

ROLES AND RESPONSIBILITIES IN THE WORKING ENVIRONMENT

INFORMATION ABOUT THE LEGAL RESPONSIBILITY FOR THE
WORKING ENVIRONMENT AT AALBORG UNIVERSITY



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Introduction

Aalborg University's occupational health and safety policy outlines the university's goal of creating a safe and healthy working environment.

The responsibility for achieving this lies with the leadership and must be upheld across all departments and at every level of the organization. The university's Occupational Health and Safety Organization (AMO) plays a central role in these efforts. However, to achieve and maintain the goals, it is essential that all employees – including those without managerial responsibilities – contribute positively. The working environment is something we create together.

But who is formally responsible for the working environment when it comes down to it? Do all managers share equal responsibility – legally speaking? Do health and safety representatives (AMRs) have a specific legal responsibility for the working environment? Can AMRs or employees be penalized if something goes wrong? And what about students – they are not employees at AAU but rather “customers” – do they also have a responsibility?

This guide explains who is legally responsible for the working environment at AAU. It focuses solely on the legal responsibility under **the working environment legislation** – **not** on legal responsibility under other laws, such as criminal law or educational environment legislation.

The guide, which serves as a set of **GOOD ADVICE**, is intended for anyone involved in occupational health and safety efforts at AAU.

Generally applicable

Anyone who is assigned duties under the working environment legislation has a legal responsibility to fulfill or carry out those duties – and must, under criminal liability, act in accordance with the law. In this respect, the working environment legislation is no different from any other legislation.

Employer

Aalborg University is considered the employer under the Danish Working Environment Act. This means that AAU, as a **legal entity** (its CVR number), is responsible for fulfilling the employer's obligations under the law. As the employer, AAU holds the primary responsibility for the working environment at the university.

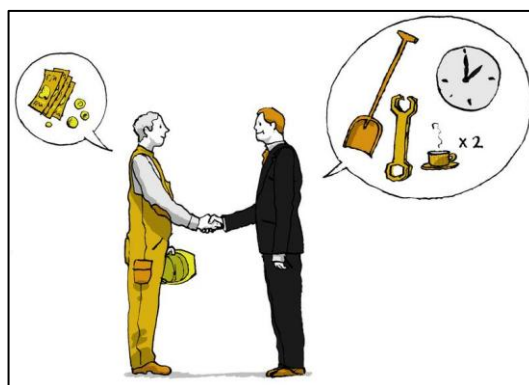
Departments at AAU are not considered employers in the legal sense – even though personnel administration and other management functions are often carried out there.

According to **The General Agreement** (see References), AAU holds **the right to manage and allocate work** (the managerial prerogative).

The Working Environment Act regulates this right, including by imposing a **duty of management** on AAU.

As an employer, AAU must ensure, among other things, that:

- A working environment organization (AMO) is established to facilitate cooperation between the employer, supervisors, and employees on occupational health and safety.
- Work is planned, organized, and carried out in a manner that is fully justifiable in terms of safety and health.
- Working conditions are fully justifiable in terms of safety and health, particularly:
 - during the performance of work,
 - in the design of the workplace,
 - in the use of technical equipment, etc.,
 - in the use of substances and materials.
- A workplace assessment (APV) of the working environment is conducted and maintained.
- Effective supervision is carried out to ensure that work is performed in a fully safe and healthy manner.
- Employees are informed of any potential risks of accidents or illness associated with their work.
- Employees receive the necessary training and instruction to perform their work safely.



The General Agreement contains several fundamental principles for the Danish labour market, including the right to manage, the duty to maintain industrial peace, the right to form and join trade unions, and the right to collective bargaining.

If AAU fails to fulfill its obligations as an employer or otherwise violates the law, the university may be **subject to fines**. When determining the penalty, the size of the organization may be taken into account, meaning that AAU can expect a higher fine than smaller companies for similar violations.

The fine may be imposed on AAU even if the violation cannot be attributed to the university as intentional or negligent. This type of 'liability without fault' is commonly referred to as **strict or objective liability**.

Company managers

Company managers are **natural persons** whose primary task is to oversee the overall management of a company. At Aalborg University (AAU), this refers to the university's **executive management**, which includes the following individuals – based on the levels of authority defined in the Rector's Scheme of Delegation (see References):

- **Level 1**
Rector
- **Level 2**
Prorector, University Director, Director of Innovation, and the Deans

AAU's company managers have the same obligations as AAU itself in its role as employer, see previous section.

