

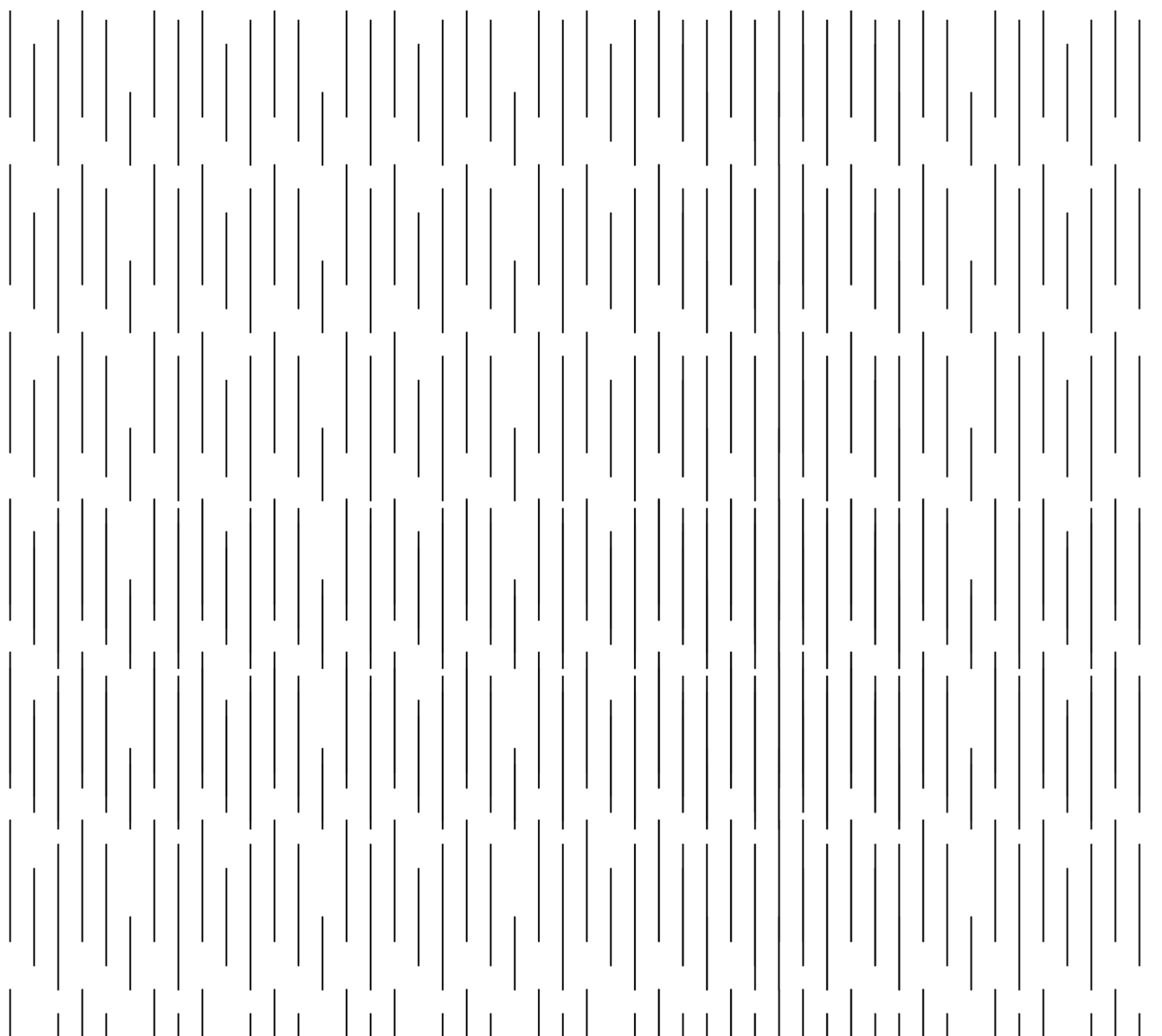


Arbeidstilsynet

# Working Environment Act

ENGLISH TRANSLATION OF «ARBEIDSMILJØLOVEN»

OCTOBER 2017



This is an unofficial English translation of the Act «Lov om arbeidsmiljø, arbeidstid og stillingsvern mv. (arbeidsmiljøloven)» for information purposes. Any disputes shall be decided on the basis of the formal Act in Norwegian.

The Norwegian Labour Inspection Authority (Arbeidstilsynet)

October 2017

[www.arbeidstilsynet.no](http://www.arbeidstilsynet.no)

# Content

Working Environment Act.....	12
Chapter 1. Introductory provisions .....	12
Section 1-1. The purpose of the Act .....	12
Section 1-2. The scope of the Act .....	12
Section 1-3. Offshore petroleum activities.....	13
Section 1-4. Undertakings with no employees, etc.....	14
Section 1-5. Work performed at the home of the employee or employer .....	14
Section 1-6. Persons who are not employees.....	14
Section 1-7. Posted employees.....	15
Section 1-8. The employee and the employer .....	16
Section 1-9. Indispensability.....	16
Chapter 2. Duties of employer and employees .....	16
Section 2-1. Duties of the employer .....	16
Section 2-2. Duties of the employer towards persons other than own employees ..	16
Section 2-3. Employees' duty to cooperate .....	17
Section 2-4. (Repealed by the Act of 16 June 2017 No. 42 (in force from 1 July 2017 pursuant to the Decree of 16 June 2017 No. 752) .) .....	18
Section 2-5. (Repealed by the Act of 16 June 2017 No. 42 (in force from 1 July 2017 pursuant to the Decree of 16 June 2017 No. 752) .) .....	18
Chapter 2 A. Notification .....	19
Section 2 A-1 The right to notify censurable conditions at the undertaking .....	19
Section 2 A-2. Protection against retaliation in connection with notification .....	19
Section 2 A-3. Obligation to prepare procedures for internal notification.....	20
Section 2 A-4. Duty of confidentiality in connection with notification to public authorities .....	20
Chapter 3. Working environment measures.....	21

Section 3-1. Requirements regarding systematic health, environment and safety work.....	21
Section 3-2. Special safety precautions.....	22
Section 3-3. Occupational health services .....	23
Section 3-4. Assessment of measures for physical activity .....	23
Section 3-5. The employer’s obligation to undergo training in health, environment and safety work .....	23
Section 3-6. (Repealed by the Act of 16 June 2017 No. 42 (in force from 1 July 2017 pursuant to the Decree of 16 June 2017 No. 752).) .....	24
Chapter 4. Requirements regarding the working environment .....	24
Section 4-1. General requirements regarding the working environment .....	24
Section 4-2. Requirements regarding arrangement, participation and development .....	25
Section 4-3. Requirements regarding the psychosocial working environment .....	26
Section 4-4. Requirements regarding the physical working environment .....	26
Section 4-5. Particularly concerning chemical and biological health hazards .....	27
Section 4-6. Particularly concerning adaptation for employees with reduced capacity for work .....	28
Chapter 5. Obligation to record and notify, requirements to manufacturers, etc.....	29
Section 5-1. Recording of injuries and diseases .....	29
Section 5-2. The employer’s notification obligation .....	30
Section 5-3. Medical practitioners’ notification obligation.....	30
Section 5-4. Manufacturers and importers of chemicals and biological substances.....	31
Section 5-5. Manufacturers, suppliers and importers of machines and other work equipment .....	32
Chapter 6. Safety representatives.....	33
Section 6-1. Obligation to elect safety representatives.....	33
Section 6-2. Duties of safety representatives.....	34

Section 6-3. The safety representative's right to halt dangerous work .....	36
Section 6-4. Special local or regional safety representatives .....	36
Section 6-5. Costs, training, etc. ....	36
Chapter 7. Working environment committees .....	37
Section 7-1. Obligation to establish working environment committees .....	37
Section 7-2. The duties of the working environment committee .....	38
Section 7-3. Special local working environment committees .....	39
Section 7-4. Costs, training, etc. ....	40
Chapter 8. Information and consultation.....	40
Section 8-1. Obligation regarding information and consultation .....	40
Section 8-3. Confidential information .....	41
Chapter 9. Control measures in the undertaking .....	42
Section 9-1. Conditions for control measures in the undertaking .....	42
Section 9-2. Consultations, information and evaluation of control measures .....	42
Section 9-3. Obtaining health information on appointment of employees .....	42
Section 9-5. Access to employees' e-mail, etc. ....	43
Chapter 10. Working hours .....	43
Section 10-1. Definitions .....	43
Section 10-2. Working hour arrangements .....	43
Section 10-3. Work schedule .....	44
Section 10-4. Normal working hours.....	44
Section 10-5. Calculating average normal working hours .....	46
Section 10-6. Overtime.....	47
Section 10-7. Account of working hours .....	48
Section 10-8. Daily and weekly off-duty time.....	48
Section 10-9. Breaks .....	49
Section 10-10. Work on Sundays .....	50

Section 10-11. Night work .....	50
Section 10-12. Exceptions.....	51
Section 10-13. Settlement of disputes .....	53
Chapter 11. Employment of children and young persons .....	53
Section 11-1. Prohibition against child labour .....	53
Section 11-2. Working hours .....	54
Section 11-3. Prohibition against night work .....	54
Section 11-4. Medical examinations.....	55
Section 11-5. Breaks and time off.....	55
Chapter 12. Entitlement to leave of absence.....	56
Section 12-1. Prenatal examinations.....	56
Section 12-2. Pregnancy leave .....	56
Section 12-3. Leave of absence to care for a child .....	56
Section 12-4. Maternity leave .....	56
Section 12-5. Parental leave .....	57
Section 12-6. Partial leave of absence.....	57
Section 12-7. Duty to provide notification .....	58
Section 12-8. Time off for nursing mothers .....	58
Section 12-9. Child's or childminder's sickness .....	58
Section 12-10. Care and nursing of close relatives and/or other close persons .....	60
Section 12-11. Educational leave.....	60
Section 12-12. Military service, etc.....	61
Section 12-13. Public office .....	62
Section 12-14. Settlement of disputes .....	62
Section 12-15. Religious holidays .....	62
Chapter 13. Protection against discrimination .....	62
Section 13-1. Prohibition against discrimination .....	62

Section 13-2. Scope of this chapter .....	63
Section 13-3. Exceptions from the prohibition against discrimination .....	63
Section 13-4. Obtaining information on appointment of employees .....	64
Section 13-5. (Repealed by the Act of 20 June 2008 No. 42) .....	64
Section 13-6. Preferential treatment .....	64
Section 13-7. Duty of disclosure .....	65
Section 13-8. Burden of proof .....	65
Section 13-9. The effects of breach of the discrimination prohibition .....	65
Section 13-10. Right of organisations to act as an agent .....	65
Chapter 14. Appointment, etc. ....	66
Section 14-1. Information concerning vacant posts in the undertaking .....	66
Section 14-1 a. Discussions concerning the use of part-time employment .....	66
Section 14-2. Preferential right to a new appointment .....	66
Section 14-3. Preferential rights of part-time employees .....	67
Section 14-4. Effects of a breach of the provisions concerning preferential rights .....	67
Section 14-4 a. Part-time workers' entitlement to a post equivalent to actual working hours .....	68
Section 14-4 b. Consequences of breaches of part-time workers' entitlement to a post equivalent to actual working hours .....	68
Section 14-5. Requirements regarding a written contract of employment .....	68
Section 14-6. Minimum requirements regarding the content of the written contract .....	69
Section 14-7. Employees posted abroad .....	70
Section 14-8. Changes in the employment relationship .....	71
Section 14-9. Temporary appointment .....	71
Section 14-10. Fixed-term appointments .....	73
Section 14-11. Effects of unlawful temporary appointments .....	73

Section 14-12. Hiring of workers from undertakings whose object is to hire out labour (temporary-work agencies) .....	73
Section 14-12 a. Equal treatment regarding pay and working conditions in connection with the hiring out of workers by temporary-work agencies .....	74
Section 14-12 b. The obligation to provide information and right of access to information when hiring workers from temporary-work agencies.....	75
Section 14-12 c. Joint and several liability for user undertakings .....	76
Section 14-13. Hiring of employees from undertakings other than those whose object is to hire out labour.....	76
Section 14-14. Consequences of unlawful hiring of employees .....	77
Section 14-15. Payment of salary and holiday pay .....	77
Section 14-16. Staff rules .....	78
Section 14-17. Establishment of staff rules .....	79
Section 14-18. Time limit for submitting staff rules.....	79
Section 14-19. Validity of staff rules .....	80
Section 14-20. Amendments to staff rules .....	80
Chapter 14 A. Agreements restricting competition in employment relationships.....	80
Section 14 A-1. Non-compete clauses .....	80
Section 14 A-2. Statements in connection with non-compete clauses.....	81
Section 14 A-3. Compensation on invoking a non-compete clause .....	81
Section 14 A-4. Non-solicitation of customers clauses .....	82
Section 14 A-5. Exceptions regarding the undertaking's chief executive.....	83
Section 14 A-6. Non-solicitation of employees clauses .....	83
Chapter 15. Termination of employment relationships .....	83
Section 15-1. Consultations prior to decisions regarding dismissal with notice .....	83
Section 15-2. Information and consultation in connection with collective redundancies.....	84
Section 15-3. Periods of notice.....	85



Section 15-4. Formal requirements with regard to notice of dismissal .....	87
Section 15-5. Consequences of formal errors in connection with notice of dismissal.....	88
Section 15-6. Protection against dismissal in contracts of employment specifying a trial period .....	88
Section 15-7. Protection against unfair dismissal .....	89
Section 15-8. Protection against dismissal in the event of sickness .....	89
Section 15-9. Protection against dismissal during pregnancy or following the birth or adoption of a child .....	90
Section 15-10. Protection against dismissal in connection with military service, etc.....	90
Section 15-11. The employee's right to remain in his post .....	90
Section 15-12. Consequences of unfair dismissal, etc. ....	91
Section 15-13. Suspension .....	92
Section 15-13 a. Termination of employment on account of age .....	92
Section 15-14. Summary dismissal.....	93
Section 15-15. References .....	93
Section 15-16. The chief executive of the undertaking .....	94
Section 15-17. Dismissal in connection with labour disputes .....	94
Chapter 16. Rights of employees in the event of transfer of ownership of undertakings .....	94
Section 16-1. Scope of this chapter.....	94
Section 16-2. Pay and working conditions .....	94
Section 16-3. Right of reservation, etc. ....	95
Section 16-4. Protection against dismissal .....	96
Section 16-5. Information and consultation with elected representatives of the employees.....	96
Section 16-6. Information to the employees .....	97
Section 16-7. Representation .....	97

Chapter 17. Disputes concerning working conditions .....	97
Section 17-1. Disputes concerning working conditions .....	97
Section 17-2. Dispute Resolution Board .....	98
Section 17-3. The right to demand negotiations .....	98
Section 17-4. Time limits for instituting legal proceedings in disputes concerning dismissal with notice, summary dismissal, suspension, etc.....	100
Section 17-5. Extension of time limits and reinstatement of cases in respect of dismissal during sickness, pregnancy, parental leave, military service, etc. ....	101
Section 17-6. Panels of lay judges .....	101
Section 17-7. Appointment of lay judges .....	101
Chapter 18. Regulatory supervision of the Act .....	102
Section 18-1. The Labour Inspection Authority.....	102
Section 18-2. Protection of sources of information .....	102
Section 18-3. Fees.....	103
Section 18-4. Access of the Labour Inspection Authority to the undertaking.....	103
Section 18-5. Information .....	104
Section 18-6. Orders and other individual decisions .....	104
Section 18-7. Coercive fines .....	105
Section 18-8. Halting of work.....	106
Section 18-9. Consent of the Labour Inspection Authority for erection of new buildings, etc.....	106
Section 18-10. Administrative fines .....	106
Section 18-11. Mutual assistance in connection with recovery and notification of financial administrative sanctions .....	108
Chapter 19. Penal provisions .....	109
Section 19-1. Liability of proprietors of undertakings, employers and persons managing undertakings in the employer's stead.....	109
Section 19-2. Liability of employees.....	109

Section 19-3. Liability for enterprises .....	110
Section 19-4. Liability for obstructing public authorities .....	110
Section 19-5. Public servants .....	110
Section 19-6. Prosecution .....	110
Section 19-7. (Repealed by the Act of 19 June 2015 No. 65) .....	111
Chapter 20. Final provisions .....	111
Section 20-1. Entry into force .....	111
Section 20-2. Transitional provisions .....	111
Section 20-3. Amendments to other Acts .....	111

# Working Environment Act

Act of 17 June 2005 No. 62 relating to working environment, working hours and employment protection, etc. (Working Environment Act), as subsequently amended, last by the Act of 16 June 2017 No. 42.

