

TRANSLATION

## **CONSOLIDATED WORKERS' COMPENSATION ACT**

Notice is hereby given of this Workers' Compensation Act, cf. Consolidated Act No. 154 of March 7, 2006, with amendments resulting from section 4 of Act No. 404 of May 8, 2006, section 1 of Act No. 1538 of December 20, 2006, section 2 of Act No. 1545 of December 20, 2006, section 4 of Act No. 1587 of December 20, 2006, section 10 of Act No. 108 of February 7, 2007, section 5 of Act No. 397 of April 30, 2007, section 1 of Act No. 496 of June 6, 2007, section 21 of Act No. 523 of June 6, 2007, section 8 of Act No. 576 of June 6, 2007, section 7 of Act No. 577 of June 6, 2007, section 6 of Act No. 484 of June 17, 2008, section 9 of Act No. 515 of June 17, 2008, section 9 of Act No. 517 of June 17, 2008, section 4 of Act No. 1336 of December 19, 2008, section 1 of Act No. 186 of March 18, 2009, section 13 of Act No. 392 of May 25, 2009, and section 10 of Act No. 483 of June 12, 2009.

### **Chapter 1**

#### *Objective of the Act*

**1. (1)**

The objective of this Act shall be to grant compensation to injured persons or their surviving dependants in the event of an industrial injury. The injury shall have been caused by the work or the working conditions, cf. sections 5 to 7 of this Act, but employers shall not necessarily have acted in such a manner as to make them liable for the injury. The prevention of industrial injuries by the work environment system shall be supported by way of employers' financing of compensation etc.

**(2)**

The processing of cases shall involve injured persons or their surviving dependants, as well as employer, insurance company, the Labour Market Occupational Diseases Fund, authorities, and physicians. Thus the need for a cohesive effort towards injured persons or their surviving dependants shall be met.

### **Chapter 2**

#### *Scope of the Act*

#### *Persons protected under the Act*

**2. (1)**

Persons who are engaged by an employer to carry out work in Denmark shall be protected under this Act, cf. sections 5 to 7. The work may be paid or unpaid and can be permanent, temporary, or casual.

**(2)**

Members of the employer's family shall be protected under this Act where they work in the business in such a way and to such an extent as to regard them as being in the same position as other employees. The employer's spouse shall be protected only under subsection (3) of this Act.

**(3)**

Self-employed earners and assisting spouses working in Denmark shall be protected under this Act where they have provided protection for themselves under section 48(2).

**(4)**

Persons working on a Danish vessel shall have the same legal status as persons engaged to carry out work in Denmark.

(5)

A live-born child that contracted a disease prior to its birth as a consequence of its mother's work during pregnancy shall be protected under this Act.

(6)

Where it is later established that influence on the parents prior to the conception or after the delivery had an injurious effect on foetus or child, such foetus or child shall be protected under this Act. Such injuries shall be assessed under this Act in accordance with section 7.

### 3. (1)

The Minister for Employment shall lay down rules governing the application of this Act to –

- (i) persons covered by Part IV of the Act on Social Services; and
- (ii) persons who are present in a place of education or work as part of their education, training, or trainee service, etc., or other persons present in such places.

(2)

The Director General of the National Board of Industrial Injuries shall lay down rules governing the application of this Act to persons posted abroad for temporary work in the services of an employer.

### 4. (1)

All work carried out for the employer shall be covered by workers' compensation. This shall apply to work in the employer's business, whether with a view to profit or not, in the employer's personal household, and when carrying out personal services for the employer and the employer's family.

(2)

Persons carrying out the following activities shall also be protected under this Act, cf. sections 5 to 7 –

- (i) carrying out civic or municipal duties;
- (ii) attending to positions of trust in connection with the employees' working conditions in the business;
- (iii) attempting to save human life, prevent accidents or forestall major material or cultural losses, where the attempt – though not regarded as work within the meaning of section 2 – was nevertheless made in connection with such work; and
- (iv) attempting to save human life in Denmark where such attempt is not a natural part of the person's work.

(3)

The Minister for Employment shall lay down rules governing the application of this Act to injuries sustained during transportation to and from work.

## Chapter 3

### *Industrial injury*

#### 5.

An industrial injury within the meaning of this Act shall be an accident, cf. section 6, or an occupational disease, cf. section 7, which is a consequence of the work or the working conditions, subject, however, to section 10 A.

#### 6. (1)

An accident within the meaning of this Act shall be a personal injury caused by an incident or exposure that occurs suddenly or within five days.

(2)

For accidents the legal effects of this Act shall be applicable from the date of the accident or the date of cessation of the exposure causing the accident, except where the Act stipulates otherwise.

**7. (1)**

Occupational diseases within the meaning of this Act shall be –

- (i) diseases which – according to medical documentation – are brought about by specific influence to which certain groups of people, through their work or working conditions, are more exposed than persons not having such work. Furthermore occupational diseases shall comprise such diseases as are contracted by a live-born child prior to its delivery as a consequence of its mother's work during pregnancy. The Director General of the National Board of Industrial Injuries, after negotiations with the Occupational Diseases Committee, cf. section 9, shall compile a list of such diseases as are deemed to be of the said nature;
- (ii) other diseases, including diseases in a live-born child contracted prior to its delivery, where it is established either that, on the basis of the most recent medical documentation, the disease meets the requirements set out in the first sentence of paragraph (i) of this section, or that it must be deemed to have been caused, solely or mainly, by the special nature of the work.

(2)

This Act shall be applicable to diseases caused by influence on parents prior to the conception or after the delivery of a child where changes are made in the list referred to in subsection (1)(i) above, or in accordance with subsection (1)(ii), where it is established that such influence had an injurious effect on foetus or child.

(3)

Diseases comprised by subsection (1)(ii) and subsection (2) above can be recognised only after submission to the Occupational Diseases Committee, cf. section 9. Such diseases shall be submitted to the Occupational Diseases Committee, except where the National Board of Industrial Injuries deems such submission to be futile.

**8. (1)**

Any person having contracted a disease included in the list of occupational diseases, cf. section 7(1), shall be entitled to benefits under this Act, except where it is deemed to be likely beyond reasonable doubt that the disease was brought about by non-occupational circumstances.

(2)

For occupational diseases the legal effects of this Act shall be applicable as per the date of notification of the disease, except where the provisions of this Act stipulate otherwise.

*The Occupational Diseases Committee*

**9. (1)**

The Minister for Employment shall appoint a committee with which the National Board of Industrial Injuries shall currently negotiate revisions of diseases meeting the requirements for inclusion in the list of occupational diseases referred to in section 7(1).

(2)

The committee shall consist of a chairman and eight other members appointed for a three-year period.

(3)

The Minister for Employment shall appoint the chairman of the committee as well as members and deputy members. The chairman shall be appointed upon the recommendation of the National Board of Industrial Injuries, one member upon the recommendation of the National Board of Health, one member upon the recommendation of the Working Environment Authority, one member upon the recommendation of the public employers, one member upon the recommendation of the Salaried Employees' and Civil Servants' Confederation, two members upon the recommendation of the Danish Employers' Confederation, and two members upon the recommendation of the Danish Confederation of Trade Unions.

(4)

The Minister for Employment shall set up the rules of procedure of the committee.

*Injuries caused by war and terror*

**10.**

Where Denmark is at war, injuries arising as a consequence of military operations shall not be regarded as industrial injuries. Persons who perform work on board any kind of vessel normally used in the shipping or fishing trade shall, however, be covered under this Act in connection with injuries sustained as a consequence of military operations. The same shall apply to fishery protection vessels and marine research vessels.

**10. A (1)**

Any person being protected under this Act, including self-employed persons and assisting spouses who have taken out protection for themselves under section 48(2), shall be entitled to compensation for the consequences of terrorist action, cf. sections 114 and 114 A of the Danish Penal Code, even where the injury cannot be deemed to have been a consequence of the work or the working conditions. Furthermore such persons as are protected under the Workers' Compensation Act in pursuance of other legislation shall be entitled to compensation under this Act for the consequences of terrorist action.

(2)

For injuries caused by terror, cf. subsection (1) above, the Danish State shall defray the benefits under this Act.

(3)

Under subsections (1)-(8) of section 49 as well as section 59 the National Board of Industrial Injuries may demand reimbursement from an insurance company or the Labour Market Occupational Diseases Fund etc. of costs where the injury is sustained by persons whose work consists in preventing, forestalling or averting terrorist action or offering help, assistance or other measures before, during or after such action. The same shall apply where the injury is sustained by such persons as are posted by the Danish State or a Danish undertaking for work in countries with a special risk of terror and where terrorist action hits workers on board a Danish vessel operating in waters where there is a special risk of such action.

(4)

Similar to subsection (3) it shall be possible to demand that costs deriving from cases pertaining to persons protected under the Workers' Compensation Act in pursuance of other legislation be defrayed by the authority etc. liable for the costs deriving from industrial injuries.

(5)

In respect of reimbursement of such costs as an insurance company etc. shall not defray under subsections (3) and (4) above the Danish State shall have a right of recourse against persons causing an injury. To the extent that the right of recourse of the State against the person causing the injury shall be enforceable under section 478 of the Danish Administration of Justice Act the amount shall be recoverable in accordance with the provisions of the legislation on the procedure for collection of taxes etc. and by retention of pay for the person in question in accordance with the provisions for collection of personal taxes set out in the Taxation at Source Act. Directions to retain wages shall be given by the authority responsible for recovering the owing amounts.

## Chapter 4

### *Benefits*

#### 11.

Benefits under this Act shall be –

- (i) reimbursement of expenses for medical care, rehabilitation, aids, etc., cf. section 15;
- (ii) compensation for loss of earning capacity, cf. section 17 and section 17 A;
- (iii) compensation for permanent injury, cf. section 18;
- (iv) transitional allowance at death, cf. section 19;
- (v) compensation for loss of breadwinner, cf. sections 20 to 22; and
- (vi) compensation for surviving dependants, cf. section 23.

*General provisions on determining compensation etc.*

#### 12. (1)

Compensation under sections 15-18 shall be determined on the basis of the consequences of the industrial injury. Depending on the circumstances, compensation can be reduced or lapse where the injured person's current medical or social situation cannot be referred solely to the industrial injury.

#### (2)

An established loss of earning capacity, a permanent injury or a person's death shall be deemed to be a consequence of the industrial injury, except where it is likely beyond reasonable doubt that this is not the case or this Act stipulates otherwise.

#### 13. (1)

Where the injured person does not meet the requirements set out in section 38 or obstructs being cured by disregarding given directions, the injured person may be disqualified, fully or partly, from receiving compensation.

#### (2)

Where the surviving dependants resist a post-mortem examination, cf. section 37(2), the surviving dependants may be disqualified from receiving compensation.

#### 14.

Where the injured person wilfully or by unlawful action or omission provoked or made a substantial contribution to the occurrence of the industrial injury, the claim for compensation for loss of earning capacity and compensation for permanent injury may be reduced or completely lapse. In such cases the injured person shall be made expressly aware thereof.

*Medical care, rehabilitation, aids, etc.*

#### 15. (1)

Where, pending the consideration of the case, medical care or rehabilitation is required to obtain the best possible cure, costs of such cure or rehabilitation shall be defrayed to the extent that such costs are not covered under the Health Act or as an element of treatment in a public hospital. Rehabilitation shall be carried out as post-treatment under medical supervision in immediate connection with the medical care.

#### (2)

Where, pending the consideration of the case, the acquisition of artificial limbs, spectacles and other aids, as well as wheelchairs, is necessary to ensure the outcome of the medical care or rehabilitation, to diminish the effects of the industrial injury, or to assess more accurately the extent of the loss of earning capacity and the degree of permanent injury, the expenses thus incurred shall be covered.

(3)

Compensation for future costs for medical care, rehabilitation, and aids as a consequence of the industrial injury shall be determined as a lump sum. In the event of permanent costs the amount shall be the anticipated average annual cost multiplied by the capitalisation factor determined in pursuance of section 27(4) for loss of earning capacity.

(4)

Where a person used any of the aids referred to in subsection (2) above in his or her work and the aid was damaged as a consequence of the work or the working conditions the costs of repair or any replacement of the aid shall be defrayed.

(5)

The Director General of the National Board of Industrial Injuries shall lay down rules governing the extent to which costs shall be defrayed under subsections (1)-(4), including costs defrayed before notification of the case.

(6)

The Director General of the National Board of Industrial Injuries shall lay down rules governing the ability of insurance companies and the Labour Market Occupational Diseases Fund to decide whether such costs shall be defrayed as are comprised by subsections (1)-(4) above.

## **16. (1)**

After the completion of medical care, training, rehabilitation etc., when there is a basis for making an assessment of the injured person's future health and occupational prospects, the National Board of Industrial Injuries shall decide whether the injured person shall be entitled to compensation for loss of earning capacity under section 17 and compensation for permanent injury under section 18. Such decision shall be made within one year from the date of notification of the industrial injury. For occupational diseases comprised by subsections (1)(ii) and (2) of section 7 as shall be submitted to the Occupational Diseases Committee the time limit shall be two years.

(2)

Where an industrial injury results in death it shall be determined within the time limits set out in subsection (1) above, reckoned from the date of notification of the death, whether the surviving dependants shall be entitled to a transitional allowance at death, compensation for loss of breadwinner, and compensation for surviving dependants.

(3)

Advance payments of compensation for loss of earning capacity and compensation for permanent injury may be disbursed for the period of time preceding the final decision.

### *Compensation for loss of earning capacity*

## **17. (1)**

Where an industrial injury has resulted in a reduction in the injured person's capacity to make a living through work such person shall be entitled to compensation for loss of earning capacity. Compensation shall not be granted where the loss of earning capacity is less than 15 per cent.

(2)

In assessing the loss of earning capacity the National Board of Industrial Injuries shall take into account the injured person's prospects of making a living through such work as may be reasonably required of him or her in view of talents, education, age, and the possibilities of vocational retraining and rehabilitation.

(3)

Where the occupational situation has not been clarified the National Board of Industrial Injuries can make a temporary decision on compensation for loss of earning capacity.

(4)

Compensation for loss of earning capacity to a child with a foetal anomaly, cf. section 7(1)(ii), or a child suffering from diseases caused by influence on the parents prior to the conception or after the delivery of such child, cf. section 7(2), shall be payable only after the child's fifteenth birthday.

(5)

Compensation shall be granted as a monthly benefit, except where such benefit is capitalised under the provisions of section 27.

(6)

In the event of total loss of earning capacity the benefit shall be equal to four fifths of the injured person's annual earned income, cf. section 24, and in the event of reduction in the earning capacity a proportional fraction thereof.

(7)

The annual compensation shall be disbursed at the rate of one twelfth monthly in advance. The compensation shall be payable from the date when a loss of earning capacity was established, but not from a date prior to notification of the industrial injury. Monthly compensation payments shall cease by the end of the month when the injured person reaches the national pension age, cf. the Social Pensions Act. Where the injured person at the date of the industrial injury is two years or less from reaching the national pension age, the compensation shall be disbursed, in accordance with the provisions of section 27, as a lump sum, with the application of the factor determined for a person two years away from the national pension age, multiplied by the annual compensation payment. The same shall apply to injured persons who have reached the national pension age.

