

These translations were carried out by professional translation agencies, but the text is to be regarded as unofficial translations only for informative purpose, based on the official Acts.

Danish Act no. 470 of 12 June 2009 on Public and Private Limited Companies (the Danish Companies Act)¹

(lov om aktie- og anpartsselskaber (selskabsloven))

“Part 8

Employee representation

Representation at company level

140(1) In limited liability companies that have employed an average of at least 35 employees for the preceding three years, the employees are entitled to elect representatives and alternate representatives to the company’s supreme governing body, corresponding to half the number of the other management members. However, the employees always have the right to elect at least two representatives with alternate members. If the number of representatives to be elected by the employees is not a whole number, it must be rounded up. (2) The employees are entitled to elect fewer representatives than the number of representatives specified by subsection (1) where that many representatives cannot be elected.

Representation at group level

141(1) Section 140 also applies to the employees of a Danish parent company (see sections 6 and 7) and its subsidiaries registered in Denmark as well as branches of foreign subsidiaries.

(2) If the parent company is subject to section 140, its employees are entitled to elect two representatives, with alternate representatives. The total number of employee representatives elected to the parent company’s supreme governing body must constitute half the number of the other members, provided that the number of employee representatives is at least three. However, the employees are entitled to elect a lesser number if the number of representatives specified in the first sentence cannot be elected.

(3) Subject to the rules on cross-border mergers and divisions in Part 16 of the Danish Act on SEs (*lov om SEselskaber*), the parent company in general meeting may decide that the employees of one or more foreign subsidiaries are eligible to be elected and are entitled to vote. If the group has employees in Danish subsidiaries, those employees may elect at least one representative at any time. If the employees of the Danish subsidiaries constitute more than 10% of the total number of employees eligible to be elected, such employees may elect at least two representatives. If the majority required for representation at group level as provided in section 142 is not reached, but the majority of the Danish subsidiaries vote in favour of group representation, employee representation will be deemed to have been adopted by the employees of the Danish subsidiaries to the effect that elections for group representatives will only be held in the Danish subsidiaries.

Election of employee representatives

142 A proposed resolution to elect board members under sections 140 and 141 cannot be adopted unless it is passed by at least half of the employees in the limited liability company and its subsidiaries,

¹ Excerpt of unofficial professional English translation available at:
https://danishbusinessauthority.dk/sites/default/files/danish_companies_act.pdf

respectively, unless the management and employees agree not to vote on this. Notice of the resolution must be given to the supreme governing body in a manner that can subsequently be verified.

143 The Commerce and Companies Agency may prescribe rules on the following:

1. which persons are considered employees for the purpose of employee representation;
2. calculation of the average number of employees under sections 140 and 141;
3. the conduct for elections under sections 140 to 142, including rules to ensure secret ballot;
4. derogation from any of the specific rules made under this section, where derogation is by agreement between the management and employees;
5. how the employees in limited liability companies and groups in which board members have been elected under sections 140 and 141 must be informed about the company's affairs;
6. security of employment for employee representatives in management bodies, including representatives elected by voluntary arrangements, and resolution of related disagreements;
7. the consequences of any contravention of statute and rules made under statute;
8. that the register of shareholders must also be made available to employee representatives in companies and parent companies in which no employees have been elected to the board of directors under sections 140 and 141; and
9. requirements for providing notice of general meetings to the employees of the company and the group, respectively, if the employees have notified the board of directors that employee representatives are to be elected.”

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Implementation Rules in

Edict 344 of 30 March 2012, on employee representation in public and private limited companies² -

(Bekendtgørelse om medarbejderrepræsentation i aktie- og anpartsselskaber)

(...)

“Voluntary expansion in the case of elections to the group supervisory board

§48. The general meeting can decide to expand the circle of employees who are eligible for election and to vote in the case of elections to the highest management body of the company as group representatives to include one of several foreign affiliates of a group of companies, cf. § 4, paragraph 2.

Paragraph 2. The employees in the foreign affiliate(s) can exercise their rights in accordance with paragraph 1 if at least half the persons with a right to vote in the foreign affiliate(s) (cf. §14 paragraph 2) have voted for it in a yes/no vote. It can also decide unanimously that the vote does not have to take

² Unofficial professional English translation available in Annex at: Hans Böckler Stiftung (2017) *Dossier on Codetermination in Denmark*.

place. If it is decided that the vote does not have to take place, instead elections should be held to the group supervisory board (cf. Paragraph 3).

Paragraph 3. If an expansion has been agreed (cf. Paragraph 1) and if at least half of those entitled to vote in the foreign affiliate(s) have voted to exercise their rights, or the group election committee has decided unanimously that a vote does not have to take place (cf. Paragraph 2), then the group election committee shall decide on the implementation of the election of representatives to the group supervisory board, including in what form the expansion of the circle of employees who are eligible for election and entitled to vote shall take, with a view to achieving the desired composition of representatives in the supervisory board. The group election committee shall ensure, in this situation, that the election is implemented correctly and that the principles of transparency and equal treatment are complied with, as well as that the body that, as the case may be, is tasked with implementing the elections ensures the equal participation of representatives of the employees of the board (the company management).

Paragraph 4. If an expansion has been agreed (cf. Paragraph 1) and at least half of those entitled to vote in the foreign affiliate(s) have declared in favour of exercising their rights (cf. Paragraph 2) the employees of affiliates who are registered in the IT system of the register of trades and crafts and of companies (*Erhvervsstyrelsen*) have the right to elect at least one representative to the highest management body of the parent company. If more than one-tenth of the employees entitled to vote in the affiliates of the group are employees of those affiliates that are registered in the IT system of the register of trades and crafts and of companies (*Erhvervsstyrelsen*) they have the right to elect at least two members to the highest management body of the parent company.”

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Guidelines on the rules for company and group representation

by Danish Business and Company Authority (2011)

(see unofficial translation by Deepl in separate document)