for issues in the individual sectors in connection with the risk-based inspection. These proposals will be included in work by the Danish WEA to identify focus

areas.

The focus areas will be presented to the sector working environment councils to enable them to target their activities so that they can better support risk-based inspection of the selected focus areas.

The initiative will be implemented from 1 January 2016.

Initiative 8: Access to targeted guidelines from the Danish WEA

The Parties agree that it should be easier for enterprises to access targeted information on how they can comply with the occupational safety and health regulations. This will be by allowing all enterprises (employers, health and safety representatives, etc.) to set up “personal” pages on the Danish WEA website containing the regulations and information materials, including guidelines from sector working environment councils, that are particularly aimed at enterprises of the relevant size and sector.

This initiative will aid access to targeted information for enterprises.

The initiative will be implemented from 1 January 2016.

Initiative 9: Risk-based inspection to be notified digitally

In order to ease the administrative burden of both enterprises and the Danish WEA, the Parties agree to discontinue notification of risk-based inspection by telephone and replace this with digital notification. Digital notification will save time for the enterprise and allow for flexibility so that the enterprise can organise itself for the inspection.

There will be a minimum of one month between digital notification and completion of the inspection. This means that, just as at present, the enterprise can resolve any health and safety issues itself before the inspection.

The initiative will be implemented on 1 January 2016.

Initiative 10: Trial with announced risk-based inspection

The Parties agree that the Danish WEA should conduct a trial within selected sectors with advance notice of a risk-based inspection on a specific date and time. Temporary or changing workplaces will not be part of the trial. The objective of the trial is to obtain more detailed knowledge about the significance of announcing a risk-based inspection for preparations by enterprises, and the benefits enterprises obtain from inspections. Another objective is to obtain knowledge about the Danish WEA’s possibilities to identify health and safety issues and conduct the inspection itself.

The trial will be conducted in 2016 and 2017 for a total of 2-3,000 enterprises, corresponding to about 10% of risk-based inspections for a single year.

After the trial period, the experience gained will be evaluated.

The Working Environment Council will be consulted regarding the trial with announced risk-based inspections before the evaluation, and later, once the evaluation has been completed. The result will be submitted to the Parties.

Initiative 11: Investigation of a method to select enterprises for inspection

The Parties agree that the Danish WEA should initiate an analysis to examine whether there is a basis for making the selection of enterprises for a new risk-based inspection following reactions more targeted and differentiated.

The investigation is to examine whether the risk that the Danish WEA again finds health and safety issues

at the same enterprise depends on the nature and severity of the health and safety issues. The significance of the sector and the size of the enterprise will also be examined.

The analysis will be initiated on 1 July 2015 and completed in the autumn 2016.

The specifications for the investigation will be submitted to the Working Environment Council before the investigation is initiated. Once the Danish WEA has completed the analysis, the results will be submitted to the Working Environment Council and then the Parties.

Initiative 12: Serious violations to result in higher fines

The Parties consider that enterprises which commit serious violations of the Working Environment Act should be sanctioned harder. The standard fine for ordinary breaches of the Working Environment Act is currently DKK 20,000, and the standard fine for serious violations of the Working Environment Act is DKK 40,000.

The Parties agree that the standard fines are to be held at their current level, but that the increases in fines for aggravating and especially aggravating circumstances should be raised.

The Parties agree that in future, a fine is to be raised by DKK 10,000 for aggravating circumstances.

The Parties agree that in future, a fine is to be raised by DKK 20,000 for especially aggravating circumstances.

The scope for especially aggravating circumstances is to be expanded to include circumstances in which:

- the violation has resulted in damage to life or health, or risk of such damage for several people,
- The enterprise (legal person) has previously been fined for gross/serious violation of the Working Environment Act within the past four years, irrespective of whether or not the violation was similar in nature.

The Parties agree that fines in situations with aggravating or especially aggravating circumstances should be differentiated on the basis of the size of the enterprise, see the table below.

Differentiation for higher fines

	Aggravating circumstances		Especially aggravating circumstances	
	Current	Proposed	Current	Proposed
0-9 employees	5,000	10,000	10,000	20,000
1-34 employees	5,000	15,000	10,000	30,000
35-99 employees	5,000	17,500	10,000	35,000
100 or more employees	5,000	20,000	10,000	40,000

In future the total increased fines will be differentiated and not just standard fines.

As repeat offences, for the same, similar or different circumstances, will be covered by the agreed expansion of the scope for especially aggravating circumstances, the current percentage rates for repeat offences within the same or similar circumstances will no longer apply. This is to avoid twofold increases in fines for both repeat offences and especially aggravating circumstances, for the same violation.

