

Agreement on part-time lecturers at universities etc. under the Danish Ministry of Science, Innovation and Higher Education (the Ministry of Education)

Full text

Circular on the Agreement on Part-Time Lecturers at Universities etc. under the Danish Ministry of Science, Innovation and Higher Education (the Ministry of Education)

General comments

The Danish Ministry of Finance and the Danish Confederation of Professional Associations (Akademikerne) have concluded the enclosed agreement on part-time lecturers at universities etc. under the Ministry of Science, Innovation and Higher Education (the Ministry of Education).

Most significant amendments relative to the former agreement:

1. It is now possible to employ part-time lecturers permanently
2. The termination provisions have been amended for new appointments
3. It is now possible to conduct negotiations in cases concerning alleged unfair dismissals
4. Permanent and temporary supplements may be agreed
5. One-off bonuses may be granted
6. The local pay agreement will be repealed for part-time lecturers at universities etc. and replaced by the provisions in section 5

7. The possibility of leave on the child's second day of illness has been introduced

8. The unions no longer have to be informed when a part-time lecturer works more than 500 hours, but less than 780 hours.

For employees under a fixed-term contract, the new termination rules will apply after any renewal of a fixed-term employment. For existing permanent employees, the notice periods agreed will continue to apply, see the special provisions in section 11(6)-(7).

Supplements already granted under the local pay agreement will be continued as a personal arrangement.

References in the agreement to 'the organisation' or 'the union' and 'the parties' mean the individual member organisation under the Danish Confederation of Professional Associations.

Commencement

This Circular will enter into force on 1 May 2012.

When this Circular enters into force, the Circular of 25 January 2001 (State Employer's Authority's Circular no. 006-01) will be repealed. The provisions on part-time lecturers at universities etc. in the Circular of 2 September 2009 on local pay (State Employer's Authority's Circular no. 055-09) will also be repealed.

The Agency for the Modernisation of Public Administration, 23 May 2012

Louise Koldby Dalager

Agreement on part-time lecturers at universities etc. under the Danish Ministry of Science, Innovation and Higher Education (the Ministry of Education)

1.-(1) Appointment

A part-time lecturer may be employed permanently or under a fixed-term contract. Fixed-term employment contracts are normally concluded for three years at a time.

(2) It is not possible to be employed in a scientific principal position and as a part-time lecturer at the same university or institution of higher education.

(3) Vacant part-time lecturer positions must be advertised. However, this may derogated from in connection with renewal of a part-time lecturer's employment under a new fixed-term contract in the same position.

(4) Employment as a part-time lecturer requires that the person in question has been found to be qualified for the position in an expert assessment in accordance with the applicable rules.

Circular comments on section 1(4):

The lecturer will receive a letter of appointment at the time of appointment.

2. Responsibilities

The responsibilities for part-time lecturers will mainly include giving lectures and other independent teaching at a high academic level, preparing and correcting assignments for the regular teaching activities and in connection with written exams as well as conducting exams and other tests.

3.-(1) Workload

Before the start of each semester, the number of hours that the lecturer will be required to work will be calculated. The calculation of hours of work includes actual lessons, supervision, preparation of assignments that are not part of the regular teaching activities, correction of assignments set in the regular teaching activities and in written examinations, oral examinations, conducting seminars and the like. In addition, the calculation also includes the estimated time for preparation of lectures and other actual teaching activities.

(2) For each lecture or other equivalent teaching hour, two and a half hours of preparation are added.

(3) For oral examinations, the allocated preparation time is a maximum of one hour per examination hour.

(4) Time for participation in meetings of governing bodies is not included.

Circular comments on section 3(4):

Governing bodies mean the academic council, boards of studies, PhD committees and other governing bodies pursuant to the university's by-laws.

(5) The maximum annual working hours related to a part-time lecturer's teaching activities may not exceed 500. However, if required for the planning or performance of the teaching activities, the number of hours may be increased to up to 780 per year.

4.-(1) Pay

The basic hourly pay is DKK 247.01 (at the 31 March 2012 level, corresponding to DKK 188.46 at the October 1997 level).

(2) Payment is made for a minimum of 100 working hours per academic year. If the lecturer takes up the appointment later than at the beginning of the academic year, the 100 hours will be reduced proportionally.

(3) Payment will normally be made during the semester monthly in arrears at the rate of 1/5 of the calculated pay for the semester, as pay is not generally disbursed in July and August.

5.-(1) Supplements

At the time of appointment and during the time of employment, a supplement for responsibilities and a supplement for qualifications may be agreed based on academic and personal qualifications, the quality of the lecturer's work or based on considerations regarding recruitment and retention etc.

