



# Meeting between Banedanmark and suppliers

11<sup>th</sup> of May 2022 kl. 14.00-15.45

Banedanmark



## Themes for the meeting

- Division of responsibilities between suppliers when collaborating with several actors
- Banedanmark's current project regarding railway safety
- Assessment of accreditability for DS 21001 at DANAK
- Appendix on occupational health and safety in tenders and contracts.

# Agenda

**14.00-14.05** Welcome

*By: Martin Harrow, Assistant Director, Quality & Safety, Banedanmark*

**14.05-14.30** Division of responsibilities between suppliers when collaborating with several actors

*By: Rikke Aarøe Carlsen, Head of Section, Quality & Safety, Banedanmark*

**14.30-14.55** Banedanmark's current project regarding railway safety

*By: Rikke Lund Pedersen, Project Manager, Quality & Safety, Banedanmark, & Martin Harrow, Assistant Director, Quality & Safety, Banedanmark*

**14.55-15.15** Assessment of accreditability for DS 21001 at DANAK

*By: Rikke Aarøe Carlsen, Head of Section, Quality & Safety, Banedanmark*

**15.15-15.45** Appendix on occupational health and safety in tenders and contracts – an introduction

*By: Jakob Ugelvig Christiansen, OHS Chief Consultant, HR Dept. Occupational Health & Safety, Banedanmark*





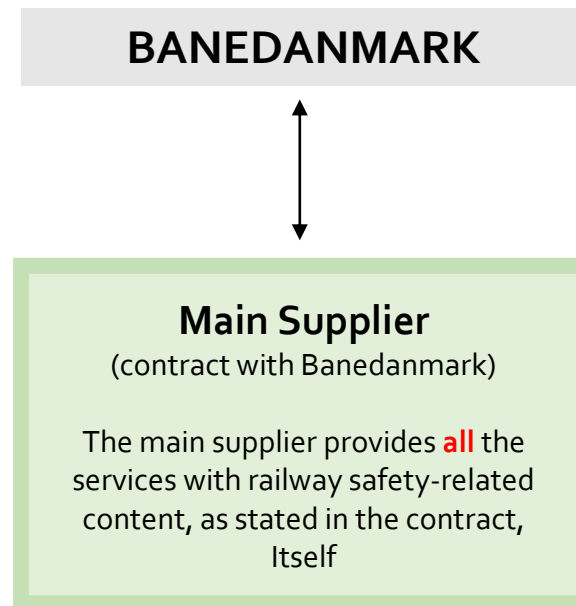
# Division of responsibilities between suppliers when collaborating with several actors

*By: Rikke Aarøe Carlsen, Head of Section, Quality & Safety, Banedanmark (e-mail: RCRC@bane.dk)*

