

Tripartite Agreement on a New, Temporary Work-Sharing Scheme in the Private Sector Labour Market

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DA's own translation

The Government and the social partners have agreed in the *Agreement on the Gradual Phase-Out of the Temporary Job Retention Scheme* to consider a new temporary work-sharing scheme to complement the existing one.

The Government and the social partners have entered into a tripartite agreement on a new, temporary work-sharing scheme in the private sector labour market, whose purpose is to prevent layoffs.

Considering the extraordinary situation with COVID-19, the social partners agree to establish the scheme by law, which will supersede already signed collective bargaining agreements in certain, defined areas. Just like the implementation of the current work-sharing schemes, the implementation of the new, temporary work-sharing scheme must be objectively justified. This will be a complementary scheme, which will operate in parallel with the existing work-sharing scheme. The social partners call for companies to use the new, temporary scheme. The existence of an expired work-sharing agreement in accordance with the existing scheme does not constitute an obstacle to signing a work-sharing agreement in accordance with the temporary scheme. One company (with same production unit number) cannot take advantage of several different schemes at the same time.

The new, *temporary* work-sharing scheme will be rolled out as quickly as possible and will apply until 31 December 2020, with an option for already signed work-sharing agreements to extend into 2021, with a maximum duration of 4 months.

The scheme is based on the following elements:

- Greater income security. The maximum amount of unemployment benefits per person in the new, temporary work-sharing scheme, while such persons receive unemployment benefits as part of the scheme, is raised to approx. DKK 143.50 per hour, corresponding to DKK 23,000 for a wholly unemployed person.
- Fixed employer contributions corresponding to an amount of 3 G-days (unemployment days) per employee covered by the scheme. The contribution is calculated proportionally, meaning that the contribution is reduced if an employer is not using work-sharing for an entire calendar month. According to the scheme, the employer pays G-days to the employee for the respective days for which this employee is not supposed to have unemployment benefits. The difference between the rate of the unemployment benefits and the rate for the G-days is covered by the Government. G-days are paid out together with the regular pay

for the period of the G-days. The suspension of regular G-days (i.e. the compensation for the first and second day of being unemployed) for work-sharing agreements in accordance with the temporary scheme is simultaneously extended. Companies that have an applicable work-sharing agreement in accordance with the existing scheme on 31 August can transfer to the new, temporary scheme before the end of September 2020 and get a discount of one G-day. Companies do not have to pay G-days for the first month, but have to pay two G-days per month for the rest of 2020.

- Temporary suspension of the use of unemployment benefits in accordance with the temporary work-sharing scheme and the existing scheme. This reduces the impact of the benefits system for persons covered by the work-sharing agreement.
- People who are not insured get access to complementary unemployment benefits under the new, temporary scheme. As an exception, salaried workers can join an unemployment insurance fund and pay in membership dues for 3 months per month if they want to have the right to complementary unemployment benefits in accordance with the new work-sharing agreement. This covers 2 months of retroactive membership per month as well as regular dues for the period of complementary unemployment benefits in the course of the work-sharing agreement. Salary earners will not be entitled to unemployment benefits after the end of the temporary scheme.

Members of an unemployment insurance fund who are not eligible for unemployment benefits are entitled to complementary unemployment benefits under a work-sharing agreement if they have also paid in or are paying retroactive unemployment insurance membership dues of 2 months per month along with the regular dues for the period of the work-sharing agreement.

The unemployment benefit rate is determined based on the general terms and conditions for calculation of rates. If there is no income to calculate the unemployment benefit rate, an unemployment benefit rate corresponding to the graduate rate for dependants is accepted.

- Better opportunities for education in both the new and the existing scheme by making it possible for people who take part in a work-sharing agreement in cooperation with the company to start and conduct training courses that overlap, in whole or in part, with periods when the employee is unemployed and receives complementary unemployment benefits.

The Agreement also provides the option to exclude employees in training from a work-sharing agreement without the Regional Labour Market Council's (RAR) consent, if so agreed by the company and the respective employee. The Agreement also provides the option to exclude key employees from a work-sharing agreement without RAR's approval. In areas where the employees have elected or appointed an employee representative (e.g. a trade union representative or a spokesperson), this representative can enter into an agreement on such exclusion with the company on behalf of the represented group. In areas where there is no employee representative, the majority of the group concerned can enter into such an agreement with the company.

Before implementing a work-sharing agreement, the employer is also urged to investigate, together with the employees, the opportunities available for conducting training, possibly via competence funds.

- Greater flexibility in the relationship between periods of employment and unemployment. The current fixed templates are replaced by requirements that the periods of employment with work-sharing, on average, be at least 20 per cent and no more than 50 per cent measured from the agreed working hours over a period of four weeks. The work sharing will use a certain percentage rate in the four-week cycle, with an option to change it in the subsequent cycle.

