

Denmark

1. Aktieselskaber (A/S)

Brief overview: Establishment and structure of company

Statutory basis

Lov om aktieselskaber = ASL

Requirements for establishment

- Formation by one or more natural persons or by a juridical company
- Company agreement (= statutes)
- Entry into Commercial Register

Minimum capital

500,000 DKR = 67,029.97 euro

Organisation

1) General Meeting (of shareholders = highest executive body)

Responsibilities include

- Election of Administrative Board (in larger companies the employees have the right to elect a number of Administrative Board members; however, the majority of Administrative Board members must be elected by the General Meeting)
- Amendments to statutes
- Approval of financial year
- Decisions relating to disposal of profits
- To a limited extent: transfer of responsibilities to Administrative Board

Meetings: at least 1x per year; additional extraordinary meetings as required by Administrative Board, auditors or shareholders owning at least 10 % of share capital.

2) Administrative Board

Responsibilities include:

- Management of company (together with the Executive Board)
- Preparation of guidelines for the Executive Board
- Inspection of the year-end financial statement
- Supervision of asset management
- Right of veto on certain issues in the General Meeting
- Appointment and deselection of Executive Board
- Authority to issue instructions to Executive Board

Number: at least 3, without taking employee representatives into account.

Term of office: in accord. with statutes, max. 4 years, re-election possible; frequency of meetings: as often as chairman of Administrative Board considers necessary, unless statutes or company code of procedure contain different regulations.

3) Executive Board

Responsibilities include:

- Day-to-day running of company business
- Subject to instructions of Administrative Board
- Responsible for accounting and asset management
- Inspection of year-end financial statement

4) Independent auditor

Statutory basis: Law on year-end accounts (ARL); year-end financial statement examined by an impartial auditor

5) Shareholder committee

(rare) Statutes allow for discretionary appointment

Responsibilities include:

- Supervision of Administrative Board and Executive Board
- Right to be informed of extraordinary activities by Administrative Board

<i>Brief overview: Employee participation at board level</i>
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Yes, § 49 Para. 2 ASL, in Group Para. 3

Conditions:

1. Company has employed more than 35 employees for three years
2. Advance agreement of employees regarding introduction of employee participation; absolute majority must be in favour.

Number of employees on Administrative Board: ½ of the Administrative Board members, minimum of 2, however; employees: any person over the age of 15 receiving a wage from the company (with the exception of company executives and people working for the company outside Denmark)

Election: 4 years; 1 alternate member for each regular employee member on Administrative Board

Rights and responsibilities of employee representatives on Administrative Board:

Employee representatives on the Administrative Board have the same rights and responsibilities as the employer representatives, see list under 2) Administrative Board.

2. Anpartselskaber (ApS)

Brief overview: Establishment and structure of the company

Statutory basis

Lov om anpartsselskaber = ApSL

Requirements for establishment

- Company agreement (= statutes)
- Registration of company

Minimum capital

125,000 DKR

Organisation

1) General Meeting (of shareholders = highest executive body)

Responsibilities include:

- Election of Administrative Board
- Election of Executive Board in cases where there is no Administrative Board
- Amendments to statutes

2) Administrative Board

Only mandatory if majority of employees has voted for employee participation; see right under Conditions 3)

Responsibilities include:

- Appointment of Executive Board
- Scrutiny of accounts
- Decisions relating to disposal of profits

3) Executive Board

Mandatory, consists of at least 1 person

Responsibilities include:

- Day-today running of company business
- Setting up appropriate accounting processes
- Functions of Administrative Board if there is no Administrative Board

Brief overview: Employee participation at board level

Yes, § 22 Para. 1 ApSL, (in Group Para. 3)

Conditions

1. Size of capital: not fixed
2. Company must have employed more than 35 employees in 3 years
3. Advance agreement of employees regarding introduction of employee participation; absolute majority must be in favour

Number of employee representatives on the Administrative Board: ½ of the Administrative Board members, minimum of 2, however; employees: any person over the age of 15 receiving a wage from the company (with the exception of company executives and people working for the company outside Denmark).

Election: for 4 years; 1 alternate member for each for regular employee member of Administrative Board

Rights and responsibilities of employee representatives on the Administrative Board: The employee representatives on the Administrative Board have the same rights and responsibilities as the employer representatives; see list under 2) Administrative Board

Source: Büggel, A. (2003) *Company law and existing legislative provision for employee participation in the EU Member States*, in R. Köstler and A. Büggel, *The European Company and Company law and existing legislative provision for employee participation in the EU member states*, Brussels: ETUI. Report 79 (to order the whole report, please send an e-mail to etui@etuc.org; price: €20).