**Banedanmark**

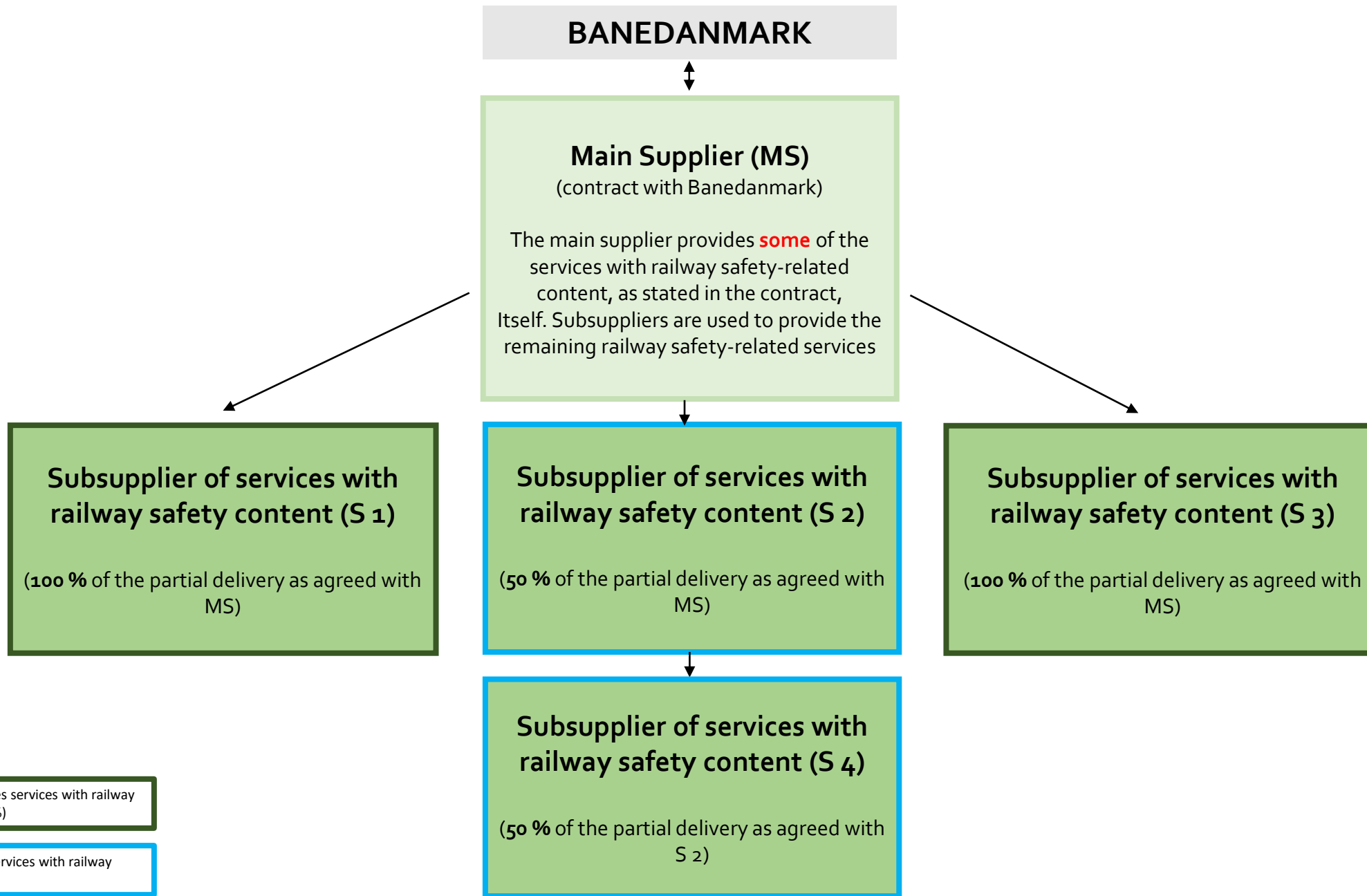
## Conditions related to contracts

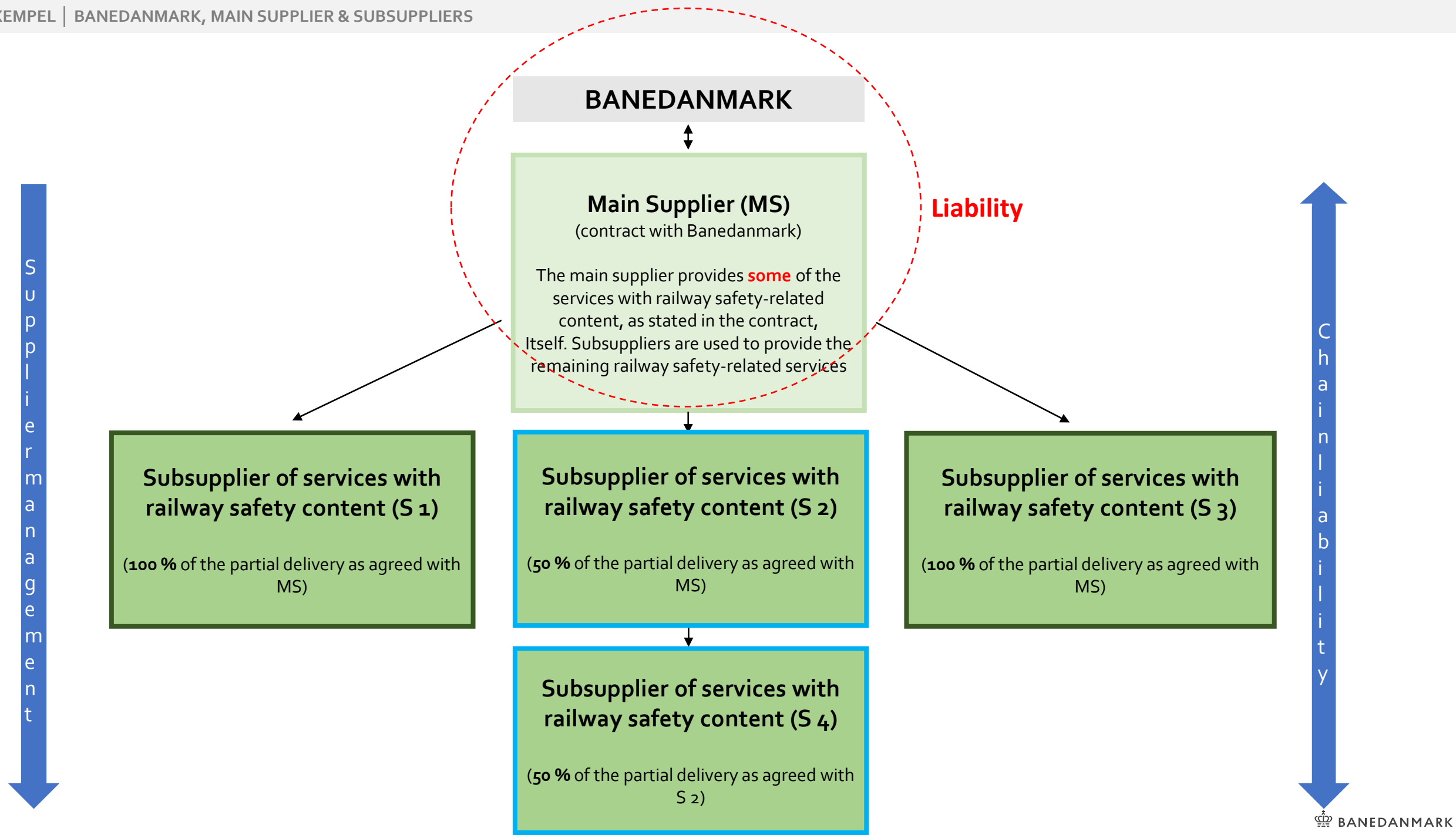
- In accordance to laws, Banedanmark may not require that the tenderer "can do everything itself". This also applies to services associated with railway safety, e.g. SR-services. A tenderer can therefore always enter into an agreement with a subsupplier if there are tasks in the contract that the tenderer cannot deliver itself
- It is important to understand that the main supplier is responsible for delivering the service as agreed. The main supplier is therefore ALWAYS responsible for their subsuppliers and for the work that the subsupplier delivers, including that it is delivered correctly in terms of railway safety, cf. the contract
- Banedanmark only has a contract with the main supplier. Banedanmark may make claims against the main supplier, and in special cases also against subsupplier
- The main supplier is obliged to enter into written agreements with subsuppliers on the same terms as the agreement Banedanmark has entered into with the main supplier



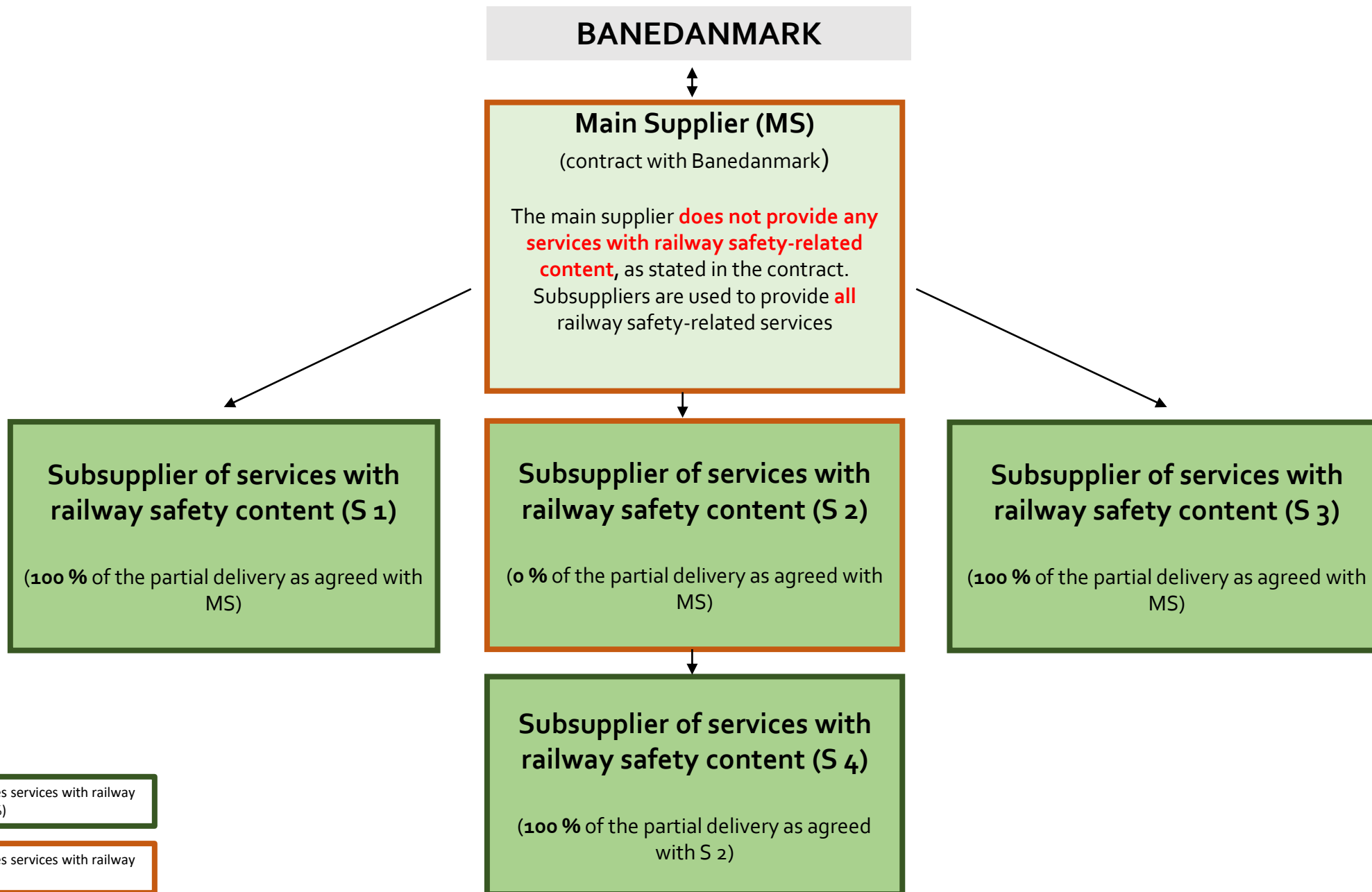
### Services with railway safety content

