

# Circular on the Agreement regarding Cooperation and Joint Consultation Committees in the State

(To all ministries, agencies, etc.)

The Danish Ministry of Taxation and the Association of Danish State Employees' Organisations (Government Area), CO10, the Central Organisation of 2010, the Danish Confederation of Professional Associations and the Danish Confederation of Teachers Associations entered into the attached Agreement regarding Cooperation and Joint Consultation Committees in the State on 4 November 2021.

For easy reference and guidance, the Ministry of Taxation's explanatory notes to the individual provisions have been inserted as italicised text after the provision. This involves no change in the legal status of the notes. Hence, the notes do not form part of the agreement.

## General notes

### 1. Changes as compares with the 2013 Agreement

- A. This is a revised version of the Cooperation Agreement of 27 August 2013. Clause 3(2), para (4). has been changed to clarify that the provision applies to expected management decisions regarding calls for tenders, renewed calls for tenders and outsourcing.
- B. Moreover, linguistic changes have been made to clause 2, clause 5(3), para (b), (d) and (f) and clause 8. These changes do not alter the agreed meaning of the content.
- C. Furthermore, clarifications have been made in clause 7(2) and (4), clause 8 and clause 17, where "personnel organisation" has been changed to "organisation with negotiating powers".
- D. In addition, the joint consultation committees in the local workplaces should be aware of the Protocol on Green Transition, on which the parties to the collective agreement agreed in connection with the collective bargaining in 2021. The issue of "green transition" should be discussed in the joint consultation committees, when the green transition is of importance to the working conditions and staff matters in the workplace.
- E. Likewise, the consultation committees should be aware of other agreements that task the consultation committee with additional duties locally, including about strategic competence development and senior policy.

The objective of the agreement is to form an operational and user-friendly framework for constructive, trusting cooperation based on dialogue between management and employees in the local joint consultation committees. Such cooperation is essential for achieving good workplaces in the state, which focus on the key task and are characterised by quality in the handling of tasks, job satisfaction,

innovation and efficiency. Moreover, the Agreement is to provide the best possible starting point for the local joint consultation committees – based on the specific challenges, needs and conditions – to address the issues that are relevant for the individual workplace and its future.

## **2. Implementation of EU Directives and European Agreements**

The Agreement implements the following EU Directives and European Agreements:

- Council Directive of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin
- Council Directive of 27 November 2000 establishing a general framework for equal treatment in employment and occupation
- Council and European Parliament Directive of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community
- The European Framework Agreement of 8 October 2004 on work-related stress
- The European Framework Agreement of 26 April 2007 on harassment and violence at work.

## **3. Commencement**

The Circular comes into effect on 1 April 2021. At the same time, the Ministry of Taxation's Circular no. 9444 of 27 August 2013 on Cooperation and Joint Consultation Committees in the State is repealed.

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Danish Ministry of Taxation, Employee and Competence Agency

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## **Agreement on Cooperation and Joint Consultation Committees in the State**

### **§1. Objective**

Well-functioning and solution-oriented local cooperation is essential for achieving good workplaces in the state, which focus on the key task and are characterised by quality in the handling of tasks, job satisfaction, innovation and efficiency. Good local cooperation is a forum for dialogue where decisions and new ideas can be discussed and developed between management and employees.

Management is responsible that the workplace develops and meets community demands and expectations. Management and employees must cooperate on realising the workplace strategy and goals.

The objective of the Cooperation Agreement is to promote constructive, local cooperation based on trust and dialogue. The agreement establishes the framework for cooperation between management and employees with a view to involving the employees in the work on the workplace goals and strategy. The Agreement is to provide the best possible starting point for the local joint consultation committees – based on the specific challenges, needs and conditions – to address the issues that are relevant for the individual workplace and its future.

Trusting cooperation between management and employee representatives presupposes that they handle their functions in mutual respect for each other's roles and keep each other informed about matters of substantial importance to the workplace in order to positively contribute to the development of the workplace.

### **§2. Framework for the work of the joint consultation committee**

The Agreement lays down the framework for how the joint consultation committee is to cooperate on working conditions and staff matters that are subject to the employer's managerial prerogative. Thus, conditions regulated by collective agreements – including pay and appointment conditions – are not within the scope of the joint consultation committee's responsibilities.

Together, the employee representatives of the committee must represent all employees within the area of the individual committee, focusing on workplace issues.