The Rector's managerial responsibility is superior to that of the other executive members, and the Rector therefore holds the overall responsibility for ensuring that AAU complies with its obligations as an employer under the law.

The responsibilities of the Rector and other executive members **cannot** be transferred or delegated to others. However, the executive management is free to assign other managers and employees to carry out tasks that arise from the employer's obligations.

Members of the executive management may be held criminally liable for legal violations within their area of responsibility, but only if the violations can be attributed to them as intentional or negligent. In other words, they must be found to be at fault – this is referred to as **subjective liability**. They do not bear **strict liability** (objective liability) for violations, as they are not considered employers under the Working Environment Act.



The overall responsibility for the working environment lies with Rector.

Company managers may be penalized with **fines or imprisonment** for violations. This is further illustrated in the sections on the **Supervisory Authority's Administrative Practice** and on **Case Law Examples**.

Supervisors

Supervisors are **natural persons** whose work consists entirely or primarily of managing or supervising work on behalf of the employer (i.e., the company managers).

They are typically individuals within the line organization who are permanently employed as managers, but they may also be affiliated with the organization in other ways.

At AAU, supervisors generally include the following groups – again with reference to the Rector's Scheme of Delegation:

- **Level 3**
Vice Deans, Heads of Departments, and Deputy Directors in Shared Services
- **Level 4**
Deputy Heads of Department, Area Managers, and Heads of Secretariat at the faculties and departments
- **Level 5**
Team Leaders, Study Directors, Research Group Leaders, and Project Leaders

The lists at each level are not exhaustive.

Supervisors at delegation levels 3, 4, and 5 are **not** considered company managers and therefore do not bear the legal employer responsibility for health and safety at the university – even if they carry out tasks on behalf of the executive management that arise from the employer's obligations.

This includes, for example, supervisors appointed by the employer to handle the daily tasks of the working environment organization (AMO) together with elected health and safety representatives.

Supervisors typically have a dual role in the working environment – they are managers, but they are also employees subject to the university's working conditions like other staff members.

The duties of a supervisor do not depend on formal appointment, title, or contract, but rather on whether the person **in practice exercises managerial functions**, typically for more than half of their working time. Therefore, trusted employees or others may also be considered supervisors if their tasks indicate so, see also the section on **Selected Categories of Employees**).

According to the law, supervisors are obligated to:

- Participate in cooperation on health and safety within the framework of the working environment organization.



Company managers may delegate their statutory duties to other managers, but not their legal responsibility.

- Help ensure that working conditions are fully justifiable in terms of safety and health within the area they manage.
- Ensure that the measures taken to promote safety and health are effective.
- Act to eliminate hazards and resolve physical and psychological working environment issues, including immediately notifying the employer (company manager) of any unresolved or unmitigated risks or problems.

Supervisors may be held **criminally liable** for violations within their area of responsibility, but – as with company managers – only if the violations can be attributed to them as **intentional or negligent**.

In other words, they must be found to be at fault – this is known as **subjective liability**.

Supervisors may be penalized with **fines or imprisonment** for such violations.

See the sections on the **Supervisory Authority's Administrative Practice** and **Case Law Examples** for more details.

Employees

Employees are individuals who perform work for an employer. This includes all persons who are subject to the employer's (i.e., the company managers') authority – either directly or through the authority of one or more supervisors.

At AAU, employees typically have an employment contract with the university, are organizationally affiliated with specific departments (e.g., academic or Shared Services departments), and are thus subject to specific managers within the university's line organization. However, employees may also be affiliated with the university in other ways.

The term *employees* includes full-time and part-time staff, as well as those in temporary positions, such as PhD fellows, substitutes, interns, student assistants, and others.

It is **not a requirement** under the law that an employee receives a salary from AAU. Therefore, individuals performing unpaid, voluntary work under the university's direction are also considered employees.

According to the law, employees are obligated to:

- Participate in cooperation on health and safety.
- Help ensure that working conditions are fully justifiable in terms of safety and health within their area of work, including ensuring that measures taken to promote safety and health are effective.
- Ensure that any safety measures temporarily removed to carry out work (e.g., repairs or installations) are immediately restored or replaced with equally safe protective measures once the work is completed.
- Report any physical or psychological working environment issues that may compromise safety or health – and which they cannot resolve themselves – to a member of the working environment organization, a supervisor, or the employer (company manager).