An evaluation of the new levels for fines and expansion of the scope for especially aggravating circumstances will be initiated. This evaluation is to ensure and test whether the intentions behind the legislative amendment have been realised with regard to target, number of fines, level of fines, etc.

An enterprise can always bring a case before in the courts.

The evaluation will be initiated no less than two years after entry into force of the legislative amendment.

The initiative will be implemented from 1 January 2016.

Initiative 13: Inspection of enterprises that commit serious violations of the regulations

The Parties agree that enterprises that have been issued with a prohibition notice as a result of a gross violation of the health and safety regulations are to be subject to stricter inspection (unless, for example, the work has been completed). This means more rapid follow-up than today, i.e. a few days/weeks after the gross violation was ascertained. This will ensure that enterprises that do not take appropriate measures to prevent serious industrial accidents will be under sharper scrutiny from the Danish WEA from the first time they commit a gross violation.

The stricter inspection will be conducted as an unannounced inspection at the same workplace as the gross violation was ascertained. Furthermore, inspection will have broader focus than merely the health and safety issues behind the gross violation.

Enterprises imposed with a prohibition notice from the Danish WEA following a risk-based inspection will not be subject to stricter inspection, as enterprises under risk-based inspection are already inspected with a broad focus.

An enterprise imposed with a prohibition notice or a consultancy notice today gets a red smiley on the Danish WEA website. In connection with the existing smiley scheme, the Danish WEA website will list the enterprises subject to stricter inspection.

The initiative will be implemented from 1 January 2016. The Parties will be briefed annually on the results of the initiative.

Initiative 14: Breaches of the occupational safety and health regulations to be followed up rapidly

The Parties agree that the Danish WEA Fines Executive Order, which forms the basis for administrative fines issued by the Danish WEA, is to be updated to account for the areas with fixed legal practice that have arisen since administrative fines for breaches of health and safety regulations were introduced in 2001.

The object of the proposal is to give enterprises a simpler and rapid follow-up to sanctionable breaches so that they do not have to wait for a police case or court proceedings.

The Working Environment Council will be consulted in connection with the amendment to the Fines Executive Order.

The initiative will be implemented on 1 October 2015.

Initiative 15: Regulations on cooperation concerning health and safety are to be toughened

In order to enhance the formal framework for supplementary training for members of the health and safety organisation, the Parties agree that the Executive Order on cooperation on safety and health is to be amended. There are to be requirements that it should be possible to document the offer of supplementary training to the Danish WEA, and that the health and safety organisation is to contribute to the competency development plan in connection with annual health and safety discussions.

The Parties agree that the Danish WEA is to focus on enforcing these regulations when tangible health and safety issues are ascertained at an enterprise.

The Parties agree that the Danish WEA is to contribute to implementation of information and guidance work to disseminate knowledge about the health and safety organisation regulations in enterprises.

The initiative will be implemented on 1 January 2016. The Working Environment Council will be involved as usual in the amendment to the Executive Order on cooperation on health and safety.

In order to ensure that the new initiatives work as intended, a new investigation will be launched into experience with the health and safety organisation regulations. This is to be completed before 2020.

Implementation of the Agreement

The initiatives in this Agreement are to be implemented on the dates mentioned under the individual initiatives.

The Parties agree that in the autumn 2015 a Bill to amend the Working Environment Act will be submitted in order to implement the amendments necessary for the initiatives to enter into force as agreed.

Annex 1: Initiatives in the 2020 OSH Strategy that have been implemented and are now part of routine operations at the Danish WEA:

2. Triviality limit
3. Differentiated fines
4. Intensified dialogue with enterprises
5. Focus on the psychosocial working environment
6. More help for smaller enterprises
7. Starter kit for new enterprises
8. Simpler health and safety consultancy scheme
9. Modified smiley scheme
11. Dialogue on health promotion
12. Focus on young and new employees
13. Focus on foreign undertakings
16. Danish Centre for Nano-Safety
17. Targeting the resources of the Danish Working Environment Research Fund
18. Measuring progress with regard to the working environment
19. Impact measurement of specific activities

The following initiatives have been continued/replaced by new initiatives in this Agreement

1. Risk-based inspection in two tiers
10. Analysis of the experience with the health and safety organisation at the enterprise level
14. Improved guidance and information on the working environment and health and safety at work

The following initiative has been concluded/implemented as agreed:

15. Coordination of guidance and inspections of enterprises by various authorities