(8)

Where the compensation is disbursed as a lump sum in accordance with the provisions of the first sentence of section 27(1) the injured person shall be entitled to monthly compensation payments from the date when a loss of earning capacity was established. However such payments shall not be made from a date prior to notification of the injury and up to the date of the capitalisation of the compensation.

(9)

The provisions set out in subsections (7) and (8) above shall similarly apply to cases resumed under sections 41 and 42. For such cases no compensation payments shall be made from a date prior to the request for resumption or prior to the resumption of the case by the National Board of Industrial Injuries, cf. section 42.

#### **17. A (1)**

The loss of earning capacity of such persons as, after an industrial injury, have been approved for a flex-job or are employed in a flex-job shall be determined on the basis of the difference between the earnings prior to the industrial injury and the special unemployment benefit or the earnings under the flex-job scheme.

(2)

The earnings prior to the industrial injury shall constitute such amount as the injured person might have earned on the date of the decision, provided that the industrial injury had not occurred.

(3)

Where the injured person receives the special unemployment benefit under the flex-job scheme the National Board of Industrial Injuries shall make a temporary decision under subsection (1) above.

#### *Compensation for permanent injury*

#### **18. (1)**

Where an injured person has sustained a permanent injury as a result of an industrial injury such person shall be entitled to compensation for permanent injury. Compensation shall not be granted, however, where the degree of permanent injury is assessed at less than 5 per cent.

(2)

The degree of permanent injury shall be assessed on the basis of the medical nature and extent of the injury and with regard to any nuisance in the injured person's personal life brought about by the industrial injury.

(3)

Compensation for permanent injury shall be paid as a lump sum and shall amount to DKK 611,500 in the event of a degree of permanent injury of 100 per cent. The amount shall be adjusted in accordance with section 25. In the event of lower degrees of permanent injury the compensation shall amount to a proportional fraction of DKK 611,500.

(4)

In exceptional cases the compensation for permanent injury may be determined as a higher amount, provided always that such amount shall not exceed 120 per cent of DKK 611,500 in accordance with section 25.

(5)

Where the injured person reached his or her 40th birthday prior to the date of the industrial injury the compensation shall be reduced by 1 per cent for each year in excess of 39 years of age prior to the date of the injury. Where the injured person had reached his or her 60th birthday the compensation shall be further reduced by 1 per cent for each year in excess of 59 years of age prior to the date of the injury. However, the compensation shall not be further reduced after the injured person's 69th birthday.

#### *Transitional allowance in the event of death*

##### **19. (1)**

Where an industrial injury results in death the surviving spouse shall be entitled to a transitional allowance consisting of a lump sum of DKK 115,000, always provided that the marriage was contracted prior to the occurrence of the industrial injury and matrimonial cohabitation existed at the time of the injured person's death. The amount shall be subject to adjustment in accordance with section 25.

(2)

Where marriage was contracted after the occurrence of the industrial injury the surviving spouse shall be entitled to the same transitional allowance if – at the time of the injured person's death – the marriage had existed for the past two years and husband and wife were cohabiting at the time of the injured person's death.

(3)

A surviving dependant cohabiting with the injured person in a quasi-marital relationship prior to the occurrence of the industrial injury shall also be entitled to the transitional allowance if – at the time of death – the cohabitation had existed for the past two years.

(4)

Where the deceased leaves no surviving dependants entitled to a transitional allowance under subsections (1)-(3) above the transitional allowance may be granted to another surviving dependant where warranted by special circumstances.

#### *Compensation for loss of breadwinner*

##### **20. (1)**

Where a person is entitled to a transitional allowance under subsections (1)-(3) of section 19 above and has lost a breadwinner as a consequence of the injured person's death, or such person's means of subsistence have been otherwise reduced as a consequence of the death, such person shall be entitled to compensation for such loss. The compensation shall be determined with due regard to the extent of the support and the surviving person's possibilities of self-support in view of age, health, education, employment, means of subsistence and financial situation.

(2)

The compensation shall be granted as a temporary monthly benefit, amounting annually to 30 per cent of the deceased person's annual earned income, cf. section 24. The compensation shall be payable as per the date of death at the rate of one twelfth monthly in advance. The term fixed shall not exceed 10 years. However, where a full salary is paid to the surviving person for a period of time in connection with the death, the monthly benefit shall only be payable as per the date when such period expires. Where the deceased received a monthly compensation for loss of earning capacity under this Act compensation for loss of breadwinner shall only be paid from the first day of the month following the death.

(3)

The benefit set out in subsection (2) above shall continue unchanged throughout the fixed term, except where the benefit is fully or partly converted to a lump sum or the beneficiary dies.

(4)

The monthly benefit payments shall cease by the end of the month when the injured person reaches the national pension age, cf. section 1 A of the Social Pensions Act.

## **21. (1)**

Where the deceased leaves children in respect of whom he or she was liable for maintenance under the Act on an Active Social Policy, each of the children whose other parent is still alive shall be entitled to an annual benefit of 10 per cent of the annual earned income of the deceased, cf. section 24, until such child reaches the age of 18.

(2)

Where a child receiving a monthly benefit under subsection (1) above loses its other parent, such child shall be entitled to an annual benefit of 20 per cent of the annual earned income of the deceased for the remaining period of time. The same annual benefit shall be granted to every child for whom the injured person at the time of death was sole breadwinner within the meaning of the Act on an Active Social Policy, until such child reaches the age of 18.

(3)

Where the child has not completed its education at the age of 18, and where warranted by the circumstances, the benefit may be extended to the time of completion of such education, provided always that it is not extended beyond the 21st birthday of the person in question. Where a child of the deceased is 18 years of age or more on the date of death and has not completed its education such child shall have that same right.

(4)

Where the benefits under subsections (1)-(3) above amount to a total of more than 50 per cent of the deceased person's annual earned income the individual benefits shall be reduced to a total of 50 per cent of the deceased person's annual earned income. Where compensation is at the same time granted under section 20 the benefits shall be reduced similarly to 40 per cent of the deceased person's annual earned income.

(5)

Benefits under subsections (1)-(3) above shall be payable as per the date of death at the rate of one twelfth monthly in advance. However, where in connection with the death a full salary is paid to the surviving dependant for a period of time, the benefit shall only be payable as per the expiry of such period.

## **22.**

Where the aggregate annual benefits under sections 20 and 21 above amount to less than 70 per cent of the deceased person's annual earned income the National Board of Industrial Injuries may, in special circumstances and subject to the said 70 per cent limit, determine that compensation shall be granted to others who were fully or partly supported by the deceased at the date of the occurrence of the industrial injury. Except where such persons are stepchildren of the deceased under 21 years of age the compensation shall be payable as a lump sum, cf. section 27.

#### *Compensation for surviving dependants*

##### **23. (1)**

Where the death was caused wilfully or through gross negligence, special compensation may be granted to such surviving dependants as were particularly close to the deceased.

##### **(2)**

The assessment of whether to pay such compensation under subsection (1) above, and decisions on the amount of such compensation, shall in particular take into account the nature of the wilful or negligent action of the person in question and such suffering or offence as must be deemed to have been inflicted upon the survivor or surviving dependants.

## **Chapter 5**

#### *Determination and adjustment of annual earned income*

##### **24. (1)**

An injured person's annual earned income shall be his or her total earned income in the year preceding the date of the industrial injury. Where the employment is of a special nature, or where the injured person, due to an occupational disease, was not employed at the same pay during the whole of the preceding year, or where the injured person was out of work for a short or long period of time prior to notification of the disease, the annual earned income shall be assessed according to an estimate.

##### **(2)**

The annual earned income shall include the value of free board and lodging as well as the value of other payments in kind. The Director General of the National Board of Industrial Injuries shall determine the value of board and lodging for persons living in with their employer.

##### **(3)**

The annual earned income shall not be assessed in excess of DKK 367,000. The said amount shall be subject to adjustment as provided by section 25.

##### **(4)**

Where determining the annual earned income in respect of injured persons below 18 years of age or still in the education system, the National Board of Industrial Injuries may assess the income the injured person would have been likely to obtain at the age of 18 or after completion of the education or training, provided that the industrial injury had not occurred. The annual earned income shall always be assessed at not less than DKK 137,000, however, as provided by section 25, except where the injured person's earning capacity was already substantially reduced prior to the occurrence of the industrial injury.

##### **(5)**

The Director General of the National Board of Industrial Injuries shall set out specific rules for determining the annual earned income of self-employed earners.

##### **(6)**

When calculating and adjusting compensation for loss of earning capacity and loss of breadwinner as a monthly benefit, a basic earned income shall be determined. Such basic income shall be calculated by multiplying the annual earned income determined according to the rules of subsections (1)-(5) above with the ratio between DKK 367,000 and the maximum annual earned income applying at the date of the industrial injury.

**25. (1)**

The amounts set out in sections 18 and 19 and subsections (3) and (4) of section 24 shall be adjusted every year on January 1 by 2.0 per cent, to which percentage shall be added the adjustment percentage for the fiscal year in question, cf. the Rate Adjustment Percentage Act. The resulting amounts for permanent injury and transitional allowance shall be rounded off to the nearest amount in DKK divisible by 500. Amounts pertaining to annual earned income shall be rounded off to the nearest amount in DKK divisible by 1,000.

(2)

The monthly benefits determined on the basis of the basic income, cf. section 24(6), shall be adjusted by the same percentage as the amounts indicated in subsection (1) above.

(3)

Each year, by the end of October, the Director General of the National Board of Industrial Injuries shall publish the adjustments to be made. The adjustments shall be in effect as per the following January 1.

(4)

In determining a monthly compensation payment, a lump sum or an allowance, such amounts shall be calculated as though the industrial injury had occurred at the date of the decision.

(5)

Annual benefits that are not divisible by 12 shall be increased to the nearest amount in DKK divisible by 12.

## Chapter 6

### *Payment of compensation*

**26. (1)**

Compensation under this Act shall be paid to the injured person and surviving dependants, subject, however, to subsection (5) below.

(2)

In special cases the National Board of Industrial Injuries may disburse compensation to injured persons and surviving dependants and subsequently demand reimbursement of the outlays, with added interest, from the insurance company or the Labour Market Occupational Diseases Fund, cf. section 60.

(3)

Where the amounts referred to in subsection (1) above are disbursed later than four weeks from the date of notification of the amount granted, such amount shall be subject to interest as per the expiry of the said four-week period, until payment is made, at an annual interest rate equivalent to the rate determined on the basis of subsections (1) and (2) of section 5 of the Act on interest on delayed payment etc. In the cases referred to in section 29(1) below the time limit shall be two weeks from the date when the municipality submits its final claim for a refund to the body disbursing the compensation.

(4)

The right to a monthly benefit granted for loss of earning capacity and loss of breadwinner shall cease with the end of the month when the beneficiary dies.

(5)

Where the compensation for the month of the death and previous months has not been disbursed, the compensation shall be paid to the beneficiary's spouse if there was matrimonial cohabitation at the time of the death. Where the beneficiary leaves no cohabiting spouse the amount shall be paid to the estate of the beneficiary.

**27. (1)**

An annual benefit granted under section 17 for a loss of earning capacity of less than 50 per cent shall normally, and without the consent of the beneficiary being required, be converted to a lump sum. Compensation for loss of earning capacity shall be disbursed as a lump sum where granted to persons who, at the date of the decision letter, are two years or less from reaching the national pension age, cf. the Social Pensions Act. The same shall apply to injured persons who have reached the national pension age. Compensation shall not be converted to a lump sum where a temporary decision has been made, under section 17(3) and section 17 A(3), on compensation for loss of earning capacity.

(2)

Of an annual benefit granted for a loss of earning capacity of 50 per cent or more, that part of the compensation which corresponds to a loss of earning capacity of 50 per cent shall be converted to a lump sum upon the request of the beneficiary. Monthly compensation payments granted shall not be converted to a lump sum where the beneficiary is two years or less from reaching the national pension age, cf. the Social Pensions Act.

(3)

Compensation under section 20 for loss of breadwinner shall be converted to a lump sum upon the request of the beneficiary.

(4)

Conversion of monthly compensation payments to a lump sum shall be made on the basis of the amount of the benefit at the date of conversion. The date of conversion is the date when the lump sum shall be payable. Such conversion of the compensation shall have a future effect only. The factors for conversion to a lump sum of monthly compensation payments shall be determined on the basis of actuarial principles, at intervals of whole years and months. Each year by the end of October the Director General of the National Board of Industrial Injuries shall lay down specific rules for conversion to lump sums of monthly compensation payments granted and calculated the following year.

(5)

When the final decision on compensation for loss of earning capacity has been made and the person entitled to the compensation has requested capitalisation the amount shall be paid to the estate in the event that the beneficiary dies prior to payment of the lump sum. Conversion of the monthly benefit to a lump sum shall be made on the basis of the amount of the benefit on the day preceding the death.

**28. (1)**

Where as a consequence of the industrial injury the injured person is entitled to a pension under the Public Servants' Pension Act, the value of the injured person's compensation for loss of earning capacity shall be reduced under this Act. The reduction shall be by two thirds of the amount by which the injured person's public servants' pension has been increased in excess of the pension corresponding to his or her length of service at the time of retirement.

(2)

Where the industrial injury results in death and the surviving dependants as a consequence of the death are entitled to a pension under the Public Servants' Pension Act, the compensation for loss of breadwinner under this Act shall be reduced. The reduction amounts to two thirds of the amount by which the public servants' pension has been increased in excess of the pension corresponding to the deceased person's length of service at the time of death.

(3)

The provisions of subsections (1) and (2) above shall similarly be applicable to other beneficiaries under this Act for whom – in respect of pension – rules have been laid down which correspond to the provisions of the Public Servants' Pension Act. In such cases the insurance company or the Labour Market Occupational Diseases Fund shall pay to the body offering the pension an amount corresponding to the calculated deduction in the injured person's or the surviving dependants' compensation under this Act.

**29. (1)**

Where benefits under the Social Pensions Act or the Act on an Active Social Policy have been paid to the injured person or his/her surviving dependants in respect of a period of time for which, subsequently, the injured person or his/her surviving dependants are granted compensation as a monthly benefit for loss of earning capacity, cf. section 17, or loss of breadwinner, cf. sections 20-22, the municipality in question shall be entitled to receive a refund from the insurance company or the Labour Market Occupational Diseases Fund. The refund shall cover the difference between the amount disbursed in accordance with the said Acts and the amount that would have been disbursed, provided that the compensation had been granted at the same time as the social benefits. The claim of the municipality, however, shall not exceed the amount granted to the injured person or surviving dependants under this Act for the same period of time. The claim for a refund shall lapse where it is not put forward within four weeks from the date when the municipality was notified of the compensation being granted.

(2)

Where – as a consequence of the industrial injury – compensation has been paid to the injured person or his/her surviving dependants by the person causing the injury or the insurance company of such person, the person causing the injury or the insurance company shall be entitled to receive from the industrial injuries insurance company or the Labour Market Occupational Diseases Fund such compensation amount. Claims put forward by the person causing the injury or such person's industrial injuries insurance company shall include compensation amounts of the same nature as the compensation which the industrial injuries insurance company or the Labour Market Occupational Diseases Fund shall be liable to pay on the date when the claim is put forward.