Employees may be held **criminally liable** for legal violations if the violations can be attributed to them as **intentional or negligent**. In other words, they bear **subjective liability**.

Selected categories of AAU Employees

The following categories of employees are all characterized by having been assigned **specific task-related responsibilities** by the employer in relation to occupational health and safety at the university.

However, for all the categories listed, it is important to emphasize that their task-related responsibilities **do not alter their legal responsibility** under the Working Environment Act, see the sections on **Supervisors** and **Employees**. They all bear **subjective liability**, just like other employees.

- **Laboratory Managers, Laboratory and Workshop Technicians, Subject Coordinators, etc.**
These are employees who have been assigned task-related responsibilities and typically also decision-making authority, such as implementing procedures or purchasing equipment, which directly affects the safety and health of others.
- **Licensed Installers, Repair Technicians, Project Managers, Planners, and Service Personnel**
These employees are generally responsible for ensuring that installations, buildings, technical equipment, etc., comply with applicable regulations and remain safe and healthy to use. Their responsibilities may also include supervising external contractors, craftsmen, etc., performing similar tasks for AAU.
- **Project Supervisors and Lecturers**
Project supervisors and lecturers may be responsible for organizing and overseeing working conditions during student exercises or practical study activities – and thereby, on behalf of AAU, ensuring that these activities are fully justifiable in terms of safety and health, see also the section on **Persons not employed by AAU**.
- **Health and Safety Advisors and Consultants**
This group includes all employees who provide internal advisory services at AAU regarding occupational health and safety matters. It includes, for example, staff in the Working Environment Section.
- **Health and Safety Representatives (AMR)**
Health and safety representatives work together with supervisors to carry out the daily tasks of the working environment organization, in accordance with the Executive Order on Systematic Occupational Health and Safety Work.
These tasks include ensuring that working conditions are fully justifiable in terms of safety and health and verifying that adequate and appropriate training and instruction are provided to employees and students.
Some health and safety representatives may also be assigned task-related responsibilities that are important for safety and health, such as maintaining mandatory records, conducting risk assessments, and preparing safety instructions.

Persons not employed by AAU

The Danish Working Environment Act **applies in full** to work performed for AAU as an employer. However, the Act also covers certain types of work **not performed for an employer** – this is commonly referred to as the **extended scope** of the Act.

Not all provisions of the Act apply within this extended scope, which affects AAU's obligations as an employer.

Students

Students are not employees of AAU and therefore, as a rule, do not have the duties assigned to employees under the Working Environment Act.

Nevertheless, the extended scope of the Act applies to students who, as part of their education, carry out exercises or similar activities of a work-related nature under the **direction and supervision of AAU**.

Even though AAU is not the employer of the students, the university has the following general obligation under the Act:



Students are, under criminal liability, required to follow all safety instructions, for example during laboratory work, fieldwork, etc.

- **Section 29a:** *Educational institutions must ensure that the working conditions during practical exercises of a work-related nature carried out by pupils, apprentices, and students are fully justifiable in terms of safety and health [...].* (Note: unofficial translation).

If students use technical equipment or substances and materials that may pose a risk to safety and health – or otherwise engage in study activities of a work-related nature that involve hazards (e.g., risk of collapse, falling, exposure to noise, explosion, fire, or health hazards) – AAU must ensure that they work under the same safety measures required for employees performing similar tasks.

Students may be subject to **fines or imprisonment** if, as users of technical equipment, hazardous substances, etc., they disregard existing safety measures or procedures. As users of such equipment, students therefore bear **subjective liability**.

Guest Researchers, Self-Financed PhD Students, etc.

For this group, the same principles generally apply as for students.

Guest researchers may maintain an employment relationship with another educational institution or company while conducting research at AAU.

In the event of legal violations, it may be necessary to clarify the **collaborative relationship** between the guest researcher's employer and AAU before determining liability.

The supervisory authority's administrative practice

If criminal violations of the Working Environment Act occur at AAU, the Danish Working Environment Authority (*Arbejdstilsynet*) may recommend that the **prosecution authority (the Police)** initiate legal proceedings against AAU.

