



# Insurance & Reinsurance Regulation in Denmark

Key Insights for 2025

Experts from Kennedys' office in Denmark have responded to questions relating to the Danish Insurance and Reinsurance regulations in the 2025 edition of the ICLG Insurance and Reinsurance Guide.

## Regulatory

### **Which government bodies/agencies regulate insurance (and reinsurance) companies?**

The regulation of insurance and reinsurance companies is supervised by the Danish Financial Supervisory Authority (FSA), which also has the authority to intervene in cases of non-compliance.

### **What are the key requirements/procedures for setting up a new insurance (or reinsurance) company?**

Companies engaging in insurance activities in Denmark, including reinsurance, must obtain a licence from the Danish FSA. The requirements for obtaining a licence as an insurance company are outlined in the Danish Insurance Business Act, which includes requirements for management, ownership and financial solidity. The Danish Insurance Business Act distinguishes between two groups of insurance companies, namely group 1 and group 2 insurance companies, as not all insurance companies are obligated to comply with all the requirements stemming from the implementation of the Solvency II Directive. An application for a licence must include the necessary information for the Danish FSA to assess compliance with the conditions outlined in the Danish Insurance Business Act. The application

must also contain an operational plan, prepared by the insurance company, providing information of the intended insurance business activities.

**Are foreign insurers able to write business directly or must they write reinsurance of a domestic insurer?**

A foreign insurance or reinsurance company must obtain a licence from the Danish FSA to carry out insurance activities in Denmark, unless the company has obtained a licence in another country within the European Union (EU), the European Economic Area (EEA) or in a country with which the EU has entered into an agreement with on the financial area, provided that the Danish FSA has received notification of this from the supervisory authorities in the home country. In the financial area, the EU has entered into a bilateral agreement with the US, allowing reinsurance companies from the US to reinsure risks in Denmark without having to obtain a licence to carry out reinsurance activities from the Danish FSA or from another country within the EU or the EEA. Reinsurers from the US must, however, notify the relevant supervisory authorities in the US, which then inform the Danish FSA, after which reinsurance activities can be commenced in Denmark.

**Are there any legal rules that restrict the parties' freedom of contract by implying extraneous terms into (all or some) contracts of insurance?**

The drafting of insurance contracts is primarily governed by the Danish Insurance Contracts Act, which outlines the rights and obligations of both the insurer and the policyholder/insured. The Danish Insurance Contracts Act applies unless the parties have agreed otherwise. However, certain provisions are mandatory and cannot be validly deviated from. In addition to the mandatory provisions in the Danish Insurance Contracts Act, insurance contracts are also governed by the general principles of Danish contract law. Consequently, the parties have a significant degree of freedom in drafting their contracts.

**Are companies permitted to indemnify directors and officers under local company law?**

Danish company law does not prohibit companies from indemnifying directors and officers (D&O). In Denmark, it is common for companies to purchase D&O liability insurance to provide coverage for the members of the management or board of directors. D&O insurance is designed to protect these individuals from personal liability in the event of claims for alleged wrongful acts while managing the company.

**Are there any forms of compulsory insurance?**

According to Danish law, some types of insurance are mandatory. Thus, certain professionals in Denmark are required to have professional liability insurance, e.g. attorneys-at-law and accountants. In addition to this, insurance is required in specific areas, e.g. the maritime and aviation areas. Also, employers in Denmark are required to have workers' compensation insurance. Furthermore, if you own or lease a motor vehicle in Denmark, you are required to have motor vehicle liability insurance, which covers personal injuries and property damages. Additionally, if you own certain animals, e.g. dogs or horses, you are required to have third-party liability insurance. Finally, it must be noted that it is not mandatory to have property fire insurance; however, for almost all financial institutions, it is a requirement for financing that a building is covered by fire insurance.

## **(Re)insurance Claims**

**In general terms, is the substantive law relating to insurance more favourable to insurers or insureds?**

The regulation of insurance companies in Denmark is based on a long tradition, and Danish insurance companies have long been subject to extensive regulation in Denmark. The overarching purpose of regulating insurance activities is to ensure a protective environment for the insured. Consequently, the legal regulation is considered more favourable to the insureds than to the insurers. In certain areas, the regulation of insurance companies in Denmark goes beyond EU regulation. For example, the regulation in Denmark also extends to smaller insurance companies, specifically the so-called “group 2 insurance companies”, which are not covered by EU regulation as they fall below the EU legal thresholds in the insurance sector.