## Chapter 1. Introductory provisions

### Section 1-1. The purpose of the Act

The purpose of the Act is:

- a) to secure a working environment that provides a basis for a healthy and meaningful working situation, that affords full safety from harmful physical and mental influences and that has a standard of welfare at all times consistent with the level of technological and social development of society,
- b) to ensure sound conditions of employment and equality of treatment at work,
- c) to facilitate adaptations of the individual employee's working situation in relation to his or her capabilities and circumstances of life,
- d) to provide a basis whereby the employer and the employees of undertakings may themselves safeguard and develop their working environment in cooperation with the employers' and employees' organisations and with the requisite guidance and supervision of the public authorities,
- e) to foster inclusive working conditions.

### Section 1-2. The scope of the Act

(1) The Act shall apply to undertakings that engage employees unless otherwise explicitly provided by the Act.

(2) The following are exempt from the Act:

- a) shipping, hunting and fishing, including processing of the catch on board ship,
- b) military aviation, which is covered by the Aviation Act. The Ministry may issue regulations concerning exceptions from the Act for civil aviation and state

aviation other than military aviation and concerning special provisions for such aviation.

(3) The King may issue regulations concerning the provisions of chapters 14, 15, 16 and 17 and concerning the extent to which these provisions shall apply to employees who are subject to the Act of 4 March 1983 No. 3 relating to civil servants, etc. or who are senior civil servants.

(4) The King may by regulation provide that parts of the public administration shall wholly or partly be excepted from the Act when the activity is of such a special nature that it is difficult to adapt it to the provisions of the Act.

### Section 1-3. Offshore petroleum activities

(1) The Act shall apply to activities associated with exploration for and exploitation of natural resources in the seabed or its substrata, Norwegian inland waters, Norwegian sea territory and the Norwegian part of the continental shelf.

(2) The Act shall apply to activities as referred to in the first paragraph in the area outside the Norwegian part of the continental shelf if this ensues from a special agreement with a foreign state or from international law in general.

(3) The Ministry may by regulation wholly or partly exempt from the Act activities as referred to in the first and second paragraphs. The Ministry may also provide in regulations that the Act wholly or partly shall apply to activities as referred to in the first paragraph in areas outside the Norwegian part of the continental shelf if exploration for or exploitation of natural resources in the seabed or its substrata are conducted from an installation registered in a Norwegian shipping register or if manned underwater operations are carried out from an installation or vessel registered in a Norwegian shipping register. The Ministry may by regulation also provide that the Act shall apply in connection with the movement of installations or vessels as mentioned.

(4) Special provisions may also be laid down in regulations issued pursuant to this section.

## Section 1-4. Undertakings with no employees, etc.

- (1) The Ministry may provide in regulations that the provisions of the Act shall wholly or partly apply to undertakings with no employees.
- (2) The Ministry may provide in regulations that agricultural undertakings that do not employ assistance other than relief assistance shall be exempt from the Act.
- (3) The Ministry may provide in regulations that the provisions of the Act shall wholly or partly apply to anyone legally responsible for building assignments or his representative.
- (4) Special provisions may be laid down in regulations issued pursuant to this section.

## Section 1-5. Work performed at the home of the employee or employer

- (1) The Ministry may issue regulations concerning work performed at the home of the employee and the extent to which the Act shall apply to such work.
- (2) The Ministry may provide in regulations that the provisions of the Act shall wholly or partly apply to an employee who performs domestic work, care or nursing at the home of the employer.
- (3) Special provisions may be laid down in regulations issued pursuant to this section.

## Section 1-6. Persons who are not employees

- (1) The following persons are regarded as employees in relation to the Act's provisions concerning health, environment and safety when performing work in undertakings subject to the Act:
  - a) students at educational or research institutions,
  - b) national servicemen,
  - c) persons performing civilian national service and Civil Defence servicemen,
  - d) inmates in correctional institutions,
  - e) patients in health institutions, rehabilitation institutions and the like,

f) persons who for training purposes or in connection with work-oriented measures are placed in undertakings without being employees,

g) persons who without being employees participate in labour market schemes.

The Ministry may by regulation provide exceptions from the provision laid down in the first sentence.

(2) The provisions of the Act concerning the employer shall apply to a person who allows persons as referred to in the first paragraph to perform work in his undertaking.

(3) The Ministry may issue regulations concerning the extent to which the remaining provisions of this Act shall apply to persons referred to in the first paragraph.

## Section 1-7. Posted employees

(1) By a posted employee is meant an employee who for a limited period works in a country other than that with which the employment is normally associated.

(2) Posting of an employee shall be deemed to take place when a foreign undertaking in connection with the provision of services:

a) by agreement with a recipient of services in Norway, posts an employee to Norway for its own account, at its own risk and under its own management, or

b) if an employee is posted to a place of business or undertaking in Norway that belongs to the same group, or

c) in the capacity of temporary employment undertaking or other undertaking that makes employees available, posts employees to an undertaking in Norway.

(3) Posting of an employee is also deemed to take place when a Norwegian undertaking in connection with the provision of services posts an employee to another country within the EEA area.

(4) The Ministry may in regulations provide rules concerning which pay and working conditions provided or authorised by statute shall apply to posted employees and provisions necessary for ensuring compliance, including provisions concerning cooperation with the responsible authorities of other EEA member states, protection and compensation in the event of retaliation from the employer, criteria for

determining whether a posting is genuine, remuneration for accommodation and documentation requirements.

(5) In connection with mutual cooperation between EEA member states in accordance with regulations issued pursuant to section 1-7, fourth paragraph, and section 18-11, fifth paragraph, of the Working Environment Act, information may be provided to the responsible authorities of another EEA member state regardless of any statutory duty of confidentiality.

## **Section 1-8. The employee and the employer**

(1) For the purposes of this Act, employee shall mean anyone who performs work in the service of another.

(2) For the purposes of this Act, employer shall mean anyone who has engaged an employee to perform work in his service. The provisions of this Act relating to the employer shall apply correspondingly to a person managing the undertaking in the employer's stead.

## **Section 1-9. Indispensability**

This Act may not be departed from by agreement to the detriment of the employee unless this is expressly provided.

# **Chapter 2. Duties of employer and employees**

## **Section 2-1. Duties of the employer**

The employer shall ensure that the provisions laid down in and pursuant to this Act are complied with.

## **Section 2-2. Duties of the employer towards persons other than own employees**

(1) When persons other than the employer's own employees, including workers hired from temporary-work agencies or other companies and one-man enterprises,



perform tasks in connection with the employer's activities or installations, the employer shall:

- a) ensure that his own activities and those of his own employees' are arranged and performed in such a manner that persons other than his own employees are also ensured a thoroughly sound working environment,
- b) cooperate with other employers in order to ensure a thoroughly sound working environment,
- c) ensure that the working hours of workers hired from temporary-work agencies or other companies comply with the provisions of chapter 10.

(2) The principal undertaking shall be responsible for coordinating the health, environment and safety work of each undertaking. If more than 10 employees are employed at the same time and none of the undertakings may be regarded as the principal undertaking, it shall be agreed in writing which undertaking shall be responsible for coordination. In the event that no such agreement is reached, the Labour Inspection Authority shall be notified and shall decide which employer shall be responsible for the coordination.

(3) The Ministry may by regulation issue further provisions concerning the performance of the duties of the employer pursuant to this section.

## Section 2-3. Employees' duty to cooperate

(1) Employees shall cooperate on the design, implementation and follow-up of the undertaking's systematic work on health, environment and safety. Employees shall take part in the organised safety and environmental work of the undertaking and shall actively cooperate on implementation of measures to create a satisfactory and safe working environment.

(2) Employees shall:

- a) use the prescribed protective equipment, exercise caution and otherwise contribute to prevention of accidents and injury to health,
- b) immediately notify the employer and the safety representative and to the extent necessary other employees when employees become aware of faults or defects

that may involve danger to life or health and they themselves are unable to remedy the fault or defect,

- c) interrupt work if the employees consider that it cannot continue without involving danger to life or health,
- d) ensure that the employer or the safety representative is notified as soon as employees become aware of harassment or discrimination at the workplace,
- e) notify the employer if an employee suffers injury at work or contracts diseases which the employee believes to result from the work or conditions at the working premises,
- f) cooperate on preparation and implementation of follow-up plans in connection with total or partial absence from work owing to accidents, sickness, fatigue or the like,
- g) take part in a dialogue meeting when summoned by the employer, cf. section 4-6, fourth paragraph.
- h) obey instructions issued by the Labour Inspection Authority.

(3) Employees charged with directing or supervising other employees shall ensure that safety and health are taken into consideration when work that comes under their areas of responsibility is being planned and carried out.

**Section 2-4. (Repealed by the Act of 16 June 2017 No. 42 (in force from 1 July 2017 pursuant to the Decree of 16 June 2017 No. 752).)**

**Section 2-5. (Repealed by the Act of 16 June 2017 No. 42 (in force from 1 July 2017 pursuant to the Decree of 16 June 2017 No. 752).)**

## Chapter 2 A. Notification

### Section 2 A-1 The right to notify censurable conditions at the undertaking

(1) An employee has a right to notify censurable conditions at the employer's undertaking. Workers hired from temporary-work agencies also have a right to notify censurable conditions at the hirer's undertaking.

(2) The employee shall proceed responsibly when making such notification. The employee has notwithstanding the right to notify in accordance with the duty to notify or the undertaking's routines for notification. The same applies to notification to supervisory authorities or other public authorities.

(3) The employer has the burden of proof that notification has been made in breach of this provision.

### Section 2 A-2. Protection against retaliation in connection with notification

(1) Retaliation against an employee who notifies pursuant to section 2 A-1 is prohibited. As regards workers hired from temporary-work agencies, the prohibition shall apply to both employers and hirers. If the employee submits information that gives reason to believe that retaliation in breach of the first or second sentence has taken place, it shall be assumed that such retaliation has taken place unless the employer or hirer substantiates otherwise.

(2) The first paragraph applies correspondingly in connection with retaliation against an employee who makes known that the right to notify pursuant to section 2 A-1 will be invoked, for example by providing information.

(3) Anyone who has been subjected to retaliation in breach of the first or second paragraph may claim compensation without regard to the fault of the employer or hirer. The compensation shall be fixed at the amount the court deems reasonable in view of the circumstances of the parties and other facts of the case. Compensation for financial loss may be claimed pursuant to the normal rules.

## Section 2 A-3. Obligation to prepare procedures for internal notification

(1) If the conditions at the undertaking so indicate, the employer shall be obliged to prepare procedures for internal notification in accordance with section 2 A-1 in connection with systematic health, environment and safety work.

(2) The employer is always obliged to prepare such procedures if the undertaking regularly employs five or more employees.

(3) The procedures shall be prepared in cooperation with the employees and their elected representatives.

(4) The procedures shall not limit the employees' right to to notify pursuant to section 2 A-1.

(5) The procedures shall be in writing and at least contain:

- a) encouragement to notify censurable conditions,
- b) procedure for notification,
- c) procedure for receipt, processing and follow-up of notifications.

(6) The procedures shall be easily accessible to all employees at the undertaking.

## Section 2 A-4. Duty of confidentiality in connection with notification to public authorities

(1) When supervisory authorities or other public authorities receive notification concerning censurable conditions, any person who performs work or services for the body receiving such notification shall be obliged to prevent other persons from gaining knowledge of employees' names or other information identifying employees.

(2) The duty of confidentiality shall also apply in relation to parties to the case and their representatives. Sections 13 to 13e of the Public Administration Act shall otherwise apply correspondingly.

## Chapter 3. Working environment measures

### Section 3-1. Requirements regarding systematic health, environment and safety work

(1) In order to safeguard the employees' health, environment and safety, the employer shall ensure that systematic health, environment and safety work is performed at all levels of the undertaking. This shall be carried out in cooperation with the employees and their elected representatives.

(2) Systematic health, environment and safety work entails that the employer shall:

- a) establish goals for health, environment and safety,
- b) have an overall view of the undertaking's organisation, including how responsibility, tasks and authority for work on health, environment and safety is distributed,
- c) make a survey of hazards and problems and, on this basis, assess risk factors in the undertaking, prepare plans and implement measures in order to reduce the risks,
- d) during planning and implementation of changes in the undertaking, assess whether the working environment will be in compliance with the requirements of this Act, and implement the necessary measures,
- e) implement routines in order to detect, rectify and prevent contraventions of requirements laid down in or pursuant to this Act,
- f) ensure systematic prevention and follow-up of absence due to sickness,
- g) ensure continuous control of the working environment and the employees' health when necessitated by risk factors in the undertaking, cf. (c),
- h) conduct systematic supervision and review of the systematic work on health, environment and safety in order to ensure that it functions as intended.

(3) The Ministry may by regulation issue further provisions concerning implementation of the requirements of this section, including requirements regarding documentation of the systematic health, environment and safety work.

## Section 3-2. Special safety precautions

(1) In order to maintain safety at the workplace, the employer shall ensure:

- a) that employees are informed of accident risks and health hazards that may be connected with the work, and that they receive the necessary training, practice and instruction,
- b) that employees charged with directing or supervising other employees have the necessary competence to ensure that the work is performed in a proper manner with regard to health and safety,
- c) expert assistance, when this is necessary in order to implement the requirements of this Act.

(2) When satisfactory precautions to protect life and health cannot be achieved by other means, the employer shall ensure that satisfactory personal protective equipment is made available to the employees, that the employees are trained in the use of such equipment and that the equipment is used.

(3) If work is to be carried out that may involve particular hazards to life or health, written instructions shall be prepared prescribing how the work is to be done and what safety measures are to be implemented.

(4) The Ministry may issue regulations concerning implementation of the provisions of this section. The Ministry may also by regulation lay down further provisions concerning personal protective equipment, including provisions concerning:

- a) design, labelling, etc.
- b) use, maintenance, etc.
- c) testing, certification and approval
- d) approval of bodies set up to exercise supervision in relation to production of personal protective equipment.

The Ministry may by regulation provide that the provisions concerning personal protective equipment shall also apply to the manufacturer, importer and supplier.

### **Section 3-3. Occupational health services**

(1) The employer is obliged to provide occupational health services approved by the Labour Inspection Authority for the undertaking when so necessitated by risk factors in the undertaking. The assessment of whether such an obligation exists shall be made as part of the implementation of the systematic health, environment and safety measures.

(2) The occupational health service shall assist the employer, the employees, the working environment committee and safety representatives in creating safe and sound working conditions.

