

UNOFFICIAL TRANSLATION

Act No. 09 of 27 January 2012: Act relating to labour disputes (the Labour Disputes Act)

DATE: ACT-2012-01-27-9

MINISTRY: AD (Ministry of Labour)

PUBLISHED: In 2012, booklet 3

ENTRY INTO FORCE: 1 March 2012

AMENDS: Act No. 1 of 5 May 1927

SYS-CODE: C10

INDUSTRY CODE: 93501

ANNOUNCED: 27 January 2012 @ 15.40

SHORT TITLE: The Labour Disputes Act

CONTENTS

The Act relating to labour disputes (the Labour Disputes Act)

Chapter 1. Introductory provisions

Section 1. Definitions

Section 2. Duty to provide information

Chapter 2. Collective agreements

Section 3. Negotiations for entering into collective agreements

Section 4. The form and content of the collective agreement

Section 5. The duration and termination of the collective agreement

Section 6. The mandatory nature of collective agreements

Section 7. The effect of withdrawing from a trade union or employers' association

Section 8. Peace obligation

Section 9. Liability for breach of collective agreement, etc.

Section 10. Stipulating compensation for breach of collective agreement, etc.

Chapter 3. Mediation

Section 11. Mediators

Section 12. The tasks and organisation of the mediation institution

Section 13. Mediator affirmation

Section 14. Conflicts of interest

Section 15. Notice of collective work stoppage

Section 16. Reporting to the National Mediator

Section 17. Who is subject to strikes or lockouts

Section 18. Time of implementing a strike or lockout

Section 19. Temporary ban against work stoppage

Section 20. Summons for mediation

Section 21. Parties and their representatives

Section 22. Gathering information

Section 23. Duty of confidentiality

- Section 24. Minutes of meetings
- Section 25. Terminating the mediation
- Section 26. Voting on mediation proposals
- Section 27. Reporting the results of votes
- Section 28. Implementing strikes or lockouts when the mediation proposal is rejected
- Section 29. Subsequent adoption of a mediation proposal
- Section 30. Resuming mediation
- Section 31. Appeals
- Section 32. The parties' costs

Chapter 4. The Labour Court

- Section 33. The seat and jurisdiction of the Labour Court
- Section 34. Requirements founded on individual employment contracts
- Section 35. Lawsuits concerning a collective agreement
- Section 36. Requirements for judges on the Labour Court
- Section 37. Organisation of the Labour Court. Appointing and nominating judges, etc.
- Section 38. Composition of the Labour Court in individual cases
- Section 39. The right of nomination
- Section 40. Conflicts of interest
- Section 41. Deputy for a judge who is incompetent or absent
- Section 42. Quorum of court
- Section 43. Judge affirmation
- Section 44. Party representatives and counsel
- Section 45. Preparing the case
- Section 46. Third party intervention
- Section 47. Merging cases for joint hearing
- Section 48. Case preparation
- Section 49. Stay of proceedings
- Section 50. Absent parties, party representatives and counsel
- Section 51. Duty to appear for witnesses, parties and experts
- Section 52. Summoning witnesses, parties and experts
- Section 53. Compensation for witnesses and experts
- Section 54. Freedom of information and the right of inspection
- Section 55. Court records
- Section 56. The Court's judgments
- Section 57. In-court settlements
- Section 58. Appeals
- Section 59. Court costs

Chapter 5. Concluding provisions

- Section 60. Offensive conduct, etc.
- Section 61. Breaches of the duty of confidentiality, etc.
- Section 62. Absence, etc.
- Section 63. Responsibility for appeals

Chapter 6. Repeals and amendments in respect of other Acts

Section 64. Entry into force

Section 65. Changes to other acts

The Act relating to labour disputes (the Labour Disputes Act)**Chapter 1. Introductory provisions****Section 1. Definitions**

The following definitions apply for this Act:

- a) Employee: anyone who performs work in the service of another and who is not covered by the Act relating to public service disputes.
- b) Employer: anyone who has employed employees to perform work in their service.
- c) Trade union: any federation of employees or employees' unions with the purpose of safeguarding the employees' interests vis-à-vis their employers.
- d) Employers' association: any federation of employers or employers' associations with the purpose of safeguarding the employers' interests vis-à-vis their employees.
- e) Collective agreement: an agreement between a trade union and an employer or employers' association regarding employment and wage terms or other working conditions.
- f) Strike: full or partial stoppage of work implemented by employees acting jointly or in concert in order to force resolution of a dispute between a trade union and an employer or employers' association. Any action to block a company's premises in order to prevent the labour force from working is also considered to be part of a strike.
- g) Lockout: full or partial stoppage of work implemented by an employer in order to force resolution of a dispute between an employer or employers' association and a trade union, regardless of whether other employees are hired to replace those locked out. Preventing the locked out employees from acquiring other work is also considered to be part of a lockout.
- h) Notice of collective work stoppage: termination of employment contracts for the purpose of implementing a strike or lockout.
- i) Dispute of law: dispute between a trade union and an employer or employers' association concerning the validity, interpretation or existence of a collective agreement or concerning demands founded on a collective agreement.
- j) Dispute of interest: dispute between a trade union and an employer or employers' association concerning the organisation of future employment and wage terms or other working conditions that are not subject to a collective agreement or will replace a previous collective agreement.