Circular comments on section 5(1):

It is assumed that the framework for the local negotiation procedure, including deadlines for supplement negotiations (at least every three years, if requested by one of the parties), is agreed between the management and the union representatives.

(2) Permanent and temporary supplements under subsection (1) will be negotiated with the part-time lecturer. The part-time lecturer may choose to be assisted by his or her trade union. If a part-time lecturer does not wish to negotiate supplements with the management, negotiations will be conducted with a view to concluding agreements on supplements directly between the appointing authority and the organisation authorised to negotiate.

(3) The negotiation result will be submitted for approval to the organisation authorised to negotiate. If the negotiation result cannot be approved, the organisation may demand within seven days of the receipt of the negotiation result that negotiations be opened with the management. If such a demand is not made before the expiry of the deadline, the negotiation result will be deemed to have been approved by the organisation.

(4) Agreements on supplements may be terminated in accordance with the provisions laid down in the individual agreement.

(5) Temporary supplements will lapse in accordance with the provisions on time limitation.

(6) Supplements for responsibilities will lapse when the employee no longer has the responsibility in question, provided that the agreement stipulates that the supplement is paid as remuneration for discharging the responsibility.

(7) Supplements for qualifications may, in special situations, lapse if the qualification requirements for the supplement can no longer be met.

(8) Supplements will be agreed based on a level of employment of 1,924 hours. Payment will be made in proportion to the current level of employment, see the number of hours stipulated in sections 3 and 4.

(9) It is possible to grant one-off bonuses. The one-off bonus is determined by the management after negotiations with the part-time lecturer.

6. Pay adjustment

The hourly rate mentioned in section 4 above and the supplements mentioned in section 5 are adjusted in line with the general increases agreed in connection with the renewal of collective agreements or resulting from a general adjustment scheme.

7. Illness

For lecturers who during the employment period are employed full-time elsewhere, or who have more than full-time equivalent employment when including the part-time employment at the university etc., any classes that are cancelled due to illness or circumstances not attributable to the lecturer must as far as possible be offered at a later date. The lecturer may be required to document his or her illness with a doctor's certificate.

8.-(1) Maternity/paternity and adoption leave

Part-time lecturers are entitled to paid maternity/paternity and adoption leave according to the rules applicable from time to time concerning maternity/paternity and adoption leave (the parental leave agreement). This provision does not apply to part-time lecturers who are employed full-time elsewhere during their period of employment at the university etc.

(2) Part-time lecturers who are employed less than full-time elsewhere are entitled to paid maternity/paternity and adoption leave; however, only up to a total full-time employment (37 hours/week).

Circular comments on section 8(2):

The calculation of the number of hours for which the part-time lecturer may be paid during maternity/paternity and adoption leave is based on the number of hours worked elsewhere. Consequently, pay is disbursed during maternity/paternity and adoption leave for the employment as part-time lecturer to the extent that the total time of employment – including the employment elsewhere – does not exceed full time (37 hours/week). If the part-time lecturer works 12 hours at a university and 20 hours elsewhere, the university must pay him or her during maternity/paternity and adoption leave for 12 hours. The other employer must pay for 20 hours.

If the part-time lecturer works 12 hours at a university and 30 hours elsewhere, the university must pay him or her during maternity leave for 7 hours. The other employer must pay for 30 hours, such that the lecturer will receive full-time pay during maternity/paternity and adoption leave from the two employers in total.

(3) However, pay during maternity/paternity and adoption leave will only be disbursed until the end of the employment period.

Circular comments on section 8:

The amendments to this provision are only of a linguistic nature and do not affect the content.

9.-(1) Child's first and second day of illness

The appointing authority can allow the employee full or partial leave to care for a sick child on the child's first and second day of illness, when

- 1) it is required out of consideration for the child's well-being;
- 2) circumstances in the workplace permit;
- 3) the child is under 18 years of age; and
- 4) the child lives at home.

Circular comments on section 9(1):

The second day of illness is the calendar day immediately following the child's first day of illness, regardless of whether it is a working or non-working day.

The first and second days of illness may be taken independently of each other, i.e. an employee may take the child's second day of illness without having taken the first day of illness.

Parents may therefore also share the two days of illness between them, such that one of the parents takes the first day and the other parent takes the second day.

(2) Pay during such absence is the same as the employee would have received for absence due to sickness.

(3) In case of abuse, the appointing authority may revoke the right to leave for the individual employee.