(3) The occupational health service shall have a free and independent position as regards working environment matters.

(4) The Ministry may by regulation issue further provisions prescribing when and to what extent the employer is obliged to provide occupational health services, the professional requirements regarding such services and the tasks it shall perform.

(5) The Ministry may in regulations issue provisions requiring that the occupational health service pursuant to this section must be approved by the Labour Inspection Authority and concerning the detailed contents of such an approval arrangement.

### **Section 3-4. Assessment of measures for physical activity**

In connection with the systematic health, environment and safety work, the employer shall, assess measures to promote physical activity among the employees.

### **Section 3-5. The employer's obligation to undergo training in health, environment and safety work**

(1) The employer shall undergo training in health, environment and safety work.

(2) The Ministry may by regulation provide further requirements regarding such training.

Section 3-6. (Repealed by the Act of 16 June 2017 No. 42 (in force from 1 July 2017 pursuant to the Decree of 16 June 2017 No. 752).)

## Chapter 4. Requirements regarding the working environment

### Section 4-1. General requirements regarding the working environment

(1) The working environment in the undertaking shall be fully satisfactory when the factors in the working environment that may influence the employees' physical and mental health and welfare are judged separately and collectively. The standard of safety, health and working environment shall be continuously developed and improved in accordance with developments in society.

(2) When planning and arranging the work, emphasis shall be placed on preventing injuries and diseases. The organisation, arrangement and management of work, working hours, pay systems, including use of performance-related pay, technology, etc., shall be arranged in such a way that the employees are not exposed to adverse physical or mental strain and that due regard is paid to safety considerations.

(3) It shall be assessed whether there are any special risks associated with working alone in the undertaking. Measures necessary for preventing and reducing any risk of working alone shall be implemented in order to meet the statutory requirements regarding a fully satisfactory working environment.

(4) The undertaking shall be arranged for employees of both sexes.

(5) Passageways, sanitary facilities, work equipment, etc. shall to the extent possible and reasonable be designed and arranged so that employees with disabilities can work at the undertaking.

(6) The Ministry may issue regulations concerning restricting permission to employ certain groups of employees who may be particularly vulnerable to accidents or health hazards and concerning relocation of such employees.



(7) The Ministry may issue regulations requiring the use of HSE cards by employees in branches where this is necessary or appropriate in order to safeguard the employees' health, environment and safety and concerning lists of persons at any time employed at the workplace. If so ordered by the Ministry, public authorities shall be obliged notwithstanding the duty of secrecy to provide the issuer of HSE cards with all information from public registers that is necessary for the issue of HSE cards.

(8) When consideration for health, environment and safety so indicates, the Ministry may issue regulations providing that undertakings operating cleaning services must be approved by the Labour Inspection Authority and concerning the detailed contents of such an approval arrangement. When such approval is required, it will be unlawful to utilise services operated by undertakings with no such approval.

## Section 4-2. Requirements regarding arrangement, participation and development

(1) The employees and their elected representatives shall be kept continuously informed of systems used in planning and performing the work. They shall be given the training necessary to enable them to familiarise themselves with these systems, and they shall take part in designing them.

(2) The design of each employee's working situation shall pay regard to the following:

- a) arrangements shall be made to enable the employee's professional and personal development through his or her work,
- b) the work shall be organised and arranged with regard for the individual employee's capacity for work, proficiency, age and other conditions,
- c) emphasis shall be placed on giving employees the opportunity for self-determination, influence and professional responsibility,
- d) employees shall as far as possible be given the opportunity for variation and for awareness of the relationships between individual assignments,
- e) adequate information and training shall be provided so that employees are able to perform the work when changes occur that affect his or her working situation.

(3) During reorganisation processes that involve changes of significance for the employees' working situation, the employer shall ensure the necessary information, participation and competence development to meet the requirements of this Act regarding a fully satisfactory working environment.

(4) The Ministry may by regulation issue further provisions concerning implementation of the requirements of this section.

### **Section 4-3. Requirements regarding the psychosocial working environment**

(1) The work shall be arranged so as to preserve the employees' integrity and dignity.

(2) Efforts shall be made to arrange the work so as to enable contact and communication with other employees of the undertaking.

(3) Employees shall not be subjected to harassment or other improper conduct.

(4) Employees shall, as far as possible, be protected against violence, threats and undesirable strain as a result of contact with other persons.

(5) The Ministry may by regulation issue further provisions concerning implementation of the requirements of this section.

### **Section 4-4. Requirements regarding the physical working environment**

(1) Physical working environment factors such as factors relating to buildings and equipment, indoor climate, lighting, noise, radiation and the like shall be fully satisfactory with regard to the employees' health, environment, safety and welfare.

(2) The workplace shall be equipped and arranged in such a way as to avoid adverse physical strain on the employees. Necessary aids shall be made available to the employees. Arrangements shall be made for variation in the work and to avoid heavy lifting and monotonous repetitive work. When machines and other work equipment are being installed and used, care shall be taken to ensure that employees are not subjected to undesirable strain as a result of vibration, uncomfortable working positions and the like.

(3) Machines and other work equipment shall be designed and provided with safety devices so that employees are protected against injuries.

(4) Living quarters made available to employees by the employer shall be properly constructed, equipped and maintained. Any house rules shall be drawn up in consultation with employees' representatives.

(5) The Ministry may by regulation issue further provisions concerning implementation of the requirements of this section and may here provide that the provisions shall apply to the lessors of premises and the like.

## Section 4-5. Particularly concerning chemical and biological health hazards

(1) When handling chemicals or biological substances, the working environment shall be so arranged that employees are protected against accidents, injuries to health and excessive discomfort. Chemicals and biological substances shall be manufactured, packed, used and stored in such a way that employees are not subjected to health hazards.

(2) Chemicals and biological substances that may involve health hazards shall not be used if they can be replaced by other substances or by another process that is less hazardous for the employees.

(3) The undertaking shall have the necessary routines and equipment to prevent or counteract injuries to health due to chemicals or biological substances.

(4) The undertaking shall keep a record of hazardous chemicals and biological substances. The record shall include information on physical, chemical and hazardous properties, preventive safety measures and first-aid treatment. Containers and packaging for chemicals and biological substances shall be clearly labelled with the name and composition and a warning in Norwegian.

(5) The Labour Inspection Authority may in individual cases wholly or partly exempt from the provisions of this section in connection with research and analysis or the like.

(6) The Ministry may by regulation issue further provisions concerning implementation of the requirements of this section, and may here provide that a

record shall be kept of employees who are exposed to specified chemicals or biological substances.

(7) The Ministry may in regulations issue further provisions concerning the use, registration, assessment, approval, reporting, information, restriction or other handling of chemicals.

## Section 4-6. Particularly concerning adaptation for employees with reduced capacity for work

(1) If an employee suffers reduced capacity for work as a result of an accident, sickness, fatigue or the like, the employer shall, as far as possible, implement the necessary measures to enable the employee to retain or be given suitable work. The employee shall preferably be given the opportunity to continue his normal work, possibly after special adaptation of the work or working hours, alteration of work equipment, work-oriented measures or the like.

(2) If, pursuant to the first paragraph, it is appropriate to transfer an employee to other work, the employee and the employees' elected representatives shall be consulted before deciding the matter.

(3) Unless regarded as evidently unnecessary, the employer shall in consultation with the employee prepare a follow-up plan for return to work following an accident, sickness, fatigue or the like. Work on the follow-up plan shall commence as soon as possible, and the plan shall be prepared at the latest when the employee has been wholly or partly absent from work for a period of four weeks. The follow-up plan shall contain a review of the employee's responsibilities and capacity for work. The plan shall also contain appropriate measures by the employer, appropriate measures involving the assistance of the authorities and plans for further follow-up. The employer shall ensure that the follow-up plan is communicated to the health professional responsible for granting sick leave as soon as it is prepared, and after four weeks at the latest. The employer shall moreover ensure that the updated plan is sent to the Labour and Welfare Service at the latest one week prior to dialogue meetings called by the Labour and Welfare Service, cf. section 25-2, third paragraph, of the National Insurance Act.

(4) The employer shall summon the employee to a dialogue meeting concerning the contents of the follow-up plan at the latest within seven weeks after the employee has been wholly absent from work owing to accident, sickness, fatigue or the like unless this is clearly unnecessary. In the case of employees who are partly absent from work for the above reasons, such a meeting shall be held when deemed appropriate by the employer, the employee or the health professional responsible for granting sick leave. If so wished by both the employer and the employee, or by the employee only, the health professional responsible for granting sick leave shall be summoned to the dialogue meeting. In the event of extraordinary circumstances associated with the working situation of the health professional responsible for granting sick leave, he or she may be exempted from the obligation to participate in the dialogue meeting. The Labour and Welfare Service, occupational health service and other relevant actors may be summoned if so wished by the employer or employee. The same applies to other relevant actors, with the exception that medical personnel who are treating or have treated the employee may not be summoned if the employee objects to this.

(5) The employer shall be able to document how the provisions concerning the follow-up plan and dialogue meeting have been followed up, including the persons who were summoned to and attended the dialogue meeting.

(6) The Ministry may by regulation issue further provisions concerning implementation of the requirements of this section.

## Chapter 5. Obligation to record and notify, requirements to manufacturers, etc.

### Section 5-1. Recording of injuries and diseases

(1) The employer shall ensure that all personal injuries occurring during the performance of work are recorded. The same shall apply to diseases assumed to have been caused by the work or by conditions at the workplace.

(2) The records must not contain medical information of a personal nature without the consent of the person to whom the information applies. The employer shall treat as confidential information in the records concerning personal matters.

(3) The records shall be accessible to the Labour Inspection Authority, safety representatives, occupational health services and the working environment committee.

(4) The employer shall keep a statistical record of absence due to sickness and absence due to a sick child pursuant to more detailed guidelines issued by the Directorate of Labour and Welfare, cf. section 25-2, first paragraph, of the National Insurance Act.

## Section 5-2. The employer's notification obligation

(1) If an employee dies or is seriously injured as the result of an occupational accident, the employer shall immediately and by the quickest possible means notify the Labour Inspection Authority and the nearest police authority. The employer shall confirm the notification in writing. The safety representative shall receive a copy of the confirmation.

(2) The Ministry may provide in regulations that such notification shall also be given in other cases.

(3) The Ministry may provide in regulations that the employer shall notify the Labour Inspection Authority of:

- a) occupational accident in respect of which notification is not required pursuant to the first or second paragraph, including acute poisonings, and any near accidents,
- b) any disease that is, or may be, caused by the work or by conditions at the workplace.

(4) The Ministry may by regulation issue further provisions concerning the extent and implementation of the notification obligation pursuant to this section.

## Section 5-3. Medical practitioners' notification obligation

(1) Any medical practitioner who through his work learns of an employee who is suffering from an occupational disease of the same status as an occupational injury pursuant to section 13-4 of the National Insurance Act or another disease that the medical practitioner believes to be due to the employee's working situation, shall give written notification of this to the Labour Inspection Authority.

(2) Subject to the consent of the employee, the employer shall be notified of the disease.

(3) The Ministry may by regulation issue further provisions concerning the extent and implementation of the notification obligation, including the duty to report specified diseases that may be presumed to be caused by the nature of the work or by conditions at the workplace.

## Section 5-4. Manufacturers and importers of chemicals and biological substances

(1) Any person who manufactures or imports chemicals or biological substances that will be used or foreseeably may be used in undertakings subject to this Act, shall:

- a) obtain information concerning the chemical's or substance's composition and properties,
- b) adopt the necessary measures to prevent accidents and injuries to health or excessive discomfort or inconvenience to the employees,
- c) notify the agency specified by the Ministry of the chemical's or substance's name, composition, physical and chemical properties, and whatever supplementary information is required in order to determine how hazardous the substance is,
- d) ensure proper packaging so as to prevent accidents and injury to health,
- e) label the packaging with the name of the chemical or substance, the name of the manufacturer or importer and a clear warning in Norwegian. The label shall be submitted with the notification required pursuant to (c).

(2) Food and substances subject to the Food Act and pharmaceuticals shall be exempt from the notification obligation and labelling obligation pursuant to these provisions.

(3) The Ministry may by regulation issue further provisions concerning the obligations of manufacturers and importers pursuant to this section, including provisions concerning exemptions in cases where importers use the imported chemicals or biological substances. The Ministry may by regulation provide that the provisions of or pursuant to this section shall wholly or partly apply to dealers, or that obligations

pursuant to this section shall be imposed upon dealers rather than on manufacturers or importers.

(4) The Ministry may in regulations issue further provisions concerning the production, importing, registration, assessment, approval, reporting, information, restriction or other handling of chemicals.

## Section 5-5. Manufacturers, suppliers and importers of machines and other work equipment

(1) Any person who produces, imports, sells, hires out or lends machines and other work equipment that will be used or foreseeably may be used in undertakings subject to the Act shall, before the work equipment is delivered for use, ensure that it is designed and provided with safety devices in accordance with the requirements of this Act.

(2) Machines and other work equipment that are displayed for purposes of sale or advertising or demonstration, and that are not provided with necessary safety devices shall be visibly marked with information to the effect that the work equipment does not meet the requirements laid down in or pursuant to this Act and may not be supplied for use until the manufacturer, supplier or importer has ensured that the requirements are met. In connection with demonstrations necessary measures shall be taken to prevent persons, animals and property from being exposed to danger.

(3) When designing such machines and other work equipment as referred to in this section, care shall be taken to ensure that they can be used for their intended purposes without involving excessive inconvenience or discomfort.

(4) Machines and other work equipment as referred to in the first paragraph shall be accompanied by necessary and easily understandable written instructions in Norwegian concerning transport, installation, operation and maintenance.

(5) Any person who undertakes to install machines and other work equipment as referred to in this section, shall ensure that they are assembled and installed in compliance with the requirements of this Act.



(6) Before machines and other work equipment as referred to in the first paragraph are delivered or displayed, they shall be provided with the name and address of the manufacturer or importer, or with other labelling so that the manufacturer or importer can easily be identified.

(7) The Ministry may by regulation issue further provisions concerning machines and other work equipment, including:

- a) construction, design, installation, labelling, etc.,
- b) approval,
- c) approval of bodies set up to exercise supervision in relation to production,
- d) examination or inspection.

(8) The costs of examination or inspection required pursuant to the seventh paragraph shall be borne by the party under obligation to conduct the examination or inspection.

## Chapter 6. Safety representatives

### Section 6-1. Obligation to elect safety representatives

(1) Safety representatives shall be elected at all undertakings subject to this Act. At undertakings with less than ten employees, the parties may agree in writing upon a different arrangement, which may involve agreeing that the undertaking shall not have a safety representative. Unless otherwise provided regarding the period of validity of the agreement, it shall be considered to apply for two years from the date of signature. The Directorate of Labour Inspection may, following a concrete assessment of the circumstances at the undertaking, decide that it shall nevertheless have a safety representative. At undertakings with more than 10 employees, two or more safety representatives may be elected.

(2) The number of safety representatives shall be decided according to the size of the undertaking, the nature of the work and working conditions in general. If the undertaking consists of several separate departments or if employees work shifts, at least one safety representative shall generally be elected for each department or shift team. Each safety area shall be clearly delimited and shall not be larger than

that the safety representative can have full control and attend to his duties in a proper manner.

(3) Undertakings with more than one safety representative shall have at least one senior safety representative, who shall be responsible for coordinating the activities of the safety representatives. The senior safety representative shall be elected from among the safety representatives or other persons who hold or have held positions of trust at the undertaking.

(4) Notices giving the names of those acting as safety representatives at any given time shall be posted at the workplace.