**30.**

Any compensation claims of injured persons or their surviving dependants under this Act shall not be transferable by agreement to others. Creditors shall not make such claims subject to execution or other legal proceedings.

**Chapter 7**

*Notification, processing of cases and limitation*

**31. (1)**

Notice of any industrial injury expected to give rise to a claim under this Act shall be given as soon as possible and not later than nine days after the injury occurred.

(2)

Where notice of an industrial injury was not given under subsection (1) above and such injury has resulted in the injured person still being unable to resume customary work to a full extent five weeks after the injury, notice shall be given not later than nine days thereafter.

(3)

As regards occupational diseases, cf. section 7, the time limits of notification shall be reckoned from the date when the person liable to notify is informed that the disease is likely to be an occupational disease.

(4)

Notice of deaths presumed to have been brought about by an industrial injury, including any death that occurs in a place of work, shall be given to the National Board of Industrial Injuries within 48 hours. Notice must be given even where the industrial injury likely to have caused the death has already been reported or is to be reported under subsections (1)-(3) above.

**32. (1)**

The duty to notify, in respect of accidents, shall rest upon the employer liable to provide protection.

(2)

As regards persons engaged in a private household or performing personal services and for whom the employer is not liable to take out insurance, cf. section 48(6), the duty to notify shall rest upon the employer.

(3)

As regards persons who have provided protection for themselves under section 48(2) and persons covered by paragraph (iv) of section 4(2) notice shall be given by themselves or their surviving dependants.

**33. (1)**

Employers liable to notify, cf. section 32, and optionally protected persons, cf. section 48(2), shall report accidents to the insurance company that undertook the insurance, cf. section 50.

(2)

Injuries shall be reported to the National Board of Industrial Injuries where –

- (i) the person liable to provide protection has failed to do so, cf. section 48(4);
- (ii) there is no liability to provide protection, cf. subsections (5) and (6) of section 48; or
- (iii) the injury is covered by section 4(2)(iv).

**34. (1)**

The Minister for Employment shall lay down rules determining that physicians and dentists shall notify the National Board of Industrial Injuries and the National Working Environment Authority of all clear and presumed cases of occupational diseases of which they become aware in their work.

(2)

The National Board of Health shall notify the National Board of Industrial Injuries of reported special cancer diagnoses where the disease must be presumed to be occupational cancer. The Director General of the National Board of Industrial Injuries shall lay down rules for such notification, including the diagnoses comprised by the notification. Such rules may determine that notification may be made electronically and without consent from the person to which the notification pertains.

**35. (1)**

The Minister for Employment shall lay down guidelines for the co-operation between the National Board of Industrial Injuries, the National Social Appeals Board, insurance companies, the Labour Market Occupational Diseases Fund, regions and municipalities, etc., with a view to co-ordinating relief measures for injured persons.

(2)

The Director General of the National Board of Industrial Injuries shall lay down rules determining the information to be included in the notification form, as well as the procedure of notification. It can appear from the rules that industrial injuries may be reported electronically. It shall appear from such rules what notices the insurance company and the Labour Market Occupational Diseases Fund shall forward to the National Board of Industrial Injuries, what notices the Labour Market Occupational Diseases Fund shall forward to the insurance company, and what notices the insurance company shall forward to the Labour Market Occupational Diseases Fund.

(3)

The Director General of the National Board of Industrial Injuries shall lay down rules for the notification of industrial injuries and for issuing medical certificates necessary for the processing of the case. The Director General of the National Board of Industrial Injuries shall furthermore lay down rules governing the extent to which medical report and certificates, cf. subsection (4) below, shall be paid for at a fixed rate, and the amount of such rate.

(4)

The insurance company and the Labour Market Occupational Diseases Fund shall defray all costs of gathering information for the processing of concrete cases.

**35. A**

Where it is deemed necessary in order to prevent any errors or abuse in connection with the disbursement of benefits or taxation of earned income, the National Board of Industrial Injuries may pass necessary information regarding the purely private affairs of individuals to the Directorate of Labour, the relevant tax authority and the relevant municipality.

**36. (1)**

Where the notification was not given in due time an injured person or his/her surviving dependants may nevertheless file a claim for compensation under this Act within a time limit of one year from the date of the industrial injury. As regards occupational diseases, cf. section 7, the time limit shall be reckoned from the date when the injured person or the surviving dependants were informed that the disease was deemed to be an occupational disease. The time limit shall be disregarded where there is documentation that the injured person has sustained an industrial injury, cf. section 5, and that the injured person or his/her dependants are entitled to compensation etc., cf. section 11, as a consequence of the industrial injury. Section 12(2) shall not be applicable to the assessment of causality under this provision.

(2)

Claims under this Act or made against the employer with regard to compensation payments due to an industrial injury, cf. section 5, shall lapse in accordance with the provisions of the Limitation Act, subject, however, to subsections (3)-(5) below.

(3)

The time limit under section 3(1) of the Limitation Act is five years for claims as set out in subsection (2) above. Such limitation period shall only be reckoned from the date when the claimant becomes aware of the claim and the debtor, or from the date when the lack of knowledge on the part of the claimant may be attributed to the claimant being grossly negligent.

(4)

Where an industrial injury was notified prior to the expiry of the limitation period the limitation of claims under this Act occurs not earlier than three years from the date when, in accordance with rules laid down in pursuance of section 15(6) or section 35(3), the National Board of Industrial Injuries or any other body making a decision or taking a position has given notification of such decision or position. Where the case is submitted to the National Social Appeals Board within the time limits set out in section 44(2) the three-year time limit shall be reckoned from the date of the notification of the decision made by the National Social Appeals Board. The same shall apply where the National Social Appeals Board processes the case, even if the time limits for complaints have expired, cf. section 44(3).

(5)

Subsection (3) above and subsections (1) and (2) of section 3 of the Limitation Act shall not be applicable to compensation claims in cases comprised by section 41(2). The same shall apply in the event of resumption on grounds other than those set out in sections 41-43.

**37. (1)**

The National Board of Industrial Injuries shall be entitled to send out experts to make examinations on the spot.

(2)

The National Board of Industrial Injuries and the National Social Appeals Board shall request and obtain from employers, employees, regions, municipalities, job centres, and other parties concerned – including hospitals, institutions, and treating doctors etc. – any information deemed by the Board to be of importance. Such information shall comprise any police reports, hospital case sheets etc., manufacturing procedures, information of and reports on the chemical composition of products or substances, or transcripts of such reports, case sheets or formulas. The National Board of Industrial Injuries and the National Social Appeals Board shall get terminal access to information in the income register. The National Board of Industrial Injuries shall be entitled to cause judicial inquiry to be held in accordance with section 1018 of the Administration of Justice Act and to receive transcripts thereof, and to require post-mortems to be made in conformity with the rules governing legal autopsies, subject, however, to section 13(2) above. Such information can be collected electronically.

(3)

For the processing of cases under the Workers' Compensation Act and follow-up on cases under section 8 of the Sickness Benefits Act, the National Board of Industrial injuries and the municipalities shall exchange information on registration of workers' compensation cases and cases pertaining to daily cash benefits, rehabilitation, flex jobs, and anticipatory pension. Similarly, in industrial injuries cases and cases regarding daily sickness benefits, rehabilitation, flex jobs and anticipatory pension, the National Board of Industrial Injuries may exchange information on gathering such information of a case as provides documentation of earning capacity and exchange information that a decision has been made on earning capacity. This exchange shall occur automatically and without the consent of the citizen in question.

(4)

As regards persons indicated in section 48(3) it is incumbent upon the master of a ship to enter in the log book full information on the industrial injury and the circumstances thereof.

### **37. A**

In the processing of cases under this Act the National Board of Industrial Injuries shall obtain consent from the injured person, cf. section 37 above, by informing, in the written confirmation of receipt of the notification, such person or any surviving dependants of the nature of the information it may become necessary to gather. The injured person shall be granted a time limit for objecting to this.

### **38. (1)**

As soon as possible after the occurrence of the industrial injury the injured person shall submit himself to a medical examination and, subsequently, undergo the medical treatment or the training deemed necessary by the physician or the National Board of Industrial Injuries. If necessary, the injured person shall enter hospital or a similar institution for observation. Subject to the decision of the said Board, the injured person shall furthermore be required to submit himself to an examination by a physician appointed by the Board, to be work-tested and, upon request, give a verbal statement to the Board. Where the injured person fails to meet the requirements set out above the provision of section 13(1) shall be applicable.

(2)

The injured person shall be entitled to reimbursement of any travelling expenses arising from medical treatment etc. upon the request of the National Board of Industrial Injuries, cf. subsection (1) above. Furthermore the injured person shall be entitled to compensation for certified loss of earnings in the cases referred to in the second and third sentences of subsection (1) above where the absence from work is of not less than two hours' duration. The calculation of such compensation shall be based on an hourly pay not in excess of what corresponds to the annual earned income indicated in section 24(3) above. In cases of accidents expenses shall be defrayed by the insurance company. In cases of occupational diseases expenses shall be defrayed by the Labour Market Occupational Diseases Fund.

(3)

Subsection (2) above shall also be applicable where the National Social Appeals Board has requested the information set out in subsection (1).

(4)

The condition that there shall be a request by the National Board of Industrial Injuries or the National Social Appeals Board in order for the insurance company or the Labour Market Occupational Diseases Fund to defray expenses under subsections (2) and (3) above may be disregarded in cases where the National Board of Industrial Injuries or the National Social Appeals Board deems such information to be necessary. In cases regarding accidents at work the insurance company shall only defray such expenses as have arisen or been defrayed after the occurrence of the injury. In cases regarding occupational diseases the Labour Market Occupational Diseases Fund shall only pay such expenses as have arisen or been defrayed after notification of the injury, cf. section 8(2).

(5)

The Director General of the National Board of Industrial Injuries shall set out rules for the payment of expenses under subsections (2) and (3) above and shall publish once a year the amounts to be defrayed for transport etc.

**39. (1)**

Where the notified injury is found not to be covered by this Act the National Board of Industrial Injuries shall make a decision to that effect. For cases processed in pursuance of section 6 on accidents the National Board of Industrial Injuries shall make the decision within three months after receiving notice of the accident. For cases processed in pursuance of section 7(1)(i) on listed occupational diseases the time limit shall be six months. For cases processed in pursuance of section 7(1)(ii) and section 7(2) on occupational diseases to be submitted to the Occupational Diseases Committee only the two-year time limit set out in section 16(1) shall be applicable.

(2)

Where the injured person dies after notification of the injury the time limits set out in subsection (1) above shall apply similarly with regard to informing the surviving dependants that the death shall not be covered by this Act. The time limits shall be reckoned from the date of notification of the death to the National Board of Industrial Injuries.

(3)

Where a decision cannot be made within the time limits set out in subsections (1) and (2) above, the injured person or the surviving dependants shall be informed thereof. Such information shall not be a decision subject to appeal.

**39. A (1)**

The Minister for Employment shall lay down rules for issuing certain types of workers' compensation documents without a signature or with a machine generated or similar signature, thereby giving such documents the same legal status as documents with a personal signature. Such rules shall be laid down, after negotiation with the Minister for the Interior and Social Affairs, in respect of the processing by the National Social Appeals Board of workers' compensation claims.

(2)

The Minister for Employment shall lay down similar rules, cf. subsection (1) above, in respect of processing by the National Board of Industrial Injuries of cases under section 81 and section 10 of the Damages Liability Act.

**Chapter 8***Administration**Decision-making competence*

**40. (1)**

Where nothing to the contrary has been provided the National Board of Industrial Injuries shall make decisions on all matters under this Act.

**(2)**

In the processing of cases under this Act the National Board of Industrial Injuries shall not be bound by any claims made by the parties and shall be independent of any instructions as to the decision in each case.

**40. A (1)**

The National Board of Industrial injuries shall make a decision on repayment –

- (i) where the injured person or his/her dependants, against better knowledge, failed to provide such information as is required under this Act and such lacking information has resulted in a decision other than a decision the National Board of Industrial Injuries would have made, had the information been available;
- (ii) where the injured person or his/her dependants, against better knowledge, provided false information and such false information has resulted in a decision other than a decision the National Board of Industrial Injuries would have made, had the correct information been available; or
- (iii) where the injured person or his/her dependants besides, against better knowledge, received benefits under this Act to which they were not entitled.

**(2)**

The amount to be repaid shall be collected by the insurance company etc. in respect of accident cases and by the Labour Market Occupational Diseases Fund in respect of occupational diseases.

*Resumption***41. (1)**

At the request of the injured person or the surviving dependants, or on the initiative of the National Board of Industrial Injuries, any decision to the effect that an injury shall not be covered by this Act may be resumed within five years from the date of such decision. This shall similarly apply to such cases as are turned down having been notified after expiry of the time limit for notification.

**(2)**

Where the National Board of Industrial Injuries has decided that a notified disease shall not be covered by this Act and the disease is later included in the list referred to in section 7(1)(i) above, the case may be resumed, even where more than five years have passed since the National Board of Industrial Injuries made the decision.

**42. (1)**

Where the circumstances on the basis of which the questions of compensation were assessed change substantially such questions may, cf. sections 15, 17 and 18, at the request of the injured person or on the initiative of the National Board of Industrial Injuries, be resumed within a time limit of five years from the date of the first decision. The time limit for resumption may be extended within the expiry of the five-year time limit. Where warranted by exceptional circumstances the time limits may be disregarded.

**(2)**

The beneficiary of a monthly benefit under section 17 shall notify the insurance company, the Labour Market Occupational Diseases Fund or the National Board of Industrial Injuries of any change in his or her situation likely to imply a reduction in or lapse of the benefit; similarly, it shall rest upon the insurance company, the Labour Market Occupational Diseases Fund or the said Board to pay attention to the occurrence of any such change in the beneficiary's situation.

**43.**

Where a surviving dependant is not deemed to be entitled to compensation under section 20(1) above such person may request a reconsideration of the question of compensation within a time limit of five years from receipt of the decision thereof. Similarly a surviving dependant who has been granted compensation under subsection (1), cf. subsection (2) of section 20 above, may – within a time limit of five years from the termination of the benefit – request a reconsideration of the question of compensation with a view to being granted an additional, temporary monthly benefit.

*Access to appeal***44. (1)**

Decisions made by the National Board of Industrial Injuries under section 40 may be submitted to the National Social Appeals Board by –

- (i) the injured person or the injured person's surviving dependants;
- (ii) the insurance company in respect of accidents;
- (iii) the Labour Market Occupational Diseases Fund in respect of occupational diseases; and
- (iv) the employer in respect of decisions on recognition of industrial injuries.

**(2)**

Any complaint in pursuance of subsections (1) and (2) above shall be submitted not later than four weeks after the complainant's receipt of the decision letter. However, for injured persons or surviving dependants residing in the Faroe Islands or the remaining part of Europe outside Denmark at the time of the decision the time limit shall be six weeks. Where the injured person or surviving dependants reside outside Europe the time limit shall be three months.