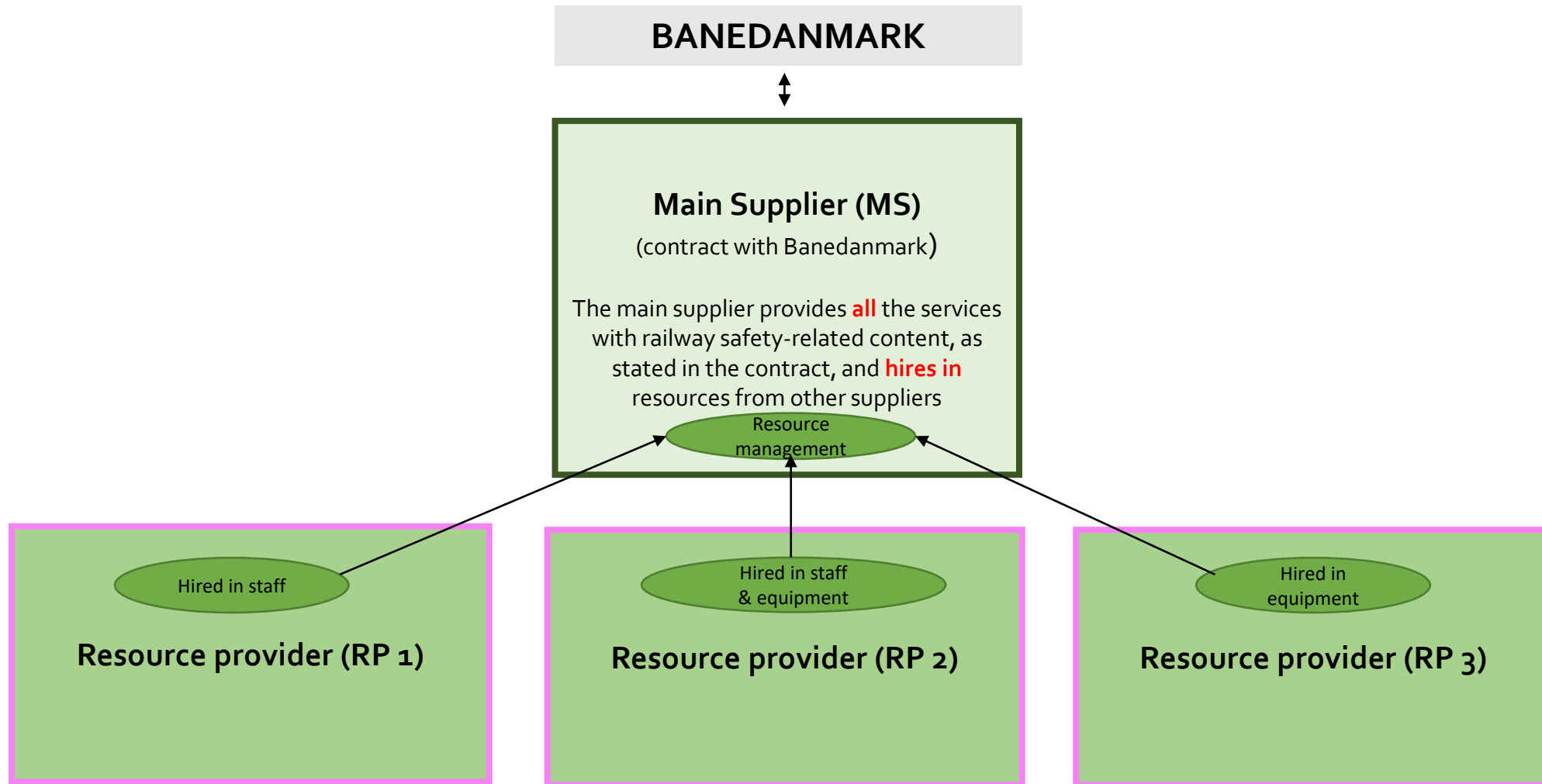
- Railway Safety Services
- Professional services associated with railway safety content
- Services involving the use of equipment – including railway vehicles











Supplier that provides services with railway safety content (100%)

Supplier of resources

# Liability according to the railway safety rules

- A main supplier will be liable for breach of contract if one of his sub-suppliers performs a service related to railway safety against the railway safety rules. In that situation, Banedanmark will not be able to assert a contractual liability towards the sub-supplier
- However, in its role as infrastructure manager, Banedanmark has the opportunity to make a *non-contractual responsibility*, a responsibility according to the railway safety rules, applicable to the executing party (possibly the sub-supplier)



# Point of attention in connection with divisions of responsibility

## Main Supplier

- Must enter into "back-to-back agreements" with its subsuppliers and resources providers that match the agreement with Banedanmark
- Must at all time be able to document the organization of work throughout the chain of subsuppliers
- Must continuously manage suppliers throughout the chain of subsuppliers , including controlled practices for how hired in resources are integrated into the main supplier's management system
- Must create an overview, process and follow up on incidents together with subsuppliers

## Subsupplier

- Must enter into "back-to-back agreements" with its subsuppliers and resources providers
- Must at all time be able to document the organization of work throughout the chain of subsuppliers
- Must continuously manage suppliers throughout the chain of subsuppliers, including controlled practices for how hired in resources are integrated into the main supplier's management system
- Must report railway safety issues (e.g. incidents) to the main supplier, so that the main supplier can perform ongoing supplier management
- Must cooperate with main supplier and any subsuppliers on incident follow-up

## Resource provider (Hired in staff and equipment)

- Must provide necessary documentation for staff competencies
- Must provide necessary documentation for rolling stock, including maintenance management



# Banedanmark's current project regarding railway safety

*By: Rikke Lund Pedersen, Project Manager, Quality & Safety, Banedanmark (e-mail: RLUP@bane.dk), & Martin Harrow, Assistant Director, Quality & Safety, Banedanmark (e-mail: MHRO@bane.dk)*

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## Planned process

### Attention

Following a talk between Banedanmark and the department on the 16th of May 2022, administrative fine will be removed from the external hearing on law proposal in the summer 2022. We expect a later hearing. More information on the external hearing can be read in an upcoming [Newsletter](#) on Railway Safety, Working Environment and Education.