(5) The Ministry may issue regulations with further provisions concerning the number of safety representatives, concerning elections, including conditions governing the right to vote and eligibility, concerning the right of the local trade union to appoint safety representatives, and concerning the safety representatives' term of office.

## Section 6-2. Duties of safety representatives

(1) The safety representative shall safeguard the interests of employees in matters relating to the working environment. The safety representative shall ensure that the undertaking is arranged and maintained, and that the work is performed in such a manner that the safety, health and welfare of the employees are safeguarded in accordance with the provisions of this Act.

(2) The safety representative shall particularly ensure:

- a) that employees are not exposed to hazards from machines, technical installations, chemical substances and work processes,
- b) that safety devices and personal protective equipment are provided in adequate numbers, that they are readily accessible and in proper condition,
- c) that the employees receive the necessary instruction, practice and training,
- d) that work is otherwise arranged in such a way that the employees can perform the work in a proper manner with regard to health and safety,
- e) that notifications concerning occupational accidents, etc. are made, pursuant to section 5-2.

(3) As soon as a safety representative learns of circumstances that may result in accidents and health hazards, the safety representative shall immediately notify the employees at the location, and if the safety representative is unable to avert the danger himself, he shall bring the matter to the attention of the employer or the employer's representative. When so notified, the employer shall give the safety representative a reply. If no action has been taken within a reasonable space of time, the safety representative shall notify the Labour Inspection Authority or the working environment committee.

(4) The safety representative shall be consulted during the planning and implementation of measures of significance for the working environment within the representative's safety area, including establishment, exercise and maintenance of the undertaking's systematic health, environment and safety work, cf. section 3-1.

(5) The safety representative shall be informed of all occupational diseases, occupational accidents and near accidents in his or her area, of reports and measurements relating to occupational health and of any faults or defects detected.

(6) The safety representative shall familiarise himself with current safety rules, instructions, orders and recommendations issued by the Labour Inspection Authority or the employer.

(7) The safety representative shall participate in inspections of the undertaking by the Labour Inspection Authority.

(8) The Ministry may by regulation issue further provisions concerning the activities of the safety representatives and concerning the representatives' duty of secrecy. Such provisions may provide that the safety representative shall perform tasks assigned to the working environment committee pursuant to section 7-2 when the undertaking has no such committee. The authority to make decisions pursuant to section 7-2, fourth paragraph, third sentence, and section 7-2, fifth paragraph, may not be vested in the safety representative.

## **Section 6-3. The safety representative's right to halt dangerous work**

(1) If a safety representative considers that the life or health of employees is in immediate danger and such danger cannot be averted by other means, work may be halted until the Labour Inspection Authority has decided whether work may be continued. Work may only be halted to the extent the safety representative considers necessary in order to avert danger.

(2) The halting of work and the reason for this shall be reported without delay to the employer or the employer's representative.

(3) The safety representative is not liable for any loss suffered by the undertaking as a result of work being halted pursuant to the provision laid down in the first paragraph.

## **Section 6-4. Special local or regional safety representatives**

(1) In building and construction undertakings, in connection with loading and unloading of goods and otherwise when special circumstances so necessitate, the Ministry may provide in regulations that special local safety representatives shall be appointed. Such safety representatives may be assigned responsibilities, duties and rights as referred to in sections 6-2 and 6-3 in relation to employers at the workplace.

(2) The Ministry may provide in regulations that there shall be arrangements regarding regional safety representatives covering several undertakings within a single geographical area.

(3) Regulations issued pursuant to this section may include provisions concerning how the safety representatives shall be appointed, what responsibilities they shall have, and how the costs of their activities shall be distributed.

## **Section 6-5. Costs, training, etc.**

(1) The employer shall ensure that safety representatives receive the training necessary to enable them to perform their duties in a proper manner. The safety representative has the right to attend the necessary training in the form of courses held by the employee organisations. The Ministry may by regulation lay down further requirements regarding such training.

(2) Safety representatives shall be allowed the time necessary to perform their duties in a proper manner. As a general rule these duties shall be performed within normal working hours.

(3) The employer is responsible for the costs of training and other costs associated with the work of the safety representatives. The duties of the safety representatives that must be performed outside normal working hours pursuant to section 10-4 shall be remunerated as overtime work.

(4) The employer shall ensure that the office of safety representative shall not involve a loss of income for the safety representative or in any other way impair his terms and conditions of employment.

## Chapter 7. Working environment committees

### Section 7-1. Obligation to establish working environment committees

(1) Undertakings which regularly employ at least 50 employees shall have a working environment committee on which the employer, the employees and the occupational health service are represented. Working environment committees shall also be formed in undertakings with between 20 and 50 employees when so required by any of the parties at the undertaking. Where working conditions so indicate, the Labour Inspection Authority may decide that undertakings with less than 50 employees shall establish a working environment committee.

(2) Working environment committees may appoint sub-committees.

(3) Notices shall be posted at the workplace giving the names of the persons who are members of the committee at any given time.

(4) The employer and the employees shall have an equal number of representatives on the committee. Representatives of the employer and of the employees shall be elected alternately as chairman of the committee. The representatives of the occupational health service on the committee shall have no vote. When votes are equally divided, the chairman shall have the casting vote.

(5) The Ministry may issue regulations with further provisions concerning working environment committees, including their composition, election and terms of office. The Ministry may issue rules providing that on specified conditions other cooperative bodies in the undertaking may act as the working environment committee.

## Section 7-2. The duties of the working environment committee

(1) The working environment committee shall make efforts to establish a fully satisfactory working environment in the undertaking. The committee shall participate in planning safety and environmental work and shall follow up developments closely in questions relating to the safety, health and welfare of the employees.

(2) The working environment committee shall consider:

- a) questions relating to the occupational health service and the internal safety service,
- b) questions relating to training, instruction and information activities in the undertaking that are of significance for the working environment,
- c) plans that require the consent of the Labour Inspection Authority pursuant to section 18-9,
- d) other plans that may be of material significance for the working environment, such as plans for construction work, purchase of machines, rationalisation, work processes, and preventive safety measures,
- e) establishment and maintenance of the undertaking's systematic health, environment and safety work, cf. section 3-1,
- f) health and welfare issues related to working-hour arrangements.

(3) The committee may also consider issues concerning employees with reduced capacity for work, cf. section 4-6.

(4) The committee shall study all reports relating to occupational diseases, occupational accidents and near accidents, seek to find the cause of the accident or disease and ensure that the employer takes steps to prevent recurrence. As a general rule the committee shall have access to Labour Inspection Authority and police

inquiry documents. When the committee considers it necessary, it may decide that inquiries shall be conducted by specialists or by a commission of inquiry appointed by the committee. Without undue delay the employer may submit such decisions to the Labour Inspection Authority for decision. The committee shall study all reports relating to occupational health inspections and measurements. Before such reports as mentioned in this paragraph are considered by the committee, medical information of a personal nature shall be removed from the reports, unless the person to whom the information applies consents to it being submitted to the committee.

(5) If the working environment committee considers it necessary in order to protect the life or health of employees, it may decide that the employer shall implement concrete measures to improve the working environment within the framework of the provisions laid down in or pursuant to this Act. In order to determine whether a health hazard exists, the committee may decide that the employer shall conduct measurements or examinations of the working environment. The committee shall impose a time limit for implementation of the decision. If the employer finds that he is unable to implement the committee's decision, the matter shall be submitted without undue delay to the Labour Inspection Authority for decision.

(6) Each year the working environment committee shall submit a report on its activities to the administrative bodies of the undertaking and to employee organisations. The Directorate of Labour Inspection may issue further rules concerning the contents and composition of the annual report.

(7) The Ministry may issue regulations with further provisions concerning the activities of the committee, including provisions concerning procedure and concerning the duty of secrecy for members of the committee.

### **Section 7-3. Special local working environment committees**

(1) Within building and construction undertakings, in connection with loading and unloading of goods and otherwise when special circumstances so necessitate, the Ministry may provide in regulations that there shall be a special local working environment committee. Such committees may be assigned responsibilities, duties and rights as referred to in sections 7-1 and 7-3 in relation to all employers at the workplace.

(2) Regulations pursuant to this section may include provisions concerning how the working environment committees shall be appointed, what responsibilities they shall have and how the costs of their activities shall be distributed.

## Section 7-4. Costs, training, etc.

The provisions of section 6-5 shall apply correspondingly for members of the working environment committee.

# Chapter 8. Information and consultation

## Section 8-1. Obligation regarding information and consultation

(1) In undertakings that regularly employ at least 50 employees, the employer shall provide information concerning issues of importance for the employees' working conditions and discuss such issues with the employees' elected representatives.

(2) The Ministry may issue regulations concerning the estimation of the number of employees in the undertaking.

## Section 8-2. Implementation of the obligation regarding information and consultation

(1) The obligation regarding information and consultation pursuant to section 8-1 includes:

- a) information concerning the current and expected development of the undertaking's activities and economic situation,
- b) information and consultation concerning the current and expected workforce situation in the undertaking, including any cutbacks and the measures considered by the employer in this connection,
- c) information and consultation concerning decisions that may result in considerable changes in the organisation of work or conditions of employment.

(2) Information pursuant to the first paragraph (a) shall be provided at an appropriate time. Information and consultation pursuant to the first paragraph (b) and (c) shall take place as early as possible.



(3) Information shall be provided in such a way that it is possible for the elected representatives of the employees to familiarise themselves with the matter, make appropriate investigations, consider the matter and prepare any consultations. The consultations shall be based on information provided by the employer and take place at the level of management and representation appropriate for the matter concerned, in an appropriate manner and with appropriate content. The consultations shall be conducted in such a way that it is possible for the elected representatives of the employees to meet the employer and receive a reasoned response to any statements they may make. Consultations pursuant to the first paragraph (c) shall aim to reach an agreement.

(4) The provisions of this section may be departed from in connection with collective pay agreements.

### **Section 8-3. Confidential information**

(1) If the needs of the undertaking dictate that specific information should not be disclosed, the employer may impose a duty of secrecy on elected representatives of the employees and any advisers. The duty of secrecy shall also apply after the expiry of the term of office of such persons.

(2) The employer may in special cases omit to provide information or participate in consultations if at the current time this would clearly be of damage to the undertaking.

(3) The elected representatives of the undertaking's employees or one-fifth of the employees may bring disputes concerning the employer's decision pursuant to the first and second paragraph before the Norwegian Board of Industrial Democracy. Such disputes may not be brought after the information to which the decision applies has become public knowledge. The Ministry may by regulation issue further provisions concerning the Board's authority and procedures in disputes pursuant to this section.

## Chapter 9. Control measures in the undertaking

### Section 9-1. Conditions for control measures in the undertaking

(1) The employer may only implement control measures in relation to employees when such measures are objectively justified by circumstances relating to the undertaking and it does not involve undue strain on the employees.

(2) The Personal Data Act shall apply to the employer's handling of information concerning employees in connection with control measures unless otherwise provided by this Act or another Act.

### Section 9-2. Consultations, information and evaluation of control measures

(1) The employer is obliged as early as possible to discuss needs, design, implementation and major changes to control measures in the undertaking with the employees' elected representatives.

(2) Before implementing such measures, the employer shall provide the affected employees with information concerning:

- a) the purpose of the control measures,
- b) practical consequences of the control measures, including how the control measures will be implemented,
- c) the assumed duration of the control measures.

(3) The employer shall, in cooperation with the employees' elected representatives, regularly evaluate the need for those control measures that are implemented.

### Section 9-3. Obtaining health information on appointment of employees

(1) The employer must not, when advertising for new employees or in any other manner, request applicants to provide other health information than is necessary in relation to performance of the duties associated with the post. Nor may the

employer implement measures in order to obtain health information in any other manner.

(2) The Ministry may by regulation issue further provisions concerning what information may be obtained pursuant to this section.

#### Section 9-4. Medical examinations of job applicants and employees

(1) The employer may only require medical examinations to be conducted:

- a) when provided by statutes or regulations,
- b) in connection with posts involving particularly high risks,
- c) when the employer finds it necessary in order to protect life or health.

(2) The Ministry may issue regulations concerning the conditions for requiring medical examinations pursuant to this section.

#### Section 9-5. Access to employees' e-mail, etc.

Employers' right of access to employees' e-mail, etc. is regulated by regulations issued pursuant to section 3, fourth paragraph, first sentence of the Personal Data Act.

## Chapter 10. Working hours

### Section 10-1. Definitions

(1) For the purposes of this Act, working hours means time when the employee is at the disposal of the employer.

(2) For the purposes of this Act, off-duty time means time when the employee is not at the disposal of the employer.

### Section 10-2. Working hour arrangements

(1) Working hours shall be arranged in such a way that employees are not exposed to adverse physical or mental strain, and that they shall be able to observe safety considerations.

(2) An employee who regularly works at night shall be entitled to exemption from the working-hour arrangement that applies to the employee group if such exemption is needed by the employee concerned for health, social or other weighty welfare reasons and can be arranged without major inconvenience to the undertaking.

(3) An employee shall be entitled to flexible working hours if this may be arranged without major inconvenience to the undertaking.

(4) An employee who has reached the age of 62 or who for health, social or other weighty welfare reasons so needs, shall have the right to reduction of his or her normal working hours if the reduction of working hours can be arranged without major inconvenience to the undertaking. When the agreed period of reducing working hours has expired, the employee has the right to resume previous working hours. Other conditions being equal, an employee working reduced hours shall have a preferential right to increase his working hours in the event of a vacancy in the undertaking provided that the post wholly or essentially is assigned the same tasks. A preferential right pursuant to sections 14-2 and 14-3 shall take precedence over a preferential right pursuant to the present provision.

### Section 10-3. Work schedule

If the employees work at different times of the day, a work schedule shall be prepared showing which weeks, days and times each employee is to work. The work schedule shall be prepared in cooperation with the employees' elected representatives. Unless otherwise provided by a collective pay agreement, the work schedule shall be discussed with the employees' elected representatives as early as possible and, at the latest, two weeks prior to its implementation. The work schedule shall be easily accessible to the employees.

### Section 10-4. Normal working hours

(1) Normal working hours must not exceed nine hours per 24 hours and 40 hours per seven days.

(2) In the case of work that is wholly or mainly of a passive nature, working hours may be extended by up to one half of the passive periods, but not by more than 2 hours per 24-hour day and 10 hours per seven days. When the work is particularly

passive, the Labour Inspection Authority may consent to the extension of working hours in excess of that provided in the first sentence, provided that working hours do not exceed 13 hours during a period of 24 hours. Normal working hours must not exceed 48 hours per seven days.

(3) In the case of standby duty outside the workplace, at least one-seventh of such standby duty shall as a general rule be included in the ordinary working hours depending on how burdensome the duty scheme is. The employer and the employees' elected representatives in undertakings bound by a collective pay agreement may by written agreement derogate from the provision of the first sentence. The Labour Inspection Authority may stipulate a different method of calculation if so requested by the employer or the employees' elected representatives if calculation of working hours according to the first paragraph appears unreasonable.

(4) Normal working hours must not exceed nine hours per 24 hours and 38 hours per seven days for:

- a) semi-continuous shift work and comparable rota work,
- b) work on two shifts which are regularly carried out on Sundays and public holidays and comparable rota work regularly carried out on Sundays and public holidays,
- c) work which necessitates that individual employees work at least every third Sunday,
- d) work principally performed at night.

(5) Normal working hours must not exceed nine hours per 24 hours and 36 hours per seven days in the case of:

- a) continuous shift work and comparable rota work,
- b) work below ground in mines, tunnelling and blasting of rock chambers below ground.