**(3)**

In special circumstances the National Social Appeals Board shall be entitled to disregard non-observance of the time limits.

**(4)**

Where the National Social Appeals Board processes cases under this Act Chapter 9 and sections 68 and 70 of the Act on Legal Protection and Administration in Social Affairs shall be applicable, except where the provisions of this Act stipulate otherwise.

**(5)**

To the extent that the employer, the insurance company or the Labour Market Occupational Diseases Fund submits decisions made by the National Board of Industrial Injuries to the National Social Appeals Board such appeal shall have a delaying effect.

**(6)**

When deciding the question of recognition of a workers' compensation case the National Board of Industrial Injuries shall forward to the employer information of the injured person's diagnosis.

**(7)**

Prior to the processing of a complaint by the National Social Appeals Board under subsections (1) and (2) above, the National Board of Industrial Injuries shall make an assessment of whether there are grounds for agreeing, fully or partly, with the complainant. Therefore the complaint shall be sent to the National Board of Industrial Injuries.

**(8)**

Where the National Board of Industrial Injuries is unable to agree with the complainant, the complaint shall be sent, together with the grounds for the decision and the reassessment, to the National Social Appeals Board.

**(9)**

The Minister for Employment shall lay down rules for the processing of complaint cases, including rules on time limits for submitting and forwarding complaints etc.

**45.**

Complaints of decisions made under this Act by the Labour Market Occupational Diseases Fund or the Labour Market Supplementary Pension Fund may be brought before a Board of Appeal set up in pursuance of section 28 of the Act on the Labour Market Supplementary Pension Fund. Such appeal shall be submitted within four weeks from the date the decision was notified.

**46.**

The Danish Insurance Association shall have access to submitting an appeal as set out in section 44 in cases regarding such accidents at work as are processed by the National Board of Industrial Injuries in accordance with sections 48(6) and 52.

**47.**

(Repealed)

**Chapter 9**

*Employers liable to provide protection and self-employed earners protecting themselves under this Act*

**48. (1)**

Any employer who in his or her service engages persons as set out in section 2 above is liable to provide protection under this Act for such persons, subject, however, to subsections (3), (5), and (6) below.

**(2)**

Self-employed earners and assisting spouses may provide protection for themselves under this Act.

**(3)**

The owner of a vessel registered or to be registered in the Danish Shipping Register or the Danish International Shipping Register shall be liable to provide protection for any person comprised by section 2 who is engaged to carry out work on board the ship on the instructions of the master of the ship, whether or not such person is engaged or paid by persons other than the shipowner, and whether or not the work is related to the operation of the ship.

**(4)**

Employers as set out in subsections (1) and (3) above shall meet their liability to provide protection by taking out insurance against the consequences of accidents at work, cf. section 50, and by joining the Labour Market Occupational Diseases Fund in respect of the consequences of occupational diseases, cf. section 55. Self-employed earners and assisting spouses, cf. subsection (2) above, shall provide protection for themselves by taking out insurance against the consequences of accidents at work, cf. section 50, and by joining the Labour Market Occupational Diseases Fund in respect of the consequences of occupational diseases, cf. section 55.

**(5)**

The State, regional authorities and municipalities shall not be liable to take out insurance against the consequences of accidents at work, cf. section 50. The same shall apply to the Civil List.

**(6)**

The liability to provide protection shall not be applicable to casual help in the private household or during the performance of private service where the overall employment pertaining thereto does not exceed 400 working hours in a calendar year. Costs arising from accidents at work sustained by such casual help shall be defrayed as an advance payment by the National Board of Industrial Injuries and shall be distributed for each calendar year on all insurance companies undertaking industrial injuries insurance. The National Board of Industrial Injuries – in collaboration with the Danish Financial Supervisory Authority – shall lay down specific rules governing such distribution. Costs arising from occupational diseases contracted by such casual help shall be defrayed by the Labour Market Occupational Diseases Fund. The same shall apply to costs arising from occupational diseases contracted by protected persons not covered by the Act on the Labour Market Supplementary Pension Fund. The National Board of Industrial Injuries shall notify the Labour Market Occupational Diseases Fund of trade affiliation, taking into account the nature of the exposure, the intensity, and the duration thereof. The Labour Market Occupational Diseases Fund shall subsequently refer the costs to a specific trade.

**49. (1)**

In respect of accidents the costs incurred shall be defrayed by the insurance company of the employer liable to provide protection, subject, however, to section 10 A. In respect of occupational diseases such costs shall be defrayed by the Labour Market Occupational Diseases Fund, subject, however, to section 10 A. The same shall apply to the optional protection as set out in section 48(2). The National Board of Industrial Injuries shall notify the Labour Market Occupational Diseases Fund of the trade affiliation, taking into account the nature of the exposure, the intensity, and the duration thereof. The Labour Market Occupational Diseases Fund shall refer the costs to a specific trade.

(2)

The employer liable to provide protection for an injured person shall be the employer in whose business or service the industrial injury occurred, subject, however, to subsection (3) below and subsections (3) and (6) of section 48. Where it is possible to refer the industrial injury to several employers the National Board of Industrial Injuries shall decide which employer shall be the employer liable to provide protection.

(3)

The employer liable to provide protection for injured persons and optionally protected persons who have contracted an occupational disease shall be the last employer in whose business or service, prior to the disease being diagnosed, the injured person was subject to the harmful exposure presumed to have caused the disease in question. This shall not apply, however, where it is established that the disease was caused by work in a different business.

(4)

Where an employer liable to provide protection under subsection (3) above cannot be pointed out with reasonable certainty or the business has been closed down, the National Board of Industrial Injuries shall refer the injury to a trade. The Board's decision on trade affiliation shall be made after a concrete assessment of the trade in which the injured person or the optionally protected person has been particularly subject to such exposure as may be deemed to have caused the disease in question. Such assessment shall take into account the nature of the exposure, the intensity, and the duration thereof.

(5)

Where an injury has occurred as a consequence of protected persons' attempt to save human life, cf. section 4(2)(iii), the Treasury shall reimburse the insurance company in question or the Labour Market Occupational Diseases Fund for the disbursed benefits.

(6)

Where a person who is not otherwise protected under this Act sustains an injury during an attempt to save human life, cf. section 4(2)(iv) of this Act, the Treasury shall defray the benefits under this Act.

(7)

In cases comprised by subsections (5) and (6) above the injured person's annual earned income shall be calculated in accordance with the general provisions of this Act.

(8)

In the event of injuries occurring as a consequence of carrying out civic, regional, or municipal duties the State, the regions and the municipalities shall disburse the benefits under this Act in respect of accidents. The Labour Market Occupational Diseases Fund shall disburse the benefits under this Act for such injuries in respect of occupational diseases.

## **Chapter 10**

### *Liability to provide protection*

#### *Taking out insurance*

#### **50.**

Employers liable to provide protection, cf. section 48, shall transfer their risk of accidents to an insurance company undertaking work accident insurance under this Act. The same shall apply to self-employed earners and assisting spouses who opt to provide protection for themselves in accordance with section 48(2).

#### **51.**

Employers who fail to take out compulsory insurance under this Act or to maintain such insurance in force shall pay an amount equivalent to the premium of which they have deprived an insurance company. The National Board of Industrial Injuries shall decide the size of the amount. The amount shall be paid to the National Board of Industrial Injuries and passed to the credit of all insurance companies undertaking work accident insurance, in accordance with rules laid down by the National Board of Industrial Injuries in co-operation with the Financial Supervisory Authority.

#### **51. A**

(Repealed)

#### **52. (1)**

Where an accident at work occurs and the employer has failed to meet his or her liability to provide protection by taking out insurance, the National Board of Industrial Injuries shall defray as an advance payment the expenses indicated in section 11, subsections (3) and (4) of section 35, section 38, and section 59 of this Act.

(2)

The employer shall reimburse the National Board of Industrial Injuries for the outlays, cf. subsection (1) above, except where the said Board deems that there have been such extenuating circumstances for the employer as should exempt him – fully or partly – from payment.

(3)

To the extent deemed reasonable the National Board of Industrial Injuries may waive its claim on the employer.

(4)

Amounts disbursed by the National Board of Industrial Injuries in pursuance of subsection (1) above shall be distributed – subject to deduction of any amounts reimbursed under subsection (2) above – among all insurance companies undertaking work accident insurance, according to the provisions of the second and third sentences of section 48(6).

(5)

Where the business in which the accident occurred has been closed down and it is not possible to point to an insurance company the provisions of subsections (1) and (4) shall apply similarly.

**52. A**

The insurance company may get access to such information in the income register, with regard to trade affiliation and number of employees, as is necessary for the purposes of calculating and collecting premiums from employers liable to take out protection, cf. section 7 of the Act on an Income Register.

**53.**

Where an insurance company has undertaken a risk on behalf of an employer liable to provide protection or a self-employed earner, cf. section 50, such company shall be liable even where the insurance was contracted on an incorrect basis as regards the nature and extent of the insurance liability.

**54. (1)**

Where the National Board of Industrial Injuries, under section 250(2) of the Financial Business Act, takes over the portfolio of an insurance company undertaking work accident insurance, all injuries notified to the insurance company after the date of the close-down of such company shall be submitted to the National Board of Industrial Injuries. At the same time the insurance company shall transfer to the National Board of Industrial Injuries such capital as has been reserved by the said company in pursuance of the Financial Business Act and regards the company's portfolio under this Act at the time of closing down.

**(2)**

Expenses arising from the take-over of the portfolio shall be defrayed as advances by the National Board of Industrial Injuries and be distributed for each calendar year among all insurance companies undertaking work accident insurance, in accordance with the provisions of the second and third sentences of section 48(6). Capital transferred shall be distributed in accordance with the same provisions.

*Joining the Labour Market Occupational Diseases Fund***55. (1)**

Employers liable to provide protection, cf. section 48, shall pay contributions to the Labour Market Occupational Diseases Fund, cf. section 61. The same shall apply to persons opting to provide protection for themselves under section 48(2).

**(2)**

The contribution shall be calculated per quarter on the basis of paid-in ATP contributions from the undertaking in a preceding 3-month period, converted into full-time employments with the application of the ATP contribution rates relevant for the undertaking and with the application of the contribution rate relevant for the trade, cf. section 58(2).

**(3)**

The contribution shall be collected four times a year. The contribution may be collected by the Labour Market Supplementary Pension Fund together with other contributions collected from employers. The powers vested in the Labour Market Occupational Diseases Fund with regard to the collection of contributions in pursuance of this Act may be exerted by the Labour Market Supplementary Pension Fund in connection with mutual collection. In the event of delayed payment interest and a reminder fee shall be imposed in pursuance of the Act on interest on delayed payments etc. Outstanding contribution amounts may be included in the mutual collection procedure.

**(4)**

Where the Labour Market Occupational Diseases Fund has undertaken the risk of an employer liable to provide protection or a self-employed earner the Labour Market Occupational Diseases Fund shall be liable even where the contributions were agreed on an incorrect basis as regards the nature and extent of the risk.

**(5)**

The person liable to provide protection, the insurance company, and public authorities shall upon request provide the Labour Market Occupational Diseases Fund with such information as is substantial for determining contributions under this Act. The same shall apply to optionally protected persons under section 48(2). The obligation to hand out information to the Labour Market Occupational Diseases Fund shall not apply to the extent that other legislation stipulates a special professional secrecy.

(6)

For the purposes of collecting contributions and processing occupational diseases claims the Labour Market Occupational Diseases Fund shall have electronic access to permanent audit files in the employers' and persons' registers of the Labour Market Supplementary Pension Fund (the ATP), to information of employers' paid-in ATP contributions in the ATP collection register, and to employer relations and individually paid-in ATP contributions in the wage-earner register of the Labour Market Supplementary Pension Fund.

(7)

For the calculation, collection and processing of contributions as part of the mutual collection, cf. subsection (3) above, employer information from the schemes covered by a mutual collection may be handed out, to the extent necessary, to the Labour Market Supplementary Pension Fund. Such handing out of information may occur electronically.

#### **56. (1)**

The Board of the Labour Market Occupational Diseases Fund shall lay down specific rules for the calculation of contributions.

(2)

Upon the recommendation of the Boards of the Labour Market Occupational Diseases Fund and the Labour Market Supplementary Pension Fund the Minister for Employment shall lay down rules for collection and payment of contributions included in the mutual collection, cf. section 55 (3) above. Such rules can determine that the Labour Market Supplementary Pension Fund may grant a respite for payment and waive contributions and interest.

(3)

The Labour Market Occupational Diseases Fund shall have a right of distraint for contributions, interest, and administration fees.

(4)

The Labour Market Occupational Diseases Fund shall collect from tax authorities and other public authorities such information of those liable to provide protection and optionally protected persons, cf. section 48(2), as is necessary for performing the collection of outstanding contributions, interest and administration fees, including information on income and financial circumstances.

#### **56. A**

The Labour Market Occupational Diseases Fund shall get access to such information in the income register in respect of trade and number of employees as is necessary for the calculation and collection of contributions from employers liable to provide protection, cf. section 7 of the Income Register Act.

#### **57. (1)**

Where an occupational disease occurs and the employer liable to provide protection has failed to pay contributions the expenses set out in section 11, subsections (3) and (4) of section 35, section 38, and section 59 shall be defrayed as advances by the Labour Market Occupational Diseases Fund.

(2)

The employer shall reimburse the Labour Market Occupational Diseases Fund for the outlays, cf. subsection (1) above, except where the National Board of Industrial Injuries deems that there have been such extenuating circumstances for the employer as should exempt him – fully or partly – from payment.

(3)

To the extent deemed reasonable the National Board of Industrial Injuries may waive its claim on the employer.

(4)

Amounts disbursed by the Labour Market Occupational Diseases Fund in pursuance of subsection (1) above shall be distributed – subject to deduction of any amounts reimbursed under subsection (2) above – according to the provisions of the fourth to sixth sentences of section 48(6).

(5)

The Labour Market Occupational Diseases Fund shall be entitled to claim from the employer an amount equivalent to the contribution of which the employer has deprived the scheme after January 1, 1999.

(6)

The Labour Market Occupational Diseases Fund shall have a right of distraint for claims for refunds under subsection (2) above, interest thereon under section 60, and claims for refunds under subsection (5) and interest thereon under section 56(2). The provision of section 56(4) shall apply similarly.

#### *Determining the aggregate contribution to the Labour Market Occupational Diseases Fund*

#### **58. (1)**

Employers liable to provide protection and optionally protected persons under section 48(2) shall, by way of contributions to the Labour Market Occupational Diseases Fund, cover such expenses as regard the protection under this Act against the consequences of occupational diseases.

(2)

The Board of the Labour Market Occupational Diseases Fund shall determine the contribution rates for each calendar year. The contribution rates shall be determined, according to trade affiliation, on the basis of the anticipated costs regarding the trade in question.

(3)

The Board of the Labour Market Occupational Diseases Fund shall be under an obligation to determine the contributions towards covering any deficit on allocations for occupational diseases notified prior to January 1, 2008, and sudden lifting injuries, cf. subsection (2) of section 85 A, in such a way that, in addition to what is necessary for covering the protection risks under the Act, only such contributions shall be collected as are necessary for justifiable administration. The Labour Market Occupational Diseases Fund shall have the option to equalise any surplus or deficit over two years. The Financial Supervisory Authority may lay down specific rules for such calculation.