Summer 2022

External hearing on law proposal

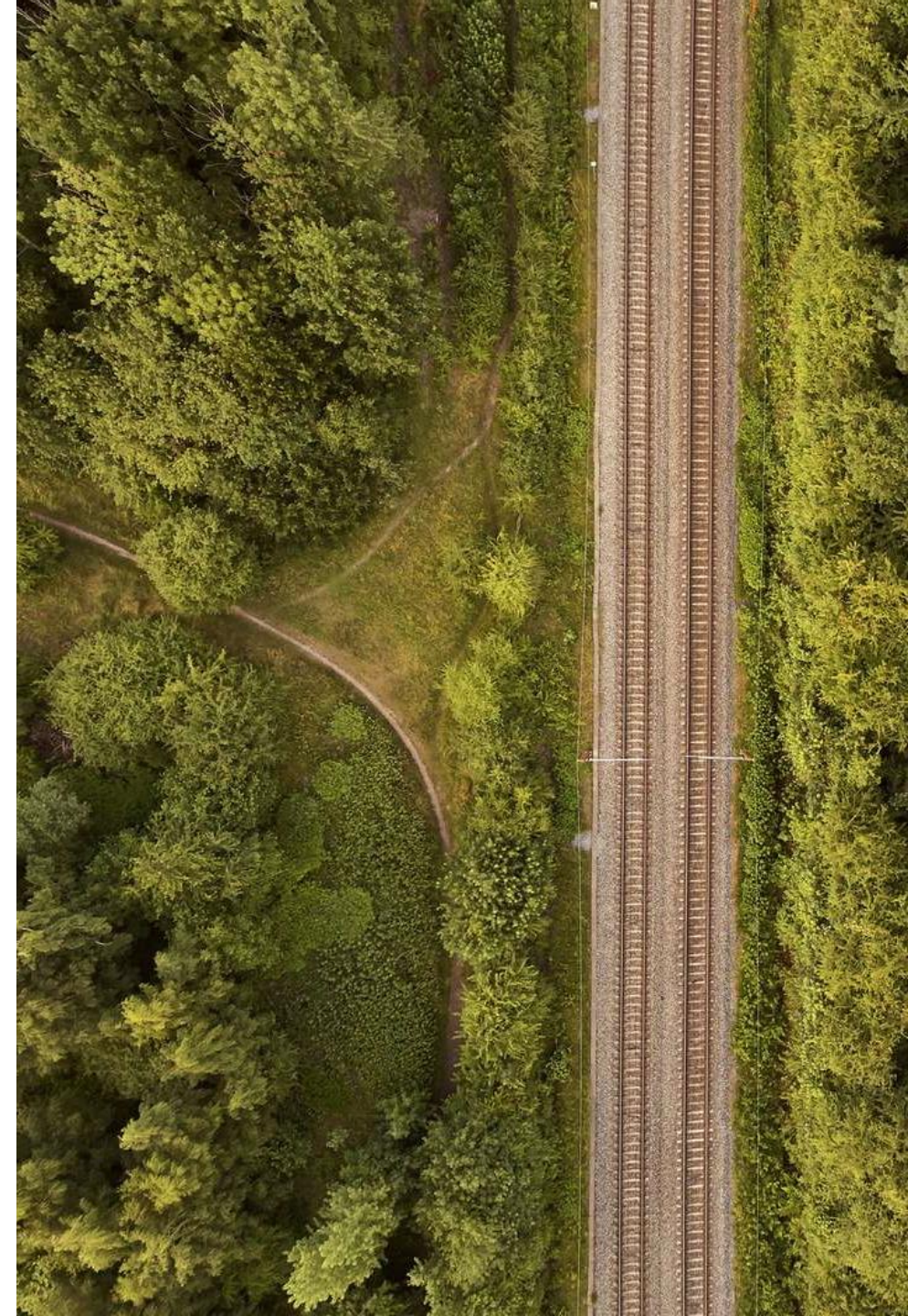
1<sup>th</sup> of Januar 2023

Law enters into force



## A safe railway for us all

- Banedanmark, as an infrastructure manager, is responsible for its part of the railway:
  - Issue safety regulations in the form of e.g. SR/ORS/ORF, containing requirements to the railway undertakings and suppliers of services associated with railway safety, who works on the infrastructure with e.g. transportation of passengers/ goods and infrastructure work on the railway
- Banedanmark wants to clarify:
  - The requirements that apply to railway undertakings and suppliers when working on the railway
  - Reaction options for railway undertakings and suppliers
- Banedanmark propose to change the Danish railway law and issue a new executive order on requirements to work on the railway
- There is no wish to change the division of responsibilities for Banedanmark or the Danish Civil Aviation and Railways Authority. This Authority's reaction options and supervision remain unchanged







## Key points on the law proposal

### Reaction options

- Banedanmark wants the following reaction options:
  - Railway safety related warning
  - Close supervision
  - Administrative fine
  - Withdrawal of competencies

### Purpose

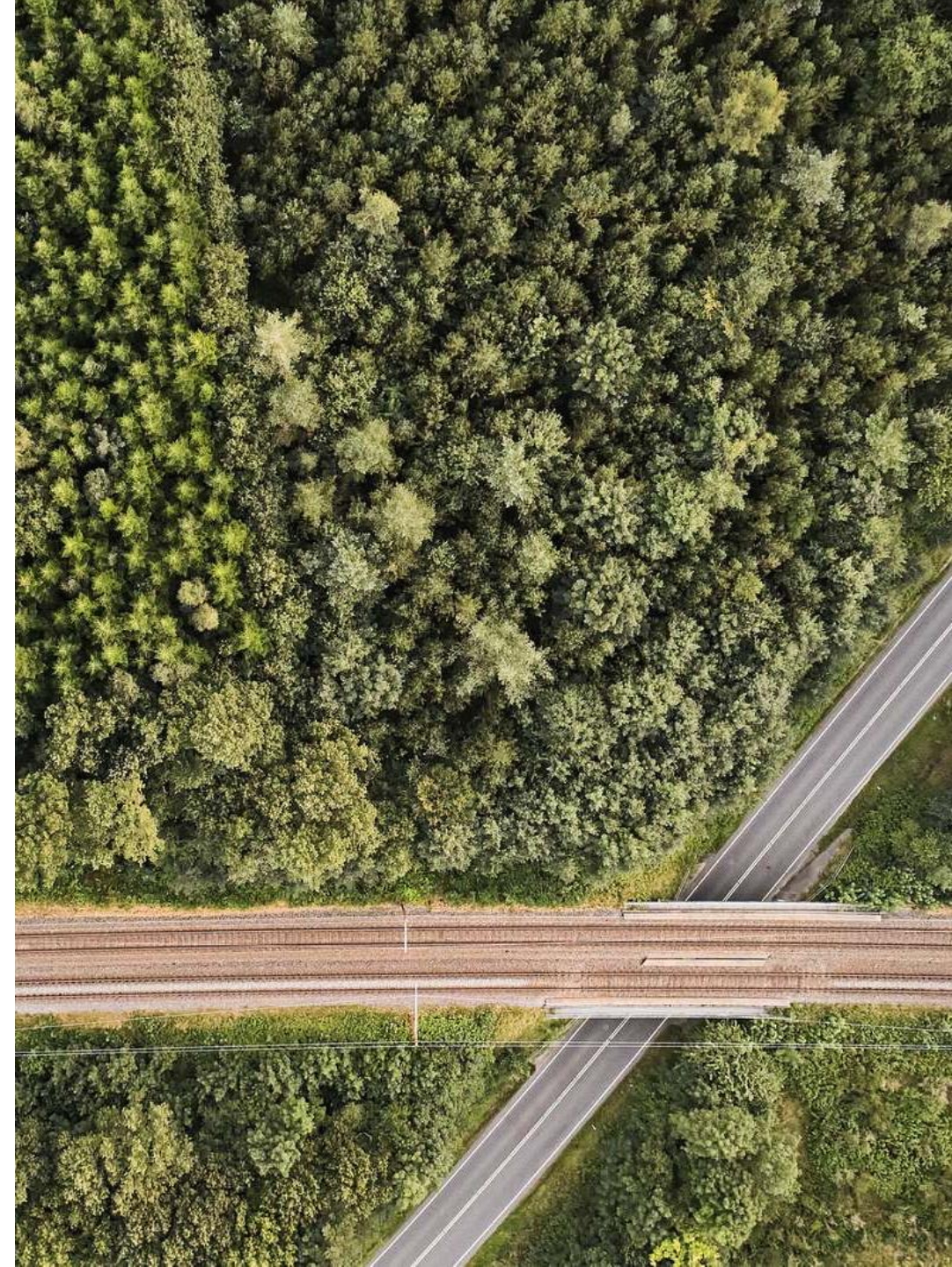
- The reaction options must support Banedanmark's work to prevent railway safety incidents and their forerunners
- In all cases, the reaction takes the form of an administrative law decision (legal basis, hearing of parties, reason, complaint guidelines, etc.)
- This will also apply to Banedanmark if the requirements are not complied with