(6) In the case of three-shift rotas not covered by the fourth or fifth paragraph and which entail that individual employees are required to work at least every third Sunday, normal working hours pursuant to the first paragraph shall be reduced by regarding each hour worked on Sundays and public holidays, cf. section 10-10, first paragraph, as equal to 1 hour and 10 minutes, and each hour worked during the

night, cf. section 10-11, first paragraph, as equal to 1 hour and 15 minutes, down to 36 hours per seven days. Normal working hours must regardless not exceed nine hours per 24 hours and 38 hours per seven days.

## Section 10-5. Calculating average normal working hours

(1) The employer and the employee may in writing agree that normal working hours may be arranged in such a way that, on average, during a period not exceeding 52 weeks, they are no longer than prescribed by section 10-4, but that the total working hours do not exceed ten hours per 24 hours and 48 hours per seven days. The limit of 48 hours per seven days may be calculated on the basis of a fixed average over a period of eight weeks provided that normal working hours do not exceed 50 hours in any one week. Pursuant to the present paragraph, an agreement may not be entered into with an employee temporarily employed in accordance with section 14-9, first paragraph (f).

(2) The employer and the employees' elected representatives in undertakings bound by a collective pay agreement may in writing agree that normal working hours shall be arranged in such a way that on average, during a period not exceeding 52 weeks, they are no longer than prescribed by section 10-4, but that the normal working hours do not exceed twelve and one-half hours per 24 hours and 48 hours per seven days. The limit of 48 hours per seven days may be calculated according to a fixed average over a period of eight weeks provided, however, that normal working hours do not exceed 54 hours in any one week. When entering into an agreement involving normal working hours exceeding 10 hours per 24 hours, particular regard shall be paid to the employees' health and welfare.

(3) The Labour Inspection Authority may consent to normal working hours that on average, during a period not exceeding 26 weeks, are no longer than prescribed by section 10-4, but that the total working hours do not exceed 13 hours per 24 hours and 48 hours per seven days. The limit of 48 hours per seven days may be calculated according to a fixed average over a period of eight weeks. Before the Labour Inspection Authority makes its decision, the working hour arrangements shall be discussed with the employees' elected representatives. Records of these discussions and a draft work schedule shall be enclosed with the application. When making its

decision, the Labour Inspection Authority shall attach particular importance to the health and welfare of the employees.

## Section 10-6. Overtime

(1) Work in excess of agreed working hours must not take place except in cases when there is an exceptional and time-limited need for it.

(2) If in the case of some employees the work exceeds the limit prescribed by the Act for normal working hours, the time in excess is regarded as overtime.

(3) Before imposing work as referred to in this section, the employer shall, if possible, discuss the necessity of such work with the employees' elected representatives.

(4) Overtime work must not exceed ten hours per seven days, 25 hours per four consecutive weeks or 200 hours during a period of 52 weeks.

(5) The employer and the employees' elected representatives in undertakings bound by a collective pay agreement may agree in writing upon overtime work not exceeding 20 hours per seven days, but that total overtime work does not exceed 50 hours per four consecutive weeks. Overtime work must not exceed 300 hours during a period of 52 weeks.

(6) The Labour Inspection Authority may on application in special cases permit total overtime work not exceeding 25 hours per seven days or 200 hours during a period of 26 weeks. Records of the discussions cf. the third paragraph shall be enclosed with the application. If the undertaking submits an application for overtime within the framework of the fifth paragraph, the reason why the matter was not solved by means of an agreement with the elected representatives of the employees shall always be stated. When making its decision, the Labour Inspection Authority shall attach particular importance to the health and welfare of the employees.

(7) Overtime work in excess of the limit laid down in the fourth paragraph may only be imposed on employees who, in each individual case, have declared their willingness to perform such overtime.

(8) Total working hours must not exceed 13 hours per 24 hours or 48 hours per seven days. The limit of 48 hours per seven days may be calculated according to a fixed average over a period of eight weeks, provided that the total working hours pursuant

to section 10-5, second paragraph, and section 10-6, fifth paragraph, do not exceed 69 hours in any one week.

(9) The employer and the employees' elected representatives in undertakings bound by a collective pay agreement may agree in writing to exceptions from the limit of 13 hours provided in the eighth paragraph provided, however, that the total working hours do not exceed 16 hours per 24 hours. The employee shall in such case be ensured corresponding compensatory rest periods or, where this is not possible, other appropriate protection.

(10) An employee shall be entitled to exemption from performing work in excess of agreed working hours when he or she so requests for health reasons or for weighty social reasons. The employer is otherwise obliged to exempt an employee who so requests when the work can be postponed or performed by others without harm.

(11) For overtime work a supplement shall be paid in addition to the pay received by the employee for corresponding work during normal working hours. The overtime supplement shall be at least 40 per cent.

(12) The employer and the employee may agree in writing that overtime hours shall wholly or partly be taken out as off-duty time on agreed dates.

## Section 10-7. Account of working hours

An account shall be kept of the hours worked by each employee. This account shall be accessible to the Labour Inspection Authority and the employees' elected representatives.

## Section 10-8. Daily and weekly off-duty time

(1) An employee shall have at least 11 hours continuous off-duty time per 24 hours. The off-duty period shall be placed between two main work periods.

(2) An employee shall have a continuous off-duty period of 35 hours per seven days.

(3) The employer and the employees' elected representatives in undertakings bound by a collective pay agreement, may agree in writing upon exceptions from the provisions of the first and second paragraph. Such an agreement may only be entered into if the employee is ensured corresponding compensatory rest periods or,



where this is not possible, other appropriate protection. Off-duty periods shorter than 8 hours per 24 hours or 28 hours per seven days may not be agreed. The limit of 8 hours shall not apply when work in excess of agreed working hours (cf. section 10-6, first paragraph) or work in connection with call-out during standby duty outside the workplace is necessary in order to avoid serious disturbances to operations. At undertakings which are not bound by a collective pay agreement, the employer and the employees' representatives may conclude a written agreement on the same terms to the effect that overtime may be worked during the off-duty period when this is necessary in order to avoid serious disturbances to operations.

(4) Off-duty time as referred to in the second paragraph shall as far as possible include Sundays. An employee who has worked on a Sunday or public holiday shall be off duty on the following Sunday or public holiday. The employer and the employee may agree in writing to a working-hour arrangement that ensures that the employees will be off duty on average every other Sunday and public holiday over a period of 26 weeks, provided, however, that the weekly 24-hour off-duty period falls on a Sunday or public holiday at least every fourth week.

(5) The Ministry may by regulation provide a distribution of off-duty days that departs from the provisions of the fourth paragraph.

## Section 10-9. Breaks

(1) An employee shall have at least one break if the daily working hours exceed five hours and 30 minutes. The breaks shall collectively amount to at least 30 minutes if the daily working hours total at least eight hours. When the employee is not free to leave the workplace during the break or where there is no satisfactory break room, the break shall be regarded as part of the working hours. When conditions so necessitate, the break may be postponed.

(2) When an employee works more than two hours after normal working hours, the employee shall be allowed a break of at least 30 minutes. The break is regarded as part of the working hours. Breaks which come after the end of ordinary working hours shall be subject to remuneration as overtime but shall not be included in the number of hours it is permitted to work overtime pursuant to section 10-6. When conditions so necessitate, the break may be reduced or postponed.

## Section 10-10. Work on Sundays

(1) No work shall be performed from 6.00 p.m. on the day preceding a Sunday or public holiday until 10.00 p.m. on the day preceding the next working day. On Christmas Eve, and on the Saturdays preceding Easter Sunday and Whit Sunday no work shall be performed from 3.00 p.m. until 10.00 p.m. on the day preceding the next working day. Work performed during these periods shall be regarded as work on Sundays and public holidays.

(2) Work on Sundays and public holidays is not permitted unless necessitated by the nature of the work.

(3) Before imposing work on Sundays and public holidays, the employer shall discuss the need for such work with the employees' elected representatives.

(4) In undertakings bound by a collective pay agreement, the employer and the employee's elected representatives may enter into a written agreement concerning work on Sundays and public holidays when there is an exceptional and time-limited need for it.

(5) The employer and the employee may enter into a written agreement concerning work on Sundays and public holidays in cases other than those referred to in this section, allowing the employee corresponding time off on the days that are equivalent to Sundays and public holidays according to the employee's religion. Such an agreement may be entered into notwithstanding the provisions of section 10-8, fourth paragraph.

## Section 10-11. Night work

(1) Work between the hours of 9.00 p.m. and 6.00 a.m. is night work. In undertakings bound by a collective pay agreement, the employer and the employee's elected representatives may in writing decide another period of at least eight hours including the hours between 12.00 midnight and 6.00 a.m. Work in two shifts that fall between the hours of 6.00 a.m. and 12.00 midnight is not regarded as night work.

(2) Night work is not permitted unless necessitated by the nature of the work.

(3) The employer and the employee may enter into a written agreement that the employee, on his own initiative, may perform work between 9.00 p.m. and 11.00 p.m.

(4) At undertakings bound by a collective pay agreement, the employer and the employee's elected representatives may enter into a written agreement concerning night work when there is an exceptional and time-limited need for it.

(5) Before imposing night work, the employer shall discuss the necessity of so doing with the employees' elected representatives.

(6) Normal working hours for an employee who regularly works more than three hours at night, shall on average not exceed eight hours per 24 hours. The average shall be calculated over four weeks. The minimum period for weekly off-duty time laid down in section 10-8, second paragraph, shall not be included in the calculation of the average.

(7) Working hours for an employee who works more than three hours at night shall not exceed eight hours per 24 hours if the work involves an exceptional risk or considerable physical or mental strain.

(8) An employee who mainly works at night shall be offered a medical examination before commencing employment and subsequently at regular intervals.

(9) The employer and the employee's elected representatives at undertakings bound by a collective pay agreement may agree in writing that the provisions of the sixth and seventh paragraphs shall be departed from. In such case, the employees shall be ensured corresponding compensatory rest periods or, where this is not possible, other appropriate protection.

## Section 10-12. Exceptions

(1) The provisions of this chapter shall not apply to employees in senior posts, with the exception of section 10-2, first, second and fourth paragraph.

(2) The provisions of this chapter shall not apply to employees in particularly independent posts, with the exception of section 10 2, first, second and fourth paragraph.

(3) The provisions of this chapter may be departed from in the case of work that, owing to natural disasters, accidents or other unforeseen events must be carried out in order to avert danger or damage to life or property. In such case, the employees

shall be ensured corresponding compensatory rest periods or, where this is not possible, other appropriate protection.

(4) Trade unions entitled to submit recommendations pursuant to the Labour Disputes Act or the Civil Service Disputes Act may, with the exception of section 10-2, first, second and fourth paragraphs, and section 10-11, eighth paragraph, enter into a collective pay agreement that departs from the provisions of this chapter. Exceptions from section 10-8, first and second paragraphs and section 10-11, sixth and seventh paragraphs, require that the employees are ensured corresponding compensatory rest periods or, where this is not possible, other appropriate protection. The conditions laid down in section 10-6, first paragraph, shall apply to the use of overtime in accordance with such a collective pay agreement. In each case, the employee must consent to carry out the overtime work. The requirement regarding individual consent shall apply correspondingly where a collective pay agreement has been entered into stipulating total average working hours of over 48 hours per seven days for the duration of one year.

(5) If an agreement has been entered into as referred to in section 10-5, second paragraph, 10-6, 10-8, third paragraph, 10-10, 10-11 first, fourth or ninth paragraph or section 10-12, fourth paragraph, and a majority of the employees are bound by the agreement, the employer may make the provisions of the agreement concerning working hours applicable to all employees who perform work of the kind covered by the agreement.

(6) The Labour Inspection Authority may consent to working hour arrangements that derogate from section 10-8 and section 10-10, second paragraph, in cases where there is a considerable distance between the workplace and the employee's place of residence. Such consent may only be granted if it is of significance to safety to provide for comprehensive regulation of working hour arrangements at the workplace. Derogation from section 10-8, first and second paragraph, requires that the employees are ensured compensatory rest periods or, where this is not possible, other appropriate protection.

(7) The Labour Inspection Authority may consent to working hour arrangements that derogate from section 10-8, first and second paragraph, and the limit of 13 hours in section 10-5, third paragraph, for health and care work and for on-call duty or surveillance work where the work is wholly or partly of a passive nature (cf. section

10-4 second paragraph). Such consent may only be granted if the employees are ensured compensatory rest periods or, where this is not possible, other appropriate protection.

(8) If the work is of such a special nature that it would be difficult to adapt it to the provisions of this chapter, the Ministry may by regulation issue special rules providing exceptions from these provisions.

## Section 10-13. Settlement of disputes

Disputes between the employer and the employee concerning the application of the provisions of section 10-2, second, third and fourth paragraph and section 10-6, tenth paragraph shall be resolved by the Dispute Resolution Board, cf. section 17-2.

# Chapter 11. Employment of children and young persons

## Section 11-1. Prohibition against child labour

(1) Children under 15 years of age or attending compulsory education shall not perform work subject to this Act except

- a) cultural work or the like,
- b) light work provided the child is 13 years of age or more,
- c) work that forms part of their schooling or practical vocational guidance approved by the school authorities provided the child is 14 years of age or more.

(2) The Ministry may by regulation issue further provisions concerning the types of work that shall be permitted pursuant to the first paragraph. Further conditions for such work may be decided.

(3) Persons under 18 years of age must not perform work that may be detrimental to their safety, health, development or schooling. The Ministry may by regulation provide what types of work shall be subject to this prohibition and concerning registration of employees under 18 years of age.

## Section 11-2. Working hours

(1) Working hours for persons under 18 years of age shall be so arranged that they do not interfere with their schooling or prevent them from benefiting from their lessons.

(2) In the case of children who are under 15 years of age or are attending compulsory education, working hours shall not exceed:

- a) 2 hours a day on days with teaching and 12 hours a week in weeks with teaching,
- b) 7 hours a day on days without teaching and 35 hours in weeks without teaching,
- c) 8 hours a day and 40 hours a week for the total of working hours and school hours where the work is part of an arrangement involving alternating theoretical and practical education.

(3) In the case of young persons between 15 and 18 years of age who are not attending compulsory education, working hours shall not exceed 8 hours a day and 40 hours a week.

(4) When children work for two or more employers, working hours shall be calculated as a total of the hours worked for all employers. The employer is obliged to obtain information concerning hours worked for other employers.

(5) The Ministry may by regulation provide exceptions from

- a) the second paragraph (a) for cultural work or the like, and
- b) the second paragraph (c) and the third paragraph, if special grounds so indicate.

Regulations issued pursuant to this paragraph may contain conditions.

## Section 11-3. Prohibition against night work

(1) Children who are under 15 years of age or are attending compulsory education shall not work between 8.00 p.m. and 6.00 a.m.

(2) Young persons between 15 and 18 years of age who are not attending compulsory education shall have an off-duty period of at least 8 hours including the time between 11 p.m. and 6.00 a.m. Work between 9 p.m. and 11 p.m. is night work, and is not permitted unless necessitated by the nature of the work or unless there is an exceptional and time-limited need for night work.

(3) The second paragraph shall not apply to work that, owing to natural disasters, accident or other unforeseen events must be carried out in order to avert danger or damage to life or property and where is strictly necessary to employ the young persons concerned in the work. Young persons who take part in such work shall have a subsequent compensatory rest period.

(4) The Ministry may by regulation provide that the off-duty period may be shorter in respect of certain types of work, and lay down further provisions concerning this, including conditions.