Section 2. Duty to provide information

Trade unions and employers' associations or federations of such shall, when required by the Ministry or the National Mediator, provide information regarding the association's or federation's organisation, membership, etc. A federation of associations is obliged to also provide such information about its constituent departments.

Chapter 2. Collective agreements

Section 3. *Negotiations for entering into collective agreements*

A trade union, employer, employers' association or federation of such may demand negotiations with a view towards entering into or revising a collective agreement. If the opposing party does not attend negotiations or the negotiations do not lead to the signature of a new or revised collective agreement, strike or lockout may be implemented when the terms stated in Sections 18 and 25 have been met.

Section 4. *The form and content of the collective agreement*

A collective agreement shall be established in writing and should contain provisions concerning its entry into force, duration and notice period.

Section 5. *The duration and termination of the collective agreement*

(1) Unless otherwise has been stipulated, the collective agreement shall be in force for three years from the day it was signed.

(2) Termination of a collective agreement shall take place in writing and no later than three months prior to expiry of the agreement, unless a different notice period has been stipulated.

(3) If a collective agreement is not terminated by the deadline, it shall be extended by one year.

Section 6. *The mandatory nature of collective agreements*

Any provision in an employment contract which conflicts with a collective agreement to which both parties are bound, is invalid.

Section 7. *The effect of withdrawing from a trade union or employers' association*

A member or constituent department of a trade union or employers' association will not, following withdrawal or exclusion, be released of its obligations pursuant to the collective agreements that apply to the association at the time of withdrawal.

Section 8. *Peace obligation*

(1) Disputes of law shall not be resolved through strike, lockout or other industrial action.

(2) Disputes of interest shall not be resolved through strike, lockout or other industrial action until the terms in Sections 18 and 25 have been met. If the dispute of interest concerns revision of a collective agreement, the validity of the agreement must also have expired.

(3) Unless otherwise has been agreed, the collective agreement and wage and employment terms which were in force when the dispute arose, shall apply as long as a strike, lockout or other industrial action cannot be implemented pursuant to the second subsection of this Section.

Section 9. *Liability for breach of collective agreement, etc.*

(1) If members of a trade union or employers' association are in breach of a collective agreement, the association and the members in question are liable. The association's liability only occurs when it itself has caused the breach or continuation of the violation of the collective agreement. An employer, employers' association, trade union or their members are also liable for unofficial strikes, lockouts or other industrial action, cf. Section 8, second subsection. The second sentence of this provision applies correspondingly.

(2) The liability pursuant to the first and third sentence of the first subsection applies correspondingly to other employees who participate in a strike that is unofficial or in violation of collective agreements.

Section 10. *Stipulating compensation for breach of collective agreement, etc.*

Compensation for breach of a collective agreement or an unofficial strike or lockout shall be stipulated by the Court, taking into consideration the magnitude of damage, the injuring party's guilt and financial sustainability, the injured party's circumstances and the conditions in general. The compensation may be discharged completely in the event of particularly extenuating circumstances.

Chapter 3. Mediation

Section 11. *Mediators*

(1) The King shall appoint a permanent National Mediator and one or more permanent mediators for the individual districts (district mediators) to serve for a period of three years at a time. The mediation districts are decided by the King.

(2) The King may, following a nomination from the National Mediator, appoint special mediators for limited periods of time or for certain cases, as well as a permanent deputy for the National Mediator.

(3) The mediators must satisfy the terms in Section 36, first subsection of this Act.

Section 12. *The tasks and organisation of the mediation institution*

(1) The mediators shall mediate in disputes of interest between a trade union and an employer or employers' association in line with the provisions of this Chapter. The mediators shall attempt to reach agreement between the parties on a reasonable compromise.

(2) The National Mediator heads the mediation institution and is the superior of the other mediators.

(3) The National Mediator may delegate mediation in a case to a district mediator or special mediator. The National Mediator may personally take over mediation in cases which fall under the district mediators.

Section 13. *Mediator affirmation*

One cannot serve as a mediator unless one has submitted a written affirmation confirming that one will carry out one's duties with care. The affirmation shall be submitted to the Ministry. The King shall stipulate the wording of this affirmation, cf. Section 60 of the Courts of Justice Act.

Section 14. Conflicts of interest

(1) The provisions regarding conflicts of interest in Sections 106 ff. of the Courts of Justice Act apply correspondingly for the mediators insofar as they are appropriate.

(2) If the National Mediator declares himself/herself incompetent in a dispute, this must be reported to the Ministry as soon as possible. If the Ministry agrees that the National Mediator should not hear the dispute, case will be transferred to another appointed mediator.

(3) If another mediator declares himself/herself incompetent in a dispute, this must be reported to the National Mediator as soon as possible. The National Mediator may either personally take over hearing the dispute or transfer it to another appointed mediator.

Section 15. Notice of collective work stoppage

(1) A notice of collective work stoppage as part of a dispute of interest shall be submitted in writing. The notice period is 14 days unless otherwise stipulated by a collective agreement or other written agreement.

(2) Notices of collective work stoppage for individual employees shall be submitted by the employees themselves or their trade union to their employer, or by the individual employers to the individual employees.