In most cases, the criminal case will be brought **only against AAU as the employer**, based on the university's **strict (objective) liability**.

In theory, charges may also be brought against company managers, supervisors, or employees, but this requires that the prosecution can prove **intent or negligence** – i.e., **subjective liability**.

In practice, this is rare (see also the section on **Case Law Examples**).

General Principles applied by the Danish Working Environment Authority:

- A criminal case (without prior orders) may be initiated in the event of a violation of clear, well-known rules that has resulted in a documented risk or has caused a workplace accident or health hazard.
- A criminal case may be brought against the employer for failure to comply with an official order. The recommendation for prosecution may include demands for fines and/or coercive fines.
- Criminal cases against supervisors and employees are usually combined with a case against the employer. The reverse is rarely the case.
The authority's experience shows that it is often difficult to meet the burden of proof in occupational health and safety cases, making it challenging to impose penalties based on subjective liability.
- Injured parties in workplace accidents are generally not prosecuted, even if they acted in violation.

Case Law Examples

The following are a number of examples of court rulings concerning violations of occupational health and safety legislation. These examples illustrate the allocation of responsibility as described in this document.

- **Failure to Use Safety Equipment**

An employee at a company operated a milling machine without using the machine's safety equipment, which was placed next to the machine. As a result, the employee was injured. The District Court found the company guilty based on its employer responsibility. The company was fined DKK 25,000.

Note: Only the employer was convicted. The employee was not prosecuted, even though the safety equipment was available. This is an example of how injured employees are not typically subject to prosecution.

- **Risk of Falling**

A limited liability company was charged with violating occupational health and safety legislation by allowing an employee to move and work on a landing approximately 7 meters high without fall protection. The employee explained that he was largely left to organize his own work, as he had many different tasks. He did not consider working on the landing to be dangerous.

The District Court found the company guilty of the violation, stating that no one in the defendant company had planned and organized the employee's work in a way that ensured it could be carried out safely. The fine was set at DKK 40,000. The High Court upheld the ruling.

Note: In this case as well, only the employer was convicted. The employee was not prosecuted, even though he exposed himself to serious risk of injury. There was uncertainty about who was responsible for establishing physical safety measures. Uncertainty about the actual circumstances can make it difficult for the prosecution to meet the burden of proof regarding individual culpability.

- **Welding Without Ventilation**

An employee performed welding work without using the installed ventilation system designed to remove welding fumes.

At the District Court, both the company and the employee were prosecuted. The court fined the company DKK 5,000, while the employee received a fine of DKK 500. The company appealed the ruling to the High Court, which upheld the conviction and increased the company's fine to DKK 20,000. The High Court referred to recent Supreme Court case law and found no mitigating circumstances.

Note: In this case, both the employer and the employee were convicted, but with significantly different fine levels. It likely played a role that the employee pleaded guilty.

- **Inadequate Electrical Safety (Fatal Accident)**

A limited liability company was charged after an employee (A) carried out cable connection work in a transformer without effective measures in place to prevent contact with live parts, resulting in the employee's death during the task. The work was performed without the use of an insert/separation plate, which could have prevented the accident. The work took place at various temporary sites.

The case revealed that employee A had been trained on the job by a team leader with approximately 30 years of experience. The team leader testified in court that they had jointly decided to carry out the work without using the insert plates, as they believed the task could be done safely without them if performed carefully.

The High Court acquitted the company, emphasizing that:

- Insert plates were available at the time the work was performed,
- Employee A was aware that these plates were required,
- A team leader was present to supervise the work.

Based on this, the court concluded that the company had fulfilled its obligations under Chapter 4 of the Working Environment Act. The High Court further stated that since the accident occurred due to employee A disregarding the instruction to use the insert plates, the company could not be held liable. According to the court, it made no difference that the team leader also disregarded this instruction.

Note: In this case, the employer was not convicted, despite the serious outcome of the accident. If an employer has fulfilled its obligations, it cannot be held liable if employees violate legal requirements, such as the use of protective equipment or safe working methods. The team leader was also not convicted, as he did not personally neglect safety measures but were supervising the work.

- **Non-Employee Used Circular Saw**

In the saw room of a hardware store, there was an electric circular saw that lacked a riving knife and protective cover. A customer used the saw and was injured.