## Section 11-4. Medical examinations

(1) The employer shall ensure that young persons assigned night work pursuant to section 11-3, fourth paragraph, shall be offered medical examinations prior to commencing employment and subsequently at regular intervals.

(2) The Ministry may issue regulations concerning implementation of the medical examinations, and lay down provisions concerning medical examinations in other cases where work makes special demands on the health or physical characteristics of the employee.

## Section 11-5. Breaks and time off

(1) Persons under 18 years of age shall have a rest break of at least 30 minutes, if possible continuous, if daily working hours exceed four hours and 30 minutes.

(2) Within each period of 24 hours, there shall be a continuous off-duty period of at least:

- a) 14 hours for children who are under 15 years of age or are attending compulsory education,
- b) 12 hours in the case of young persons between 15 and 18 years of age who are not attending compulsory education.

(3) Persons under 18 years of age shall have a continuous off-duty period of at least 48 hours per seven days. The off-duty period shall as far as possible be on a Sunday or public holiday.

(4) Persons under 18 years of age who attend school shall have at least four weeks holiday a year, of which at least two weeks shall be taken during the summer holiday.

(5) In special cases, the Ministry may in regulations provide exceptions from the provisions of the second, third and fourth paragraph.

## Chapter 12. Entitlement to leave of absence

### Section 12-1. Prenatal examinations

A pregnant employee is entitled to leave of absence with pay in connection with prenatal examinations if such examinations cannot reasonably take place outside working hours.

### Section 12-2. Pregnancy leave

A pregnant employee is entitled to leave of absence for up to twelve weeks during pregnancy.

### Section 12-3. Leave of absence to care for a child

(1) In connection with childbirth, the father is entitled to two weeks' leave of absence in order to assist the mother. If the parents do not live together, the right to leave of absence may be exercised by another person who assists the mother.

(2) Adoptive parents and fosterparents shall be entitled to two weeks' leave of absence when taking over responsibility for care of the child. This shall not apply when adopting stepchildren or when the child is over 15 years of age.

### Section 12-4. Maternity leave

After giving birth, the mother shall have leave of absence for the first six weeks unless she produces a medical certificate stating that it is better for her to resume work.



## Section 12-5. Parental leave

(1) Parents shall be entitled to leave of absence pursuant to the provisions of this section and of sections 12-2 and 12-4 for a total of 12 months. When parental benefits are paid by the National Insurance, parents shall be entitled to leave of absence regardless.

(2) In addition to leave of absence pursuant to the first paragraph, each of the parents is entitled to leave of absence for up to 12 months for each birth. This leave must be taken immediately after the parents' leave of absence pursuant to the first paragraph. An employee who has partial leave of absence pursuant to section 12-6 is nevertheless not entitled to leave of absence pursuant to this paragraph.

(3) Unless the child is in the care of both parents, the right to leave of absence pursuant to the first paragraph may be exercised by another person taking care of the child. An employee who has sole responsibility for the care of a child shall be entitled to leave of absence pursuant to the second paragraph for a period of up to two years.

(4) Adoptive parents and fosterparents shall be entitled to leave of absence pursuant to this section when taking over responsibility for care of the child. The same shall apply to an employee who has or is assigned parental responsibility on the death of the other parent and has had less than the usual access to the child. The right to leave of absence shall not apply when adopting stepchildren or when the child is over 15 years of age.

## Section 12-6. Partial leave of absence

(1) Leave of absence pursuant to sections 12-2, 12-4 and 12-5, first paragraph, may be taken as partial leave of absence.

(2) Partial leave of absence is based upon an agreement between the employer and the employee. The employees' wishes as regards how partial leave of absence is to be taken shall be met unless this involves significant inconvenience for the undertaking. An employee shall be entitled to engage the assistance of an elected employees' representative or other representative. An agreement on partial leave of absence may be amended or terminated when special grounds so necessitate.

(3) Partial leave of absence must be taken within a time frame of three years.

## Section 12-7. Duty to provide notification

The employer shall be notified of leave of absence pursuant to sections 12-2 to 12-6 as early as possible and not later than one week in advance in the case of absence in excess of two weeks, not later than four weeks in advance in the case of absence in excess of twelve weeks and not later than twelve weeks in advance in the case of absence in excess of one year. Disregard of such notice periods shall not entail that an employee must postpone the leave of absence if it is necessary owing to circumstances unknown to the employee before expiry of the notice period.

## Section 12-8. Time off for nursing mothers

(1) A nursing mother is entitled to request the amount of time off necessary for breastfeeding. At least 30 minutes time off may for example be taken twice daily or as a reduction in working hours by up to one hour per day.

(2) Women with time off for breastfeeding pursuant to the first paragraph are entitled during the child's first year to pay for a maximum of one hour on workdays with agreed working hours of seven hours or more.

## Section 12-9. Child's or childminder's sickness

(1) Employees who have children in their care are entitled to leave of absence:

- a) when necessary to attend a sick child,
- b) if a child shall be accompanied to a medical examination or other follow-up in connection with sickness, or
- c) if the person responsible for the daily childcare is sick or has leave of absence pursuant to this section owing to another child.

(2) The right to leave of absence pursuant to this section applies up to and including the calendar year of the child's twelfth birthday. An employee shall be entitled to a maximum of 10 days' leave of absence per calendar year or a maximum of 15 days if the employee has two or more children in his or her care. An employee is regardless

entitled to leave of absence when care allowance, attendance allowance or training allowance is paid by the National Insurance.

(3) If the child has a chronic or long-term illness or disability and there is therefore a markedly greater risk of the employee being absent from work, the employee is entitled to a maximum of 20 days' leave of absence pursuant to the first paragraph per calendar year. The right to leave of absence applies up to and including the calendar year of the child's eighteenth birthday. An employee is similarly entitled to leave of absence in order to attend training at an approved health institution or public resource centre in order to be able to take care of and treat the child.

(4) An employee who has responsibility for care of children shall be entitled to leave of absence if:

- a) the child is hospitalised and the employee resides at the health institution,
- b) the child has been discharged from a health institution and the employee must stay at home because the child needs continuous care and attention, or
- c) the child is suffering from a life-threatening or other extremely serious sickness or injury.

In connection with leave of absence pursuant to (a) and (b) the age limits laid down in the second and third paragraph shall apply. Entitlement to leave of absence pursuant to (c) applies up to and including the calendar year of the child's eighteenth birthday, but regardless of age if the child has a mental disability.

(5) An employee who has sole responsibility for the care of a child shall be entitled to twice the number of days of leave as provided by the second and third paragraphs. The same shall apply if there are two persons responsible for such childcare and one of them is prevented for a long period from supervising the child owing to a personal disability, admission to a health institution as a long-term patient or similar circumstances. Up to half of the days of such leave each calendar year may be transferred to a mother or father with right of access or to a person with whom the employee lives who does not have responsibility for the care of his or her own children.

## Section 12-10. Care and nursing of close relatives and/or other close persons

Employees who nurse close relatives and/or other close persons in the home during the terminal stage shall be entitled to 60 days leave of absence to take care of the individual close persons.

Employees shall be entitled to a maximum of 10 days' leave of absence per calendar year to care for parents, spouse, cohabitant or registered partner. The same shall apply in connection with necessary care of a disabled or chronically sick child from and including the calendar year after the child reaches the age of 18 when the employer is responsible for care of the child as referred to in section 12-9, third paragraph. The Ministry may issue regulations concerning documentation of necessary care.

## Section 12-11. Educational leave

(1) An employee who has worked for at least three years and who has worked for the same employer for the last two years shall be entitled to full or partial leave for up to three years in order to attend organised courses of education. Beyond the level of the lower or upper secondary school, leave will only be granted for vocational studies. Vocational studies include all types of continuing education and training of relevance for the labour market.

(2) Educational leave may not however be demanded when it would constitute an obstacle to the employer's responsible planning of operations and personnel assignments.

(3) An employee who has taken educational leave is not entitled to further educational leave until the time that has elapsed since the commencement of the previous educational leave is

- a) equal to twice the duration of the leave and
- b) at least one year from commencement of the previous educational leave, except when this was for a course of under one month's duration.

(4) An employee who wishes to make use of his or her right to educational leave must notify the employer of this in writing. The notification shall include information concerning the academic content of the course, the duration and, if appropriate, admission to the educational institution. When the course involves education beyond the level of the lower or upper secondary school, grounds must be given for vocational relevance.

(5) An employer who maintains that the conditions for educational leave have not been fulfilled shall as early as possible and at the latest within six months notify the employee of this in writing. When the leave applied for is of a shorter duration than six months, the employer's reply shall be given within three months following receipt of the employee's request for leave but, when the leave applied for is of a shorter duration than one month, the reply shall be given within two months. Until the employee's request has been answered, the employer shall on request inform the employee of what has been done to make all possible arrangements for the educational leave. Disputes concerning whether the conditions pursuant to the first, second and third paragraph have been met may be brought before the Dispute Resolution Board, cf. section 12-14, after expiry of the employer's time limit for reply.

(6) The Ministry may by regulation wholly or partly exempt undertakings from the provisions of this section.

## Section 12-12. Military service, etc.

(1) An employee shall be entitled to leave of absence in connection with compulsory or voluntary military service or similar national service<sup>1</sup>. The same shall apply to voluntary service of a total of 24 months' duration in forces organised by the Norwegian authorities for participation in international peace operations provided that the employee notifies the employer as soon as possible after entering into a binding agreement concerning service in such forces.

(2) An employee who wishes to continue his or her employment after completion of such service shall notify the employer before commencing the service. The employer

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<sup>1</sup> Cf. chapter III of the Act of 19 March 1965 No. 3 relating to exemption from military service for reasons of personal conviction (repealed by the Act of 20 April 2012 No. 19).

shall not be obliged to allow the employee to resume his or her duties until one month after receipt of notification of the date on which the employee can resume work.

## Section 12-13. Public office

An employee shall be entitled to leave of absence from work to such extent as is necessary in order to comply with statutory requirements regarding attendance in public bodies.

## Section 12-14. Settlement of disputes

Disputes concerning the entitlement to leave of absence pursuant to this chapter shall be resolved by the Dispute Resolution Board, cf. section 17-2.

## Section 12-15. Religious holidays

The right to leave in connection with religious holidays for employees who do not belong to the Church of Norway is regulated by section 27 a of the Act of 13 June 1969 No. 25 relating to religious communities, etc.

# Chapter 13. Protection against discrimination

## Section 13-1. Prohibition against discrimination

- (1) Direct and indirect discrimination on the basis of political views, membership of a trade union, or age is prohibited.
- (2) Harassment and instruction to discriminate persons for reasons referred to in the first paragraph are regarded as discrimination.
- (3) The provisions of this chapter shall apply correspondingly in the case of discrimination of an employee who works part-time or on a temporary basis.
- (4) In the case of discrimination on the basis of gender, the Gender Equality Act shall apply.
- (5) In the case of discrimination on the basis of ethnic origin, religion and ethical and cultural orientation, the Ethnicity Anti-Discrimination Act shall apply.

(6) In the case of discrimination on the basis of disability, the Anti-Discrimination and Accessibility Act shall apply.

(7) In the case of discrimination on the basis of sexual orientation, gender identity and gender expression, the Sexual Orientation Anti-Discrimination Act shall apply.

## Section 13-2. Scope of this chapter

(1) The provisions of this chapter shall apply to all aspects of employment, including:

- a) advertising of posts, appointment, relocation and promotion,
- b) training and other forms of competence development,
- c) pay and working conditions,
- d) termination of employment.

(2) The provisions of this chapter shall apply correspondingly to the employer's selection and treatment of one-man enterprises and workers hired from temporary-work agencies or other companies.

(3) The provisions of this chapter shall apply correspondingly to enrolment and participation in a trade union, employers' organisation or professional organisation. This shall also apply to advantages that such organisations provide to their members.

(4) The provisions of this chapter shall not apply to discrimination owing to membership of a trade union in respect of pay and working conditions in collective pay agreements.

## Section 13-3. Exceptions from the prohibition against discrimination

(1) Discrimination that has a just cause, that does not involve disproportionate intervention in relation to the person or persons so treated and that is necessary for the performance of work or profession, shall not be regarded as discrimination pursuant to this Act.

(2) Discrimination that is necessary to the achievement of a just cause and does not involve disproportionate intervention in relation to the person or persons so treated is

not in contravention of the prohibition against indirect discrimination, discrimination on the basis of age or discrimination against an employee who works part-time or on a temporary basis.

(3) The Ministry may by regulation issue further provisions concerning the extent of the exception from the prohibition against age discrimination in the second paragraph.

## **Section 13-4. Obtaining information on appointment of employees**

(1) The employer must not when advertising for new employees or in any other manner request applicants to provide information concerning their views on political issues or whether they are members of employee organisations. Nor must the employer implement measures in order to obtain such information in any other manner.

(2) The prohibition laid down in the first paragraph shall not apply if obtaining information concerning applicants' views on political issues or membership of employee organisations is justified by the nature of the post or if the objective of the activity of the employer in question includes promotion of particular political, religious or cultural views and the post is essential for the fulfilment of the objective. In cases where such information will be required, this must be stated when advertising the vacancy.

(3) The employer may not obtain information as referred to in section 18 of the Gender Equality Act, section 17 of the Ethnicity Anti-Discrimination Act and section 16 of the Sexual Orientation Anti-Discrimination Act.

## **Section 13-5. (Repealed by the Act of 20 June 2008 No. 42)**

## **Section 13-6. Preferential treatment**

Special treatment that helps to promote equality of treatment is not in contravention of the provisions of this chapter. Such special treatment shall cease when its purpose has been achieved.



## **Section 13-7. Duty of disclosure**

A job applicant who believes himself or herself to have been passed over in contravention of the provisions of this chapter may demand to be informed in writing by the employer of what educational qualifications, practice and other ascertainable qualifications for the post are held by the person appointed.

## **Section 13-8. Burden of proof**

If the employee or job applicant submits information that gives reason to believe that discrimination has taken place in contravention of the provisions of this chapter, the employer must substantiate that such discrimination or retaliation has not occurred.

## **Section 13-9. The effects of breach of the discrimination prohibition**

(1) Anyone who has been discriminated against in contravention of section 13-1 may claim redress and compensation regardless of whether the employer can be blamed for the discrimination. Such compensation shall cover financial loss resulting from the discrimination. Compensation for damage of a non-pecuniary nature shall be stipulated in the amount that is found reasonable in view of the extent and nature of the damage, the circumstances of the parties and other facts of the case.

(2) Provisions laid down in collective pay agreements, contracts of employment, regulations, bylaws, etc., that are in contravention of the provisions of this chapter shall not be valid.

## **Section 13-10. Right of organisations to act as an agent**

An organisation whose purpose is, wholly or partly, to oppose discrimination for reasons referred to in section 13-1, first paragraph, may be used as an agent in administrative proceedings pursuant to this chapter.

## Chapter 14. Appointment, etc.

### Section 14-1. Information concerning vacant posts in the undertaking

The employer shall inform the employees concerning vacant posts in the undertaking. Workers hired from temporary-work agencies shall be similarly informed.

### Section 14-1 a. Discussions concerning the use of part-time employment

The employer shall at least once a year discuss the use of part-time employment with the employees' elected representatives.

### Section 14-2. Preferential right to a new appointment

(1) An employee who has been dismissed owing to circumstances relating to the undertaking shall have a preferential right to a new appointment at the same undertaking unless the vacant post is one for which the employee is not qualified.