The joint consultation committee must regularly evaluate its work to ensure that cooperation is constantly improved and properly targeted.

### **§3. Information and discussions in the joint consultation committee**

(1) In the joint consultation committee, management and employee representatives must inform each other about and discuss workplace conditions.

Any information must, to the extent possible, be provided in both oral and written form.

#### *(2) Management's duty to provide information*

In the joint consultation committee, management must provide information about:

1. Recent developments in the workplace and expected developments in activities and in the financial situation.
2. The present situation of the workplace and expected developments regarding structure and employment, particularly in connection with structural changes and in situations where jobs are threatened. Planned and expected initiatives must also be included in this connection.
3. Other decisions that may lead to considerable changes in the planning of work and in the employees' terms and conditions of employment.
4. Expected decisions regarding calls for tenders, renewed calls for tenders and outsourcing.

Information must be provided so early and with such appropriate contents that a thorough discussion can be had in the joint consultation committee, so that the employees' views and proposals can form part of the basis for management's final decision.

#### *(3) Information and discussion at the right level*

Management is responsible for ensuring that information is given and discussions take place in parallel with management and decision-making structures. Information and discussions must be established between the competent management and the employee representatives of the staff groups affected.

If a situation arises that calls for information and discussion of subjects that lie beyond the remit and competence of the chairman of the joint consultation committee, the relevant management is obliged to ensure that all joint consultation committees affected are informed and consulted.

If a group management or the like is set up, management must, whenever a situation requires the provision of information and consultation, assess, together with the representatives of organisations with bargaining powers, how information can be provided and consultation take place in the most expedient manner. This may take the form of:

1. Establishing a joint consultation committee at group management level
2. Setting up ad hoc committees
3. Carrying on discussions in the relevant joint consultation committees within the relevant area

*(4) Employees' duty to provide information*

Employee representatives must inform the joint consultation committee of views and circumstances of the employees of importance to the cooperation.

*(5) The duty of the joint consultation committee to provide information*

The joint consultation committee must ensure that all employees are kept informed of the joint consultation committee's work.

*(6) The joint consultation committee's discussions*

If management or employee representatives so wishes, the joint consultation committee must discuss the matters covered by the duty to provide information.

#### **§4. Tasks**

The joint consultation committee deals with relevant topics within working conditions and staff matters, which are of importance to the workplace. It is up to the individual joint consultation committee to assess which topics are of particular relevance for a strategic connection to exist between the work of the joint consultation committee and the goals of the institution. These may include:

1. Working conditions and staff matters
2. Trust, cooperation and job satisfaction
3. Reorganisation in the workplace

#### **Re 1. Working conditions and staff matters**

With a view to creating an attractive and efficient workplace, as well as motivated employees who work to fulfil the institution's goals, it is expedient that the joint consultation committee discusses working conditions and staff matters that fall within the managerial prerogative.

The joint consultation committee may discuss:

- a) The institution's personnel policy
- b) Initiatives to retain senior employees
- c) Work-life balance and leave of absence policy
- d) Sickness absence policy and sickness absence interviews

#### *Jobs on special terms*

With a view to integrating groups that have difficulty in gaining a foothold in the labour market, the joint consultation committee can discuss the possibilities of making use of social and labour market policy schemes.

The joint consultation committee can establish general guidelines, cf. clause 6, for designing jobs on special terms, for instance concerning job content, training, staff performance and development reviews, competence development and the number of positions that may be filled on special terms.

### **Re 2. Trust, cooperation and job satisfaction**

The joint consultation committee plays a key role in making sure that the workplace has a good psychological work environment, which is characterised by trust and cooperation, and which helps to create room for professionalism and quality in the undertaking of tasks.

The joint consultation committee may discuss:

- a) Trust and cooperation in the workplace
- b) Framework for professionalism and quality in the undertaking of tasks
- c) Job satisfaction and psychological work environment

In order to promote possible initiatives and efforts, the joint consultation committee can coordinate its work with the Danish Working Environment Authority.

### **Re 3. Reorganisation in the workplace**

The joint consultation committee plays a key role in ensuring a positive approach to continuous changes within the state.

The joint consultation committee may discuss:

- a) The consequences of major rationalisation and restructuring projects, including competitive tendering, contracting out and outsourcing of tasks
- b) The consequences for the institution's finances, organisation of work, staff requirements and competence development

- c) A plan for the restructuring process, including, for instance, communication to the workplace, matters relating to implementation as well as the handling of the consequences for the workplace.