**Can a third party bring a direct action against an insurer?**

According to Danish insurance law, the third party can only bring a direct claim against the insurer once the insured’s liability has been established, and the amount of damages determined. It is not, however, necessary for the third party to obtain a judgment against the insured. An arbitration award can thus serve as the basis for the third party to enter into the insured’s claim against the insurer. Furthermore, the insured’s acknowledgment of liability and the amount of damages is considered sufficient for a third party to bring a direct claim against the insurer. The crucial point is that the determination of liability and the amount of damages is made in a way that legally binds the insured. Also, a third party has the right to bring a direct claim against the insurer in the event of the insured’s bankruptcy or other insolvency proceedings. The third party’s claim is thus subject to two limitations: i) they can never recover more from the company than the insured could have claimed; and ii) their claim against the company cannot exceed their claim against the insured.

**Can an insured bring a direct action against a reinsurer?**

In general, the insured’s ability to bring direct actions against a reinsurer is limited, as the insured is typically not a direct contracting party to a reinsurance agreement between the insurer and the reinsurer. Consequently, the insured cannot bring a direct action against a reinsurer, unless the conditions and terms in the contract between the contracting parties stipulate otherwise or as agreed.

**What remedies does an insurer have in cases of either misrepresentation or non-disclosure by the insured?**

Insurance contracts are primarily governed by the Danish Insurance Contract Act. In cases of either misrepresentation or non-disclosure by the insured, the insurer holds the right to declare the insurance agreement non-binding. This means that the insurer’s liability can be voided, provided that the insurer can prove that the insured fraudulently provided false information or concealed important information. If the insured should have realised that information provided was inaccurate, without it being fraudulent, the insurer’s liability can be voided, if it can be proven that the insurer would not have issued the insurance had this circumstance been disclosed.

**Is there a positive duty on an insured to disclose to insurers all matters material to a risk, irrespective of whether the insurer has specifically asked about them?**

In general, the insured does not have a specific duty to provide information beyond honestly answering the questions posed by the insurance company in the application. If the insured, however, has answered all of the questions in an insurance application but omitted to disclose circumstances known to be crucial for the insurer, the insured’s failure to disclose such information may result in

the insurer having the right to declare the insurance agreement non-binding or coverage on different terms.

**Is there an automatic right of subrogation upon payment of an indemnity by the insurer or does an insurer need a separate clause entitling subrogation?**

According to the Danish Liability Act the insurer will be subrogated to the insured's claim against the person liable to the extent of any payment of indemnity by the insurer. Therefore, the insured does not need to transfer their rights against the tortfeasor to the company. The Danish Liability Act states that with regard to life, accident or sickness insurance or other personal insurance, the insurer has no claim against the person liable regardless of the nature of the insurance.

## Litigation - Overview

**Which courts are appropriate for commercial insurance disputes? Does this depend on the value of the dispute? Is there any right to a hearing before a jury?**

Commercial insurance disputes, regardless of the value of the disputed claim, are handled at the Danish civil courts, i.e. the district courts, the Maritime and Commercial Court, the High Courts, the Supreme Court and, if the parties have validly agreed to it, in arbitration.

There is no right to a hearing before a jury in commercial insurance disputes, as juries are only involved in certain types of criminal cases.

**What, if any, court fees are payable in order to commence a commercial insurance dispute?**

When a commercial insurance dispute is commenced at the Danish civil courts, a court fee of DKK 1,500 must, generally, be paid. If the dispute has no quantifiable value or if the value does not exceed DKK 100,000, a court fee of DKK 750 must be paid.

In addition, a fixed fee between DKK 3,000 and DKK 160,000 for the final hearing or the written proceedings that may replace the hearing must be paid, depending solely on the value of the claim. If the value of the claim does not exceed DKK 100,000, no further fees must be paid.

**How long does a commercial case commonly take to bring to court once it has been initiated?**

The time to bring a commercial case to court has increased significantly in recent years, and the average length of district court proceedings has increased from 22 months in 2022 to 22.5 months in 2023. Civil court proceedings do, however, vary to a great extent, depending on the relevant district court, the complexity of the dispute, and whether there is a need to complete the expert appraisal process and obtain evidence.

## Litigation - Procedure

**What powers do the courts have to order the disclosure/discovery and inspection of documents in respect of (a) parties to the action, and (b) non-parties to the action?**

Should a party seek disclosure of documents within the possession of the opposing party, Danish courts have the authority to mandate this contingent upon the presenting party elucidating the specific issues for which said documents are required. Non-compliance with the court's disclosure order may result in adverse inferences. Likewise, if a party wishes to disclose documents within a non-party's possession, the court may impose a disclosure mandate predicated on the relevance of the documents to the case, unless the non-party enjoys exemption from providing testimony on the content therein. Failure to adhere to the court's directive may prompt sanctions akin to those for non-compliance with a court appearance, encompassing fines or custodial measures.