(2) The preferential right shall also apply to an employee who is temporarily engaged and who, owing to circumstances relating to the undertaking, is not offered continued employment. This shall not however apply to employees engaged as temporary replacements. The preferential right shall also apply to employees who have accepted an offer of reduced employment instead of dismissal.

(3) The preferential right applies to employees who have been employed by the undertaking for a total of at least 12 months during the previous two years.

(4) The preferential right shall apply from the date on which notice is given and for one year after expiry of the period of notice.

(5) The preferential right shall lapse if an employee fails to accept an offer of employment in a suitable post not later than 14 days after receiving the offer.

(6) If two or more persons have a preferential claim to a post, the employer is obliged to follow the same rules for selection as apply in the event of dismissals owing to curtailed operations or rationalisation measures.

(7) The provisions of this section shall apply correspondingly to employees who have been dismissed in connection with the bankruptcy of an undertaking. This shall only apply when the undertaking is continued or resumed and, in view of its location, nature, extent and the like, must be regarded as a continuation of the original undertaking.

(8) The sixth paragraph shall not apply in connection with bankruptcy, public administration of the estate of an insolvent deceased person or transfer of an undertaking after debt settlement proceedings have been initiated.

### **Section 14-3. Preferential rights of part-time employees**

(1) Part-time employees have a preferential right to an extended post rather than that the employer shall create a new appointment in the undertaking.

(2) The preferential right is subject to the employee being qualified for the post and exercise of the preferential right not involving significant inconvenience for the undertaking.

(3) Before making a decision concerning appointment to a post that the employee claims a preferential right to, the employer shall as far as practically possible discuss the matter with the employee unless the employee does not desire this.

(4) Preferential rights pursuant to section 14-2, with the exception of section 14-2, second paragraph, first sentence, take precedence over the preferential rights of part-time employees.

(5) Disputes concerning preferential rights for part-time employees pursuant to section 14-3 shall be resolved by the Dispute Resolution Board, cf. section 17-2.

### **Section 14-4. Effects of a breach of the provisions concerning preferential rights**

(1) If the court finds that a person with preferential rights should have been appointed to a specific post, the court shall, if so demanded by the holder of

preferential rights, rule that the person concerned shall be appointed in the post unless this be found unreasonable.

(2) In the event of a breach of the provisions concerning preferential rights, an employee may claim compensation. Compensation shall be decided in accordance with section 15-12, second paragraph.

### **Section 14-4 a. Part-time workers' entitlement to a post equivalent to actual working hours**

(1) Part-time workers who during the previous twelve months have regularly worked in excess of the agreed working hours are entitled to a post equivalent to the actual working hours during this period unless the employer can document that the additional work is no longer needed. The twelve-month period is to be calculated on the basis of the date that the employee submitted his or her claim.

(2) Disputes concerning entitlement pursuant to this provision shall be resolved by the Dispute Resolution Board, cf. section 17-2.

### **Section 14-4 b. Consequences of breaches of part-time workers' entitlement to a post equivalent to actual working hours**

(1) If the court concludes that a part-time worker is entitled to a post equivalent to actual working hours pursuant to the provision of section 14-4 a, the court shall if so demanded by the part-time worker rule that the person concerned shall be appointed in such a post.

(2) In the case of breaches of the provision concerning entitlement to a post equivalent to actual working hours pursuant to section 14-4 a, the employee may claim compensation.

### **Section 14-5. Requirements regarding a written contract of employment**

(1) All employment relationships shall be subject to a written contract of employment. The employer shall draft a written contract of employment in accordance with section 14-6. An employee shall be entitled to engage the assistance

of an elected employees' representative or other representative both when drafting and when amending the contract of employment.

(2) In employment relationships with a total duration of more than one month, a written contract of employment shall be entered into as early as possible and one month following commencement of the employment at the latest.

(3) In employment relationships of a shorter duration than one month or in connection with hiring out of labour, a written contract of employment shall be entered into immediately.

## Section 14-6. Minimum requirements regarding the content of the written contract

(1) The contract of employment shall state factors of major significance for the employment relationship, including:

- a) the identity of the parties,
- b) the place of work. If there is no fixed or main place of work, the contract of employment shall provide information to the effect that the employee is employed at various locations and state the registered place of business or, where appropriate, the home address of the employer,
- c) a description of the work or the employee's title, post or category of work,
- d) the date of commencement of the employment,
- e) if the employment is of a temporary nature, its expected duration and the basis for the appointment, cf. section 14-9,
- f) where appropriate, provisions relating to a trial period of employment, cf. section 15-3, seventh paragraph, and section 15-6,
- g) the employee's right to holiday and holiday pay and the provisions concerning the fixing of dates for holidays,
- h) the periods of notice applicable to the employee and the employer,
- i) the pay applicable or agreed on commencement of the employment, any supplements and other remuneration not included in the pay, for example pension

payments and allowances for meals or accommodation, method of payment and payment intervals for salary payments,

- j) duration and disposition of the agreed daily and weekly working hours,
- k) length of breaks,
- l) agreement concerning a special working-hour arrangement, cf. section 10-2, second, third and fourth paragraphs,
- m) information concerning any collective pay agreements regulating the employment relationship. If an agreement has been concluded by parties outside the undertaking, the contract of employment shall state the identities of the parties to the collective pay agreements.

(2) Information referred to in the first paragraph (g) to (k) may be given in the form of a reference to the Acts, regulations and/or collective pay agreements regulating these matters.

## Section 14-7. Employees posted abroad

(1) If an employee is to work abroad for a period exceeding one month, a written contract of employment shall be entered into prior to departure. In addition to information as referred to in section 14-6, the agreement must at least regulate the following:

- a) the duration of the work to be performed abroad,
- b) the currency in which remuneration is to be paid,
- c) any cash benefits or benefits in kind that are associated with the work abroad,
- d) any conditions relating to the employee's return journey.

(2) Information as referred to in the first paragraph (b) and (c) may be provided in the form of reference to Acts, regulations and/or collective pay agreements that regulate these matters.

## Section 14-8. Changes in the employment relationship

Changes in the employment relationship as referred to in sections 14-6 and 14-7 shall be included in the contract of employment as early as possible and not later than one month after entry into force of the change concerned. This shall nevertheless not apply if the changes in the employment relationship are due to amendments to Acts, regulations or collective pay agreements, cf. section 14-6, second paragraph, and section 14-7, second paragraph.

## Section 14-9. Temporary appointment

(1) An employee shall be appointed permanently. Temporary employment may nevertheless be agreed upon:

- a) when the work is of a temporary nature,
- b) for work as a temporary replacement for another person or persons,
- c) for work as a trainee,
- d) with participants in labour market schemes under the auspices of or in cooperation with the Labour and Welfare Service,
- e) with athletes, trainers, referees and other leaders within organised sports or
- f) for a maximum period of twelve months. Such agreements may apply to a maximum of 15 per cent of the employees of the undertaking, rounded off upwards, but temporary employment may be agreed upon with at least one employee.

The employer shall at least once a year discuss the use of temporary appointment pursuant to the provisions of this paragraph with the employees' elected representatives, including the basis for and extent of such appointments and the consequences for the working environment.

(2) The Ministry may by regulation issue further provisions concerning temporary appointment for trainee work and concerning what types of labour market schemes are subject to the first paragraph (d).

(3) National unions may enter into collective pay agreements with an employer or employers' association concerning the right to make temporary appointments within

a specific group of workers employed to perform artistic work, research work or work in connection with sport. If the collective pay agreement is binding for a majority of the employees within a specified group of employees in the undertaking, the employer may on the same conditions enter into temporary contracts of employment with other employees who are to perform corresponding work.

(4) An employee who has been employed for more than one year is entitled to written notification of the date on which he is to leave his post, not later than one month prior to that date. This shall nevertheless not apply to persons participating in labour market schemes subject to the second paragraph, cf. the first paragraph (d). Such notification shall be deemed to have been given when it is received by the employee. If the time limit is not observed, the employer may not require the employee to leave his post until one month after notification has been given. The provision of the fourth sentence nevertheless shall not provide a basis for appointment in excess of twelve months in the case of appointment pursuant to the first paragraph (f).

(5) Unless otherwise agreed in writing or laid down in a collective pay agreement, temporary contracts of employment shall expire on expiry of the agreed period or when the specific work is completed. During the agreement period, the provisions of the Act concerning termination of employment shall apply.

(6) Employees who have been temporarily employed for more than four consecutive years pursuant to the first paragraph (a) or for more than three years pursuant to the first paragraph (b) and (f) shall be deemed to be permanently employed so that the provisions concerning termination of employment relationships shall apply. When calculating the length of consecutive employment pursuant to the second sentence<sup>2</sup>, deductions shall not be made for the employee's absence.

(7) The provisions of the present paragraph shall apply to appointments pursuant to the first paragraph (f) for work tasks of the same kind within the undertaking. The employer may regard units with at least 50 employees as separate undertakings. When, on expiry of the agreement period, an employee who is temporarily appointed pursuant to the first paragraph (f) is not offered continued employment, the employer shall be subject to a quarantine period of twelve months. During this

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<sup>2</sup> Should be "first sentence".



quarantine period, the employer may not make new appointments as referred to in the first sentence.

## **Section 14-10. Fixed-term appointments**

(1) The chief executive of an undertaking may be appointed for a fixed term.

(2) Appointment for a fixed term may be agreed when deemed necessary as a result of an agreement with a foreign state or international organisation.

## **Section 14-11. Effects of unlawful temporary appointments**

(1) In the event of a breach of the provisions of section 14-9 or 14-10, the court shall, if so demanded by an employee, decide that a permanent employment relationship exists or that the employment shall continue. In special cases the court may nevertheless, if so demanded by the employer, decide that employment shall be terminated if, after weighing the interests of the parties, the court finds it clearly unreasonable that employment should continue. In the case of breaches of the provision concerning quotas in section 14-9, first paragraph (f), the court may rule pursuant to the first sentence when special grounds so indicate.

(2) In the event of a breach of the provisions of section 14-9 or 14-10, the employee may claim compensation. Compensation shall be decided in accordance with section 15-12, second paragraph.

## **Section 14-12. Hiring of workers from undertakings whose object is to hire out labour (temporary-work agencies)**

(1) Hiring of workers from undertakings whose object is to hire out labour shall be permitted to the extent that temporary appointment of employees may be agreed pursuant to section 14-9, first paragraph (a) to (e).

(2) In undertakings bound by a collective pay agreement, the employer and the elected representatives who collectively represent a majority of the employees in the category of workers to be hired may enter into a written agreement concerning the hiring of workers for limited periods notwithstanding the provisions laid down in the first paragraph. In response to an enquiry from the Norwegian Labour Inspection

Authority, the undertaking shall provide documentation that it is bound by a collective agreement and that an agreement has been entered into with the employees' elected representatives as referred to in the first sentence.

(3) At least once a year, the employer shall discuss with the employees' elected representatives the use of temporary workers pursuant to the first and second paragraphs, including compliance with the equal treatment requirement.

(4) In connection with the hiring of workers pursuant to this section, the provisions of section 14-9, sixth paragraph shall apply correspondingly.

(5) The Ministry may by regulation prohibit hiring of certain groups of workers or in certain sectors when so indicated by important social considerations.

## Section 14-12 a. Equal treatment regarding pay and working conditions in connection with the hiring out of workers by temporary-work agencies

(1) The temporary-work agency shall ensure that the workers that it hires out are at least given the conditions that would have applied if the worker had been recruited directly by the user undertaking to perform the same work with regard to:

- a) the length and placement of working hours,
- b) overtime work,
- c) the length and placement of breaks and rest periods
- d) nightwork,
- e) holidays, holiday pay, days off and remuneration for such days, and
- f) pay and coverage of expenses.

(2) Temporary agency workers shall be given access to the user undertaking's collective amenities and facilities on equal terms with direct employees of the user undertaking unless otherwise objectively justified.

(3) The Ministry may in regulations decide whether and to what extent the provisions concerning equal treatment may be derogated from in collective agreements. The general worker protection provisions must in all cases be respected.

## Section 14-12 b. The obligation to provide information and right of access to information when hiring workers from temporary-work agencies

(1) When hiring temporary agency workers, the user undertaking must provide the temporary-work agency with the information necessary for compliance with the equal treatment requirement in section 14-12a.

(2) When so requested by a temporary agency worker, the temporary-work agency must provide the worker with the information necessary to assess whether his or her pay and working conditions comply with the equal treatment requirement in section 14-12a.

(3) When so requested by the user undertaking, the temporary-work agency shall provide documentation of the pay and working conditions agreed with a worker hired out to the user undertaking.

(4) When so requested by the employees' elected representatives at the user undertaking, the user undertaking must provide documentation of the pay and working conditions agreed between a temporary agency worker and that person's employer.

(5) The obligation to provide information pursuant to the third and fourth paragraphs applies only to conditions referred to in section 14-12a, first paragraph. Temporary-work agencies, user undertakings and employees' elected representatives who receive information pursuant to this provision have a duty of confidentiality regarding the information. The information may only be used for ensuring or investigating compliance with the equal treatment requirement in section 14-12a or for meeting obligations pursuant to this provision.

(6) The Ministry may in regulations lay down further provisions concerning the right of access to information, the duty to provide information and the duty of confidentiality pursuant to this section, and on the duty of confidentiality for temporary agency workers. The Ministry may in regulations also lay down provisions concerning the use of advisers and their duty of confidentiality.

## Section 14-12 c. Joint and several liability for user undertakings

(1) Pursuant to section 14-12, user undertakings shall be liable in the same way as an unconditional guarantor for payment of wages, holiday pay and any other remuneration pursuant to the principle of equal treatment laid down in section 14-12 a, including claims arising from collective agreements as referred to in section 14-12 a, third paragraph. In connection with joint and several liability pursuant to the first sentence, user undertakings shall also be jointly and severally liable for holiday pay earned in connection with the claim.

(2) The worker must submit his or her claim in writing to the jointly and severally liable party within a time limit of three months after the due date of the claim. The jointly and severally liable party shall pay in accordance with the claim at the latest three weeks after it is received.

(3) The jointly and severally liable party may refuse to cover the claim if the worker was aware that the condition for the assignment was that wages, etc., pursuant to the principle of equal treatment, should wholly or partly be covered by the jointly and severally liable party.

(4) Joint and several liability does not apply when bankruptcy proceedings have been instituted against the temporary-work agency.

## Section 14-13. Hiring of employees from undertakings other than those whose object is to hire out labour

(1) Hiring of employees from undertakings other than those whose object is to hire out labour shall be permitted when the hired employee is permanently employed by the hirer out. In order that an undertaking may be said not to have the object of hiring out labour, hiring out must take place within the main areas of activity of the hirer out and not more than 50 per cent of the permanent employees of the hirer out must be engaged in the hiring activity. Before a decision is taken in respect of such hiring, the hirer shall consult with the elected representatives who collectively represent a majority of the employees in the category of workers to be hired.

(2) In the case of hiring in excess of 10 per cent of the hirer's employees, but not fewer than three persons, or for a period in excess of one year, a written agreement

shall be concluded with the elected representatives who collectively represent a majority of the employees in the category of workers to be hired. This provision does not apply to the hiring of employees within the same corporate group

(3) If so requested by elected representatives of the category of work to which the hiring applies, the employer shall provide evidence that the conditions for hiring pursuant to the first paragraph are satisfied.

(4) The Ministry may by regulation prohibit the hiring of certain groups of employees or employees in certain sectors when so indicated by important social considerations.

