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# Denmark

## Amicable

An amicable solution is the fastest and cheapest solution for our customers. In case a debtor is not able to pay the full debt immediately, we try to make a payment arrangement with the debtor. In this way we save both time and costs.

In general, payment arrangements are established as written agreements and as a special juridical document (Frivilligt Forlig) which provides us the basis for going directly to a Bailiff, in case a debtor does not fulfil his obligations according to the payment arrangement. We prefer to spend time on finding an amicable solution, however, if the debtor is not co-operative, we will start legal action immediately.

On the whole, we accept a duration for payment arrangements of up to 10 months as this is the period most often granted to debtors by the Bailiff, but of course we try to shorten this period as much as possible.

## Disputes

If a dispute is based on commercial grounds like delayed delivery or problems with goods, we act as an intermediate. We think that solving the problem out of court saves time and costs. Especially because our co-operating lawyers (external) charge hourly fees in cases like this.

Disputes based on juridical grounds like the understanding of documents, or general conditions of the trade sector, are usually handed over to our external lawyers. Nevertheless, we will always investigate whether an amicable settlement is possible before handing over the case to an external lawyer.

For disputed debts where we cannot find an amicable settlement, we have to obtain a judgement in order to continue collecting the debt. Depending on the nature of the dispute, this procedure can be quite lengthy and costly, as the lawyers will charge an hourly fee for their work.

## Legal action

*Debts below 50 000 DKK (approx. 6 700 EUR)*

For debts below 50 000 DKK we can go directly to the Bailiff's Court. If the debt is undisputed, the Bailiff will issue a payment order, this equals a judgement. If possible, the Bailiff will try to secure the debt by taking any free asset belonging to debtor as security. We often see that the Bailiff grants debtor a payment arrangement with a duration of up to 10 months. If the debt is secured by real estate, this period can expand to 36 month.

This procedure is the cheapest way of legal action; the court costs would be only 300 or maximum 1200 DKK (40-160 EUR) plus lawyers' fees. It is also the quickest procedure, although it might take up to 6 - 12 months on average.

If a debtor disputes the debt, no matter the reason or the seriousness of the dispute, the file is assigned for court handling.

*Debts above 50.000 DKK (approx. 6.700 EUR)*

In case of a debt of this size, our external lawyer has to file a claim form with the court. A judgement has to be obtained before enforcement proceedings can be carried out.

The cost for obtaining a judgement depends on the size of the debt: 750 DKK (approx. 100 EUR) + 1,2 % of the amount above 50.000 DKK (approx. 6.700 EUR) plus lawyers' fees. The timeframe is up to 6 months on average.

If a judgement is obtained and the debtor does not pay accordingly, the file will be handed over to the Bailiff's Court for further handling.

In total, the period from starting legal action to the end of enforcement proceedings at Bailiff's Court can easily grow to more than 12 months.

#### *Enforcement proceedings*

Enforcement proceedings are handled by a Bailiff's Court and can only take place based on a judgement or a written acknowledgement of the due debt from a debtor. The Bailiff will try to establish a payment arrangement with the debtor. If not possible or if the debtor does not fulfil his obligations according to a payment arrangement established by the Bailiff, the Bailiff will investigate if the debtor has any free assets. If there are free assets available, they will be taken as a security for the debt and can be sold by creditor following specific rules.

The cost for enforcement proceedings depends on the size of the debt: 300 DKK (approx. 40 EUR) + 1/2 % of the amount above 3.000 DKK (approx. 400 EUR) plus lawyers' fees. The timeframe is up to 6 - 12 months on average.

We often see debtors trying to delay the process by not attending the meeting in Bailiff's Court. In such cases we have to wait until the police have traced the debtor and a new Bailiff's Court meeting is held.

#### *Retention Of Title (ROT)*

Retention of title is rarely used in Denmark. Although it might have been agreed between debtor and creditor, it is rarely enforceable in Denmark.

