



Nordic Employment Law Bulletin - June 2024



Nina Wedsted
Partner, Head of Employment,
Denmark



Riikka Autio
Partner, Head of Employment,
Finland



Per Benonisen
Partner, Head of Employment,
Norway



Rajvinder Singh Bains
Partner, Norway



Johan Zetterström
Partner, Advokat



Björn Rustare
Partner, Advokat

In our monthly Nordic Employment Law bulletin our employment lawyers across the Nordic region highlight relevant news and trends on the Nordic employment market scene. The bulletin intends to provide high-level knowledge and insight. Want to learn more? Our experts will be happy to hear from you.



Highlights from Denmark

- **Agreement on limiting social dumping in Danish workplaces.** A broad majority in the Danish Parliament agrees that orderly conditions and fair competition must be a basic condition in the Danish labor market and therefore they signed an agreement that strengthens the fight against social dumping. The agreement includes, among other things, better control of housing rented by employers to their employees and strengthened efforts against the use of illegal labor in Danish workplaces. Some of the initiatives requires amendments to the current legislation. No bills have been proposed in the Danish Parliament yet.
- **Employers' obligation to introduce a working time recording system.** From 1 July 2024, employers are obliged to introduce a working time recording system which makes it possible to register their employees' daily working time. There is no requirement as to the design of such system, but the system must be "objective, reliable and accessible", and the employees must be able to access their own data. If employers have not already considered which system to use, it is recommended that they do so.



Highlights from Finland

- **Important reminder regarding non-competes** – The Ministry of Economic Affairs and Employment of Finland has drafted a report on the effects the changes in post-employment non-compete rules have had since the changes entered into force in 2022. According to the report, both employees and employers lack enough of information about non-compete agreements. Therefore, as a short summary we would like to remind you of the following:
 1. Post-employment non-compete requires specifically weighty reasons.
 2. Compensation for a non-compete restriction is 40 % of the employee's normal salary if the restriction period is up to 6 months, and 60 % if the restriction period is up to 12 months. The compensation must be paid during the restriction period on the employer's normal paydays.
 3. It is not possible to assess only when the employment ends that whether the employer has a need to invoke the non-compete. An employer cannot release an employee from the non-compete restriction after the employee has resigned or after the employer has terminated the employment due to reasons relating to the employee's person or during trial period.
 4. During employment the non-compete agreement may be terminated by following a notice period that is 1/3 of the length of the restriction period.
 5. As before the change, a non-compete expires automatically by virtue of law in case of redundancy.

As a conclusion, if you haven't reviewed your non-compete agreements after the change in 2022 and assessed the need for them, we recommend doing so and also confirming your non-solicitation agreements cannot be interpreted as non-competes.

- **Legislative updates** – The Ministry of Social Affairs and Health has set a working group to prepare the national implementation of the EU Pay Transparency Directive. The term of the working group ends on 31 March 2025. According to the government plan of prime minister Petteri Orpo the purpose is to implement the Directive by following its minimum level and minimum rights and obligations.

The new regulations concerning industrial peace legislation that, among other, substantially limits the length of political strikes have entered into force already on 18 May 2024 in advance of the originally proposed timeline of July 2024.



Highlights from Norway

- **New legislative proposal aimed at ensuring fair wage conditions for employees working at sea:**

The Norwegian Ministry of Trade, Industry and Fisheries (Nw: *Nærings- og fiskeridepartementet*) has presented a new, amended legislative proposal aimed at ensuring fair wage conditions for employees working at sea. Currently, Norway imposes few requirements regarding wage and working conditions on foreign vessels operating in Norwegian waters and on the Norwegian continental shelf. Consequently, seafarers on vessels sailing in Norwegian waters and the Norwegian continental shelf may receive different wages for the same work.

An initial proposal was submitted for consultation in 2022. Based on the input received, two major changes have been implemented to the final proposal, which has now been sent for a new consultation with 12 June 2024 being the deadline. The new proposal deviates from the previous suggestion of a separate special law on Norwegian wage and working conditions offshore.

