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# Working offshore in Denmark

*15 April 2021*

# What will we discuss?

1. When does Danish law apply?
2. Work permit issues
3. Posting of workers
4. Collective agreements
5. Health, safety and work injury
6. Coronavirus issues
7. Q&A

# INTRODUCTION

## Why is offshore work a hot topic?

- Work permit issues
- New pending case regarding Russian workers working on the new Fehmarn Belt Tunnel between Denmark and Germany
- Trade unions in Denmark and industrial actions
- New requirements due to coronavirus

# **When does DANISH LAW APPLY?**

# When does Danish law apply?



## Two issues

What is **Danish territory** at sea?

What ships and offshore installations under foreign flag, working in Danish territorial waters, may fall under **Danish jurisdiction**?

# Danish territorial waters



## UNCLOS 2004

Inner

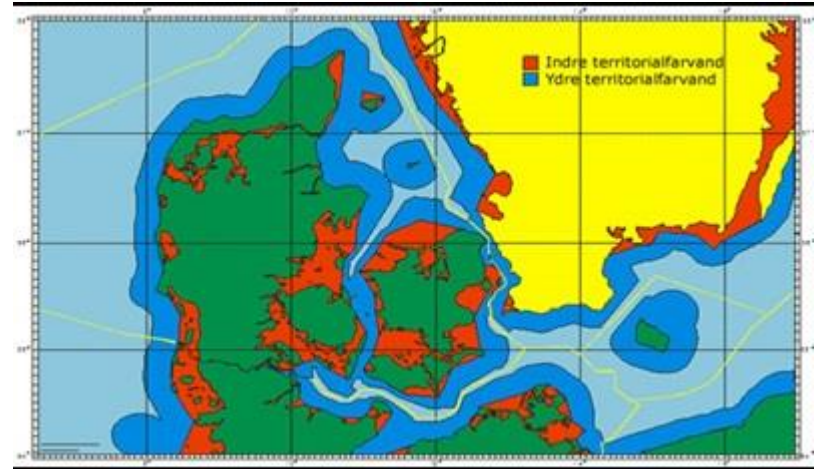
Outer

Territorial

Waters

12 NM from the coastline

24 NM Contiguous zone



*Ministry of Foreign Affairs*

# Exclusive Economic Zone



## The Danish Exclusive Economic Zone

UNCLOS permits  
A 200 NM EEZ.

Adjacent states  
limit the Danish  
EEZ



*Danish Defence Command*



# Jurisdiction under UNCLOS



## Territorial waters

- Ships
  - Full jurisdiction
  - Right of innocent passage
  - Danish ships
- Foreign ships
- Installations

# Jurisdiction under UNCLOS



## Contiguous zone

Denmark can:

- prevent breaches of Danish customs, fiscal, immigration and sanitary law
- punish breaches of such laws committed in its territory or territorial waters

# Jurisdiction under UNCLOS



## Exclusive Economic Zone

Exclusive right of:

- Exploration
- Construction of artificial islands, installations and structures

Denmark has **full jurisdiction** over such artificial islands, installations and structures

Other states have rights e.g. of operation of a ship

# Jurisdiction under UNCLOS



## Exclusive Economic Zone

What are installations?

When is a ship a ship – and when is it an installation?

- Danish maritime law: ships, barges, mobile rigs
- Danish Offshore Safety Act:
  - Installations are objects designed for **exploration** of oil or gas, when engaged in such exploration
  - Hotel ships and certain other ships when **permanently linked** to installation
- Danish Aliens Act: Further definitions of installations

How is this exercised by the Danish authorities?

# Work permit ISSUES

# Work permit issues



## Must foreign workers have a work permit?

- Citizens from the Nordic countries, EU/EEA and Switzerland
  - The 3 months' rule
- Citizens from third countries (countries outside the EU, the EEA or Switzerland)
- Sanctions?

# Work permit issues



## Citizens from third countries

Work on ships that:

- Take up permanent residence in Danish territorial waters, or
- Regularly arrives at a Danish port

Work performed in the Danish maritime territory or on the continental shelf, e.g.