The District Court fined the hardware store DKK 15,000. The court found that the safety guard had been removed for a period of three weeks, during which the saw had been used for tasks requiring such protection. The court did not consider it relevant that the store manager had used the saw shortly before the accident for a task that did not require the guard and had left the machine to assist another customer. The court also stated that the rules on technical equipment apply to individuals who are not employees, cf. Section 2(3)(3) of the Working Environment Act. However, the court did not consider the fact that the injured person was a customer who used the machine without permission—and who, by his own admission, knew it was not intended for customer use—as an aggravating factor.

The High Court upheld the District Court's ruling but increased the fine to DKK 25,000. The court referred to Supreme Court precedent from 3 November 1999, which sets a baseline fine of DKK 20,000 in such cases, increased to DKK 25,000 if an injury occurs. The court found that the saw had been left unguarded and unsupervised for about half an hour, that there was unrestricted access to the room where the saw was located, and that the manager, by his own account, was approximately 60 meters away from the room's entrance.

Note: In this case, the hardware store was convicted even though it was not the employer of the injured party. Similar cases have occurred over time. The ruling is relevant for institutions like AAU when technical equipment is made available to students. The customer was not prosecuted as the user.

- **Tree Felling by a Private Individual**

A private individual was charged with violating the Working Environment Act by being responsible for the felling of a tree approximately 25 meters tall, which was not planned, organized, or carried out in a fully safe manner. The defendant felled the tree without first ensuring that no persons were present in the fall zone. The tree stood on the defendant's private property about 7 meters from a public road and, when felled, landed on the roadway, striking a car with a trailer.

The defendant partially acknowledged the facts but pleaded not guilty, arguing that there was nothing he could or should have done differently and that it was a mere accident.

The District Court acquitted the defendant, stating that the Working Environment Act is a framework law intended to ensure a safe and healthy working environment. Despite its broad scope, the court held that for criminal liability to apply, the work must fall within the meaning of "work" under the Act or be carried out under the instruction or organization of someone who can be considered an employer, either physically or legally. Since the case involved a private individual acting on his own property, in his own interest, and under his own direction, the court found that the tree felling did not constitute work covered by the Act.

The prosecution appealed the ruling, seeking a conviction. The defense argued for the District Court's decision to be upheld.

The High Court overturned the District Court's ruling and found the defendant guilty. The court referred to the provisions and legislative history of the Working Environment Act, which state that the Act applies to work not performed for an employer and to non-commercial work carried out in or on a private residence, especially when the work involves a risk element.

Based on the evidence, the High Court found that the defendant had not noticed that the tree's branches were entangled with a neighboring tree, had not taken safety precautions regarding people on the public road despite the tree's height and proximity to the road, and had used a winch that, according to the manufacturer, was not suitable for the task. The defendant had therefore not planned, organized, or carried out the work in a fully safe manner. The fine was set at DKK 15,000. The High Court considered it an aggravating factor that the incident posed a danger to the life or health of random passersby, and a mitigating factor that the defendant was acting as a private individual.

Note: This is an important and relatively recent (2021) precedent in which a private individual was convicted under the Working Environment Act—even though the incident only resulted in material damage. The ruling illustrates the extended scope of the Act.

More information about penalties and fine levels can be found on the Danish Working Environment Authority's website: [Penalties for violating occupational health and safety legislation](#) (in Danish only)

References

- **The Working Environment Act**

A consolidated version of the Act, including later amendments, can be found here:

<https://at.dk/en/regulations/working-environment-act/>

The working environment legislation includes more than 150 executive orders and EU regulations.

- **Executive Order on Systematic Occupational Health and Safety Work**

A consolidated version of the executive order, including later amendments, can be found here:

<https://at.dk/en/regulations/executive-orders/systematic-occupational-health-safety-work-65/>

- **The General Agreement**

The General Agreement is an agreement between the Confederation of Danish Employers (DA) and the Danish Confederation of Trade Unions (LO, now the Danish Trade Union Confederation). It forms the formal foundation of the self-regulating Danish labor market (often referred to as "The Danish Model").

You can read more about the labour market model here:

<https://workplacedenmark.dk/working-conditions/the-danish-labour-market>

The latest version of the General Agreement can be found here:

<https://www.da.dk/find/?search=hovedaftalen> (text in Danish)

- **The Rector's Scheme of Delegation**

<https://www.staff.aau.dk/rules/organization/rector-s-scheme-of-delegation>

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