(4)

The Board of the Labour Market Occupational Diseases Fund shall be under an obligation to determine the contributions for occupational diseases notified on or later than January 1, 2008, in such a way that, in addition to what is necessary for covering the costs under this Act, including section 58 C, only such contributions shall be collected as are necessary for justifiable administration. The Labour Market Occupational Diseases Fund shall have the option to equalise any surplus or deficit over two years.

(5)

Finally, as part of the contribution, the Labour Market Occupational Diseases Fund shall collect charges etc. to the extent that such charges have been determined under this Act or other legislation.

**58. A (1)**

The Labour Market Occupational Diseases Fund shall refer all employers to a trade subgroup, cf. subsection (2) below, on the basis of the following main trade groups –

- (i) agriculture, fishing, and extraction of raw materials;
- (ii) manufacturing industry;
- (iii) energy and water supply;
- (iv) building and construction;
- (v) trade, hotels, and restaurants;
- (vi) transport, post, and telecommunications;
- (vii) financing and business service;
- (viii) public and personal services.

**(2)**

The Director General of the National Board of Industrial Injuries, upon the recommendation of the Board of the Labour Market Occupational Diseases Fund, shall determine the subgroups in respect of the grouping set out under subsection (1) above.

**(3)**

In the calculation of contributions the Board of the Labour Market Occupational Diseases Fund can refer employers to a different trade group, cf. subsection (1) above, if the employer's trade code does not correspond with the actual occupational diseases risk.

**58. B (1)**

The trade subgroups, cf. section 58 A above, shall be financially independent groups financing costs for compensation payments to injured persons and surviving dependants in connection with occupational diseases as well as costs for administration.

**(2)**

A pool for equalising surpluses and deficits shall be affiliated with the trade subgroups. The pool shall be sufficient to eliminate unanticipated fluctuations in the annual contributions. Changes in the pool shall be evened out, over the following two contribution years, in the collection of contributions from employers in the trade subgroup.

**(3)**

The Labour Market Occupational Diseases Fund can collect once a year a separate supplement to the contribution set out in section 58 above towards the financing of costs for compensation payments to injured persons and surviving dependants as well as administration pertaining to trades with decreasing employment and substantial costs for compensation payments pertaining to previously notified occupational diseases. The Labour Market Occupational Diseases Fund shall set out the rules for such supplements.

**58. C (1)**

The Labour Market Occupational Diseases Fund may give employers a rebate on the contribution set out under section 58 above. Such rebate shall be based on the individual undertaking's effort for the working environment.

**(2)**

The Director General of the National Board of Industrial Injuries, upon the recommendation of the Labour Market Occupational Diseases Fund, shall lay down rules for contribution rebates.

*Mutual provisions for payment for administration, return on investment, and distraint*

**59. (1)**

Insurance companies undertaking work accident insurance, the Labour Market Occupational Diseases Fund, such regional authorities and municipalities as have not taken out insurance, cf. section 48(5), and such institutions as are comprised by government institutions' access to self-insurance, cf. section 48(5), shall pay for the administration by the National Board of Industrial Injuries and the National Social Appeals Board of matters comprised by this Act and relating to the said bodies. The Minister for Employment shall lay down rules for payment and collection thereof.

(2)

Payment for matters covered by the Act and relating to such institutions as are covered by government institutions' access to self-insurance, cf. section 48(5), shall be incumbent on the ministerial area in question. The competent minister may distribute the costs on the several institutions.

(3)

The Director General of the National Board of Industrial Injuries may direct the insurance companies etc. referred to in subsection (1) above and the Labour Market Occupational Diseases Fund to procure statistical and similar information.

## 60. (1)

Amounts disbursed in advance by the National Board of Industrial Injuries under section 48(6) and subsections (1) and (5) of section 52, or by the Labour Market Occupational Diseases Fund under section 57, shall yield interest at an annual rate corresponding to the average of the day-to-day money market interest rate published by the National Bank of Denmark. Specific rules for calculating the interest shall be laid down by the Director General of the National Board of Industrial Injuries.

(2)

Insurance companies shall have a right of distraint for premiums, incurred interest and other costs in the event of failure to pay premiums within the specified time limits.

## Chapter 11

### *The Labour Market Occupational Diseases Fund (the AES)*

## 61. (1)

The Labour Market Occupational Diseases Fund is an independent institution.

(2)

The tasks of the Labour Market Occupational Diseases Fund shall be –

- (i) to calculate and collect contributions towards the financing of costs arising from occupational diseases; and
- (ii) to disburse compensation etc. to injured persons or surviving dependants.

(3)

The Labour Market Occupational Diseases Fund shall be managed by a Managing Director and a Board composed of a chairman and 20 other members. Such members shall be appointed as follows –

- (i) four members by the Danish Employers' Confederation;
- (ii) one member by the Confederation of Employer Organisations in Agriculture;
- (iii) one member by the Minister of Finance;
- (iv) two members jointly by the National Association of Local Authorities in Denmark and the regional councils;
- (v) one member by the Danish Employers' Association for the Financial Sector;
- (vi) one member by the Danish Association of Managers and Executives;
- (vii) seven members by the Confederation of Danish Trade Unions;
- (viii) two members by the Salaried Employees' and Civil Servants' Confederation; and
- (ix) one member by the Danish Confederation of Professional Associations.

Members shall be appointed in accordance with the provisions of the Act on Equal Opportunity between Men and Women.

(4)

The Board shall appoint their own chairman, who shall not be affiliated with any employer or employee organisation. In the event of parity of votes the chairman shall have a casting vote.

(5)

The chairman of the Board and other members shall be appointed for a four-year period. Reappointment shall be possible. A member of the Board shall not at the same time be a member of the Occupational Diseases Committee, cf. section 9.

(6)

Where bodies entitled to appointment as set out in subsection (3) above do not make recommendations in accordance with the provisions set out in subsections (3) and (5) above, the Minister for Employment may decide that the Board shall function without the members in question.

(7)

The Board shall be responsible for the administration of the Labour Market Occupational Diseases Fund. The Board shall leave the administration, cf. subsection (2) above, to the Labour Market Supplementary Pension Fund (ATP).

## **62. (1)**

Any Board member and the Managing Director of the Labour Market Occupational Diseases Fund shall have such adequate experience as to enable them to execute their duty or position.

(2)

Any Board member or the Managing Director shall not execute their duty or position with the Labour Market Occupational Diseases Fund as Board member or Director General respectively where –

- (i) the person in question is made subject to liability to punishment due to infringement of the Danish Penal Code, the Workers' Compensation Act or financial legislation and such infringement implies a risk that the person in question will not handle satisfactorily his or her duty or position;
- (ii) the person in question has filed for suspension of payments, for compulsory composition, for bankruptcy protection or for debt restructuring, or negotiations have been initiated with regard to suspension of payments, bankruptcy proceedings, debt restructuring or compulsory composition;
- (iii) the financial situation of the person in question or of such companies as the person owns or in whose operation the person participates has inflicted a loss or risk of loss on the Labour Market Occupational Diseases Fund; or
- (iv) the person in question has shown such behaviour as to give grounds for assuming that he or she will not attend to the duty or position in a justifiable manner.

(3)

Board members and the Managing Director shall notify the Financial Supervisory Board of any information on such matters as are set out in subsection (2) above.

## **63.**

Sections 24 B to 24 E of the Act on the Labour Market Supplementary Pension Fund pertaining to speculation, contracts, management's other duties, etc. shall apply with any such adjustment as is required.

### *Actuarial matters*

#### **63. A (1)**

The Board of the Labour Market Occupational Diseases Fund shall employ a responsible actuary for the execution of the requisite calculation functions, including the determination of the total contribution level, as well as surveys. The position of actuary shall not be compatible with the position of Managing Director or Board member of the Labour Market Occupational Diseases Fund.

(2)

Where a responsible actuary is dismissed or resigns the Board and the actuary, not later than one month after such resignation, shall each send a report to the Financial Supervisory Authority with an account of the reason for such resignation.

(3)

The Labour Market Occupational Diseases Fund shall prepare a protection plan. The protection plan shall be notified to the Financial Supervisory Authority not later than the date when the protection plan is first put to use. The same shall apply to any subsequent change in the protection plan. The protection plan shall be divided into –

- (i) a tariff plan including a description of the determination of the proceeds of contributions and the division into trades, including rules for determining the pool for equalisation of surpluses and deficits; and
- (ii) an allocation plan setting out the rules for determining the obligations of the Labour Market Occupational Diseases Fund and including rules for determining –
  - (a) allocations for monthly benefits for occupational diseases notified prior to January 1, 2008, and sudden lifting injuries, cf. subsection (2) of section 85 A;
  - (b) other compensation allocation for occupational diseases notified prior to January 1, 2008, and sudden lifting injuries, cf. subsection (2) of section 85 A, and
  - (c) allocations for occupational diseases notified on January 1, 2008 or later.

(4)

The responsible actuary shall ensure that the Labour Market Occupational Diseases Fund complies with its protection plan, including reserves being allocated in such a way as to render them sufficient in view of what may reasonably be anticipated.

(5)

The responsible actuary shall immediately report to the Financial Supervisory Authority any disregard of matters set out in subsection (4) above. The responsible actuary shall request and obtain from the Managing Director all such information as is necessary for executing his or her duty. The Financial Supervisory Authority shall request and obtain from the actuary all such information as is necessary for the evaluation of the financial position of the Labour Market Occupational Diseases Fund.

(6)

The responsible actuary shall once a year submit a report to the Financial Supervisory Authority including an account of the reserve allocations of the Labour Market Occupational Diseases Fund.

(7)

The Financial Supervisory Authority shall lay down specific rules regarding matters set out in subsections (1), (2), (4), (5), and (6) above, including the requirements a person shall meet to be employed as a responsible actuary. The Financial Supervisory Authority shall lay down specific rules for the procedure of notification of the protection plan, cf. subsection (3), including if and to what extent such notices shall be accessible to the public.

(8)

Where the Financial Supervisory Authority finds that the requirements set out in subsection (3)(i) are not met the Financial Supervisory Authority, following negotiations with the Labour Market Occupational Diseases Fund, shall report this to the Minister for Employment. Where the Financial Supervisory Authority finds that the requirements set out in subsection (3)(ii) are not met the Financial Supervisory Authority can direct the Labour Market Occupational Diseases

Fund to make the necessary changes in the reported matters within a time limit determined by the Financial Supervisory Authority.

(9)

The responsible actuary shall be entitled to request that the Board be convened. The responsible actuary shall be entitled to attend and speak at Board meetings, except where the Board in a specific case decides otherwise.

(10)

Where it is requested by one Board member the responsible actuary shall be obliged to participate in the Board's handling of the matters in question.

#### *Annual report and audit*

#### **64. (1)**

For each accounting year the Board and the Managing Director shall prepare an annual report consisting of at least a management review, a management statement and a financial statement consisting of a balance sheet, a profit and loss account, and notes including accounting policies. After a financial statement has been audited the auditors' report shall form part of the annual report.

(2)

The annual report shall be prepared in accordance with the provisions set out in this Chapter and provisions set out in pursuance of section 65 K below.

#### **65.**

Each member of management shall be responsible that the annual report is prepared in accordance with the legislation and any additional accounting requirements set out in articles or agreements. Furthermore each member shall be responsible that the financial statement and any consolidated account is audited and approved in due time. Finally each Board member shall be responsible that the annual report is submitted to the Ministry of Employment and the Financial Supervisory Authority within the time limits set out in the legislation.

#### **65. A (1)**

After preparation of the annual report all Board members and the Managing Director shall sign the report and state the date of such signature. They shall give their signature in conjunction with a management statement stating clearly the name of each member and such member's function in relation to the Labour Market Occupational Diseases Fund, declaring whether –

- (i) the annual report has been prepared in accordance with the requirements set out in the legislation and any requirements set out in articles or agreements;
- (ii) the financial statement gives a true and fair impression of the assets and liabilities, the financial position and the profit or loss of the Labour Market Occupational Diseases Fund and the group respectively; and
- (iii) the management review contains a true and fair account of the development in the activities and financial position of the Labour Market Occupational Diseases Fund and the group respectively as well as a description of any such substantial risks and insecurities as may affect the Labour Market Occupational Diseases Fund and the group respectively.

(2)

Where management has added supplementary reports to the annual report the Board members and the Managing Director shall declare in the management statement whether or not such report gives a true and fair account within the framework of generally acknowledged guidelines for such reports.

(3)

Even where a management member disagrees, fully or partly, with the annual report or objects to approving it with the contents decided upon such member shall not omit to sign. However, the

management member shall be entitled to express his or her views by giving a specific and full account in conjunction with his or her signature and the management statement.

**65. B (1)**

The financial statement shall give a true and fair impression of the assets and liabilities, the financial position and the profit or loss of the Labour Market Occupational Diseases Fund and the group respectively. The management review shall include a true and fair account of the conditions to which the review pertains.

(2)

Where the application of the provisions of this Act or the rules issued in pursuance of section 65 K below is not sufficient to give a true and fair impression as set out in subsection (1) above supplementary information shall be stated in the financial statement.

(3)

Where the application of the provisions of this Chapter or rules issued in pursuance of section 65 K below is incompatible, in special circumstances, with the requirement set out in the first sentence of subsection (1) above such provisions shall be disregarded in order to meet such requirement. Such disregard shall be stated each year in the notes and shall always be provided with specific and full grounds as to the effect such disregard has on the assets and liabilities, financial position and profit or loss of the Labour Market Occupational Diseases Fund and the group respectively. Where possible such effect shall be expressed by way of the amount in question.

**65. C (1)**

In order that the financial statement and the consolidated account may give a true and fair impression and in order that the management review may include a true and fair account, cf. section 65 B above, the provisions of subsections (2) and (3) below shall be met.

(2)

The annual report shall be prepared in such a way as to support annual-report users in their financial decisions. Such users shall be persons, businesses, organisations, public authorities etc. whose financial decisions will usually be expected to be influenced by an annual report, including members, creditors, employees, customers, alliance partners, the local community as well as subsidising and fiscal authorities. Such decisions shall at least pertain to –

- (i) placement of annual-report users' own resources;
- (ii) management's administration of the organisation's resources; and
- (iii) distribution of the organisation's resources.

(3)

The annual report shall be prepared in such a way as to provide information of such matters as are usually relevant for annual-report users, cf. subsection (2) above. Besides such information shall be reliable in relation to what annual-report users usually expect.

**65. D (1)**

The annual report shall be prepared in accordance with the basic assumptions set out below.