## Reaction options

### Administrative fine

- Reaction option known from the legislation of other authorities
- Banedanmark imagines that administrative fines can be applied to actions within the categories:
  - *Actions in connection with infrastructure work*
  - *Actions in connection with administrative work*
  - *Actions in connection with supervision/audit*
- Administrative fines can be used where the violations are:
  - Uniform and uncomplicated, and without questionable evidence
- If the act is expected to result in a higher penalty than a fine, the existing criminal law track is followed
- The fine is applied only to companies (legal persons)

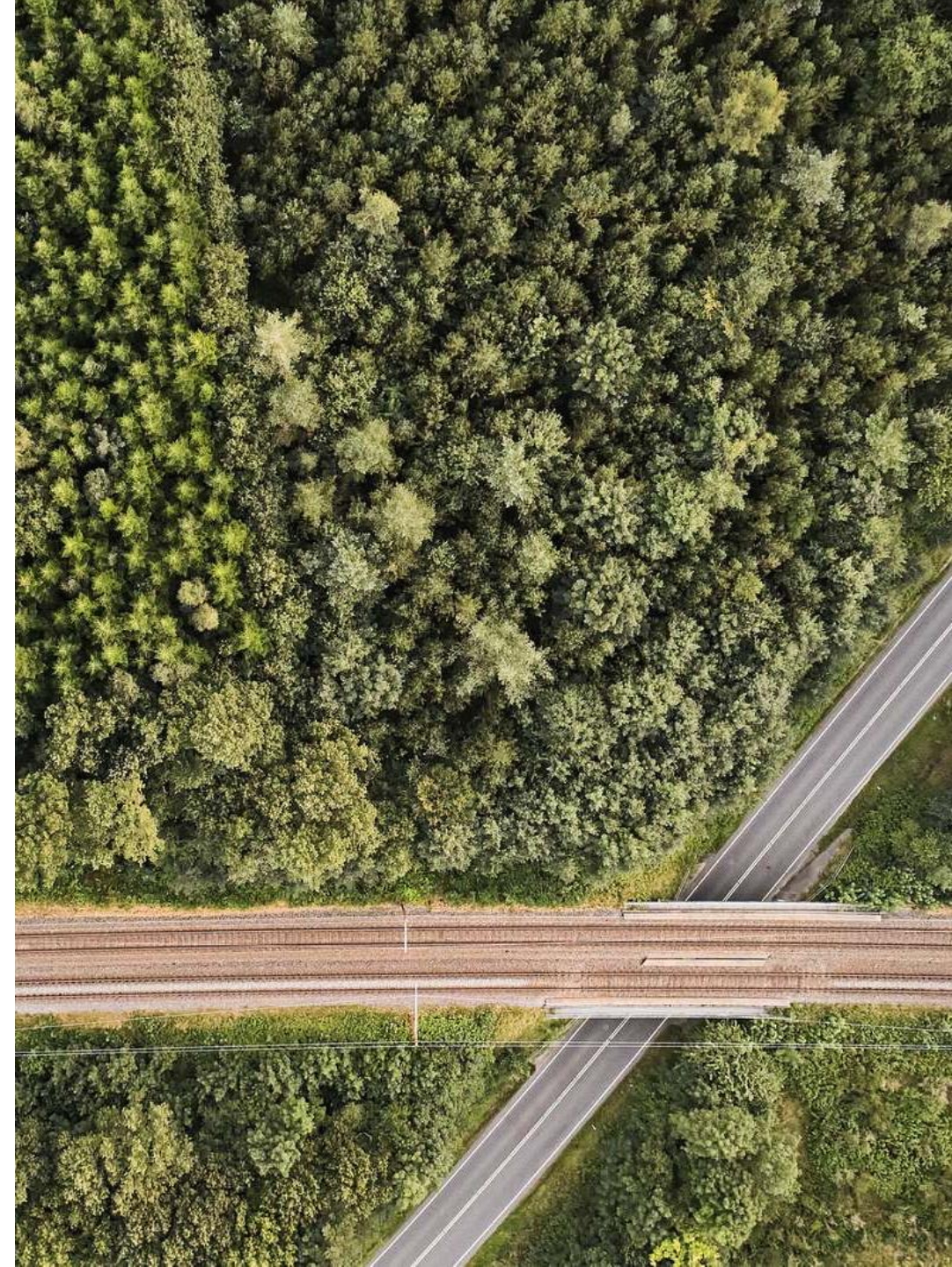




## Reaction options

### Administrative fine

- Banedanmark wants a scheme where there are minor administrative fines, which creates incentives
- Level of fine:
  - Starting point: 10.000 dkr.
  - Very serious safety incidents: 50.000 dkr.
  - Aggravating circumstances: 5.000 dkr.
- Banedanmark imagines that the assessment must include, whether a railway undertaking or supplier has reported a violation:
  - This is a mitigating circumstance, and can, depending on the circumstances, result in no administrative fine







## Reaction options

### Railway safety related warning

- Banedanmark imagines that the reaction option will have the character of an injunction
- In the first instance of ascertaining, thus not an order that a given action must cease
- Will have additional legal effect, as in the case of future violations it may be emphasized that a railway safety related warning has been issued in the past
- Banedanmark imagines that the reaction can be applied to companies (legal persons) and employees in these units