**Can a party withhold from disclosure documents (a) relating to advice given by lawyers, or (b) prepared in contemplation of litigation, or (c) produced in the course of settlement negotiations/attempts?**

In Denmark, client confidentiality is a legal right, allowing lawyers to disclose information only with client consent, and documents cannot be disclosed if the lawyer has not been compelled to testify about their content (legal privilege). Confidentiality applies to information related to the client and obtained during professional legal activities, covering advice, litigation preparation and settlement negotiations. However, disclosure may be ordered if deemed essential to the case, with merits and societal or partial importance justifying such an order.

**Do the courts have powers to require witnesses to give evidence either before or at the final hearing?**

In general, Danish courts can compel anyone to testify at any stage of the proceedings, unless a statutory exception applies. Such exceptions exist for those bound by professional secrecy as well as related persons of a party and evidence posing risk of exposing the witness or the witness' related persons to penalty of law. Due to the case's merits and importance of the party or for society as a whole, the court may, however, override these exceptions for essential evidence.

**Is evidence from witnesses allowed even if they are not present?**

Typically, evidence is presented before the court hearing the case, but the Danish Administration of Justice Act allows for video or voice communication, like Teams, if considered appropriate by the court. Additionally, the court may permit a written statement from a party or witness instead of an oral testimony if deemed unobjectionable by the court, or if the parties agree.

**Are there any restrictions on calling expert witnesses? Is it common to have a court-appointed expert in addition or in place of party-appointed experts?**

Parties generally determine if expert witnesses should be called, but the court, upon request or its own initiative, may bar such evidence if deemed unnecessary. In Denmark, expert opinions, involving court-appointed experts, are most common, while party-appointed experts and witnesses are less prevalent. The court-appointed experts provide written statements and court explanations based on questions submitted by the parties. Statements obtained before proceedings by the parties are generally admissible; the opposing party can obtain a statement under the same conditions post-commencement. Finally, parties can, with court permission and mutual consent, obtain their own expert statements (party-appointed experts) post-commencement.

**What sort of interim remedies are available from the courts?**

A party can seek a court-issued attachment to secure a monetary claim. In cases of intellectual property infringement, a party may request a freezing order or evidence preservation. For private defendants, a court may grant a preliminary injunction or suspensory effect against a public authority decision, provided there is a risk of irreparable damage without prompt action. If an injunction is ordered, the bailiff's court can seize movable property if a breach is suspected.

**Is there any right of appeal from the decisions of the courts of first instance? If so, on what general grounds? How many stages of appeal are there?**

With certain exceptions, the two-tier principle allows cases to be heard by at least two courts. Thus, if a district court or the Maritime and Commercial Court is the first instance, its judgment can be appealed to the High Court without special permission. If the High Court is the first instance, its judgment can be appealed to the Supreme Court. However, a dispute heard by the High Court as the

second instance cannot be appealed to the Supreme Court without a third-instance leave of appeal from the Appeals Permission Board.

**Is interest generally recoverable in respect of claims? If so, what is the current rate?**

Claims for interest made by the party regarding a claim for payment are generally recoverable. On monetary claims, interest is often claimed from the filing of the cases until payment is made. If the claim has incurred interest prior to the filing, the interest-bearing date can be fixated in the claim. If not otherwise agreed, the annual interest rate is the Danish National Bank's lending rate plus 8%.

**What are the standard rules regarding costs? Are there any potential costs advantages in making an offer to settle prior to trial?**

In the absence of an agreement between the parties, the unsuccessful party is typically ordered to compensate the opposing party for incurred proceeding costs. If both parties partially lose and win, the court may order partial cost payment or decide that neither party bears costs. Court fees and expert assistance costs are generally fully recoverable, and other recoverable costs include those deemed necessary for the case. Legal representation is compensated reasonably, but rarely in full, based on the claim's financial value and complexity.

**Can the courts compel the parties to mediate disputes, or engage with other forms of Alternative Dispute Resolution? If so, do they exercise such powers?**

Generally, Danish courts lack the authority to force parties into mediation or negotiation or enforce their agreement to do so. Valid arbitration agreements, including agreements on Alternative Dispute Resolution, are, however, enforceable by Danish courts.

**If a party refuses a request to mediate (or engage with other forms of Alternative Dispute Resolution), what consequences may follow?**

As Danish courts lack the authority to mandate a party's involvement in Alternative Dispute Resolution, refusing to engage with Alternative Dispute Resolution carries no consequences.

