

Briefing

Greenland Desk

18 September 2012

1 Relaxation of the labour rules for large-scale projects in Greenland

2 Curriculum Vitae

Contacts

For further information, please contact your usual Eversheds contact or

Jens Christian Lolk
Partner / Head of Greenland Desk /
Attorney-at-Law
+45 33 75 05 82
jenschristianloik@eversheds.com

For a full list of our offices and contact details please visit

www.eversheds.dk

Relaxation of labour rules for large-scale projects in Greenland

The Danish Government and the Government of Greenland, Naalakkersuisut, are during autumn 2012 expected to pass legislation which will make it easier for foreign companies to undertake large-scale projects in Greenland.

The new legislation proposes various changes to the current employment system in Greenland with the aim to encourage investments in and implementation of large-scale projects of particular importance to the economic development of Greenland. If the legislation is passed, it will have effect on projects carried out after 1 January 2013.

Application of the legislation

If passed in the form currently contemplated, the proposed legislation will only apply to building and construction activities in connection with the establishing of business for the exploitation of minerals, raw materials or in connection with establishment of business for exploitation of hydropower for the generation of energy.

The legislation will only apply to the construction phase and thus not for subsequent construction work, including for instance activities in an operational phase, and will be subject to prior approval from Naalakkersuisut.

The threshold for a project to qualify as "large-scale" is that the construction costs of the project must exceed DKK 1bn and, further, one of the following requirements must be met:

- The project's need for labour in carrying out the construction activities must exceed the suitable, available and accessible workforce available in Greenland, or
- if the demand for technical or economic capacity of the companies performing the construction activities exceeds the Greenlandic companies' capacity.

Headlines

The provisions in the legislation cover projects too large to be executed, either in terms of resources or capability, by the country's own companies and workforce. The legislation therefore proposes to enable the use of foreign labour for building and construction activities on projects of particular importance to the economic development of Greenland.

In order to ensure the above, changes to the current rules on hiring of foreign labour are proposed. The present legislation entails that residence permit with a view to acquire employment in Greenland may be granted, if significant employment or business related considerations favour meeting the application, and provided that the salary and employment conditions correspond to Greenlandic standards. The Danish Ministry of Justice has assessed that it will not be possible within this framework to grant residence permits to foreign labourers, who are to perform work in the construction phase of large-scale projects.

In order to enable hiring of foreign labour on large-scale projects, the legislation proposes an amendment to the legal requirements for obtaining a residence permit. The requirements are proposed to be eased, making it possible to employ foreign labour provided that the salary and employment conditions are *acceptable as well as objectively and reasonably justified*.

It will thus be possible for foreign employees who are subject to a foreign collective bargaining agreement to maintain the salary and employment conditions of said collective bargaining agreement, provided that the conditions herein are not significantly inferior to similar foreign collective bargaining agreements.

Consequently, it will be possible to employ foreign labour subject to foreign collective bargaining agreements concluded with foreign unions, without having to apply Greenlandic collective bargaining agreements.

The provisions in the legislation will apply in parallel to the rules in the Aliens Act. This means that the general rules on applications for work permit will continue for foreigners applying for a permit based on the legislation. The condition on corresponding work condition will just no longer be decisive.

Effect on other labour legislation

In connection with the relaxation of the above regulations it is also important to note that the legislation proposes to waive other pieces of legislation that would normally apply.

In this context it is proposed that the legislation on regulation on labour increase (in which Greenlanders take precedence of jobs), the legislation on sea transport, the legislation on holiday regulation and the legislation on trade activity will not apply to activities falling within the scope of the legislation on large-scale projects.

Eversheds notes

In conclusion, the legislation will enable the construction of large-scale projects in Greenland. The new legal regime creates opportunities for foreign companies to start up projects in Greenland.

The Greenlandic proposed legislation has been introduced 21 August 2012, and it is expected that the required Danish legislation will be presented in connection with the opening of the Danish Parliament 2 October 2012. Eversheds will follow the development closely and report further.

Curriculum Vitae



Jens Christian Lolk, Head of Dispute Resolution and Real Estate

Jens Christian is partner in the Copenhagen office and also heads up the real estate team and the dispute resolution team, which has experienced substantial growth the last few years. His main areas of expertise are sales and acquisitions of commercial property, either as assets or as company-based acquisitions as well as disputes including litigation and arbitration. He is admitted to the High Court.

Furthermore, Jens Christian advises on construction law and technical counselling as well as public procurement, and he heads up the Greenland Desk with Eversheds Copenhagen with focus on project development.

In addition, Jens Christian heads up the litigation team representing advisers, contractors and property owners at the court of arbitration for building and construction. Jens Christian leads several disputes which include complex and technical issues within the commercial field.

t: [33 75 05 82](tel:33750582)

e: jenschristianlolk@eversheds.com