### Close supervision

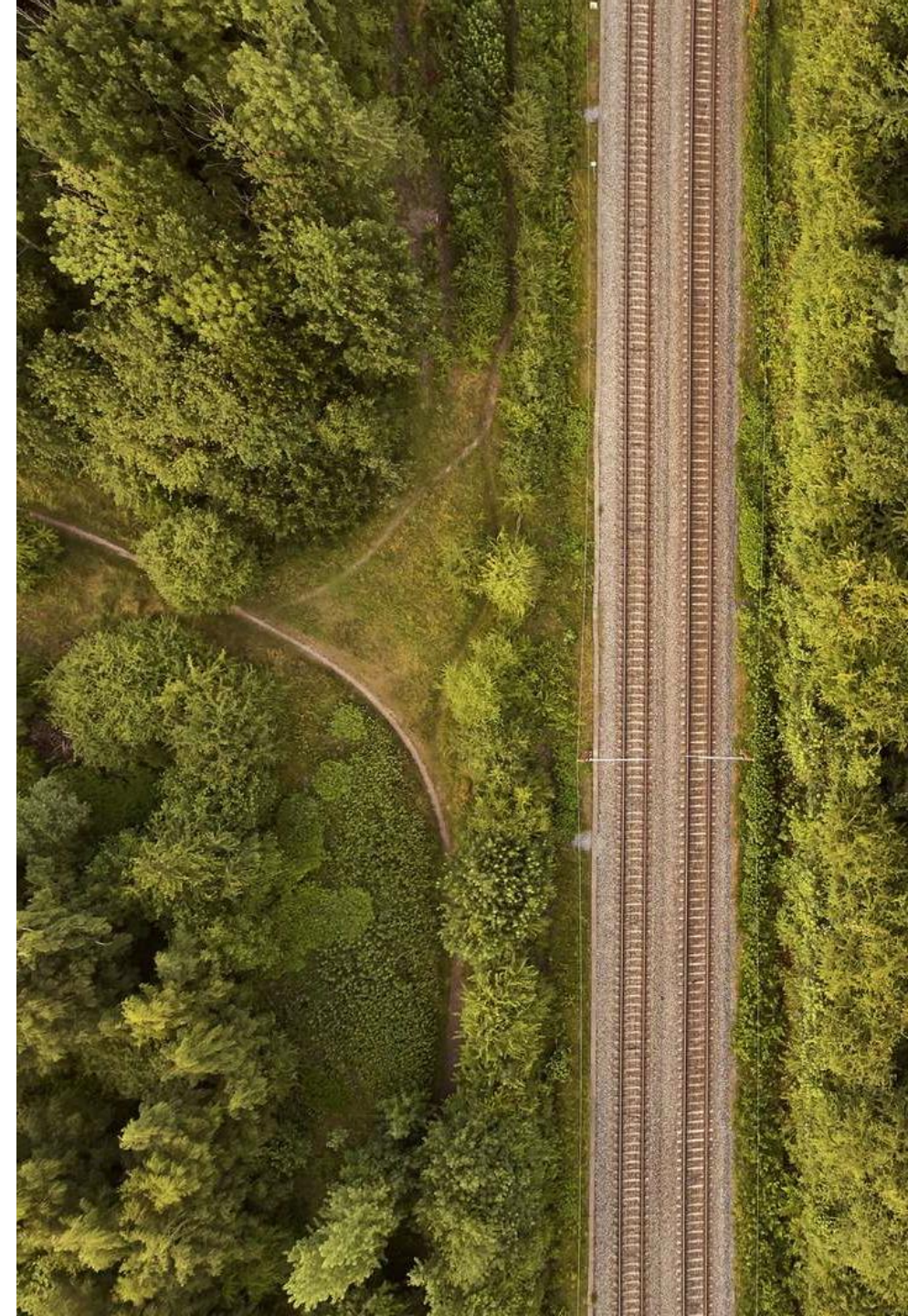
- Banedanmark imagines that the reaction options means that Banedanmark announces and implements a more targeted and intensive control of a given railway undertaking or supplier
- Banedanmark imagines that close supervision means that the supplier must report all work prior to execution. In each individual case, Banedanmark agrees with the contract holder on how close supervision will be carried out
- Banedanmark imagines that the close supervision will only apply to companies (legal persons)



## Reaction options

### Withdrawal of competencies

- Banedanmark imagines that the reaction option can be used for more serious incidents or for repeated safety incidents and is used against employees (physical persons)
- Banedanmark imagines that it can be both:
  - Withdrawal of competencies for a limited period
  - Withdrawal of competencies with regards to recovery or disqualification of competencies forever
- Period is determined after a concrete assessment of all elements of the case, including primarily the nature of the violation and previous violations







# Assessment of accreditability for DS 21001 at DANAK

*By: Rikke Aarøe Carlsen, Head of Section, Quality & Safety, Banedanmark (e-mail: RCRC@bane.dk)*

**Banedanmark**





## Assessment of accreditability for DS 21001 at DANAK

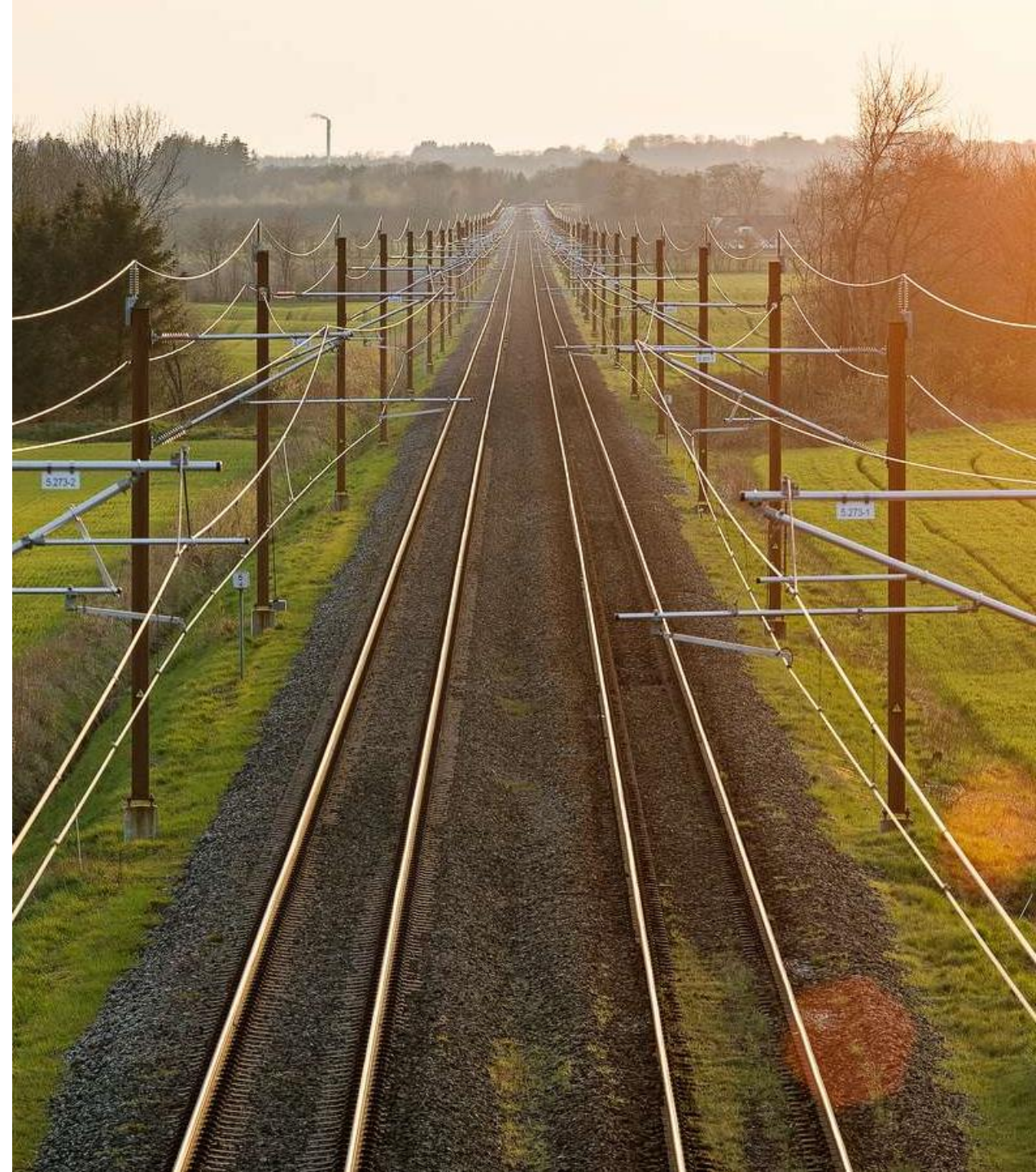
- DS 21001 and the associated standard DS 21003, which lays down requirements for Certification Bodies that perform audits and certification of suppliers in accordance with DS 21001, were published in 2020:
  - Today Certification Bodies must be accredited in accordance with ISO 9001 and comply with DS 21003 to issue DS 21001 certificates
- 61 suppliers have obtained DS 21001 certificates from Certification Bodies and have had their certificates recognized by Banedanmark:
  - Bureau Veritas Certification Denmark A/S
  - DNV Business Assurance Denmark A/S
  - FORCE Certification A/S
  - AAA Certification AB
  - LRQA Danmark ApS
  - Intertek Certification AB
- DANAK (The Danish Accreditation Fund) will assess the accreditability of DS 21001 at Danish and European level
- Banedanmark will require that Certification Bodies must be accredited in accordance with DS 21001 at DANAK (or equivalent national accreditation body) in order to be able to offer DS 21001 certifications



