

# Director contracts in Denmark

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# Main focus on 3 issues :

- **Salary**
  - Period, wages, investment shares, royalty and secondary fees.
- **Transfer of rights**
  - The legal situation and contract practice
- **Final Cut**
  - Difference between TV and Film

# Period/term

## § 2 : TERM

The Director's work shall comprise preliminary work / filming / post-production work / release that has been agreed at a total of \_\_\_\_\_ weeks during the contract term.

The work has been planned in the following way:

<b>Research and casting</b>	from _____	to _____	totalling	_____	weeks
<b>Preparation</b>	from _____	to _____	totalling	_____	week
<b>Filming</b>	from _____	to _____	totalling	_____	weeks
<b>Post-production work</b>	from _____	to _____	totalling	_____	weeks
<b>Release</b>	from _____	to _____	totalling	_____	days

The Director shall work on the Film – within the agreed time and pay framework – until a fully mixed and approved A copy is available. The work may be prolonged on the conditions specified in this Agreement and in accordance with the agreed weekly rate for up to \_\_\_\_\_ weeks after the agreed end date.

The Director shall not within the agreed time frame undertake other work which does not respect the Director's obligation to work on this Film as a first priority and without obtaining the consent of the Producer.

# Wages

## § 3. Pay

For the performance of the work, the Director shall receive a **minimum pay of** :

DKK \_\_\_\_\_ for script/storyboard  
DKK **12,000** per week during the preliminary work (approx.€ 1.575)  
DKK **18,000** per week during filming (approx. €2.375)  
DKK **12,000** per week during post-production work (approx.€ 1.575)  
DKK \_\_\_\_\_ for release work  
per 37-hour work week.

Total pay: DKK

**Holiday allowance** shall be paid on the basis of the pay pursuant to the Danish Holiday Act (*Ferieoven*) in force from time to time (now 12,5% of the salary).

A **pension contribution** of at least 7.6 per cent of the pay shall also be paid.

# Maternity Leave (new)

## § 13.

- Female directors shall be entitled to four (4) weeks' minimum pay of DKK 5,711 (approx. € 750) before the expected date of birth. After having given birth, the director shall be entitled to two (2) weeks of (statutory) leave at a minimum for DKK 5,711 per week (approx. € 750) and a further eighteen (18) weeks' minimum pay of DKK 5,711 (approx. € 750) after which period the director can receive maternity pay for the remaining maternity leave period.

# Investment share and bonus

## § 3

In addition to his/her fee, the Director shall receive an investment share of the Film - **Yes**  **No** .

Once the final financing plan for the Film is available, the **investment share** shall be calculated as a percentage relative to the Film's other financial contributions, categorised as investment contributions. The share shall be paid on a pro rata basis and pari passu with other investment contributions without any time limit from such share of the Film's earnings as is to be distributed among the Film's private investors.

In addition to his/her fee, the Director shall be paid a **bonus** corresponding to \_\_\_\_\_ per cent of unused uncertainty margin, also called contingency / overhead. The uncertainty margin for the Film has been fixed at DKK\_\_\_\_\_.

# Royalty

## **§ 10. Royalties**

For the use of the rights, cf. Clause 7, the Director shall receive royalties of a minimum of 5 per cent of the income generated by the Film from the time when the private investment in the Film has been recouped.

When the private investment with an addition of 100 per cent has been recouped, the royalty rate shall be increased to a minimum of 10 per cent.

When the private investment with an addition of 200 per cent has been recouped, the royalty rate shall be increased to a minimum of 15 per cent.

When the private investment with an addition of 300 per cent has been recouped, the Director's royalties shall be fixed at a final rate of a minimum of 25 per cent.

# The definition of "The private investment"

The private investment made in the Film shall be settled in accordance with Clause 4.13.3 of the Danish Film Institute's terms and conditions of 1 October 2008 governing financial support. (*TV-investment is not part of the private investment*)

The private investment in the Film shall be considered an investment in the Film made by the Producer, independent co-producers and other independent investors with a view to generating a return. Any presales, contributions from foundations or other film institutes cannot be part of the private investment. The size of the private investment shall be settled on the basis of the approved production accounts.



# Secondary fees

## § 11. Secondary fees

**The parties shall retain their right to fees in pursuance of Sections 13, 17, 35 and 39 of the Danish Copyright Act and similar foreign or international rules in force from time to time.**

Copies of the Film made for public institutions etc. shall not be comprised, cf., among others, Section 13 of the Danish Copyright Act.

Any fees in respect of rental and lending as defined in EU Directive of 19 November 1992 on rental right and lending right shall be comprised by the royalty provisions of this Agreement. This shall not affect the Director's right to any future library fee for video/DVD lending paid directly to directors, cf. the library scheme.

Broadcasting in television shall only mean the primary public showing in Denmark (i.e. excluding cable and satellite distribution, television for public showing and other secondary showings).

Any prize money awarded to the Film shall be considered to be prize money for the Director and shall thus accrue to the Director in full.

# Transfer of rights

The legal situation in Denmark and the Nordic countries :

1. The copy right owner is an individual person and can not be a company
2. The “Film-transfer” rule in § 58 specifically states that the head director has not transferred his rights to the producer.
3. § 53-55 states that the author can transfer his/her rights, but only the specific rights are transferred, not all rights. Also the acts stipulates time limits as to when the rights get transferred back to author if the producer/owner has not distributed the work. The owner has a obligation to use the work.

# Transfer of rights

## Contract practice

### § 7. The Producer's rights

The Producer shall have the exclusive right, unlimited in terms of time and geography, to make copies of the Film in its final form and for publication of the Film by means of commercial distribution for use in cinemas, on videotape and television etc., be it in the form of lending, rental, sale or retransfer, cf. Clause 15.

The Producer shall furthermore be assigned the right of (check relevant box):

- **own remake** against agreed payment \_\_\_\_\_
- **sale of remake rights** to a third party against agreed payment \_\_\_\_\_
- **own concept remake** (use of universe and characters) against agreed payment \_\_\_\_\_
- **sale concept remake** to a third party against agreed payment \_\_\_\_\_
- **sequencing** (follow-up with new works in series form) against agreed payment \_\_\_\_\_
- **use of clips** for other purposes against payment, cf., however, Clause 8(2) \_\_\_\_\_
- **merchandising** against agreed payment \_\_\_\_\_
- publication and showing of the Film via **VOD** against agreed payment \_\_\_\_\_
- publication and showing via **mobile telephony** against agreed payment \_\_\_\_\_
- **sale of clips** at DKK 2,500 per commenced minute per clip. (approx. €325)

# FINAL CUT – in FILM

The more commercial and high budgeted a film is, the more discussions we have about “final cut”.

Our contract stipulates in § 6 :

The Director shall assume the overall artistic responsibility for the Film.

The Producer shall assume the overall financial and administrative responsibility for the Film.

# FINAL CUT – in TV

The more you deal with "film people" hired by the TV-stations, the easier it is to get final cut.

Denmark's Radio (DR) - our collective bargaining agreement does not mention the word "final cut". But DR is of the opinion that the long successful TV-series are mainly a result of the power given to the scriptwriters, hence transferring the final cut to writers and producers. Luckily only strong and experienced directors concepts these TV-series and we have therefore not had any cases about this. (They get their will).

The more commercial TV-stations, such as TV2 and TV3 has accepted final cut for the director making the TV-series concept, but we see more and more attacks on the "clean" division of responsibilities.