(3) Where this follows from a collective agreement, each party may submit a notice of collective work stoppage for its members to the other party (collective notice of collective work stoppage).

Section 16. Reporting to the National Mediator

(1) When a notice of collective work stoppage is issued in a dispute of interest, this shall simultaneously be reported in writing to the National Mediator.

(2) This report shall contain:

- a) a copy of the notice of collective work stoppage,
- b) a statement explaining the dispute,
- c) information about which companies will be covered by the notice of collective work stoppage and how many employees at each company will be covered by the notice of collective work stoppage,
- d) information about when the term of collective work stoppage expires,
- e) information about whether negotiations have been opened between the parties and, if so, whether they are still under way or have been interrupted.

(3) If negotiations are ongoing when the notice of collective work stoppage is issued, the National Mediator shall be notified correspondingly if the negotiations are later suspended.

(4) The report shall be submitted by the trade union, employer or employers' association that has submitted the notice of collective work stoppage. If the relevant trade union, employer or employers' association is a member of an organisation which is entitled to nominate candidates pursuant to Section 39 of this Act, the notice of collective work stoppage shall be submitted to the National Mediator through this organisation.

(5) A copy of the reports to the National Mediator in pursuance of this Section shall be submitted to the opposing party.

Section 17. *Subject to strikes or lockouts*

A strike or lockout shall be implemented for all employees who are covered by the notice of collective work stoppage, unless the parties have agreed otherwise.

Section 18. *Time of implementing a strike or lockout*

A strike or lockout shall not be implemented until a notice of collective work stoppage has been issued and its term of notice has expired, and in any event not until four business days have passed from when the National Mediator has been notified that negotiations have not been started or have broken down, or that the collective work stoppage has been expanded, cf. Sections 16 and 17 of this Act.

Section 19. *Temporary ban against work stoppage*

(1) When the National Mediator has been notified or in some other manner has learned that negotiations have not started or have broken down, cf. Section 16 of this Act, the National Mediator shall temporarily prohibit the parties from implementing a strike or lockout which may harm the public interest, until mediation pursuant to this Chapter has concluded.

(2) If the notice of collective work stoppage is expanded, the National Mediator shall, at the same terms, prohibit strikes or lockouts as a result of the expansion.

(3) The prohibition shall be submitted to the association that has issued or should have issued the notice of collective work stoppage. A copy of the prohibition notice shall be submitted to the opposing party.

(4) In order to be binding, the prohibition must be sent from the National Mediator within two business days after the National Mediator was notified that negotiations have not started or have broken down, or that the collective work stoppage has been expanded.

(5) If a prohibition against a strike or lockout is issued in a dispute in which a municipality, county authority or association of such is a part, the National Mediator may, at the same time, decide that the deadlines which follow from Section 14, fourth subsection and Section 17, first and second subsections of the Public Service Dispute Act shall apply to the mediation.

(6) The National Mediator may delegate the task of prohibiting a strike or lockout to another appointed mediator.

Section 20. *Summons for mediation*

(1) If a strike or lockout has been prohibited pursuant to Section 19 of this Act, the National Mediator or the mediator to which the case has been transferred shall immediately start mediation.

(2) If a strike or lockout has not been prohibited, the National Mediator or a district mediator may, on his/her own initiative or upon the request of one of the parties, nevertheless start mediation in a dispute.

(3) If the National Mediator or a district mediator believes it is appropriate, a mediation summons may be issued pursuant to the provisions in this Chapter even if a notice of collective work stoppage has not been issued pursuant to Section 15 of this Act.

(4) The mediator shall set the time and location of the mediation. Mediation meetings may also be held outside the mediation district. The parties shall be summoned in the manner which the mediator finds to be appropriate.

Section 21. *Parties and their representatives*

The parties may attend themselves or through representatives. Consultants may also attend. As regards the parties' duty to attend the mediation, the provisions in Section 51 of this Act shall apply correspondingly, insofar as they are appropriate.

Section 22. *Gathering information*

(1) The mediator shall gather all the information necessary to hear the dispute.

(2) During this gathering of information, the mediator has authority as mentioned in Section 48, insofar as this is appropriate.

Section 23. *Duty of confidentiality*

(1) The mediation meetings shall be held in camera.

(2) All those who participate in the mediation are obliged to maintain confidentiality as regards what has emerged, unless the mediator allows publication.

(3) The duty of confidentiality does not apply to testimony before the Labour Court.

(4) The mediator does not have a duty to testify before the Labour Court concerning elements which emerge during the mediation.

Section 24. *Minutes of meetings*

(1) The minutes of meetings shall include the time and location of the mediation meeting and the names of the mediator, the parties and their representatives. The minutes of meetings shall list the evidence which has been reviewed and a brief account of the mediation proceedings.

(2) The result of the mediation shall be summarised. If the mediator has submitted a final proposed resolution of the dispute, the proposal shall be recorded in the minutes of meetings regardless of the result of the mediation. Any deadline pursuant to Section 26, first subsection of this Act for when a voting result must be available, shall be recorded.

Section 25. *Terminating the mediation*

(1) Either party may demand termination of the mediation when ten days have passed after the ban against a strike or lockout was issued pursuant to Section 19, first subsection of this Act. This does not apply if the party in question has, through absence or in some other manner, not contributed to the mediation.