## Assessment of accreditability for DS 21001 at DANAK

### Purpose

- DS 21001 is equated with other accredited standards such as ISO 9001
- Danish and foreign Certification Bodies are part of a monitoring program managed by DANAK or a similar national accreditation body such as SWEDAK, which ensures a uniform approach and quality across the Certification Bodies
- Ensure uniform conditions in the certification process for Danish and foreign suppliers of services with railway safety content







# Assessment of accreditability for DS 21001 at DANAK

## The most important milestones (overall)

- **Spring 2022:** Information for the market \* on assessment of accreditability for DS 21001 and requirements for Certification Bodies on accreditation in accordance with DS 21001 at DANAK:
  - Banedanmark prioritises that the implementation is as smooth as possible and takes place in a natural flow for the Certification Bodies' accreditation according to other standards (combined with DANAK's ordinary office visits)
- **Spring-end 2022:** DANAK's assessment of accreditability for DS 21001 at Danish and European level
- **Mid 2024:** Certification bodies wishing to offer DS 21001 certification are DS 21001 accredited with DANAK:
  - However, suppliers who will be re-certified before mid-2024 does not need to be certified with an accredited Certification Body before the expiration of their DS 21001 certificate, as these certificates will also be valid after mid 2024

\* *Certification Bodies, providers of services with railway safety content and Infrastructure managers*





BANEDANMARK

# Main Contracts OHS annex

## When Banedanmark is the contracting Client

JAKOB UGELVIG CHRISTIANSEN (E-MAIL: JUCH@BANE.DK)  
CHEFKONSULENT, HR – OHS DEPT.; BANEDANMAK

MAY 2022



# ARBEJDSMILJØPOLITIK

Banedanmarks vision er at udvikle og bygge en attraktiv, grøn, sikker og effektiv jernbane. Et sundt og sikkert arbejdsmiljø er en forudsætning for at nå vores vision, og arbejdsmiljøarbejdet er derfor en integreret del af alle vores aktiviteter. Banedanmarks værdier: Ambition, Respekt og Ansvar er udgangspunktet for vores arbejdsmiljøarbejde.

## >> BANEDANMARK HAR ET GODT ARBEJDSMILJØ, HVOR VI:

- Forebygger arbejdsskader og nedslidning blandt medarbejdere og entreprenøransatte
- Overholder arbejdsmiljølovgivningen og udvikler vores ansvar som både arbejdsgiver og bygherre
- Sætter standarden for og stræber efter til stadighed at forbedre arbejdsmiljøet i branchen
- Løbende styrker medarbejders og lederes viden om arbejdsmiljø
- Arbejder systematisk med arbejdsmiljøet i alle dele af Banedanmark og håndterer arbejdsmiljørisici, fra planlægning og administration til projektering og gennemførelse af anlægs- og vedligeholdelsesprojekter
- Stiller krav, fører tilsyn og følger op på arbejdsmiljø blandt leverandører og entreprenører, der arbejder på og ved banen

Banedanmarks arbejdsmiljøpolitik omfatter ansatte i Banedanmark samt leverandører, rådgivere, entreprenører og andre, der arbejder for Banedanmark.

## >> ET SUNDT OG SIKKERT ARBEJDSMILJØ ER ET FÆLLES ANSVAR:

- Som **ledelse** sætter vi ambitiøse mål, etablerer handlingsplaner og følger op samt implementerer arbejdsmiljøprocesser og -procedurer
- Som **medarbejdere** bidrager vi personligt ved at deltage i arbejdsmiljøarbejdet, følge retningslinjer og rapportere nærved-arbejdsulykker, fejl og mangler
- Som **kolleger og samarbejdspartnere** tager vi ansvar for et godt arbejdsmiljø og deltager aktivt i at sikre os selv og hinanden samt deler viden om gode arbejdsmiljøløsninger.

We make demands, supervises and follows up on Working environment among suppliers and contractors working on the railways

## OHS policy

In Banedanmark OHS is a priority. We base it on: dialogue, coordination, legislation and clear requirements



# Relevant legislation: References and links

## The Ministry for Employment - Danish Working Environment Authority

### - **Executive Order on Duties of the Client. Nr. 117 – 2013**

[Executive Order on Duties of the Client\\*\) - Arbejdstilsynet \(at.dk\)](#)

### - **Executive Order on the Duties of Project Supervisors and consultants**

[Executive order of Duties of Project Supervisors and Consultants etc. - Arbejdstilsynet \(at.dk\)](#)

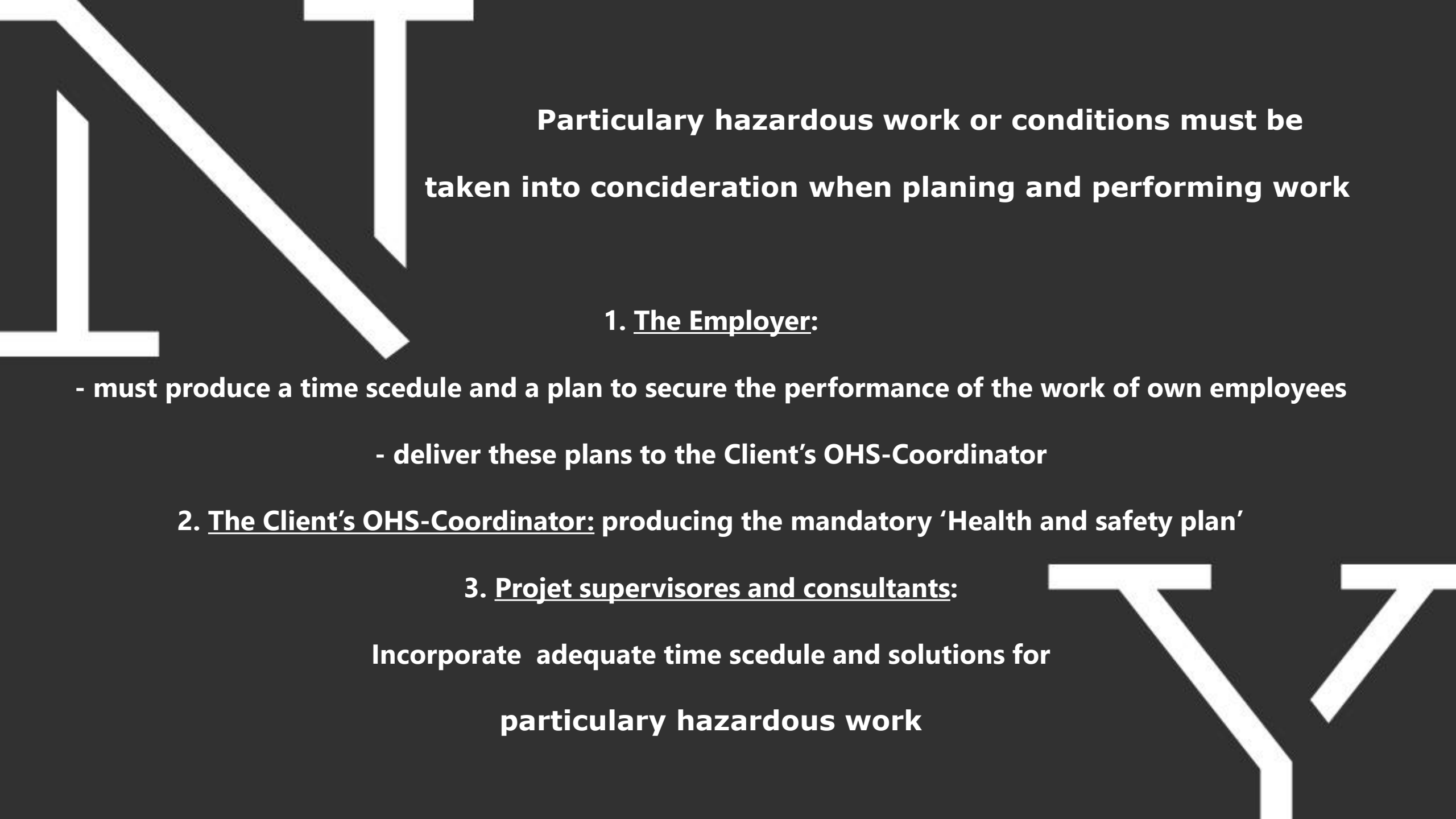
### - **Executive Order on Building and Construction. Nr. 2107 – 2021**