## **§5. Special tasks**

(1) As a supplement to the tasks the local joint consultation committee chooses to prioritise in its work, the joint consultation committee has a number of special tasks.

### *(2) Goals, strategy and finances*

The joint consultation committee must discuss the institution's goals and strategies in order to include employees in the deliberations to make the institution work in a quality-conscious, goal-oriented and efficient manner.

To this end, the joint consultation committee must discuss:

- a) The correlation between the institution's goals/strategy and personnel policy
- b) Relevant parts of a potential performance contract for the institution/service contract
- c) The institution's budget and appropriation, including the overall priorities for applying the appropriation

### *Explanatory notes to clause 5(2)*

*In connection with the joint consultation committee's discussions of relevant parts of a potential performance contract for the institution or a service contract, topics such as the institution's operational, development and personnel policy goals may be discussed.*

*In connection with the joint consultation committee's discussions of the budget and finances of the workplace, it is particularly relevant that management informs the joint consultation committee of expenses provided for in the budget as well as incurred expenses that relate to working conditions and staff matters, for example payroll, overtime and additional hours and competence development*

(3) The joint consultation committee has the following tasks as a result of other agreements and EU Directives:

### a) Competence development

The joint consultation committee has a role in connection with furthering the strategic aim of competence development in the workplace. The joint consultation committee's specific tasks in connection with the workplace's efforts to create competence development follow from the agreement on competence development and from the agreement on the competence fund

b) Discrimination

The joint consultation committee must discuss the personnel policy's contribution to prevent direct and indirect discrimination. This includes helping to ensure that – irrespective of sex, ethnic origin, skin colour, race, religion, disability, age or sexual orientation – all employees get the same opportunity for appointment, education, promotion and working conditions in general

c) Equal treatment

The joint consultation committee must discuss gender equality issues and work to ensure that gender equality is an integral part of the personnel policy

d) Job satisfaction

The joint consultation committee must discuss the employees' job satisfaction and well-being, including the psychological work environment. Moreover, the committee discusses the evaluations of job satisfaction and well-being that must be made at least every three years, and which may be made in connection with the statutory workplace assessment

e) Work-related stress

The joint consultation committee must discuss the efforts of the workplace to identify, prevent and handle problems in connection with work-related stress

f) Offensive acts

The joint consultation committee must discuss the efforts of the workplace to further a work environment where employees are not subjected to violence, offensive acts, including bullying and sexual harassment, from colleagues, management or third parties.

*Explanatory notes to clause 5(3)*

*In connection with the joint consultation committee's discussions of gender equality and the prevention of direct and indirect discrimination, reference is made to the Danish Act on Equal Pay to Men and Women, the Danish Act on Gender Equality as well as the Danish Act on Prohibition of Discrimination on the Grounds of Race, etc.*

*In connection with the joint consultation committee's discussions of offensive acts, reference is made to the Danish Working Environment Authority's Executive Order no. 1406 of 26 September 2020 on psychological work environment.*

## **§6. Establishment of guidelines/principles**

- (1) The joint consultation committee may lay down guidelines or principles for the working conditions and staff matters in the workplace.
- (2) The establishment of guidelines is limited to management's area of responsibility and competence.
- (3) If either party so wishes, consultations must be initiated on establishing guidelines.
- (4) The establishment of guidelines requires consensus between the parties in the joint consultation committee. If consensus cannot be reached, management lays down the necessary guidelines
- (5) It is a breach of the Cooperation Agreement if the parties do not demonstrate a positive attitude in the endeavour to reach consensus.
- (6) All guidelines must be drawn up in writing.
- (7) Either party may terminate the guidelines by giving three months' notice. Prior to the notice of termination, the joint consultation committee must endeavour to change the existing guidelines in a manner acceptable to the parties in the joint consultation committee.

### *Explanatory notes to clause 6:*

*The "parties in the joint consultation committee" mean the management side and the employee side, respectively. When the agreement states that: "The establishment of guidelines requires consensus between the parties" and "if either party so wishes", it means that there must be broad support among the members of the "side" of the joint consultation committee concerned. This implies that the individual joint consultation committee member cannot claim to be a party within the meaning of the Agreement and thus has no veto power that can block the joint consultation committee's work.*

## **§7. Establishment of a joint consultation committee**

- (1) Institutions with a minimum of 25 employees must set up a joint consultation committee.