(2) The mediation shall be terminated no later than four days after the demand for termination is put forward.

(3) If a compromise is reached, a collective agreement in accordance with this shall be established in cooperation with the mediator. The collective agreement shall be signed by the parties or their representatives.

Section 26. *Voting on a mediation proposal*

(1) If a mediation proposal is put to a vote, the mediator shall, in consultation with the parties, set a deadline for when the voting result must be available.

(2) The vote shall only apply to the mediation proposal as presented by the mediator. The vote shall be secret and in writing with clear yes or no votes.

Section 27. *Reporting the results of votes*

(1) The parties shall provide the National Mediator with a written notification as to whether the mediation proposal has been adopted or rejected.

(2) If the proposal is rejected, the notification shall provide information concerning the number of votes in favour and against the proposal, as well as the number of people entitled to vote. If the voting result is not available by the deadline, the mediation proposal shall be considered to be adopted.

(3) No parts of the voting result shall be communicated to the public until the National Mediator has announced the primary result.

Section 28. *Implementing strike or lockout when the mediation proposal is rejected*

If the mediation proposal is rejected and the notice of collective work stoppage pursuant to Section 15 of this Act is still in force, the collective work stoppage may be implemented with four days' notice between the parties. The parties may, through a collective agreement, agree on a shorter deadline.

Section 29. *Subsequent adoption of a mediation proposal*

If either of the parties adopts the mediator's proposed resolution of the dispute after mediation has been terminated, a declaration to this effect may be submitted to the mediator in question. The mediator shall transmit a copy of the declaration to the opposing party. If this party also approves the proposal, the mediator will summon the parties to a meeting in order to establish a collective agreement.

Section 30. *Resuming mediation*

(1) The parties may jointly demand that a terminated mediation be resumed.

(2) The National Mediator and the mediator who heard the case may resume the mediation at any time.

(3) If one month has passed since the mediation was terminated, and the dispute has not been resolved in the interim, the mediator who has heard the case shall resume contact with the parties with a view toward ending the conflict. If a mediation proposal is being reviewed by the parties, the mediator shall wait until this review is complete.

(4) As regards the parties' duty to attend the mediation, the provisions in Section 51 of this Act apply correspondingly.

Section 31. Appeals

Decisions in pursuance of this Chapter made by the National Mediator or another mediator appointed pursuant to the Act, cannot be appealed.

Section 32. The parties' costs

The parties shall bear their own mediation costs, unless the parties agree otherwise.

Chapter 4. The Labour Court

Section 33. The seat and jurisdiction of the Labour Court

(1) The seat of the Labour Court is in Oslo.

(2) The Labour Court shall hear disputes of law as mentioned in Section 1, litera i of this Act and disputes where there is a breach of Section 8, first subsection of this Act. The Court also hears disputes where there is a breach of the provisions concerning disputes of interest in Section 8, second subsection of this Act and disputes as mentioned in Section 9 of this Act concerning liability for breach of collective agreements, etc.

(3) However, the Labour Court shall not hear disputes as mentioned in Section 9 of this Act when the case is exclusively raised against employees as mentioned in Section 9, second subsection of this Act. Disputes linked to collective agreements concerning the European Works Council or equivalent works councils shall be heard according to the provisions stipulated in or in pursuance of the Act relating to general application of provisions in collective agreements concerning the European Works Council. Neither shall the Labour Court hear disputes concerning collective agreements entered into according to provisions stipulated in or in pursuance of Section 3 of the SE Act, which concerns the employees' influence in a European (SE) company or Section 3 of the SCE Act, which concerns the employees' influence in a European Cooperative Society (SCE).

(4) The parties may adopt private arbitration in the disputes which are mentioned in Section 8, first subsection and Section 9 of this Act.

Section 34. Claims founded on individual employment contracts

(1) A case concerning a collective agreement may also include claims arising from an employment contract, if the claim relating to the employment contract will be immediately settled through the judgment in the primary case.

(2) If the Labour Court, in its conclusion of judgement, stipulates a specific understanding of a collective agreement, this understanding shall also apply to any employment contract which is founded on the collective agreement.

Section 35. *Lawsuits concerning a collective agreement*

(1) If a collective agreement is entered into between a trade union, its constituent departments and members on one side and an employer or an employers' association, its constituent departments and members on the other side, only the central federation of the trade union or employers' association or the independent employer is entitled to bring action.

(2) The central federation of the trade union or employers' association can nevertheless transfer its right to bring action to a constituent department that has signed the collective agreement. Such transfer shall be reported in writing to the Labour Court and the opposing party in the collective agreement. The transfer may be restricted to an individual dispute or given effect for the entire collective agreement period. In the latter instance, action may be raised against the constituent department in question directly and solely by the other party to the collective agreement that is entitled to bring action.

(3) Members or constituent departments which are not entitled to bring action pursuant to the first subsection of this Section, cannot act as third party intervener unless the party entitled to bring action has given its consent.

(4) If one party intends to submit a claim against named members of an association, they must be summoned along with the association. This applies correspondingly if a claim is to be raised against other named persons, cf. Section 9, second subsection of this Act.

Section 36. *Requirements for judges on the Labour Court*

(1) Judges on the Labour Court must be Norwegian citizens who are trustworthy and who have not been disqualified from voting on public matters. They must not be members of the board of a trade union or employers' association or be permanent employees of such associations.