- Fixed offshore installations, or
- Floating installations for the purpose of construction

# Work permit issues



## Any other requirements?

Different schemes applies for citizens of third countries:

- The "Pay Limit Scheme", the "Fast-track Scheme", etc.
- Workers on an oil drilling rig, a drillship or any other comparable movable work site, which enters Danish territory for a brief period

Salary and terms of employment must correspond to Danish standards

- Salary, holiday entitlements, terms of notice etc.
- Experts in the professional field may be asked



# Work permit issues



## Application process

Often a very urgent project:

- Biometrics from each employee must be obtained
- Making sure that salary and working terms correspond to Danish standards
- No work may be commenced until the application process is completed
- Group application is an option

# Posting of WORKERS

## The Danish Act on Posting of Workers

- Several obligations for employers, for instance in relation to:  
Work environment, The Danish Holiday Act, discrimination at the workplace, equal pay and equal treatment etc.
- The 12 months' rule
- Notification to the Register of Foreign Service Providers (RUT)

# Collective AGREEMENTS

# Collective agreements



## Trade unions

What is the Danish agreement-based system without governmental interference?

Are companies required to comply with or conclude a collective agreement?

Are trade unions entitled to try to conclude collective agreements?

What are Danish and foreign companies' options?

# Collective agreements



## Industrial actions

Trade unions may resort to industrial action in order to reach an agreement:

Strikes, blockades, sympathy actions etc.

What about **physical blockade**?

# Collective agreements



## Industrial actions - conditions

- The work must fall within the trade union's scope, no requirement of members
- Proportionality, etc.

## Issues

- No statutory minimum wage
- Industrial wage (social dumping)?
- Action requires notification

# Health, safety and WORK INJURY ISSUES



## What are the obligations regarding health and safety?

The Danish Working Environment Act

- Safe and healthy working conditions (work instructions, approved standards must be followed etc.)

More rules apply in specific fields

- The Offshore Safety Act: Working hours, rest and off-duty periods etc.
- The Maritime Safety Act (Danish ships)

# Work accidents and insurance



## Mandatory insurance covering work accidents

- Work accidents must be reported (also deaths)
- Who covers the costs, when a work accident has been reported?
- What about other health insurances?

# Coronavirus ISSUES

# Coronavirus issues



## Testing for coronavirus

Are companies allowed to test employees for coronavirus?

The request must be objectively justified in:

- the interests of limiting the spread of coronavirus, or
- significant operational considerations.

Other requirements: Written information, in the employees' working hours (or compensation), etc.

## Visiting workers and isolation

Special requirements when foreign employees visit the workplace

- What about employees performing offshore-work?
- Companies must develop a written plan

What about isolation?

- Temporary interruption of isolation
- Offshore workers who have a [residence permit](#) and are able to present a negative antigene or PCR-test for coronavirus on request

# Coronavirus issues



## Accommodation

What if companies also provide accommodation to foreign employees?

Requirements: One metre of distance between the employees, a written plan for preventing coronavirus infections etc.

The Act only applies within Denmark's municipal boundaries

# Coronavirus vaccination



## **Duty to prevent employees from getting infected with coronavirus**

- Can employers require vaccination?
- Can employers ask employees whether they have been vaccinated?
- What about vaccination requirements in commercial agreements?

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**THANK YOU**



## **Søren Hessellund Klausen**

Søren is partner and is a part IUNO's team for HR Legal.

Søren advises Danish and international companies within a broad range of sectors and on a wide range of issues, including restructuring, compensation and benefits, business transfers and internal investigations and anti-bribery matters.

Søren is a specialist in health and safety regulation. For more than a decade he has acted as legal representative for large industrial companies and insurance companies in cases concerning work related injuries.

Søren has significant experience with court and arbitration proceedings and as such, he co-heads the business litigation team.

## Mads Poulsen

Mads is partner and is a part of IUNO's teams for Transport and Insurance.

Mads is recognized as one of the leading lawyers in transport and insurance and he has over 20 years of experience in this, both from Denmark and England. Mads is also a part of Chambers & Partners.

His clients recognizes Mads as a man of solutions. Mads always strives to find a solution everyone can be satisfied with, even though, there is a great disagreement in the beginning – which he often succeeds in.



## **Cecillie Groth Henriksen**

Cecillie is an associate and is a part of IUNO's team for HR Legal and Insurance.

Cecillie specializes in everything regarding general HR, restructuring, outsourcing, transactions and employment conflicts.

She assists in a wide range of cases regarding HR Legal and Insurance.



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