The background is that the goods in question have to be specified in detail, a general description of the goods is not sufficient. The goods have to be specified with individual numbers in order to be handled by a Retention of Title.

## **Insolvency Procedures**

#### *Enforced Dissolution*

When a company does not provide financial reports in due time to public authorities or does not comply with the legal regulations, the company can be taken into an Enforced Dissolution by the Central Business Register (a public authority). It will be investigated whether any assets are available.

If nothing is found which can be to the financial benefit of creditors, the company will be closed down. If assets are found or information that needs further investigation, the company will go into bankruptcy. The receiver will handle further investigations and possible distribution of any dividend.

In the case of an Enforced Dissolution we will follow the debtor company until final closure and take action if needed to protect our customers' outstanding debts.

#### *Legal Suspension of Payments*

When a company is not able to pay their debts as they fall, it might turn into a Legal Suspension of Payments. An executor will be appointed and take over the responsibility for the administration of the company. The executor is granted a specified period, usually

three to six months, to find a solution for the financial problems of the company. This can result in:

1. A final composition, amicable or enforced
2. A temporary financial arrangement and the company goes back into ordinary business
3. A file for the company's bankruptcy. Bankruptcy

When a company does not pay a debt justified by an acknowledgement of debt or a judgement, a creditor can file a petition for bankruptcy.

The creditor is liable for the costs of the bankruptcy proceedings on the occasion that the free assets belonging to debtor do not cover this. When filing a petition for bankruptcy the creditor will be asked to provide security for the costs of the bankruptcy proceedings. The estimation of costs is based on the size of the bankrupt estate.

We will lodge the debt on behalf of the creditor and follow up on the bankruptcy proceedings until closure with or without dividend. That includes providing the receiver with further information, taking part in possible voting, decisions on behalf of creditor etc. If the creditor's involvement is needed, we will contact him. Usually, bankruptcy proceedings are protracted in Denmark and can easily take between one to three years, or even longer, for large estates.

## Interests

We always add interest to the debt when collecting debts on Danish debtors. There are two alternatives:

- To calculate interest rate as agreed between creditor and debtor.
- To calculate interest rate according to Danish regulation based on the reference rate fixed by Central Bank of Denmark (+ 7 % p.a.). This rate is fixed twice a year per. 1st of January and 1st of July The second rule will always occur if the interest rate is not agreed between the creditor and the debtor.

## Costs

*Costs charged to debtor:*

AC Denmark always adds collection costs to the debt and tries to collect them. These costs are calculated according to a tariff set up by the Danish authorities.

If and when the debtor pays the costs, the amount will be repaid to our customer, partially or fully to cover costs mentioned below.

*Costs charged to our customer:*

These costs follow the tariff agreed with your local AC representative in the contract.

*Receivables Expiring by Statute of Limitations:*

According to this new law, all trade credits (invoice credits) from 2007 expire within 3 years and all trade credits before 2007 expire within 5 years.

Interruption of the expiring: by obtaining a judgement or a written acknowledgement of the due debt from a debtor

## Type of companies

- Enkeltmandsvirksomhed Sole proprietorship. One man business. Unlimited liability by the owner.
- Interessentskab – I/S General partnership. Partnership of individuals. Unlimited liability by partners /owners.
- Anpartsselskab - ApS Private limited company. Smaller limited company. Liability limited to the equity of the company.
- Aktieselskab – A/S Joint-stock company. Larger limited company. Liability limited to the equity of the • company.
- Kommanditselskab – K/S Limited partnership
- Andelsselskab – AmbA Cooperative society. Partnership with limited liability

## Legislation

Collection business in Denmark is governed by

- Law number 319 of 14th May 1997
- Ministerial order number 752 of 26th September 1997
- Ministerial order number 741 of 4th September 2002 (interest rates)
- Ministerial order number 601 of 12.7.2002 (collection costs charged to debtor ) – Law number 522 of 6th June 2007 (Receivables Expiring by Statute of Limitations)

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