(2) The court's expert judges shall also fulfil the requirements which apply to Supreme Court justices.

(3) An expert judge on the Labour Court must apply to the Ministry for approval for external work in instances as stated in Section 121c of the Courts of Justice Act. The Ministry registers the expert judges' external work in line with Section 121e of the Courts of Justice Act. An expert judge shall report external work as soon as possible, and no later than within one month after the judge took up the external work. Everyone is entitled to familiarise themselves with information in the registry. The Ministry decides how information will be made available to the person who requests it.

Section 37. *Organisation of the Labour Court. Appointing and nominating judges, etc.*

(1) The permanent judges on the Labour Court are three expert judges, of which one is the president and one is vice president, and four other judges.

(2) The three expert judges are senior public officials. The other four judges and at least two deputy judges for each of the Court's seven judges shall be appointed by the King for a term of three years. The four judges with deputy judges will be appointed by nomination, cf. Section 39 of this Act.

(3) The Ministry may grant leaves of absence, exempt and appoint judges and deputy judges on the Labour Court during the appointment period. If the leave of absence or exemption concerns a judge or deputy judge who has been appointed by nomination, cf. Section 39 of this Act, the organisation in question shall be given the opportunity to submit a new nomination.

Section 38. *Composition of the Labour Court in individual cases*

(1) Each individual case in the Labour Court is presided over by seven judges. As a main rule, two permanent expert judges and one deputy judge for the expert judges are summoned. This is in addition to four judges appointed by nomination pursuant to Section 39 of this Act. A deputy judge appointed by nomination from an association whose nomination was not followed in the appointment of the permanent judges, shall, in cases concerning this association or its members, nevertheless be summoned in place of the judge for whom he/she is the deputy.

(2) If, during the negotiations, a judge has an absence which must be assumed to last longer than one week, a deputy shall be appointed pursuant to Section 41 of this Act.

(3) The judges who have started main proceedings in a case shall complete the case even if their term of office expires during the proceedings.

Section 39. *The right of nomination*

(1) Employers' associations which includes at least 100 employers which employ a total of at least 10 000 employees, as well as trade unions which have at least 10 000 employees as members, may separately propose two judges with deputy judges. Those who are proposed must have agreed to accept the office.

(2) From among those who are proposed, two judges with deputy judges shall be appointed from each side. If competing proposals have been submitted from different trade unions or employers' associations, the permanent judges from each side shall be appointed from among those who have been proposed by the trade union and employers' association which have the most members within the statutory area.

(3) If nominations have not been received by the Ministry within a stipulated deadline, the appointment shall take place without nominations.

Section 40. *Conflicts of interest*

(1) The rules concerning conflicts of interest in Sections 106 and 107 of the Courts of Justice Act shall apply correspondingly to judges on the Labour Court. In the event of other special circumstances, which may weaken a judge's competence, this judge must recuse himself/herself. Questions concerning competency may be raised by the judges and the parties. Section 113 of the Courts of Justice Act applies correspondingly, insofar as appropriate.

(2) The Court will decide with a judgment whether someone shall be excluded as incompetent. If a question is raised to exclude an appointed judge before the main proceedings where the case is heard, the Court's three expert judges shall make the decision with a judgment.

(3) If a question is raised to exclude one of the Labour Court's expert judges, the president of the Labour Court shall summon a deputy judge to participate in resolving the question.

Section 41. *Deputy for a judge who is legally incompetent or absent*

(1) If all of the Court's expert judges are incompetent or absent, the Ministry shall appoint a deputy for the Court's president.

(2) If one may expect an incompetency objection against a judge who was appointed by nomination, and the Court's president or preparatory judge assumes the objection may be approved by the Court, a deputy judge shall be summoned.

(3) If a judge is incompetent or absent, a deputy judge shall be summoned in the order indicated by the appointment. If this judge was appointed by nomination, a deputy judge from the same association shall nevertheless be summoned before other deputy judges.

Section 42. *Quorum of court*

The Court has a quorum when all judges or deputy judges who will hear the case are present. Section 40 of this Act shall apply in the resolution of incompetency questions.

Section 43. *Judge affirmation*

One cannot serve as a judge on the Labour Court unless one has submitted a written affirmation confirming that one will carry out one's duties with care. The affirmation shall be submitted to the Ministry. The King shall stipulate the wording of this affirmation, cf. Section 60 of the (Norwegian) Courts Act.

Section 44. *Party representatives and counsel*

(1) A party may attend itself or through counsel.

(2) A party may attend with up to three people in addition to one or more counsel.

(3) Foreign attorneys may act as counsel when the Court finds this unobjectionable in view of the nature of the case and other circumstances.

(4) The counsels' authority shall be unrestricted.

(5) In general, the provisions in Chapter 2 of the Disputes Act concerning parties, procedural capacity and party representatives, as well as Chapter 3 of the Disputes Act concerning counsel and co-counsel shall apply correspondingly, insofar as they are appropriate.

Section 45. *Preparation of the case*

(1) The case shall be brought before the Labour Court in writing through a writ of summons. If the writ of summons is submitted as a paper document, it shall be submitted in a sufficient number of copies for the judges in the case and the defendant to each have their own copy.