(4) Lecturers who during the employment period are employed full-time elsewhere, or who have more than full-time equivalent employment when including the part-time employment at the university etc., are subject to the same rules on the obligation to offer classes that have been cancelled at a later date, see section 7.

10. Holiday allowance

Holiday allowance will be paid in accordance with the provisions of the Danish Holiday Act (*Ferie-loven*) at a rate of 12% of the pay disbursed.

11.-(1) Termination etc.

The provisions on notice of termination of employment in the Danish Salaried Employees Act (*Funktionærloven*) apply to part-time lecturers. The provision applies to appointments as at 1 May 2012 or later, see, however, subsection (6).

Circular comments on section 11(1):

It has been agreed that the provision on termination with a shorter notice period due to illness (the 120-day rule) does not apply. Termination is subject to the generally applicable notice.

(2) For employees under a fixed-term contract, the employment will be terminated at the end of the period of employment without further notice.

(3) An employee may not be dismissed for arbitrary reasons.

(4) The appointing authority must give the employee written notice of dismissal stating the reasons therefor. If the person in question has been in continuous employment with the appointing authority for

more than five months, the appointing authority must also give written notice of dismissal to the organisation.

Circular comments on section 11(4):

The notice of dismissal, or summary dismissal, to be given by the appointing authority to the organisation may either be given in a separate letter or by submission by the appointing authority of a copy of the dismissal letter/summary dismissal letter, unless this is in conflict with the duty of confidentiality stipulated in the Danish Public Administration Act (*Forvaltningsloven*) and the Danish Criminal Code (*Straffeloven*), including the duty of confidentiality concerning personal affairs.

A written notice of dismissal/summary dismissal to the organisation may be addressed to the local branch or to the head office of the organisation authorised to negotiate. It is not enough to inform the local union representative only.

(5) For part-time lecturers employed before 1 May 2012, the previous termination rules apply, according to which the appointing authority must give two months' notice to expire at the end of a semester, and the employee must give one month's notice to expire on the first day of a month, see, however, subsection (6).

(6) Part-time lecturers under a fixed-term contract commencing before 1 May 2012 will, when their employment is renewed after this date, be subject to the provisions on notice of termination corresponding to those in the Danish Salaried Employees Act.

Circular comments on section 11(6):

Renewal comprises a new fixed-term contract for the same position.

When determining the notice period pursuant to the Danish Salaried Employees Act, seniority must be counted from the commencement of the employment in cases where, for example, the employment has been renewed by a new fixed-term period.

(7) For part-time lecturers employed permanently before 1 May 2012, the permanent employment will be continued on the agreed terms.

12.-(1) Negotiation procedure for dismissal etc. (common set of rules)

Complaints of alleged unfair dismissal will be considered in accordance with the provisions in subsections (2)-(5).

Cases concerning summary dismissal will be considered in accordance with the provisions in section 14.

(2) Complaints of alleged unfair dismissal must be considered without delay. If the organisation demands that the dismissal be set aside, the parties are obliged to seek to expedite the consideration of the case as much as possible in order to ensure that it will, to the extent possible, be closed before the expiry of the employee's notice of termination. It should, as a general rule, be sought to close other cases no later than nine months after the notice was given.

(3) If the employee has been in continuous employment with the appointing authority for more than five months, and the organisation finds that the dismissal cannot be regarded as being reasonably justified based on the conduct of the employee or the appointing authority, the organisation may demand that the issue be negotiated with the local appointing authority. The deadline for demanding that local negotiations be held is no later than 14 days after notice of the dismissal was given (one month for salaried employees). The negotiations must be held no later than 14 days after the organisation's demand to that effect.

(4) If the organisation and the appointing authority fail to reach an agreement, the organisation may, no later than 14 days after the negotiations (one month for salaried employees), demand that the case be negotiated between the parties to the agreement. The negotiations must be held no later than one month after the organisation's demand for negotiations.

(5) The respective parties may derogate from the deadlines in subsections (3)-(4) by agreement.

Circular comments on section 12:

When calculating the deadlines specified in days, the number of calendar days excluding public holidays falling on working days must be included.

The calculation of the deadlines must include the day when notice of the dismissal was given/the demand for negotiations was submitted/the negotiations were held/the complaint was submitted.

If the appointing authority gives notice of dismissal on a Wednesday, for example, the organisation must submit its demand for negotiations on Tuesday of the second week following (if there are no public holidays falling on working days during this period) in order for the 14-day deadline to be met.

If the appointing authority gives notice of the dismissal to a salaried employee on the 27th day of a month, for example, the organisation must submit its demand for negotiations by the 26th of the following month.

If the parties to the agreement conduct negotiations on a Tuesday, the organisation must submit its complaint no later than Monday of the eighth week following.