- (i) It shall be prepared in a clear and understandable manner (clarity).
- (ii) It shall take into consideration the real circumstances and not formalities without any real meaning (substance).
- (iii) All relevant matters shall be included in the annual report, except where such matters are insignificant (materiality). However, where several insignificant matters are deemed to be significant if combined, such matters shall be included.
- (iv) The operation of an activity shall be based on a going concern assumption, except where it is discontinued or it is assumed that it shall not be able to continue. Where an activity is discontinued classification and presentation as well as recognition and measurement shall be adjusted accordingly.
- (v) Any change in value shall be shown irrespective of the effect on the profit and loss

- account (neutrality).
- (vi) Transactions, events and changes in value shall be recognised when occurring, irrespective of the date of payment (accrual basis).
  - (vii) Methods of recognition and measurement basis shall be applied uniformly to the same category of matters (consistency).
  - (viii) Any transaction, event and change in value shall be recognised and measured separately and individual matters shall not be set off against each other (gross value).
  - (ix) The opening balance sheet for the accounting year shall be equivalent to the closing balance sheet for the preceding accounting year (formal consistency).

(2)

Presentation and classification, method of consolidation, method of recognition and measurement basis as well as the monetary unit applied shall not be changed from year to year (actual consistency). Changes shall occur, however, where such change furthers a true and fair impression or such change is necessary as a consequence of any amendment to legislation or new rules issued in pursuance of section 65 K below.

(3)

The provisions of paragraphs (vi)-(ix) of subsection (1) above and subsection (2) may be disregarded in special circumstances. In such cases the second sentence of subsection (3) of section 65 B above shall apply similarly.

#### **65. E (1)**

Except where otherwise provided in pursuance of section 65 K below, the assets and liabilities of the Labour Market Occupational Diseases Fund shall be measured at fair value. Assets and liabilities shall be appreciated and depreciated accordingly, and appreciation and depreciation shall be included in the profit and loss account, except where otherwise provided in pursuance of section 65 K below.

(2)

The fair value shall be determined at the market value established for the asset or liability in a well-functioning market. Where the asset or liability is not traded in a well-functioning market a recognised method shall be applied to calculate the fair value of the asset or liability in question.

#### **65. F (1)**

Supplementary reports, such as reports on knowledge and employees' conditions (knowledge accounts), on environmental issues (green accounts), on the social responsibility of the Labour Market Occupational Diseases Fund (social accounts), and on the ethical objectives of the Labour Market Occupational Diseases Fund and their follow-up on such objectives (ethical accounts), shall give a true and fair account within the framework of generally recognised guidelines for such reports. Such reports shall meet the quality requirements set out in section 65 C(3) above and, subject to the special terms following from the nature of the matter, the basic assumptions set out in subsections (1) and (2) of section 65 D above.

(2)

The methods and measurement basis used for the preparation of the supplementary reports shall be disclosed in the reports.

#### **65. G**

The accounting year shall follow the calendar year. This requirement shall apply similarly to any subsidiaries.

#### **65. H**

Recognition, measurement and disclosure in monetary units shall be denominated in Danish Kroner.

**65. I**

The annual report shall be audited by the external auditors of the Labour Market Occupational Diseases Fund, cf. section 66. Such audit shall not comprise the management review or such supplementary reports as are included in the annual report, cf. section 65 F. However, auditors shall submit a statement as to whether the information in the management review is in accordance with the financial statement and any consolidated account.

**65. J (1)**

Without undue delay after the Board's approval of the annual report, but not later than four months after expiry of the accounting year, the audited and approved annual report, as well as a transcript of the audit protocol pertaining to the audit of the annual report, shall be submitted to the Ministry of Employment and the Financial Supervisory Authority. Where the Board has established internal audit the audit protocol of the internal head auditor shall likewise be submitted.

**(2)**

The submitted annual report shall as a minimum include the compulsory parts as well as the full auditors' report. Where the Labour Market Occupational Diseases Fund wishes to publish supplementary reports as set out in section 65 F above such reports shall be submitted together with the compulsory parts of the report, the compulsory parts and the supplementary reports appearing as one document entitled "annual report".

**(3)**

Together with the submission of the annual report under subsection (1) above one copy of the annual reports from all subsidiaries of the Labour Market Occupational Diseases Fund shall be submitted.

**65. K (1)**

The Financial Supervisory Authority shall set out the specific rules for the annual report, including rules for recognition and measurement of assets, liabilities, proceeds and costs, statement of profit and loss account and balance sheet, as well as requirements regarding notes and the management's report.

**(2)**

The Financial Supervisory Authority shall furthermore set out rules for consolidated accounts, including rules as to when an annual report shall include a consolidated account.

**(3)**

The Financial Supervisory Authority shall set out rules for preparation and publication of accounting reports covering shorter periods of time than the annual report.

**65. L**

With a view to ensuring that the annual report of the Labour Market Occupational Diseases Fund is in accordance with the rules issued in this Chapter and the rules issued in pursuance of section 65 K above the Financial Supervisory Authority may –

- (i) offer guidance;
- (ii) take action against violations; and
- (iii) give instructions that errors shall be corrected and violations shall be remedied.

**65. M (1)**

The Financial Supervisory Authority may demand that the Labour Market Occupational Diseases Fund shall submit regular accounting reports to the said authority in accordance with specified guidelines set out by the Financial Supervisory Authority.

**(2)**

The Financial Supervisory Authority may demand that such accounting reports as are set out in subsection (1) above shall be supplemented with reports of specific circumstances signed by the Managing Director or the Board of the Labour Market Occupational Diseases Fund.

**66. (1)**

The annual report of the Labour Market Occupational Diseases Fund shall be audited by at least one state-authorised public accountant. The Board shall appoint the auditors, but may at any time withdraw such appointment. In special circumstances the Minister for Employment shall appoint an additional auditor. Such auditor shall function on the same terms and according to the same rules as auditors appointed by the Board.

(2)

The auditors of the Labour Market Occupational Diseases Fund shall similarly be auditors of any subsidiaries.

(3)

Subsection (2) above shall not apply to such subsidiaries as are not domiciled in Denmark.

(4)

The Board may decide that internal audit shall be established under the supervision of a head auditor.

(5)

Where an auditor is replaced and the replacement is due to special circumstances the Labour Market Occupational Diseases Fund and such auditor shall submit separate accounts to the Financial Supervisory Authority not later than one month after the replacement.

(6)

Where it is found to be evident that an auditor is not a fit and proper person to hold the office entrusted to him, the Minister for Employment may dismiss the same and appoint an auditor who shall act in his or her place until a new appointment can be made.

(7)

For the purposes of the Board the auditors shall keep an audit protocol which shall be submitted to each Board meeting. Any entry in the protocol shall be signed by all Board members.

(8)

The Board shall not allow, cf. section 63, cf. section 24 D(1) of the Act on the Labour Market Supplementary Pension Fund, that the internal head auditor and the deputy head auditors carry out auditing tasks in businesses outside the group, subject, however, to section 24 D(7) of the Act on the Labour Market Supplementary Pension Fund. Nor shall the Board allow that the internal head auditor and the deputy head auditors carry out any work other than audit in the companies within the group, in schemes administered by the Labour Market Occupational Diseases Fund, or in companies within the same administrative community. In special circumstances the Financial Supervisory Authority shall make an exemption from the first sentence.

(9)

The Board shall not allow, cf. section 63, cf. section 24 D(1) of the Act on the Labour Market Supplementary Pension Fund, that the internal head auditor and the deputy head auditors take upon themselves such duties as are inconsistent with provisions on legal capacity corresponding to such provisions as apply to external auditors in pursuance of the legislation on state-authorised public and registered public accountants.

**67. (1)**

The auditors shall always be entitled to participate in Board meetings transacting business of importance to the audit or to the preparation of the accounts.

(2)

The auditors shall be under an obligation to participate in the Board's business transactions in question where such participation is requested by any one Board member.

(3)

The Financial Supervisory Authority shall prepare detailed instructions on how the Labour Market Occupational Diseases Fund shall perform the audit.

(4)

The Financial Supervisory Authority may instruct the auditor to provide information on matters pertaining to the Labour Market Occupational Diseases Fund. Where the Board in pursuance of section 66(4) has established internal audit the Authority may similarly instruct the internal head auditor to provide information on matters pertaining to the Labour Market Occupational Diseases fund.

#### **67. A**

An external auditor and an internal head auditor shall immediately inform the Financial Supervisory Authority of any such matters as are of decisive importance for the continued activity of the Labour Market Occupational Diseases Fund, including such matters of which the auditors might have become aware as part of the duty as auditor in companies with which the Labour Market Occupational Diseases Fund has close links, cf. the definition set out in the Financial Business Act.

#### *Investment provisions*

#### **68. (1)**

The Labour Market Occupational Diseases Fund, as set out in section 69, shall at any time possess assets amounting to an aggregate value corresponding to not less than the amount of the total reserve allocations for occupational diseases notified prior to January 1, 2008, and sudden lifting injuries, cf. subsection (2) of section 85 A below. It is incumbent upon management and Board to ensure that, within the limits set out in sections 69-70 A, the selection of such assets shall be made in such a way that, in respect of the nature of the obligations of the Labour Market Occupational Diseases Fund as regards security, return and liquidity, they are of such a nature and composition as to make them suitable for satisfaction of those protected, and in such a way that there is not a disproportionately great dependence on a specific category of assets, a specific investment market, or any specific investment. Adequate security shall be aimed at in connection with investment of the funds, together with the maintenance of the real value of the funds and the highest possible return on investment.

#### **(2)**

The value of the assets shall be determined for the purposes of the provisions of this Chapter in accordance with the following rules.

- (i) The value of the assets shall be determined and adjusted on a regular basis in accordance with the principles applying to the preparation of the annual report.
- (ii) Deductions shall be made for any encumbered part, and loans shall only be included at a value resulting after deductions of such obligations towards borrowers as can be set off.
- (iii) Where the Labour Market Occupational Diseases Fund has entered into financial agreements which reduce the risk of assets failing to cover obligations, the value of such agreements shall be included when assets are calculated.
- (iv) Interest receivable, but not yet due on securities covered by paragraphs (i)-(iv), (vi) and (viii) and (x)-(xiii) of section 69(1) shall be included in the calculation of the value of such securities.

#### **68. A**

It shall be incumbent upon management to ensure that the selection of assets not comprised by section 68 above shall be made in such a way that, in respect of the nature of the obligations of the Labour Market Occupational Diseases Fund as regards security, return and liquidity, they are of such a nature and composition as to make them suitable for satisfaction of those protected, and in such a way that there is not a disproportionately great dependence on a specific category of assets, a specific investment market, or any specific investment. Adequate security shall be aimed at in connection with investment of the funds, together with the maintenance of the real value of the funds and the highest possible return on investment.

**69. (1)**

The funds of the Labour Market Occupational Diseases Fund, corresponding to the size of the allocations for occupational diseases notified prior to January 1, 2008, and sudden lifting injuries, cf. subsection (2) of section 85 A, shall be invested in the following categories of assets.

- (i) Bonds and instruments of debt issued or guaranteed by governments or regional authorities in zone A.
- (ii) Bonds admitted to trading in a regulated market in a country within the European Union or in a country with which the Community has entered into an agreement in the financial field, or equivalent markets in other countries, and which are issued by international organisations counting among their members at least one of the member states of the European Union.
- (iii) Mortgage credit bonds, covered mortgage credit bonds and covered bonds issued by mortgage credit institutions, banks or the Ship Finance Institute, as well as other bonds issued in a member state of the European Union or a country with which the Community has entered into an agreement in the financial field, offering equivalent security.
- (iv) Outstanding payments (exclusive of such outstanding payments as are behind other creditors in order of priority) with credit banks and insurance companies under public supervision in countries comprised by zone A, as well as other outstanding payments guaranteed by credit banks or insurance companies under public supervision in countries comprised by zone A.
- (v) Land, housing property, office and business buildings as well as other real property whose value is independent of any specific commercial utilisation
- (vi) Loans secured by registered mortgage on real property as comprised by paragraph (v) for an amount up to 80 per cent of the most recent land assessment for housing property and 60 per cent for other real property.
- (vii) Parts in
  - (a) investment institutions comprised by Community law; in money market associations, in funds of funds, and in approved SME associations or divisions thereof, cf. the Investment Associations and Special-Purpose Associations and other Collective Investment Associations Act;
  - (b) placement associations and professional associations or divisions, who in their articles have rules on instruments and the spreading of risk equivalent to those applicable to investment associations, money market associations and funds of funds, or rules on spreading of risk equivalent to the provisions of subsections (3) and (4) of section 106 of the Investment Associations and Special-Purpose Associations and other Collective Investment Associations Act; and
  - (c) other associations or divisions thereof, if such associations in their articles have rules on instruments and spreading of risk equivalent to those applying for investment associations, money market associations and funds of funds, or the provisions on spreading of risk equivalent to the provisions of subsections (3) and (4) of section 106 of the Investment Associations and Special-Purpose Associations and other Collective Investment Associations Act.
- (viii) Other bonds and loans admitted to trading in a regulated market in a country within the European Union or in a country with which the Community has entered into an agreement in the financial field, or equivalent markets in other countries comprised by zone A.
- (ix) Capital parts admitted to trading in a regulated market in a country within the European Union or in a country with which the Community has entered into an agreement in the financial field, or equivalent markets in other countries comprised

- by zone A.
- (x) Real property not comprised by paragraph (v) as well as loans secured by registered mortgage in real property not comprised by paragraph (vi)
  - (xi) Capital parts and other securities admitted to trading in a market in countries outside zone A, provided that the market is equivalent to a regulated market within the European Union, as well as other securities admitted to trading in a regulated market within the European Union or in a country with which the Community has entered into an agreement in the financial field, or equivalent markets in other countries comprised by zone A.
  - (xii) Other loans and securities not comprised by paragraphs (i)-(xi).
  - (xiii) Reinsurance contracts and outstanding amounts with reinsurance companies and special hedging undertakings under public supervision in countries comprised by zone A or reinsurance companies under public supervision that have achieved a rating by an internationally recognised rating business equivalent to at least the investment grade.

(2)

Where the Labour Market Occupational Diseases Fund owns a subsidiary whose activity is limited to making and administering investments comprised by subsection (1) above, the assets of such subsidiary, within the value of the capital parts in and any loans to the subsidiary, may be regarded as assets under subsection (1). Where the said Fund does not own the subsidiary in full the subsidiary's assets shall be included at a proportionate value corresponding to the part of the equity capital owned by the Fund.

**69. A (1)**

The investment by the Labour Market Occupational Diseases Fund in one single undertaking of funds corresponding to the size of the allocations for occupational diseases notified prior to January 1, 2008, and sudden lifting injuries, cf. subsection (2) of section 85 A, shall not have the effect that the Labour Market Occupational Diseases Fund, alone or together with the Labour Market Supplementary Pension Fund or any subsidiaries owned by them, shall exercise any decisive influence on the business, except where otherwise provided by subsection (2) or (3).

(2)

Subsection (1) above shall not be applicable to the investment of funds corresponding to the size of the allocations for occupational diseases notified prior to January 1, 2008, and sudden lifting injuries, cf. subsection (2) of section 85 A, in subsidiaries under section 69(2).

(3)

For the purposes of securing investments already made the Labour Market Occupational Diseases Fund may carry out temporarily other types of business or contribute to the restructuring of business enterprises. The Labour Market Occupational Diseases Fund shall notify the Financial Supervisory Authority of this.