(2) The writ of summons shall contain:

- a) the name and address of parties and counsel,
- b) a presentation of the case and the claims being raised,
- c) a statement presenting the legal outcome sought by the plaintiff,
- d) the factual and legal grounds for the plaintiff's claims,
- e) a list of the evidence to be invoked, how this will be procured, and what the plaintiff intends to prove with them,
- f) a list of the evidence the plaintiff wants to procure from the opposing party or with the aid of the Court,
- g) the basis for allowing the Court to hear the case if there may be any doubt,
- h) the plaintiff's view regarding further hearing of the case.

(3) If there are deficiencies in the writ of summons, the plaintiff shall be made aware of this and how to correct them as soon as possible.

(4) Enclosed with the writ of summons shall be minutes from the negotiations that have been held between the parties regarding the dispute, or evidence to show that the plaintiff has attempted to hold such negotiations. If this term has not been met, the plaintiff shall be made aware that the Court cannot accept the case for a hearing.

(5) When the writ of summons is in order, it shall be submitted to the defendant without delay. The Court shall set a deadline, which should normally be three weeks, for submitting a written writ of reply. In the writ of reply, the defendant shall present its comments regarding the writ of summons, any objections against having the Court hear the case, state the claims the defendant will raise, provide a list of evidence corresponding to that which is mentioned under the second subsection, *litera e* and *f* of this Section, as well as state the defendant's view regarding further hearing of the case. The first subsection applies correspondingly.

(6) The preparatory judge shall set the time and location for the main hearing, which shall be held as soon as possible, but no sooner than 48 hours after the parties have confirmed receipt of the summons. The main hearing shall start no later than six months after the terms in the fifth subsection, first sentence of this Section have been met, unless special reasons indicate that more time is needed for case preparation. The deadline starts when the writ of summons has been served to the opposing party. The main hearing may be held outside the Court's permanent seat.

(7) If attachment has been undertaken in order to secure a compensation claim the decision of which falls under the Labour Court, legal action must be taken concerning the compensation claim within six days.

Section 46. *Third party intervention*

(1) Third party intervention may be allowed for

- a) persons who by virtue of their own legal status have a real interest in one of the parties winning, and
- b) employers' and employees' organisations which have such a need founded in their members' legal status.

(2) Third party intervention shall be declared in pleadings no later than four weeks before the main hearing. The declaration shall state the grounds for the intervention, and be notified to the parties together with deadline for contesting the intervention. If the intervention is contested, the issue of the right to intervene shall be determined by interlocutory order. Until a judgment has been rendered which refuses third party intervention, the party who has invoked third party intervention may exercise procedural rights pursuant to the third subsection of this Section.

(3) The third party intervener shall join the action as it stands. The third party intervener may take procedural steps on behalf of the party. Such procedural steps shall not be contrary to those of the party.

Section 47. *Merging cases for joint hearing*

Cases which raise similar questions, and which will be heard with the same composition of Court, may be merged for joint hearing and joint judgment.

Section 48. *Hearing of the case*

(1) The Court shall ensure that the case is fully enlightened.

(2) The Court shall, at all stages of the case, assess the opportunity of resolving the dispute amicably by encouraging the parties to find an out-of-court solution. The duty pursuant to the first sentence of this subsection does not apply if the nature of the case or circumstances in general discourage such a solution.

(3) The case preparation and main hearing shall be managed by one of the Court's expert judges.

(4) The case shall be heard and evidence invoked in the manner which the Court sees fit. The main hearing shall be oral, unless both parties consent to a written hearing and the Court does not object. Section 9-13 of the Disputes Act concerning organisation of the main hearing and Section 9-14, second subsection of the same Act concerning oral main hearing shall apply correspondingly, insofar as appropriate.

(5) The Court may obtain statements from parties, experts and anyone whose statement may be of significance for the case. Section 22-9 of the Disputes Act concerning the non-disclosure exemption for incriminating personal information shall apply correspondingly, insofar as appropriate. Evidence with information from mediators concerning what has emerged during the mediation cannot be presented.

(6) The Court may order anyone to submit documents, business ledgers and other evidence which are at the person in question's disposal. The Court may order a part or a witness to examine registered accounting information, accounting materials or other evidence, as well as to present an overview of this.

(7) The Court may carry out an inspection and examine evidence either itself or through one or more of its members or through appointed experts.

(8) The Labour Court may order that evidence be taken up before a District Court. Section 21-11 of the Disputes Act concerning the taking of evidence, Section 21-13 concerning the presentation of evidence in cases which are heard in writing and the provisions in Chapter 27 concerning the taking of evidence in court cases shall apply correspondingly, insofar as appropriate.

(9) Section 16-4 of the Disputes Act concerning adjournment of the main hearing shall apply correspondingly, insofar as appropriate.

(10) Any party who will have a valid absence in a court hearing, may demand that the meeting be rescheduled. The same applies when a party's representative or counsel will have a valid absence and it will be a significant disadvantage for another to attend in his/her stead. The president of the Court or the preparatory judge may otherwise reschedule court hearings when this is necessary in order to ensure proper treatment or if weighty reasons otherwise indicate that is appropriate. In this decision, emphasis shall be placed on the need for quick, proper and cost-efficient treatment. In the event of rescheduling, a new time shall be scheduled for the court hearing, insofar as possible.