The scheme only provides the option to replace employment with unemployment. The scheme cannot be used to change the roster, etc. to an extent greater than provided for by the provisions of the applicable collective bargaining agreement.

Work-sharing agreements in accordance with the new temporary scheme must be implemented by 31 December 2020. During this period, the period of the work-sharing agreement can be decided without RAR's consent.

- Temporary adjustment of the rules on non-standard working hours so that employees who work on weekends or with the same number of hours of work, but concentrated in fewer days, are not disadvantaged to employees who work 37 working hours divided equally among five working days.
- Application and scope. The scheme means that the employer is entitled to set up a work-sharing agreement in accordance with the temporary scheme. Companies that want to take advantage of the scheme shall inform and consult their employees in accordance with the rules applicable to cooperation agreements, corresponding agreements or the Danish Information and Consultation of Employees Act.

The new scheme will apply to all employees throughout the entire private sector labour market, whether covered or not covered by collective bargaining agreements.

Employees covered by a work-sharing agreement in accordance with the temporary scheme assume their previously agreed rights in full when the work-sharing period ends. Employees are employed and earn seniority in the usual manner during the work-sharing period. If an employee does not want to enter into a work-sharing agreement in accordance with this scheme, the company must decide if the employee will be laid off. This will also apply if a company raises the share of unemployment from one 4-week cycle to another. In both cases, the employee will have 24 hours on a weekday to decide if they want to take part in the scheme.

- Reduction of the availability requirement. The reduced job searching requirements applicable to the first six weeks of the work-sharing agreement are extended to apply to the entire work-sharing period in accordance with the new temporary scheme.

- Follow-up. The parties to this Agreement agree to meet in early November 2020 in order to follow up on the scheme and discuss a possible extension. The follow-up will take a look, among other things, at activities, including export activities. Data about the number of persons in the new, temporary scheme will be published continuously divided by unemployment funds.
- Evaluation to make it possible to fully learn from the scheme so it can be reused again, if needed.

Companies cannot hire new trainees or employees in wage subsidy schemes or use temps from temp bureaus in a department or a production unit where they have an active work-sharing agreement pursuant to the new, temporary scheme. Newly hired employees who join the work-sharing agreement will be covered by it from their first day of employment.

In addition to the elements above, the existing terms and conditions and rules for the current work-sharing scheme will apply during the new temporary scheme, cf. Appendix 1.

The parties agree that the scheme must be implemented as flexibly as possible for both unemployment funds and employers.

Since the new, temporary work-sharing agreement complements the existing scheme, it is still possible to implement work-sharing agreements in accordance with the existing scheme.

The new, temporary work-sharing scheme will not affect the state of the law — nor the current disagreements in the interpretation — for the existing work-sharing scheme.

Appendix 1 — Terms and Conditions Carried Over to a New, Temporary Work-Sharing Scheme

Unless otherwise specified, a new, temporary work-sharing scheme will be based on the terms and conditions and principles of the existing work-sharing scheme. Such terms and conditions include, e.g.:

- A work-sharing agreement in accordance with the new scheme must be reported to the job centre in the municipality where the company is located no later than the effective date of this agreement. The work-sharing agreement does not require the job centre's approval.
- A company can extend an applicable work-sharing agreement by sending a new application to the job centre, while simultaneously implementing the extension. The maximum duration of the new, temporary work-sharing agreement will be 4 months.
- The work-sharing agreement can extend to a company as a whole, or to a certain department or production unit in this company. This applies to both full-time and part-time employees. This requirement will be considered met even if one more or employees take part in paid training in the course of the work-sharing agreement.
- The work-sharing agreement shall include an option for employees covered by the scheme to quit without notice in order to take on another job with longer working hours.
- The company will not be able to lay off employees for the same reason that has been used to justify the work-sharing agreement. In this case, the basis for paying the complementary unemployment benefits and thereby the basis for the work-sharing agreement will cease to exist. If a layoff was announced before the effective date of the work-sharing agreement, it will be of no concern for the work-sharing agreement.
- Employees can be paid unemployment benefits in the course of the work-sharing agreement even if they work more hours than assumed by the work-sharing agreement, if this is owing to an unforeseen, short-term need for more workers. Assessments if the terms and conditions of the work-sharing agreement are still met in such a case are conducted by the unemployment funds at a member's request.
- An employee entitled to unemployment benefits who works at reduced hours as a result of a work-sharing agreement is not included in the time limit if they get complementary unemployment benefits. This applies to both salary earners entitled to complementary unemployment benefits and salary earners who have used up their right to complementary benefits.

- This is not an obstacle to terminating a work-sharing agreement in advance.
- Each unemployment insurance fund must assess if an individual employee can get complementary unemployment benefits in the course of the work-sharing agreement. The unemployment insurance fund does not have to approve the implementation of the work-sharing agreement itself.