**70. (1)**

The following limits shall apply to the investment of the assets of the Labour Market Occupational Diseases Fund, corresponding to the size of the allocations for occupational diseases notified prior to January 1, 2008, and sudden lifting injuries, cf. subsection (2) of section 85 A.

- (i) Assets comprised by section 69(1), paragraphs (vii)-(xiii) above shall account for no more than a total of 70 per cent.
- (ii) Assets comprised by section 69(1)(xi) above shall account for no more than a total of 10 per cent.
- (iii) Loans comprised by section (69)(1)(xii) above shall account for no more than a total of 2 per cent.
- (iv) Assets comprised by section (69)(1), paragraphs (iv), (vi)-(ix), (xi) and (xii) above, issued or guaranteed by bank and mortgage credit institutions, insurance companies, divisions of investment institutions, as well as placement associations,

money market associations, funds of funds, and SME associations and professional associations which for each business and division of an association account for more than 5 per cent of the assets of the Labour Market Occupational Diseases Fund, shall account for no more than a total of 40 per cent.

(2)

Other loans and securities comprised by section 69(1)(xii) above shall account for no more than 10 per cent of the assets of the Labour Market Occupational Diseases Fund.

#### **70. A (1)**

The following limits in respect of the assets of the Labour Market Occupational Diseases Fund, corresponding to the size of the allocations for occupational diseases notified prior to January 1, 2008, and sudden lifting injuries, cf. subsection (2) of section 85 A below, shall apply to the inclusion of such assets as constitute a risk in a single undertaking or a group of mutually connected undertakings.

- (i) Assets comprised by section 69(1), paragraph (iii) above shall account for no more than 40 per cent.
- (ii) Assets comprised by section 69(1), paragraph (iv) above shall account for no more than 10 per cent.
- (iii) Assets comprised by section 69(1), paragraph (vii) above shall account for no more than 10 per cent, subject, however, to subsection (4).
- (iv) Assets comprised by section 69(1), paragraph (xiii) shall account for no more than 10 per cent.
- (v) Assets comprised by section 69(1), paragraphs (vi), (viii), (ix), (xi) and (xii) above shall account for no more than 2 per cent, subject, however, to subsection (2).  
Where the equity capital of the company to which the asset pertains is in excess of DKK 250 million, the limit is 3 per cent if the company is domiciled in a country comprised by zone A and the asset has been admitted to trading in a regulated market in a country within the European Union or a country with which the Community has entered into an agreement in the financial field, or equivalent markets in other countries comprised by zone A.
- (vi) Assets comprised by section 69(1), paragraphs (v), (vi), and (viii)-(xii) above shall account for no more than a total of 5 per cent.
- (vii) Loans comprised by section 69(1)(xii) shall account for no more than 1 per cent.

(2)

Capital parts in and loans to an undertaking or a group of mutually connected undertakings whose activities only include investments in assets comprised by section 69(1), paragraphs (v) and (x) above, shall account for a total of no more than 5 per cent.

(3)

Subsection (1), paragraphs (iii)-(v), and subsection (2) shall not be applicable to investments in a subsidiary company comprised by section 69(2).

(4)

Subsection (1), paragraphs (iii)-(v), and subsection (2) above shall not be applicable to investments in companies, investment institutions and associations comprised by section 69(1)(vii) whose activities, according to their articles, are limited to investing in assets comprised by paragraphs (i)-(iii) of section 69(1). Such investments in relation to the limits set out in paragraphs (iv)-(vi) of subsection (1) and subsection (2) above as well as paragraphs (i) and (iii) of section 70(1) shall be regarded as assets comprised by section 69(1), paragraphs (i)-(iii).

(5)

The Board shall lay down specific rules on the exposure of the Labour Market Occupational Diseases Fund to foreign-exchange-rate and interest-rate risk.

#### **70. B**

The Financial Supervisory Authority may for a limited period of time grant exemption from

sections 69 and 70 A(1), paragraphs (ii)-(vii) and paragraphs (ii)-(iv).

### **70. C**

The Financial Supervisory Authority shall lay down specific rules for the delimitation of securities comprised by several of the groups of assets set out in paragraphs (i)-(xii) of section 69(1) above.

#### *Supervision*

#### **71. (1)**

The Financial Supervisory Authority shall supervise compliance with sections 63-70 C.

#### **(2)**

The Financial Business Council shall participate in the supervision as set out in subsection (1) above within the competence field of the said Council, cf. section 345(2) of the Financial Business Act.

#### **(3)**

The Financial Supervisory Authority may direct the Labour Market Occupational Diseases Fund to take, within a specified time limit, such measures as the Financial Supervisory Authority deems necessary with a view to ensuring compliance with the provisions of this Act as set out in subsection (1) above.

#### **(4)**

The Financial Supervisory Authority may instruct the Labour Market Occupational Diseases Fund to remove a Managing Director within a time limit specified by the said authority if the Managing Director is deemed unable to execute his or her duty as set out in section 62(2).

#### **(5)**

Similarly the Financial Supervisory Authority may direct the Labour Market Occupational Diseases Fund to remove the Managing Director where such Managing Director is charged with infringement of the Danish Penal Code, the Workers' Compensation Act or financial legislation, until the criminal case is decided, where a judgement implies that the person in question does not meet the requirements set out in section 62(2)(i). The Financial Supervisory Authority shall specify a time limit for complying with such directions.

#### **(6)**

The Labour Market Occupational Diseases Fund and the Managing Director may demand that directions made in pursuance of subsections (4) and (5) shall be brought before a court of law. Requests to that effect shall be submitted to the Financial Supervisory Authority within four weeks from the date when the Managing Director was notified of the directions. The request shall not have a delaying effect on the directions, but the court may decide that the Managing Director shall keep his or her position while the case is pending. The Financial Supervisory Authority shall bring the case before the courts of law within four weeks. The case shall be filed in accordance with civil law norms.

#### **(7)**

The Financial Supervisory Authority may, on their own initiative or upon application, revoke directions made in pursuance of subsections (4) and (5). Where the Financial Supervisory Authority turns down an application for revocation, the applicant shall be entitled to demand that the question of turning down the application shall be brought before a court of law. Requests to that effect shall be submitted to the Financial Supervisory Authority within four weeks from the date when the person in question was notified of the turning down. However a request for an examination by a court of law shall be made only where the directions have no time limit and at least five years have passed from the date when the directions were made or at least two years after the court upheld the Financial Supervisory Authority's turning down of the application for revocation.

#### **(8)**

Where the Financial Supervisory Authority Finds that a Board member does not meet the requirements set out in section 62(2) above the Financial Supervisory Authority shall notify the

organisation that appointed the member of the board. The said organisation shall subsequently decide whether the person in question shall be able to continue exercising his or her duties. At the same time the Financial Supervisory Authority shall submit to the Minister for Employment a report to that effect.

(9)

Simultaneously with making directions under subsections (4) and (5) above or bringing the case before a court of law under subsection (6) notice is given to such organisations as have appointed the Board members. At the same time the Financial Supervisory Authority shall submit to the Minister for Employment a report to that effect.

(10)

Any person not complying with directions made in pursuance of subsections (4) and (5) above shall be punished by fine.

**72. (1)**

The Financial Supervisory Authority shall examine such matters regarding the Labour Market Occupational Diseases Fund as the Authority supervises, cf. section 71(1), including the examination of current reports received and inspections.

(2)

After an inspection has been made with the Labour Market Occupational Diseases Fund a meeting shall be held with participation of the Board, the Managing Director, the responsible actuary, the external auditors and the internal head auditor of the Labour Market Occupational Diseases Fund, except where the inspection pertains only to delimited activities in the organisation. At the meeting the Financial Supervisory Authority shall give an account of its conclusions regarding the inspection.

(3)

After an inspection has been made substantial conclusions shall be sent in a written report to the Board, the Managing Director, the responsible actuary, the external auditors and the internal head auditor of the undertaking.

(4)

Simultaneously with sending the report to the management, the Financial Supervisory Authority shall send the report to the Minister for Employment.

**73. (1)**

The Labour Market Occupational Diseases Fund shall submit to the Financial Supervisory Authority any such information as is deemed to be necessary for the Authority's activity.

(2)

The Financial Supervisory Authority shall at any time, against approved documentation and without a court order, have access to the Labour Market Occupational Diseases Fund with a view to gathering information. Such access shall include inspections.

**74.**

The Financial Supervisory Authority shall submit an annual report to the Minister for Employment as regards the supervision of the Labour Market Occupational Diseases Fund, together with a report based on an examination of the responsible actuary's report, including the report on the allocations of the Labour Market Occupational Diseases Fund, cf. section 63 A(6). The Labour Market Occupational Diseases Fund shall be notified of the substance of the report.

**75.**

The Labour Market Occupational Diseases Fund shall pay charges to the Financial Supervisory Authority. Such charges shall be determined in accordance with Chapter 22 of the Financial Business Act.

**76.**

Decisions made by the Financial Supervisory Authority in pursuance of this Act or rules issued in pursuance of this Act can be submitted by such person as is affected by the decision to the Company Appeals Board not later than four weeks from the date when the person in question was advised of the decision.

**76. A (1)**

Section 354 of the Financial Business Act on the duty of confidentiality of the Financial Supervisory Authority shall be applicable to this Act with such adjustments as shall be necessary.

**(2)**

In the determination of who is a party under this Act section 355 of the Financial Business Act shall be applicable with such adjustments as shall be necessary. Under this Act party status and party powers under section 355 of the Financial Business Act shall be limited to such matters where the decision of the Authority is made later than July 1, 2004.

**76. B (1)**

Decisions made in pursuance of section 345(2) of the Financial Business Act, cf. sections 71(2) of this Act, shall be published. The first sentence shall also apply to decisions to refer cases to police investigation, subject, however, to subsection (2). From the published decision it shall appear that it pertains to the Labour Market Occupational Diseases Fund.

**(2)**

Publication under subsection (1) above cannot be made, however, where such publication would cause disproportionately great damage to the Labour Market Occupational Diseases Fund or where considerations for the investigation or the interests of society besides are in favour of not publishing the decision. Furthermore it shall not be possible to publish cases comprised by the first sentence of subsection (8) of section 63 A. The publication shall not include information comprised by section 12(1) of the Act on Public Access to Documents in Administrative Files.

**(3)**

Where publication is omitted in pursuance of the first sentence of subsection (2) above publication shall be made under subsection (1) when the considerations that necessitated such omission are no longer valid. However this shall apply only up to two years after the date of the decision in question.

**(4)**

Simultaneously with the publication in pursuance of subsection (1) above the Financial Supervisory Authority shall inform the Minister for Employment to this effect.

**Chapter 12***Various provisions***77.**

Benefits under this Act shall not form a basis for remedy against a person who causes an injury and is liable to injured persons or their surviving dependants, subject, however, to section 10 A. Claims of injured persons or their surviving dependants against the person causing the injury shall be reduced to the extent that compensation has been paid or a liability exists to pay compensation under this Act to the persons in question.

**78.**

Agreements between persons liable to provide protection and persons entitled to be protected shall be null and void if they aim to have or do have the effect of nullifying any provision of this Act or of requiring the protected person to pay an insurance premium to an insurance company or the Labour Market Occupational Diseases Fund which it is incumbent on the employer to pay under this Act, or of calculating compulsory benefits otherwise than in accordance with this Act. Similarly agreements about withholding wages in connection with protection under this Act shall be null and void.

**79. (1)**

In accordance with agreements with other states the Minister for Employment may lay down rules determining the extent to which the provisions of this Act or the provisions of the corresponding legislation of the foreign state shall be applicable to matters covered by this Act.

**(2)**

The Minister for Employment shall lay down rules for disregarding the provisions of this Act, to the extent that such rules are necessary for the application of the Regulations of the European Communities regarding social protection for employed earners, etc.

**80.**

Employees of the National Board of Industrial Injuries, including the Board's medical consultants, shall not be employed by or take part in the management of any insurance company or the Labour Market Occupational Diseases Fund.

**81. (1)**

The National Board of Industrial Injuries may besides, upon request, give opinions based on the application of this Act in respect of matters relating to personal injury not covered by this Act. Similarly, the Board can give opinions under section 10 of the Damages Liability Act.

**(2)**

For giving such opinions the National Board of Industrial Injuries shall charge a fee determined by the Director General of the National Board of Industrial Injuries.

**82. (1)**

An employer liable to provide protection who fails to take out insurance or join the Labour Market Occupational Diseases Fund shall be punished by fine.

**(2)**

An employer liable to provide protection who fails to maintain the insurance in force or pay contributions to the Labour Market Occupational Diseases Fund shall be punished by fine.

**(3)**

An employer liable to provide protection who fails to notify in due time an industrial injury or to contribute to providing information in respect of a notified industrial injury shall be punished by fine, cf. Chapter 7.

**(4)**

Joint-stock companies etc. (legal persons) shall be liable to punishment under the provisions of Chapter 5 of the Danish Penal Code.

**83. (1)**

The State shall grant compensation under this Act to its officials employed in the Faroe Islands and workers employed by the State who do not have permanent residence in the Faroe Islands.

**(2)**

Decisions made by the Faroese Industrial Injuries Board under the Faroese accident insurance legislation may be submitted to the National Social Appeals Board in accordance with the provisions of such legislation.

**84.**

The National Board of Industrial Injuries shall present an annual written report including statistical surveys. The report and the statistics shall also comprise the work of the Occupational Diseases Committee. The Occupational Diseases Committee shall submit an annual written report to the European Affairs Committee of the Folketing as regards the development in the field of occupational diseases, including the development in legal practice.

## Chapter 13

### *Final and transitional provisions*

#### **85. (1)**

This Act shall come into force on January 1, 2004, subject, however, to subsections (4) and (5).

#### (2)

At the date of this Act coming into force the amounts indicated in sections 18 and 19 and subsections (3) and (4) of section 24 shall be adjusted in accordance with section 25 as per January 1, 2004.

#### (3)

This Act shall apply to –

- (i) accidents at work occurring on January 1, 2004 or later; and
- (ii) occupational diseases notified on January 1, 2004 or later, subject, however, to subsections (4) and (5).

#### (4)

In cases pertaining to occupational diseases notified in 2004 the occupational diseases concept of section 10 of the Act on Protection against the Consequences of Industrial Injuries shall apply, cf. Consolidated Act No. 943 of October 16, 2000, instead of section 7 of this Act, with regard to the assessment of whether the notified disease shall be covered by the Act.

#### (5)

In cases pertaining to occupational diseases notified in 2004 section 31(4), section 32 and section 43 of the Act on Protection against the Consequences of Industrial Injuries shall apply, cf. Consolidated Act No. 943 of October 16, 2000, instead of sections 17 and 27 of this Act, with regard to disbursement of monthly compensation payments and capital compensation.

#### (6)

Where persons are protected under section 48(2) the provisions of this Act shall be applicable only to exposures occurring on January 1, 2004 or later. Where the injured person was protected prior to this date in accordance with previous legislation the periods in which the person in question was protected shall be included. The same shall apply to assisting spouses where there was a signed employment contract prior to the said date, cf. section 1(1), third sentence, of the Act on Protection against the Consequences of Industrial Injuries, and cf. Consolidated Act No. 943 of October 16, 2000.