If, within the institution, there are more workplaces with an independent management function with a minimum of 25 employees, a joint consultation committee must be set up for each of these workplaces.

If several joint consultation committees are established within an institution, a general joint consultation committee, which is common to the entire institution, must be set up.

It is of crucial importance for cooperation that the joint consultation committee structure reflects the organisational structure.

If several state sector institutions decide to perform tasks jointly/establish a workplace with an independent management function and a minimum of 25 employees, a joint consultation committee must be set up.

At institutions where, due to a limited number of staff, there is no requirement to set up a joint consultation committee, cooperation must take place according to the same principles as are set out in this Agreement.

*(2) Composition of the joint consultation committee*

The number of seats in the joint consultation committee is decided by agreement between management and the representatives of the staff organisations with bargaining powers.

If more organisations with bargaining powers are represented at the institution, the distribution of the number of seats among the organisations is decided by agreement among the organisations.

The manager in charge of the institution or in charge of the part of the institution concerned chairs the joint consultation committee and appoints the other management representatives and their alternates.

The staff organisations with bargaining powers appoint the employee representatives and their alternates among the registered trade union representatives at the institution. If more employee representatives are to be appointed than there are trade union representatives, the appointment is made among the other staff members at the institution. The management of the institution receives notice of the persons concerned. The same applies to alternates.

The employee representatives elect the deputy chairman of the joint consultation committee.

Members and alternates are appointed for a two-year term. The appointment ceases when the basis for it no longer exists.

*(3) Subcommittees*

The joint consultation committee may set up permanent or ad hoc subcommittees for the performance of specific tasks. When the joint consultation committee sets up a subcommittee, the competence of such committee in relation to the joint consultation committee must be clearly set out in its terms of reference.

*(4) Liaison committee*

A liaison committee may be set up, comprising the employee representatives of the joint consultation committee and a representative of each of the staff organisations with bargaining powers not represented in the joint consultation committee.

The liaison committee is tasked with offering guidance and advice to the employee representatives in the joint consultation committee. The committee is convened prior to joint consultation committee meetings.

*Explanatory notes to clause 7:*

*As a guide, the envisaged management area has such a degree of independent personnel administration and budgetary management that makes it reasonable to set up a joint consultation committee for the area concerned.*

*The decision as to whether a workplace may be considered an “institution”, for which an obligation exists to set up a joint consultation committee, depends among other things on an assessment of whether the management function includes:*

- a) An independent managerial prerogative*
- b) The right of decision or recommendation to appoint and dismiss employees*
- c) Independent responsibility for budgetary and accounts management*

*The parties at the individual institution must assess whether it is reasonable to establish more joint consultation committees.*

*If cooperation is established between a state sector institution and local government or private sector institutions with a view to future joint attention to tasks, steps must be taken to ensure that state sector employees continue to have the same rights of information, discussion and participation regarding the working conditions and staff matters at the workplace as are laid down in this Agreement.*

## **§8. Local agreements on organisational change of the work environment effort**

In order to strengthen the work environment effort, agreement may be reached on another organisation of such work, for example by merging the joint consultation committee and the health and safety committee.

The agreement is concluded between management and the representatives of the staff organisations with bargaining powers and must satisfy the minimum requirements laid down in the Working Environment Authority's Executive Order on cooperation on safety and health.

All representatives in the combined committee must receive an offer to participate in the statutory work environment training.

All representatives in the combined committee must also receive an offer to participate in the joint consultation committee training, cf. clause 11.

*Explanatory note to clause 8:*

*In connection with the statutory work environment training, reference is made to the Danish Work Environment Act in force from time to time.*

## **§9. Preparation of meetings**

(1) The chairman and the deputy chairman jointly draw up an agenda for the meetings.

The joint consultation committee draws up minutes of the joint consultation committee's meetings.

The joint consultation committee adopts its own rules of procedure.

Meetings are held primarily during working hours, and members must have the necessary time at their disposal for work in the joint consultation committee. Members receive an hourly and per diem allowance as well as an allowance for travelling expenses according to the rules agreed upon between the Ministry of Finance and the central organisations.

For participation in meetings and for travelling time in this connection outside normal working hours, compensation is granted to those concerned under the rules of the agreement on trade union representatives in the state sector, etc.