[Executive Order on Building and Construction - Arbejdstilsynet \(at.dk\)](#)

## **Particular hazardous work or conditions, which might be present working for Banedanmark**

1. Work that involves any especially serious risk of being buried, sinking or falling down
2. Work which puts workers at risk from chemical or biological substance or involving mandatory health survey
3. Exposure to ionizing radiation and non-ionizing radiation i.e. EMF and high energy light (i.e. laser-light)
4. Work near high voltage power lines or exposure to hazardous amounts of static electricity.
5. Work exposing workers to the risk of drowning or work carried out by divers having a system of air supply.
6. Work on wells and tunnels and underground earthworks.
7. Work involving the use of explosives.
8. Assembly or dismantling of heavy prefabricated components
9. High levels of noise or vibration
10. Working with high-velocity flushing and sandblasting
11. Acces-, transportation-, escape- and rescue routes
12. Working with rotating, cutting or other dangerous forces from tools, machines or materials.
13. Work around the clock 24-7-365 (temperature, winds, daylight or darkness)
14. Working in traffic: i.e. Trains, Road–Rail Machines, Track Maintenance Machines, Cars, Trucks and pedestrians





**Particular hazardous work or conditions must be taken into consideration when planning and performing work**

**1. The Employer:**

- must produce a time schedule and a plan to secure the performance of the work of own employees
- deliver these plans to the Client's OHS-Coordinator

**2. The Client's OHS-Coordinator: producing the mandatory 'Health and safety plan'**

**3. Project supervisors and consultants:**

**Incorporate adequate time schedule and solutions for particular hazardous work**

## OHS Annex:

### Duties and legal responsibility

- **The Client** – Must inform contractors about potentially hazardous work and work conditions.
  - Perform OHS coordination when this is mandatory.
- **Project supervisors and consultants – Project supervisors and consultants** The project supervisor of a construction project must ensure when issuing project directions that the regulations of the Danish Working Environment Act can be complied with in completing the project and subsequent maintenance of the completed project.

When surveying and preparing a building and construction project, the project supervisor must take into account the general principles for prevention in the health and safety area, which are:

  1. in the architectural, technical and/or organizational choices for the planning of various works or work stages that are to be implemented simultaneously or consecutively and
  2. in the calculation of the time to be allocated to implementation of the various works or work stages.
- **The contractor** – The health and safety for own employees.
  - Must inform the Client about all relevant matters needed for OHS Coordination (time schedule and OHS-issues)

**OHS Coordination is the responsibility of the Client – Banedanmark.**

**If OHS Coordination is part of the contract – the coordination is performed on behalf of Banedanmark, no matter the employment situation for the coordinator.**



## The Contractor must... (1)

- before start up: deliver documentation for employees and actual work site – and the eventual use of sub-contractors.
- ensure education and training for all employees, including documentation i.e. '*Pas på på banen*', drivers license, welding certificates etc.
- Use work wear – class 3 – orange & logo
- Ensure that instructions and training are performed and understood – special focus when different languages/nationalities are present at the workplace, deliver relevant translations of the plan for OHS (PSS)
- If the contractor must deliver the OHS-Coordination – then do so on the basis of the annex describing this OHS Coordination
- Collaborate with and deliver the mandatory information to the OHS Coordinator – no matter the company of employment for the coordinator:
  - OHS plan ('PSS')
  - shared facilities (storage, Welfare facilities, traffic and parking area etc.)
  - inspection regarding OHS, first aid and emergency plans
  - risk assessment of own work using Banedanmark's templates (i.e. AM-log and PSS)
- Contributions for the future OHS-log for the project ('OHS-journal')
- Participation in meetings settled in the contract (and annexes)

## The contractor must ... (2)

- Forward all written and electronic communication about legal matters between **The Danish Working Environment Authority** and the contractor. This must at once be acted upon leading to proper actions and prevention of re-occurrence of the risk.

At once inform and send in copies to Banedanmark concerning the above communication

- By **work related accidents** at once inform Banedanmark about the accident and the immediate and long-term actions taken to prevent repeating the accident.
- Monthly report **hours delivered** from the contractor to this project



## **Banedanmark is entitled to copies from the contractor of project-relevant documents on:**

- Data on work-related accidents
- Minutes from meetings in the OHS-organization
- Contractors own OHS-inspections
- Documentation for all mandatory education and training of employees
- Contractors own politics and guidelines on harassment, bullying, violence and threats
- Mandatory translation of OHS-plan, instructions, manuals and guidelines

## **Banedanmark is entitled to make inspections and audits**

- Banedanmark is entitled to make announced and not-announced inspections and audits in the period stated in the contract. This can be at the work site or at the contractors production facilities/office
- Subject of audit: performance of work, materials, machines and documents. This applies to both contractors and sub-contractors
- In case that Banedanmark finds non-compliance with OHS relevant matters mentioned in the contract or annexes Banedanmark is entitled to set up a meeting to follow up on the findings. The contractor has an obligation to participate



## Further information, documents and standard templates (in Danish):

### [Arbejdsmiljø | Banedanmark](#)

- 
- + Hvad kendetegner vores samarbejde med vores leverandører?

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  - + Hvilke krav og forventninger har vi til vores leverandører?

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  - + Hvordan forventer vi, at vores leverandører samarbejder med Arbejdstilsynet?

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  - + Hvilke krav stiller vi til sikkerhedsbeklædning?

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  - + Hvordan varetager vi bygherreansvaret for arbejdsmiljøet i projektforsløb?

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  - + Hvad er vores arbejdsmiljøpolitik?

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  - + Arbejdsmiljø kontraktbilag

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  - + Paradigmer til arbejdsmiljøkoordinering
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THANKS FOR TODAY