Section 49. *Stay of proceedings*

(1) The preparatory judge may stay proceedings in a case upon request from a party if the outcome, in whole or in part, depends on a legal status which will have a binding resolution in another case. The case may also be stayed if weighty reasons otherwise indicate that this is appropriate. Emphasis shall be placed on the need for quick, proper and cost-efficient treatment.

(2) A ruling to stay proceedings shall be made by interlocutory order by the preparatory judge. The stay of proceedings shall take effect when the interlocutory order has been pronounced. The case shall be resumed when the proceedings may continue.

(3) The parties may agree to stay proceedings in a case for at least three months. The agreement shall come into force when the Court has received it. The preparatory judge shall resume the case upon request from a party. The same case may be stayed multiple times upon agreement between the parties. A case that has been stayed upon agreement between the parties, shall be quashed when it has been stayed for a total of two years.

(4) Section 16-15 of the Disputes Act concerning the consequences of a stay of proceedings and Section 16-16 concerning stay of proceedings pursuant to statute shall apply correspondingly, insofar as appropriate.

Section 50. *Absent parties, party representatives and counsel*

(1) If a party, party's representative or counsel does not attend, and it has been stated or is likely that the person in question has a lawful absence, the case shall be adjourned. Section 13-4 of the Disputes Act concerning lawful absence shall apply correspondingly, insofar as appropriate.

(2) If the plaintiff does not attend without it being stated or likely that the person in question has a valid absence, the case shall be dismissed.

(3) If the defendant does not attend without it being stated or likely that the person in question has a lawful absence, and the plaintiff is in attendance, the plaintiff may still bring the case. Under such circumstances, the case shall, insofar as possible, be treated as though the absent party was present.

(4) If neither party attends, and without it being stated or likely that either of them have a lawful absence, the case shall be adjourned.

Section 51. *Duty to appear for witnesses, parties and experts*

(1) Anyone who is living or staying in Norway is obliged, following a summons from the Court, to appear before the Labour Court as a witness. The summons shall determine whether the statement shall be given directly before the Labour Court or through remote examination. Section 21-10 of the Disputes Act concerning distance examination shall apply correspondingly, insofar as appropriate.

(2) As regards the parties' duty to attend in person following a special order, the same rules shall apply as for witnesses pursuant to the first subsection of this Section.

(3) Anyone who is obliged to testify in the case, is obliged to serve as an expert after the Court has been appointed.

Section 52. *Summoning witnesses, parties and experts*

(1) Witnesses, experts and others shall, if possible, be summoned with one week's notice. The deadline may be restricted to one day if the consideration for quick treatment of the case so demands or arrangements are made for the witness to be examined without neglecting important duties. Witnesses and experts who are in the vicinity of the Court or a location where distance examination is possible, are obliged to attend immediately, if this can take place without significant disadvantage.

(2) Parties shall be summoned with at least 48 hours' notice.

Section 53. *Compensation for witnesses and experts*

(1) Witnesses summoned by the Court and appointed experts are entitled to compensation pursuant to the rules in the Act of 21 July 1916 No. 2 on compensation for witnesses and experts, etc.

(2) The Court can decide that also witnesses appearing for the parties and experts that are not appointed, shall have such compensation.

Section 54. *Freedom of information and the right of inspection*

(1) The hearings are open to the public, if not otherwise determined by the Court. The doors shall be closed when the negotiations include trade or business secrets, or other information which should not be disclosed to unauthorised personnel.

(2) Any person who has been present during closed-door negotiations is obliged to maintain confidentiality regarding information that has emerged during the negotiations, unless the Court allows publication.

(3) The provisions in Chapter 14 of the Dispute Act on right of access and inspection apply similarly insofar as they are appropriate.

Section 55. Court records

(1) The Court records note the time and location of the hearing, the names of the judges, the keeper of records, the parties, the representatives of the parties, counsel, witnesses and experts.

(2) The Court records shall indicate the evidence that has been reviewed and include a brief summary of the proceedings. Allegations and objections shall be entered in their entirety or be appended. All of the Court's decisions and settlements reached between the parties shall be entered in the same manner.

Section 56. Decisions of the Court

(1) The Court's decisions are made by a majority vote.

(2) Judgments shall be pronounced as soon as possible after the case proceedings are concluded, and no later than four weeks after the main hearing. When the case requires so much work that it is not possible to comply with the deadline, the pronouncement of judgment can take place later. If the deadline is not met, the cause shall be stated in the judgment.

(3) Section 19-14 of the Dispute Act, first through third subsections on pronouncement and Section 19-5 on notification of the ruling apply insofar as they are appropriate.

(4) The Court can decide to correct a decision which, due to typographical or mathematical errors, misunderstandings, omissions or similar obvious errors, has been formulated in a manner which does not conform to the opinion of the Court. The Court can make such corrections on its own initiative, or upon petition by a party. The judge who presided over the negotiations can make the corrections if there is no doubt as to how they are to be carried out. Decisions on corrections must be added to the decision in such a manner that what has been corrected is readily apparent. The parties shall be notified immediately.