*(2) Calling in of experts*

When considering special issues in the joint consultation committee and subcommittees, either party may call in persons with special expertise in the relevant field from the institution. The calling in of other specialists, including external experts, is subject to consensus between the parties.

Furthermore, where one of the parties in the joint consultation committee so requests, the joint consultation committee may obtain assistance and guidance from the general joint consultation committee if such exists, the employee organisations affected and the central parties to the agreement.

*Explanatory note to clause 9:*

*In combined cooperation bodies that also attend to tasks that would otherwise be performed by a health and safety committee, reference is made to the provisions of the Ministry of Finance Circular of 1 September 1993 on remuneration of safety representatives, etc.*

**§10. Protection in connection with dismissal and relocation**

All employee representatives in the joint consultation committee and in combined joint consultation and health and safety committees set up under clause 8 enjoy the same protection as trade union representatives in the area. Alternates enjoy the same protection as alternates of trade union representatives in the area.

**§11. Training of joint consultation committee members**

Within the first six months after having been appointed, a joint consultation committee member must receive an offer to participate in a course for joint consultation committee members.

**§12. Advice to and guidance of joint consultation committees**

(1) The central parties set up a committee, the purpose of which is to promote the joint consultation committees' work through comprehensive information and guidance activities for the joint consultation committees. In addition, the committee is responsible for the training of joint consultation committee members.

*(2) Secretariat*

The day-to-day tasks of the committee are attended to by a secretariat, which is accountable

to the parties. Furthermore, the secretariat provides advice and guidance to both management and employee representatives in the state sector joint consultation committees about cooperation issues. Both parties contribute equally to the operation of the secretariat.

### **§13. Joint Consultation Board**

(1) The Joint Consultation Board is tasked with considering and deciding on cases of interpretation and breach of the Agreement.

#### *(2) Composition*

The Joint Consultation Board includes an equal number of representatives of both parties to the Cooperation Agreement. The Ministry of Finance appoints the chairman from among the members of the Board. The central organisations appoint the deputy chairman from among the members of the Board.

### **§14. Disputes**

(1) Either party in the joint consultation committee may require that a general joint consultation committee, if any, consider disputes on the interpretation and alleged breaches of the provisions of the Agreement. If no consensus is reached in the general joint consultation committee, the dispute is submitted to the Joint Consultation Board for decision.

#### *(2) Direct submission to the Joint Consultation Board*

If no general joint consultation committee has been set up at the institution, the dispute is submitted directly to the Joint Consultation Board for decision.

### **§15. Breach of the duty to provide information**

(1) In case of a breach of the duty to provide information, cf. clause 3(2) and (3) of the Agreement, the employee side may request that the duty to provide information be complied with. The request must be in writing. Management then has a time limit of one month from the receipt of the request to take steps to fulfil its obligation.

#### *(2) Sanctions*

If no steps have been taken within the time limit to fulfil the obligation, the employee side may lodge a complaint with the Joint Consultation Board. In case of a breach of the Agreement, the Joint Consultation Board or the arbitration tribunal, cf. clause 16, decides

on the imposition of suitable sanctions, for example a reprimand or a penalty. Provided the local parties agree, the penalty may be used for initiatives to promote cooperation.

## **§16. Arbitration**

(1) If no consensus can be reached in the Joint Consultation Board in cases of interpretation and breach of the provisions of the Agreement, the matter is submitted to an arbitration tribunal.

### *(2) Composition*

The arbitration tribunal is made up of four members. The Ministry of Finance appoints two members, and the central organisations appoint two members. The arbitration tribunal appoints an umpire. If no consensus can be reached on the appointment of an umpire, the Industrial Court is requested to appoint the umpire.

### *(3) Awards:*

The arbitration tribunal gives a reasoned award, which is binding on both management and employees.

## **§17. Conscripts**

The Agreement does not extend to personnel who are liable for military service. To the extent required by the conditions in the military defence and for civil preparedness, departures may be made from the provisions of the Agreement, subject to negotiations with the personnel organisations affected.

## **§18. Commencement**

The Agreement comes into effect on 1 April 2021. At the same time the Agreement repeals the Agreement of 27 August 2013 on cooperation and joint consultation committees in the State.

## **§19. Termination**

Either party may terminate this Agreement by giving three months' prior notice to expire on the first day of any month. After termination, the Agreement remains in force until replaced by a new Agreement, but no longer than up to a maximum of 12 months after termination.

Copenhagen, 4 November 2021.

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