In case of failure to meet the above-mentioned deadlines, the organisation will not be able to proceed with the case in accordance with the provisions of the agreement.

13.-(1) Industrial arbitration

Settlement of a case by industrial arbitration is subject to subsections (2)-(11). Cases concerning summary dismissal will be considered in accordance with the provisions in section 14.

(2) If agreement is not reached in the negotiations pursuant to section 12(4), the organisation may demand that the case be settled by industrial arbitration.

(3) To refer the case to industrial arbitration, the organisation must submit a complaint no later than eight weeks after the negotiations.

(4) The composition and appointment of the arbitration tribunal are governed by the provisions in the Danish Act on the Labour Court and Industrial Arbitration (*Lov om arbejdsretten og faglige voldgiftsretter*).

(5) A defence must be submitted no later than eight weeks after submission of the complaint.

(6) The arbitrator sets the deadlines for any further exchange of pleadings. The deadlines should not normally exceed four weeks.

Circular comments on section 13:

On subsections (3)-(6): See the comments on section 12 on calculation of deadlines.

(7) The parties may derogate from the deadlines in subsections (3)-(6) by agreement. If the parties agree not to deviate from the deadlines, the arbitrator may, however, at the request of one of the parties extend a deadline in exceptional cases. When deciding whether to extend a deadline, account must be taken of whether the request for extension must be regarded as being based on a lawful excuse, or whether it must be assumed that special circumstances justify the extension.

(8) If the deadlines in subsections (3)-(6) are not met, the principles laid down in the Danish Administration of Justice Act (*Retsplejeloven*) on failure to appear will apply. This does not, however, include the provisions on reopening of a case.

(9) The arbitration tribunal makes a reasoned award. If the arbitration tribunal finds that the dismissal is unfair and not motivated by the conduct of the employee or the appointing authority, the tribunal may order that the appointing authority make up for the consequences of the dismissal.

(10) If the employee or the appointing authority does not wish to continue the employment relationship, the arbitration tribunal may order that the appointing authority pay compensation to the employee. The arbitration tribunal determines the amount of compensation based on the circumstances of the case and the employee's seniority in the Danish state etc.

(11) If the organisation refers a case to the arbitration tribunal claiming that a dismissal was unfair, and if the dismissed employee is in a better legal position under Danish legislation than under the provisions in subsections (9) and (10), the arbitration tribunal must base its award on this legislation.

14.-(1) Summary dismissal

If the summarily dismissed person has been in continuous employment with the appointing authority for more than three months, the appointing authority must also give written notice of the summary dismissal to the organisation. The organisation may within 14 days (one month for salaried employees) demand that the fairness of the summary dismissal be negotiated between the parties to the agreement.

Circular comments on section 14:

See the comments on section 11(4) on notification of the organisation and section 12 on calculation of deadlines.

(2) If the parties to the agreement fail to reach an agreement in the negotiations, the organisation may demand that the question of the fairness of the summary dismissal be referred to industrial arbitration. The provisions in section 13(2)-(8) also apply to summary dismissal.

(3) The arbitration tribunal makes a reasoned award. If the arbitration tribunal finds that the summary dismissal is not motivated by the conduct of the employee, the tribunal may order that the appointing authority make up for the consequences of the summary dismissal.

(4) The arbitration tribunal may then order the appointing authority to pay compensation to the employee, the amount of which will be determined by the arbitration tribunal based on the circumstances of the case and the employee's seniority in the Danish state etc.

(5) If the organisation refers a case to the arbitration tribunal claiming that a summary dismissal was unfair, and if the summarily dismissed employee is in a better legal position under Danish legislation than under this provision, the arbitration tribunal must base its award on this legislation.

15.-(1) Commencement

This agreement enters into force on 1 May 2012.

(2) The agreement may be terminated by either party giving three months' notice to expire on 31 March of any given year; however, not before 31 March 2013.

(3) When this agreement enters into force, the agreement of 25 January 2001 between the Ministry of Finance and the Danish Confederation of Professional Associations on part-time lecturers at universities etc. under the Ministry of Education (State Employer's Authority's Circular no. 006-01) will be repealed. The agreement on local pay of 28 August 2009 (State Employer's Authority's Circular no. 055-09) will also be repealed as regards part-time lecturers at universities etc.

Copenhagen, 9 May 2012.

On behalf of the organisations

under the Danish Confederation of Professional Associations

(Akademikerne)

Erik Jylling

Ministry of Finance

On behalf of the Minister

By authority

Louise Koldby Dalager

Editors' note

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