#### **85. A (1)**

The Act on Protection against the Consequences of Industrial Injuries shall be repealed with effect from January 1, 2004, cf. Consolidated Act No. 943 of October 16, 2000.

#### (2)

The Act on Protection against the Consequences of Industrial Injuries shall still apply to –

- (i) accidents, sudden lifting injuries, and short-term injurious effects which occurred prior to January 1, 2004; and
- (ii) occupational diseases notified prior to January 1, 2004.

#### **86. (1)**

Monthly pensions under the Act on Insurance against the Consequences of Accidents, cf. Consolidated Act No. 137 of April 26, 1968 with subsequent amendments, shall be increased as per January 1, 2004 to 1,591.2 per cent of the basic pension as per April 1, 1965.

(2)

Monthly benefits under the Act on Insurance Against the Consequences of Industrial Injuries, cf. Consolidated Act No. 450 of June 25, 1987 with subsequent amendments, shall be increased as per January 1, 2004 to 341.5 per cent of the monthly benefit corresponding to the basic wage. Compensation for permanent injury under the said Act shall be increased as per January 1, 2004 to 341.5 per cent of the benefit corresponding to the basic amount.

(3)

Monthly benefits under the Act on Protection against the Consequences of Industrial Injuries, cf. Consolidated Act No. 943 of October 16, 2000 with subsequent amendments, for injuries occurring between January 1, 1993 and January 30, 1995 shall be increased as per January 1, 2004 to 130.9 per cent of the monthly benefit corresponding to the basic wage.

(4)

Monthly benefits under the Act on Protection against the Consequences of Industrial Injuries for injuries occurring between January 31, 1995 and December 31, 2003 shall be increased as per January 1, 2004 to 125.4 per cent of the monthly benefit corresponding to the basic wage.

(5)

Pensions, monthly benefits, and compensation for permanent injury, cf. subsections (1)-(4), shall be adjusted under section 25 of this Act.

(6)

Surviving dependants who as a consequence of the death of the injured person after the coming into force of this Act shall be entitled to compensation under the Act on Insurance against the Consequences of Accidents, the Act on Insurance Against the Consequences of Industrial Injuries, or the Act on Protection against the Consequences of Industrial Injuries shall have their compensation calculated and adjusted on the basis of the annual earned income corresponding to the pension or benefit amount determined in pursuance of subsections (1)-(4) above.

(7)

Subsections (1)-(5) shall not apply to insurance taken out in pursuance of sections 55, 58, 59, and 74 of the Act on Insurance against the Consequences of Accidents.

**87.**

Such Administrative Orders as were issued under the Acts now repealed shall remain in force until they are repealed or amended.

**88.**

Such licences as were granted to insurance companies in pursuance of the previous accident insurance legislation and industrial injuries insurance legislation shall remain in force. The same shall apply to an employer's exemption from transferring the risk under the Act on Insurance against the Consequences of Accidents, made in pursuance of section 15(13) of the said Act. Such employers shall have the same legal status under this Act as an insurance company. Distribution of contributions under sections 48, 49, 53, and 56 of this Act shall be made in accordance with specific rules laid down by the National Board of Industrial Injuries in collaboration with the Financial Supervisory Authority.

**89.**

A person liable to provide protection shall not cancel an insurance policy because of an increase in the premium based solely on an increase in costs caused by this Act.

**90.**

This Act shall not apply to the Faroe Islands or Greenland, but shall be enforceable in Greenland by Royal Order subject to such modifications as are required in view of the special conditions pertaining to Greenland.

*Final and transitional provisions*

Act No. 404 of May 8, 2006<sup>1)</sup> includes the final provisions below –

**23.** (2)  
Sections 2-6 shall come into force on June 1, 2006.  
(3)

...

Act No. 1538 of December 20, 2006<sup>2)</sup> includes the final provisions below –

**3.** (1)  
This Act shall come into force on January 1, 2008, subject, however, to subsections (2)-(5).  
(2)

Contributions to the Labour Market Occupational Diseases Fund under subsections (2) and (3) of section 55, as set out in paragraph (iii) of section 1 of this Act shall first be collected with due date on July 1, 2008. The calculation of contributions shall include only such ATP-contributions as pertain to employment after the coming into force of this Act. It shall be possible in 2008 to deviate from the requirement set out in the first sentence of section 68(1) of the Workers' Compensation Act.

(3)

...

(4)

The Board of Appeal set up under section 45 of the Workers' Compensation Act shall be closed down. The Board of Appeal shall conclude processing, in accordance with the rules hitherto applying, of such complaints of decisions as have been brought before the Board of Appeal within expiry of the time limit for complaints.

(5)

...

Act No. 1545 of December 20, 2006<sup>3)</sup> includes the final provisions below –

**17.** (1)  
This Act shall come into force on January 1, 2007, subject, however, to subsections (2)-(4) below.

(2)

...

Act No. 1587 of December 20, 2006<sup>4)</sup> includes the final provisions below –

**19.** (1)  
This Act shall come into force on July 1, 2009, subject, however, to subsections (2)-(7).

(2)

Section 4 shall take effect in respect of decisions on compensation for loss of earning capacity made on or later than January 1, 2004.

(3)

An employer liable to provide protection under the Workers' Compensation Act shall not cancel an insurance policy because of an increase in the premium based solely on an increase in costs caused by the passing of this Act.

(4)

...

Act No. 108 of February 7, 2007<sup>5)</sup> includes the final provisions below –

**21. (1)**

This Act shall come into force on November 1, 2007, subject, however, to subsections (3)-(7).

(2)

...

(3)

Section 1, number 88, section 3, numbers 1, 3, 11, 24, 27, 30, 40-43, 58, 61, 62, 68, 69, 76, 81, 83, 85 and 86, section 6, numbers 1-9, section 7, section 8, numbers 3, 8, and 9, section 9, numbers 6 and 7, section 10, number 6<sup>6)</sup>, and sections 11-15 shall come into force on February 15, 2007.

(4)

...

Act No. 397 of April 30, 2007<sup>7)</sup> includes the final provision below –

**6. (1)**

This Act shall come into force on July 1, 2007, subject, however, to subsection (2).

(2)

...

Act No. 496 of June 6, 2007<sup>8)</sup> includes the final provisions below –

**4. (1)**

This Act shall come into force on July 1, 2007, subject, however, to subsection (2).

(2)

Section 1, numbers 14-21<sup>9)</sup>, shall come into force on January 1, 2008.

(3)

This Act shall be applicable to –

(i) accidents at work occurring on July 1, 2007, or later; and

(ii) occupational diseases notified on July 1, 2007, or later.

(4)

Section 1, number 8<sup>10)</sup> shall apply to notifications to the National Board of Health made on or later than July 1, 2007.

(5)

Section 1, number 9<sup>11)</sup> shall apply to costs towards gathering information on the case on or later than July 1, 2007.

(6)

Section 1, number 12<sup>12)</sup>, and section 2 shall apply to information on the case gathered on or later than July 1, 2007.

(7)

Section 1, numbers 14-21, shall be applicable to the financing of costs towards cases pertaining to occupational diseases reported on or later than January 1, 2008.

(8)

Where an employer's increase in the annual contribution per employee in 2008, cf. section 1, number 14, is in excess of 25 per cent as compared to the contribution in 2007, half of such increase in Danish Kroner in 2008 shall be financed by the remaining trades within each trade subgroup.

Act No. 523 of June 6, 2007<sup>13)</sup> includes the final provisions below –

**47.**

This Act shall come into force on January 1, 2008.

**48. (1)**

This Act shall be applicable also to such previously incurred debts as are not, prior to the date of this Act coming into force, subject to limitation in accordance with the rules hitherto applied. Limitation shall not, however, come into force earlier than on January 1, 2001, except where the debt on such date would be subject to limitation in accordance with the provisions hitherto applied as well as the provisions in force after the coming into force of this Act, subject, however, to subsection (7). In such cases the latest date of the coming into force of the limitation shall apply.

(2)

Interruption of the limitation period which occurred prior to the coming into force of this Act shall still have the effect of interruption, even where it did not occur in the manner prescribed after the coming into force of the Act.

(3)

...

Act No. 576 of June 6, 2007<sup>14)</sup> includes the final provisions below –

**12.** (1)

This Act shall come into force on July 1, 2007, subject, however, to subsections (2) and (3).

(2)

...

(3)

Section 1, numbers 18, 20-24 and 42, section 6, numbers 1 and 6-8, section 7, numbers 1, 6 and 7, and section 8, numbers 5 and 16<sup>15)</sup>, shall come into effect on November 1, 2007.

Act No. 577 of June 6, 2007<sup>16)</sup> includes the final provisions below –

**12.** (1)

This Act shall come into force on July 1, 2007, subject, however, to subsections (2)-(4).

(2)

...

Act No. 484 of June 17, 2008<sup>17)</sup> includes the final provisions below –

**9.** (1)

This Act shall come into force on the day after publication in the Legal Gazette (Lovtidende)<sup>18)</sup>.

Act No. 515 of June 17, 2008<sup>19)</sup> includes the final provisions below –

**10.** (1)

This Act shall come into force on July 1, 2008, subject, however, to subsection (2).

(2)

...

Act No. 517 of June 17, 2008<sup>20)</sup> includes the final provisions below –

**13.** (1)

This Act shall come into force on July 1, 2008, subject, however, to subsections (2)-(5).

(2)

...

(3)

Section 1, numbers 17 and 20-30, section 4, numbers 3-12, section 6, numbers 6-14, section 7, numbers 3-11, section 8, numbers 3-11, and section 9, numbers 3-11<sup>21)</sup>, shall be applicable to accounting years beginning on or later than January 1, 2009.

(4)

...

Act No. 1336 of December 19, 2008<sup>22)</sup> includes the final provisions below –

**167.**

This Act shall come into force on January 1, 2009, subject, however, to subsection (2). ...

Act No. 186 of March 18, 2009<sup>23)</sup> includes the final provisions below –

**3.** (1)

This Act shall come into force on the day after publication in the Legal Gazette (Lovtidende)<sup>24)</sup>.

(2)

This Act shall be applicable to –

- (i) accidents occurring on the date of the coming into force of this Act or later; and
- (ii) occupational diseases notified on the date of the coming into force of this Act or later.

(3)

Paragraph (ii)<sup>25)</sup> of section 1 shall be applicable to cases to be submitted to the Occupational Diseases Committee on the date of the coming into force of this Act or later.

(4)

Section 1, number 6<sup>26)</sup> shall be applicable to cases where the National Board of Industrial Injuries has disbursed compensation amounts to injured persons or their surviving dependants on the date of the coming into force of this Act or later.

(5)

Section 1, number 9<sup>27)</sup> shall be applicable to documents sent out on the date of the coming into force of this Act or later.

(6)

Section 1, number 10<sup>28)</sup> shall be applicable to cases where the National Board of Industrial Injuries decides to pay back on the date of the coming into force of this Act or later.

(7)

Section 1, number 11<sup>29)</sup> shall be applicable to all decisions on resumption made on the date of the coming into force of the Act or later.

(8)

...

Act No. 392 of May 25, 2009<sup>30)</sup> includes the final provisions below –

**15.** (1)

This Act shall come into force on July 1, 2009, subject, however, to subsections (2)-(7).

(2)

Act No. 483 of June 12, 2009<sup>31)</sup> includes the final provisions below –

**21.** (1)

This Act shall come into force on August 1, 2009, subject, however, to subsections (2) and (3).

*Ministry of Employment, September 7, 2009*

Inger Støjberg

/ Tor Even Mønter

## Appendix A

### Zone A shall comprise the following countries –

The member states of the EU, other full member states of the Organization of Economic Co-operation and Development (OECD), as well as such countries as have entered into special arrangements to borrow with the International Monetary Fund (IMF) and are affiliated with the General Arrangements to Borrow (GAB). A state that due to lacking ability to pay reschedules its foreign debt shall be excluded from zone A for a period of five years.

<b>Official notes</b>
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- 1) Pertains to sections 37(2) and 56 A of the Act
  - 2) Pertains to sections 45, 48(6), 55, 56, 56 A and 58(2) of the Act, regarding the mutual collection of employer contributions etc.
  - 3) Pertains to section 37 of the Act
  - 4) Pertains to section 20(4) of the Act, regarding the consequences of the increased national pension age
  - 5) Pertains to sections 69, 70, 70 A and 72 of the Act
  - 6) Pertains to section 72 of the Act
  - 7) Pertains to sections 69 and 70 of the Act
  - 8) Pertains to sections 12, 15, 17, 27, 34, 35, 35 A, 36, 37, 52 A, 58, 58 A, 58 B, 58 C, 63 A, 68, 68 A, 69, 69 A, 70, 70 A, 74 and 85 of the Act, regarding follow-up on the recommendations made by the industrial injuries committees
  - 9) Pertains to sections 58, 58 A, 58 B, 58 C, 63 A, 68, 68 A, 69, 69 A, 70, 70 A and 74 of the Act, regarding new grouping of trades by the Labour Market Occupational Diseases Fund, transition to a pay-as-you-go scheme in the Labour Market Occupational Diseases Fund, rules that surplus and deficit in the financially independent trade groups within the Labour Market Occupational Diseases Fund can be equalised over two years, and the introduction of a reward scheme for employers, based on the undertaking's efforts towards improving the working environment
  - 10) Pertains to section 34 of the Act, regarding notification of special cancer diagnoses
  - 11) Pertains to section 36 of the Act, about disregarding the time limit for notification
  - 12) Pertains to section 37 of the Act, regarding the exchange of information between municipalities and the National Board of Industrial Injuries
  - 13) Pertains to sections 36, 56 and 57 of the Act, regarding limitation
  - 14) Pertains to sections 68, 69, 70, 70 A and 70 B of the Act, regarding investment rules for the Labour Market Occupational Diseases Fund
  - 15) Pertains to sections 70 A and 70 B of the Act
  - 16) Pertains to section 69 of the Act
  - 17) Pertains to section 61 of the Act
  - 18) The Act was published on June 18, 2008, and came into force on June 19, 2008

- 19) Pertains to section 76 B of the Act, regarding supervision of the Labour Market Occupational Diseases Fund
- 20) Pertains to sections 62, 64, 65, 65 A, 65 B, 65 C, 65 F, 65 I and 71 of the Act
- 21) Pertains to sections 64, 65, 65 A, 65 B, 65 C, 65 F and 65 I of the Act
- 22) Pertains to sections 51, 51 A and 52 of the Act
- 23) Pertains to sections 5, 7(3), 9(1), 10 A, 26(2), 36(4), 37 A, 39 A, 40 A, 41(1), 44, 48(6), 49(1), 56 A and section 77 of the Act
- 24) The Act was published on March 19, 2009, and came into force on March 20, 2009
- 25) Pertains to section 7(3) of the Act
- 26) Pertains to section 26(2) of the Act
- 27) Pertains to section 39 A of the Act
- 28) Pertains to section 40 A of the Act
- 29) Pertains to section 41(1) of the Act
- 30) Pertains to section 69 of the Act
- 31) Pertains to section 37 of the Act