For employees on ships engaged in domestic shipping, it is proposed to extend the scope of the Norwegian General Application Act (Nw: *allmenngjøringsloven*) to include domestic shipping, primarily coastal shipping and cruises that predominantly occur between Norwegian ports. In the event of the legislative proposal being adopted, employee or employer organizations will be able to request that the wage provisions of the prevailing collective bargaining agreement shall be made universally applicable, as a regulation.

For offshore maritime industries, it is proposed to impose an obligation on licensees authorized to operate in Norwegian waters or on the Norwegian continental shelf, to ensure that employees on vessels providing maritime services to the enterprise are subject to Norwegian wage conditions. Thus, the licensee must ensure not only that their own employees are compensated in such way, but also that employees within the supply chain are guaranteed the same conditions. These changes are proposed to be implemented in sector-specific legislation applicable to petroleum, offshore wind, seabed mineral extraction, aquaculture, or carbon capture and storage.

- **Amendments to the Cash Benefit Act and the Norwegian National Insurance Act** In Norway, parents can choose the duration of their parental benefit period between 100% parental benefits, where 100% of their income is paid over 49 weeks, or 80% parental benefits, where 80% of their income is paid over 59 weeks. On May 14 2024 the Norwegian Government adopted an amendment extending the parental benefit period at 80% coverage by 11 days, meaning to 61 weeks and 1 day. As of today, parents who opt for 80% parental benefits receive a lower payment in total than those who choose 100% benefits. This adjustment ensures that parents receive approximately the same total amount whether they choose 80% or 100% coverage. The adopted amendments to parental benefits at 80% will apply for children born on or after July 1, 2024.
- **Changes to the national insurance basic amount ("G").** The amount is increased annually on May 1st. Effective May 1, 2024, the amount has been revised from NOK 118,620 to NOK 124,028, representing an increase of 4.56%. The basic amount is significant in several contexts, for instance the calculation of compensation enforcing non-compete clauses (currently the compensation is 100% of the employee's salary up to 8 G and at least 70% of the employee's salary for amounts exceeding 8G and up to a total of 12 G). The

basic amount is also utilized in calculation of many of the Norwegian Labour and Welfare Administration's (NAV) payments, impacting inter alia: retirement pension from the National Insurance Scheme, sickness benefits, work assessment allowances and disability benefits. Additionally, the basic amount affects the thresholds for pension accruals.

Highlights from Sweden

- **Sweden's first report on the implementation of the Pay Transparency Directive** - On 29 May 2024 the first proposal was published on Sweden's implementation of the EU Pay Transparency Directive. The proposals mainly involve that employers must provide information to job applicants about the initial salary or its range and the collective agreement provisions applied by the employer for the position concerned. Such information must be provided in reasonable time to allow for an informed negotiation on pay. An employer must not ask an employee about their pay history during employment with another employer. In other respects, the Directive's requirement that recruitment processes must be carried out in a non-discriminatory manner is considered to be met through existing provisions in the Discrimination Act.

The report is being criticised for exceeding the requirements of the Directive. For example, it is proposed that provisions that in the directive only apply to larger companies should apply to all employers in Sweden. The proposal will now be prepared by the Government. The deadline for the implementation is 7 June 2026.

- **Change in definition of gender** - In order to comply with a new law on gender identity, a change in the definition of gender in the Swedish Discrimination Act will enter into force 1 July 2025. The new definition entails that the discrimination ground *gender* will cover anyone who is a woman or a man and anyone who intends to have or has had a gender other than the one shown in the population register determined, or intends to change or has changed the body through such surgical procedures covered by the new Act on Certain Surgical Procedures in the Genitals. The new law is part of efforts to improve the living conditions of transgender people and their equal participation in the labor market.
- **Continued strikes in the healthcare sector:** As previously reported in the bulletin, there has been notice of strikes in the healthcare sector and since April there is a blockade of new recruitment and overtime. As the negotiations has been unsuccessful the Swedish Association of Health Professionals, the trade union, has announced a strike concerning approximately 2000 employees in various locations in Sweden starting from 4 June if they do not reach a new agreement before then. However, in connection with the new strikes, the union is lifting the blockade of new recruitment at two hospitals in Stockholm to enable students graduating in June to be employed. In order to put an end to the strike the Swedish Association of Local Authorities and Regions, the employers' organisation, demands a mediator to be appointed.