(5) Rulings that have guided the direction of the case and other decisions can be reversed by the Court when such reversal is not disproportionately burdensome for a party who has made arrangements according to the decision. Section 19-10, fourth subsection of the Dispute Act on reversal applies similarly insofar as it is appropriate.

Section 57. In-court settlements

(1) An in-court settlement can be reached during the main proceedings. An in-court settlement is recorded in the Records of the Court and signed by the parties and the members of the Court. If the settlement does not include provisions concerning costs, the Court shall rule on the issue at its discretion, according to petition by the parties. Section 19-11, third subsection of the Disputes Act on the Courts' control over the settlement applies correspondingly.

(2) An in-court settlement has the same effect as a legally binding decision by the Labour Court.

(3) Questions regarding the validity of an in-court settlement can be appealed to the Supreme Court's appeals committee. The deadline for appeal is one month.

Section 58. Appeals

(1) A ruling which rejects a case from the Labour Court, can be appealed to the Supreme Court's appeals committee.¹ The deadline for appeal is one month.

(2) A person who is not a party to the case can appeal a ruling or decision that imposes obligations upon said person, or imposes penalties or liability for costs. The parties can appeal rulings that impose upon them penalties and liability for costs pursuant to Sections 60 and 62 of this Act.

(3) The appeal must be declared immediately if the person is present in court, and otherwise no later than three days after the person has been informed of the decision. Insofar as a party has acted as an opposing party or can be deemed to be an opposing party, said party should be informed regarding the appeal. The appeal has suspensive effect for the appellant.

(4) The Court shall transmit, without delay, the notice of appeal with the necessary documents and printouts to the Supreme Court's appeals committee. The Court, the appellant and others for whom the appeal has importance can submit a written opinion regarding the case. If facts are invoked that have not previously been mentioned, such statements must always be sent via the court.

(5) The decisions and rulings by the Labour Court of Norway that are not covered under the first and second subsections of this Section are final and can be enforced according to the rules for Supreme Court decisions. Nevertheless, a decision can be appealed to the Supreme Court's appeals committee for repeal, on the basis that the case does not fall under the jurisdiction of the Labour Court. The deadline for such appeals is one month.

1 Should be "the Supreme Court", cf. dl. Section 1 (1) No. 1 and Section 4, second sentence.

Section 59. Court costs

(1) As a main rule, costs are not awarded for the Labour Court.

(2) In special cases, the Labour Court can order one or both of the parties to cover the State's court costs under this statute.

(3) When special reasons so indicate, the court can award a party who has won a case before the Labour Court, reimbursement of their costs from the opposing party. The case is also considered to be won if the opposing party's case is rejected or withdrawn.

(4) If the case is withdrawn as settled without such settlement including costs, the question of costs shall be decided according to the discretion of the Court, if so demanded by one of the parties.

Chapter 5. Concluding provisions**Section 60. Offensive conduct, etc.**

(1) Persons who appear before the Labour Court and insult the Court or anyone appearing before it, who disrupt its meetings, affront the dignity of the Court or fail to comply with orders by the Court or the judge presiding over the case, can be expelled and fined. Persons who write something that is inappropriate or insulting in a pleading, can be fined. The decision is made by means of a ruling.

(2) The provisions in the first subsection also apply in connection with case preparation by the mediation institution.

Section 61. *Breaches of the duty of confidentiality, etc.*

Any person who intentionally, or with gross negligence, breaches the duty of confidentiality pursuant to Section 23 or Section 54, second subsection, shall be punished with fines pursuant to Section 121 of the Criminal Code. Similar sanctions apply to any person who violates Section 22, second subsection by transmitting information obtained by the mediator during mediation, Section 26, second subsection by transmitting information regarding the voting on the mediation proposals and Section 27, third subsection by transmitting the result of the voting before the National Mediator has announced the main result.

Section 62. *Absence, etc.*

(1) If a witness or other party who has been ordered to appear in person fails to appear without a valid reason, does not report absence in a timely manner, or leaves the meeting without permission prior to its conclusion, said person can be fined and ordered to reimburse, in whole or in part, the incurred costs. The decision is made by means of a ruling.

(2) If the person fails to appear following a new summoning or request to attend the meeting, fines and liability for costs can be imposed yet again.

(3) Invalid absence is also counted when a person, without valid grounds, refuses to accept the assignment as expert, that an expert fails to exercise his duty, and that a person must be turned away because they appear in a state of intoxication.

(4) If a person refuses to make a statement or to give affirmation without valid grounds, the person may, by means of a ruling during the case, be ordered to pay fines and, in whole or in part, to reimburse such costs as are a result of said refusal. Fines and/or liability for costs may not be imposed on the same person more than twice in the same case.

(5) If a person does not comply with an order to submit a document or to produce, submit or provide access to some object, or to examine and make abstracts from a document or the like, this is considered refusal to make a statement.

Section 63. *Responsibility for appeals*

For appeals that are obviously baseless, the Appeals Committee of the Supreme Court may impose fines and responsibility for costs.

Chapter 6. Implementation and amendments in respect of other Acts

Section 64. *Entry into force*

The Act shall enter into force from such time as the King determines. As from the date when the Act takes effect, the Act of 5 May 1927 No. 1 relating to labour disputes shall be repealed.

1 From 1 March 2012, according to Resolution of 27 January 2012 No. 71.

Section 65. *Changes to other acts*