## Arbitration

**What approach do the courts take in relation to arbitration and how far is the principle of party autonomy adopted by the courts? Are the courts able to intervene in the conduct of an arbitration? If so, on what grounds and does this happen in many cases?**

Danish courts will dismiss a case upon a party's request if the parties have validly agreed to arbitration, and, generally, courts cannot interfere in disputes designated for arbitration.

Some specific circumstances for court intervention are, however, outlined in the Danish Arbitration Act. Before the commencement of arbitration proceedings, the party wishing to challenge or ensure the binding nature of an arbitration agreement may, under certain circumstances, compel a judicial decision solely on this issue before Danish courts. After the initiation of arbitration proceedings, the Danish Arbitration Act also allows parties to turn to Danish courts, in various situations, to resolve disputes or seek assistance with matters falling outside the competence of the arbitration tribunal.

**Is it necessary for a form of words to be put into a contract of (re)insurance to ensure that an arbitration clause will be enforceable? If so, what form of words is required?**

In principle, no specific form of words is required to ensure that an arbitration clause will be enforceable, as arbitration agreements are valid under Danish law, provided that they have the necessary clarity and relate to a defined legal relationship, whether contractual or not. Arbitration

clauses are subject to the same general acceptance requirements as other commercial terms, depending on the specific circumstances.

**Notwithstanding the inclusion of an express arbitration clause, is there any possibility that the courts will refuse to enforce such a clause?**

Danish courts will decline to enforce an arbitration clause if the dispute's subject matter is not arbitrable, or if the arbitration clause is void or impracticable. The court will also refuse to enforce an arbitration clause in a consumer contract, if the clause has been concluded with the consumer before the dispute has arisen.

**What interim forms of relief can be obtained in support of arbitration from the courts? Please give examples.**

Danish courts can grant various forms of interim relief in accordance with the Danish Administration of Justice Act. These encompass prohibitory injunctions, orders for obtaining preservation of evidence, and compelling specific obligations. For instance, a party may seek court assistance for evidence collection with the arbitral tribunal's approval.

**Is the arbitral tribunal legally bound to give detailed reasons for its award? If not, can the parties agree (in the arbitration clause or subsequently) that a reasoned award is required?**

The arbitral tribunal must provide reasons for its award in writing, unless the parties have agreed otherwise (in the arbitration clause or subsequently). Institutional procedural regulations typically include an explicit requirement for the arbitral tribunal to provide detailed reasons for its award.

**Is there any right of appeal to the courts from the decision of an arbitral tribunal? If so, in what circumstances does the right arise?**

There is no inherent right of appeal, unless agreed otherwise by the parties, making the arbitration award conclusive. However, Danish courts can set aside or reject recognition and enforcement of an arbitration award if specific refusal grounds apply. This is, however, rarely seen.

## Hot Topics

**In your opinion, are there any current hot topics which relate to insurance and reinsurance issues in your jurisdiction? If so, please set out briefly any which are of particular note.**

Several pressing topics are currently impacting the Danish insurance and reinsurance sector requiring insurers and reinsurers to enhance strategic foresight, embrace technological solutions while maintaining vigilance on emerging risks, and adapt to a tightening regulatory environment to remain resilient and competitive.

A significant focus remains on adapting to evolving regulations, particularly concerning environmental, social and governance (ESG) standards. Insurers must prepare for extensive data collection and reporting requirements, which may lead to increased operational complexities and potential liabilities if missteps occur.

Further, the integration of artificial intelligence (AI) and automation within claims processing and risk assessment is reshaping the industry. While AI presents opportunities for enhancing efficiency and predictive accuracy, it also brings new risks related to cyber vulnerabilities, operational failures and liability exposure in cases where technology contributes to unexpected outcomes.

Cyber incidents remain a universal concern for the insurance industry, with attacks becoming more sophisticated and frequent. The potential for massive financial and reputational losses emphasises the need for robust cyber-security measures and comprehensive coverage solutions to mitigate such risks.

Further, climate-related risks, including extreme weather events and biodiversity loss, continue to challenge underwriting practices and claims management. Insurers must navigate physical, transitional and liability risks while anticipating regulatory shifts that demand enhanced corporate responsibility.

Finally, new Danish rules on representative actions for the protection of the collective interests of consumers have come into force, expanding Danish consumers' access to bringing class actions against companies for a wide range of issues. This, in combination with a general rise of third-party litigation funding in Denmark, leads us to expect a rise in class actions over the coming years, which should be monitored closely from both a management as well as an insurer perspective.

## Useful links

[Access the full guide on ICLG's website](#)

[Find out more about Kennedys' office in Denmark here](#)

## Key contacts



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