

## **The Consolidate Employees' Inventions Act**

Publication of the Employees' Inventions Act, cf. Consolidate Act No. 131 of 18 March 1986 including the amendments which follow from section 51 of Act No. 130 of 26 February 1992, section 44 of Act No. 523 of 6 June 2007 and section 8 of Act No. 1370 of 28 December 2011.<sup>1)</sup>

**1.<sup>2)</sup>**-(1) For the purposes of this Act the term "inventions" comprises inventions which are patentable in this Kingdom and creations which are registrable as utility models in this Kingdom.

(2) The term "employee" comprises any person who is employed in public or private service.

(3) Teachers and other scientific personnel at universities and other institutes of higher education shall in that capacity not be regarded as employees and shall have the full right to the inventions made by them, unless otherwise provided by other legislation or implied by an agreement.

**2.-** Provided that they have not expressly been declared to be indispensable, the provisions of this Act shall apply only if nothing else has been or may be considered to be agreed.

**3.-** To the extent nothing else follows from this Act or other Acts an employee shall have the right to the inventions made by him.

**4.-** (Repealed)

**5.-** If an employee has made an invention which he may be considered to have arrived at through his employment, the employer shall, provided that the exploitation of the invention falls within the scope of the activities of his undertaking, be entitled to claim that the right to the invention be transferred to him for one or more countries. The same right shall be enjoyed by the employer even if the exploitation of the invention does not fall within the scope of the activities of the undertaking, if the employee's invention relates to a specific task assigned to him by the undertaking.

**6.-** An employee who has made an invention comprised by the provisions of section 5 shall be obliged to notify the employer thereof without undue delay giving such information about the invention as to enable the employer to estimate the importance of the invention.

**7.<sup>3)</sup>**-(1) If an employer wants to acquire the right to an invention under section 5, he shall

notify the employee to that effect within four months after having received the notification referred to in section 6.

(2) Before the expiry of that time limit the employee may not without the employer's written consent dispose of the invention or disclose it to others in such a way that it may be published or exploited for the account of others. That shall, however, not apply if the employer has declared in writing not to be interested in the invention.

(3) Even if the said time limit has not expired, the employee may, as soon as he has given such notification as referred to in section 6, apply for a patent for the invention or for the registration of the creation, but in that case he shall notify the employer to that effect beforehand. The employee may not renounce that right in advance.

**8.<sup>4)</sup>**(1) If the employer under section 5 or on another basis acquires the right to an invention made by the employee, the employee shall, even if something else might be agreed, be entitled to a reasonable compensation, unless the value of the invention does not exceed what the employee, in view of his working conditions as a whole, may reasonably be assumed to produce.

(2) In fixing the compensation the value of the invention and its importance for the undertaking, the employee's employment conditions and the influence which the employee's service has had on the invention shall be taken into consideration.

(3) Even if something else might be agreed, stipulations or agreements relating to compensation may be modified subsequently at the request of either party when the determining conditions have changed substantially or when indicated by other special circumstances. However, return of benefits which the employee has received on the basis of a previous fixing of the compensation shall never be effected pursuant to the above provision.

**9.<sup>5)</sup>**- If within six months after an employee has retired from his employment a patent or a utility model registration is applied for for an invention made by him which, if it had come into existence during the employment, would have been comprised by the provisions of section 5, the invention shall be considered made during the employment, unless it can be rendered probable that the invention has come into existence after the termination of the contract of service.

**10.-** An agreement between an employer and an employee for the purpose of limiting the employee's right to dispose of inventions made later than one year after the termination of the contract of service shall be void.

**11.-** (Repealed).

**12.<sup>6)</sup>**(1) Any person who in consequence of the provisions of this Act learns about an invention may not unauthorised exploit what he has learnt in that way or uninvited disclose anything about it.

(2) Intentional violation of this provision or the provision of section 7(2) shall be punished with fines or imprisonment of up to four months. Fines shall go to the Treasury.

(3) Proceedings shall be instituted by the injured party.

**13.-** (Not reproduced).

**14.-**(Repealed).

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Act No. 130 of 26 February 1992 contains the following provisions as to entry into force and transitional provisions:

**52.-**(1) This Act shall enter into force on 1 July 1992, cf., however, subsection 2.

(2) to (3) (Transitional provisions, not reproduced).

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Act No. 523 of 6 June 2007 contains the following provisions as to entry into force and transitional provisions:

#### **Section 47**

This Act shall enter into force on 1 January 2008.

#### **Section 48**

(1) This Act shall apply also to previously created claims which are not statute-barred pursuant to the previous rules before the date of the entry into force. Statute-barring shall, however, at the earliest set in on 1 January 2011 unless the claim before that date would have been statute-barred pursuant to the previous rules as well as pursuant to the rules in force after the entry into force of this Act,

cf., however, subsection 7. In the latter case the latest date shall be applied to the setting in of the statute-barring.

(2) An interruption of a statute-barring which has occurred before the entry into force of this Act shall continue to have effect as an interruption even if it has not occurred in the way prescribed by this Act.

(3) to (8) (Transitional provisions, not reproduced).

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Act No. 1370 of 28 December 2011 contains the following provisions as to entry into force and transitional provisions:

#### **Section 9**

This Act shall enter into force on 1 February 2012.

The Ministry of Business and Growth, 24 January 2012

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/Jesper Kongstad

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<sup>1)</sup> This Consolidate Act contains information about provisions as to entry into force and transitional provisions adopted during the sessional years 1991/1992 to 2011/2012 of the Danish Parliament (the Folketing). Provisions as to entry into force and transitional provisions for previously adopted amendments of the Employees' Inventions Act are laid down in Consolidate Act No. 131 of 18 March 1986. The amendments indicated below in consequence of Act No. 130 of 26 February 1992 on Utility Models, etc., Act No. 523 of 6 June 2007 to Amend various Legal Provisions on the Statute-Barring of Claims, etc. and Act No. 1370 of 28 December 2011 to Amend the Patents Act and various other Acts shall not apply to the Faeroe Islands and Greenland, but may by Royal Ordinance be put into force for the Faeroe Islands and Greenland with such deviations as the circumstances of the Faeroe Islands and Greenland may require.

<sup>2)</sup> Section 1(1) in the wording of this Act entered into force on 1 July 1992, cf. Act No. 130 of 26 February 1992.

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<sup>3)</sup> Section 7(3) in the wording of this Act entered into force on 1 July 1992, cf. Act No. 130 of 26 February 1992.

<sup>4)</sup> Section 8(3) in the previous wording was repealed by Act No. 523 of 6 June 2007, which entered into force on 1 January 2008. Hence section 8(4) became section 8(3).

<sup>5)</sup> Section 9 in the wording of this Act entered into force on 1 July 1992, cf. Act No. 130 of 26 February 1992.

<sup>6)</sup> Section 12(2) in the wording of this Act entered into force on 1 February 2012, cf. Act No. 1370 of 28 December 2011.