## Section 14-14. Consequences of unlawful hiring of employees

(1) In the event of a breach of the provisions of section 14-12, the court shall, if so demanded by the hired employee, decide that the hired employee has a permanent employment relationship with the hirer. In special cases, the court may nevertheless, if so demanded by the hirer, decide that the hired employee does not have a permanent employment relationship if, after weighing the interests of the parties, it finds that this would be clearly unreasonable.

(2) In the event of a breach of the provisions of section 14-12, the hired employee may claim compensation from the hirer. Compensation shall be decided in accordance with section 15-12, second paragraph.

## Section 14-15. Payment of salary and holiday pay

(1) Unless otherwise agreed, salary shall be paid at least twice a month. The date of payment of holiday pay is regulated by the Holiday Act.

(2) No amounts may be deducted from pay except:

- a) when authorised by law,
- b) in respect of employees' contributions to service pension schemes subject to the Company Pensions Act, the Contributory Pension Schemes Act or public service pension schemes,
- c) when stipulated in advance by written agreement,

- d) when a collective pay agreement provides for the withholding of trade union dues including premiums for group insurance linked to trade union membership or contributions to information and development funds or low-income funds,
- e) in respect of compensation for damage or loss suffered by the undertaking, and caused wilfully or by gross negligence on the part of the employee in connection with the work, when the employee has acknowledged his liability in writing or it has been established by court decision, or when the employee unlawfully terminates his employment,
- f) when, owing to current routines for calculation and disbursement of pay, it has in practice been impossible to take account of absence due to work stoppages or lockouts during the accounting period.

(3) Deductions in salary or holiday pay pursuant to the second paragraph (c), (e) and (f) shall be limited to that part of the claim which exceeds the amount reasonably needed by the employee to support himself and his household.

(4) Before effecting deductions pursuant to the second paragraph (e), the employer shall discuss the basis for and the amount of deduction with the employee and with the employees' elected representatives unless the employee himself does not desire this.

(5) At the time of payment or immediately thereafter, the employee shall receive a written statement of the method used for calculating the pay, the basis on which the holiday pay is calculated and any deductions made.

## Section 14-16. Staff rules

(1) Industrial, commercial and office undertakings employing more than 10 persons shall have staff rules for those employees who do not hold leading or supervisory positions. The Ministry may decide that staff rules shall be established for undertakings and employees other than those mentioned above. Such rules shall contain the necessary code of conduct, rules relating to working procedures, conditions for appointment, dismissal with notice and summary dismissal and rules relating to payment of salary. Such rules must not contain provisions contrary to this Act.

(2) Staff rules may not stipulate fines for breach of the rules. Staff rules may be established for undertakings other than those covered by the first paragraph above. In that event, sections 14-17 to 14-20 shall apply correspondingly.

## **Section 14-17. Establishment of staff rules**

(1) At undertakings bound by a collective pay agreement, the employer and the elected representatives of the employees may establish staff rules by written agreement. If such agreement is binding upon a majority of the employees, the employer may make the staff rules applicable to all employees in the sectors of work covered by the agreement.

(2) When the provisions of the first paragraph are not applied, staff rules are not valid unless approved by the Labour Inspection Authority. Rules shall be drafted by the employer, who shall negotiate with the employees' representatives concerning the provisions of the staff rules. In the case of undertakings bound by a collective pay agreement, the employer shall negotiate with the employees' elected representatives. Otherwise the employees shall appoint five representatives with whom the employer shall negotiate. If divergent rules are proposed by the employees' representatives, such rules shall be enclosed with the draft submitted by the employer for approval. If the employees' representatives fail to negotiate concerning the rules, this shall be stated by the employer when he submits the draft for approval.

(3) The staff rules shall be posted at one or more conspicuous places in the undertaking and be distributed to each employee to whom the rules apply.

## **Section 14-18. Time limit for submitting staff rules**

The employer shall take the initiative to have rules established by agreement pursuant to section 14-17, first paragraph, or have rules drafted pursuant to section 14-17, second paragraph, as soon as possible. Rules drafted pursuant to section 14-17, second paragraph, shall be submitted to the Labour Inspection Authority not later than three months after the undertaking commences operations.

## Section 14-19. Validity of staff rules

(1) Staff rules are valid only when established in a lawful manner and when they do not contain provisions contrary to the Act.

(2) If rules drafted pursuant to section 14-17, second paragraph, contain provisions that are contrary to the Act or are unfair to employees or if the rules were not drafted in the lawful manner the Labour Inspection Authority shall refuse approval.

(3) If rules established by agreement pursuant to section 14-17, first paragraph, contain provisions that are contrary to the Act, the Labour Inspection Authority shall bring this to the attention of the parties and ensure that the provisions are amended.

## Section 14-20. Amendments to staff rules

The provisions of sections 14-16 to 14-19 shall apply correspondingly when the staff rules are amended or supplemented.

# Chapter 14 A. Agreements restricting competition in employment relationships

## Section 14 A-1. Non-compete clauses

(1) For the purpose of this chapter, 'non-compete clause' means an agreement between the employer and the employee limiting the employee's freedom to take up a post at another employer or to commence, operate or participate in other undertakings following termination of the employment.

(2) A non-compete clause may only be invoked as far as is necessary in order to safeguard the employer's particular need for protection against competition. The clause may not in any event be invoked for longer than one year from termination of the employment.

(3) In order to be valid, a non-compete clause must be entered into in writing.

(4) A non-compete clause may not be invoked on dismissal by the employer unless the dismissal is objectively justified on the basis of circumstances relating to the employee. The same applies if the employer owing to breach of obligations in the



employment relationship has given the employee reasonable grounds to terminate the employment.

(5) The employer may terminate a non-compete clause in writing at any time during the employment. Such termination may not however occur during the period when the employer is bound by a statement pursuant to section 14 A-2, fifth paragraph. Following termination of the employment, the employer and the employee may enter into a written agreement that a non-compete clause shall no longer apply.

(6) A non-compete clause becomes void if the requirement regarding a statement pursuant to section 14 A-2 is not met.

## **Section 14 A-2. Statements in connection with non-compete clauses**

(1) On a written enquiry from the employee, the employer shall within four weeks provide a written statement regarding whether and to what extent a non-compete clause will be invoked. In such case, the employer's particular need for protection against competition shall be stated in the statement.

(2) If the employee resigns and no binding statement exists, the resignation shall have the same effect as a written enquiry pursuant to the first paragraph.

(3) If the employer gives the employee notice of dismissal and no binding statement exists, a statement shall be provided at the same time as the dismissal.

(4) If the employer summarily dismisses the employee and no binding statement exists, a statement shall be provided within one week of the summary dismissal.

(5) A statement pursuant to the present section shall be binding for the employer for three months. When notice of termination of employment is given, the statement shall notwithstanding be binding during the notice period.

## **Section 14 A-3. Compensation on invoking a non-compete clause**

(1) If a non-compete clause is invoked, the employer shall pay the employee compensation equivalent to 100 per cent of the employee's salary up to eight times

the National Insurance basic amount, and thereafter a minimum of 70 per cent of the employee's salary in excess of eight times the National Insurance basic amount. The compensation shall be calculated on the basis of salary earned during the twelve months immediately prior to the date of notice or summary dismissal. The compensation may be limited to twelve times the National Insurance basic amount.

(2) Deductions equal to a maximum of half the compensation may be made in respect of salary or income received or earned by the employee during the period the non-compete clause is in effect.

(3) The employer may require the employee to provide information of salary or income from employment during the period. If the employee fails to comply with this requirement, the employer may withhold compensation until the information is provided.

#### **Section 14 A-4. Non-solicitation of customers clauses**

(1) For the purpose of this chapter, 'non-solicitation of customers clause' means an agreement between the employer and the employee limiting the employee's freedom to contact the employer's customers following termination of the employment.

(2) A non-solicitation of customers clause may only apply to customers with whom the employee has had contact or for whom he has been responsible during the year immediately prior to the statement as referred to in the third paragraph. The clause may not in any event be invoked more than one year from termination of the employment. Section 14 A-1, third to sixth paragraph, shall apply correspondingly.

(3) On a written enquiry from the employee, the employer shall within four weeks provide a written statement concerning whether and to what extent a non-solicitation of customers clause will be invoked. The statement shall in such case specify which customers the non-solicitation of customers clause applies to. Section 14 A-2, second to fifth paragraph, shall apply correspondingly.

## Section 14 A-5. Exceptions regarding the undertaking's chief executive

The provisions concerning non-compete and non-solicitation of customers clauses in this chapter shall not apply to the undertaking's chief executive if he or she renounces such rights before resigning in return for severance pay.

## Section 14 A-6. Non-solicitation of employees clauses

(1) For the purpose of this chapter, 'non-solicitation of employees clause' means an agreement between the employer and other undertakings preventing or limiting the employee's possibility of taking up an appointment in another undertaking.

(2) The employer may not enter into a non-solicitation of employees clause. A non-solicitation of employees clause may nevertheless be entered into in connection with negotiations on transfer of undertakings, and invoked during the negotiations and for up to six months after completion of the negotiations if they do not succeed. A non-solicitation of employees clause may also be entered into from the date of transfer of the undertakings and invoked for up to six months if the employer has informed all the affected employees in writing.

# Chapter 15. Termination of employment relationships

## Section 15-1. Consultations prior to decisions regarding dismissal with notice

Before making a decision regarding dismissal with notice, the employer shall, to the extent that it is practically possible, discuss the matter with the employee and the employee's elected representatives unless the employee himself does not desire this. Such discussions shall concern both the grounds for dismissal and any selection between two or more employees regarding who is to be dismissed.

## Section 15-2. Information and consultation in connection with collective redundancies

(1) For the purposes of this Act, "collective redundancies" shall mean notice of dismissal given to at least 10 employees within a period of 30 days without being warranted by reasons related to the individual employees. Other forms of termination of contracts of employment that are not warranted by reasons related to the individual employee shall be included in the calculation, provided that at least five persons are made redundant.

(2) An employer contemplating collective redundancies shall at the earliest opportunity enter into consultations with the employees' elected representatives with a view to reaching an agreement to avoid collective redundancies or to reduce the number of persons made redundant. If the employer is considering closing down its activities or an independent part of them and this will involve collective redundancies, the possibility of further operations shall be discussed, including the possibility of the activities being taken over by the employees. If redundancies cannot be avoided, efforts shall be made to mitigate their adverse effects. The consultations shall cover possible social welfare measures aimed, inter alia, at providing support for redeploying or retraining workers made redundant. The employees' representatives shall have the right to receive expert assistance. The employer shall be obliged to enter into consultations even if the projected redundancies are caused by someone other than the employer who has superior authority over the employer, such as the management of a group of companies.

(3) Employers shall be obliged to give the employees' elected representatives all relevant information, including written notification concerning:

- a) the grounds for any redundancies,
- b) the number of employees who may be made redundant,
- c) the categories of workers to which they belong,
- d) the number of employees normally employed,
- e) the groups of employees normally employed,
- f) the period during which such redundancies may be effected,

- g) proposed criteria for selection of those who may be made redundant,
- h) proposed criteria for calculation of extraordinary severance pay, if applicable.

Such notification shall be given at the earliest opportunity and, at the latest, at the same time as the employer calls a consultation meeting. Corresponding notification shall also be given to the Labour and Welfare Service, cf. section 8 of the Labour Market Act.

(4) The employees' elected representatives may comment on the notification directly to the Labour and Welfare Service.

(5) Projected collective redundancies shall not come into effect earlier than 30 days after the Labour and Welfare Service has been notified. The Labour and Welfare Service may extend the period of notice pursuant to section 8, third paragraph, of the Labour Market Act.

### Section 15-3. Periods of notice

(1) Unless otherwise agreed in writing or laid down in a collective pay agreement, a period of one month's notice shall be applicable to either party. Before notice has been given, an agreement on a shorter period of notice may only be concluded between the employer and the employee's elected representatives at undertakings bound by a collective pay agreement. The Ministry may issue regulations providing for a shorter period of notice for participants in labour market schemes.

(2) In the case of employees who, when notice is given, have been in the employ of the same undertaking for at least five consecutive years, at least two months' notice shall be given by either party. If the employee has been in the employ of the same undertaking for at least ten consecutive years, at least three months' notice shall be given by either party.

(3) If an employee is dismissed after at least ten consecutive years' employment with the same undertaking, the period of notice shall be at least four months when given after the employee is 50 years of age, at least five months after the age of 55, and at least six months after the age of 60. The employee for his part may terminate his contract of employment with not less than three months' notice.

(4) Periods of notice laid down in the first to the third paragraph run from and including the first day of the month following that in which notice is given.

(5) The continuous employment required by the second and third paragraph is not interrupted by a temporary interruption of employment owing to a lawful labour conflict. However, the period during which the employee is absent shall not be included unless otherwise agreed on settlement of the labour conflict.

(6) Calculation of the length of consecutive employment pursuant to this section shall take into account periods of employment by other undertakings within a corporate group to which the employer belongs or within any other group of undertakings affiliated through ownership interests or joint management in such a way that it is natural to regard the employment as being consecutive. If the undertaking or part of it has been assigned to or leased by a new employer, the period of consecutive employment shall include any periods in which the employee was in the employ of the previous employer or of any undertaking within a group of undertakings or activities to which the previous employer belonged.

(7) In the case of written contracts of employment under which the employee is engaged for a given trial period, 14 days' notice shall be given by either party unless otherwise agreed in writing or in a collective pay agreement.

(8) The periods of notice required under the second or third paragraph may not legally be set aside by the parties in collective pay agreements or other agreements concluded prior to notice being given, nor may the parties decide that the notice to be given by an employee shall be longer than that to be given by an employer.

(9) An employee who has been laid off without pay in connection with a reduction or suspension of operations may resign by giving 14 days' notice calculated from the date on which the notice is received by the employer. This shall apply regardless of the periods of notice ensuing from this Act or any agreement.

(10) If operations must wholly or partly be suspended owing to accidents, natural disasters or other unforeseeable events and employees are laid off for that reason, the period of notice for laying off employees engaged in the work suspended may be reduced to 14 days counted from the date of the event. If the period of notice in force is less than 14 days, the shorter period shall apply. The period of notice may not be reduced pursuant to this paragraph by reason of the employer's death or bankruptcy

nor on suspension of operations owing to the impossibility of using working premises, machinery, tools, materials or other aids furnished by the employer unless the employee himself is responsible for the suspension of operations.

## Section 15-4. Formal requirements with regard to notice of dismissal

(1) Notice shall be given in writing.

(2) Notice given by an employer shall be delivered to the employee in person or be forwarded by registered mail to the address given by the employee. The notice shall be deemed to have been given when it is received by the employee. The notice shall inform of

- a) the employee's right to demand negotiations and to institute legal proceedings,
- b) the employee's right to remain in his post pursuant to the provisions of sections 17-3, 17-4 and 15-11,
- c) the time limits applicable for requesting negotiations, instituting legal proceedings and remaining in a post, and
- d) the name of the employer and the appropriate defendant in the event of legal proceedings.

If the employee has been dismissed owing to circumstances relating to the undertaking, the notice shall also contain information concerning preferential rights pursuant to section 14-2.

(3) If the employee so demands, the employer shall state the circumstances reasons claimed as grounds for dismissal. The employee may demand that such information be given in writing.

## Section 15-5. Consequences of formal errors in connection with notice of dismissal

(1) If the employer's notice is not given in writing or does not include information as referred to in section 15-4 and the employee institutes legal proceedings within 4 months from the date that notice is given, the notice shall be ruled invalid unless special circumstances make this clearly unreasonable.

(2) If the notice is invalid, the employee may claim compensation. The same shall apply if the notice provides inadequate information, but the employee does not demand that it be ruled invalid or it is not ruled invalid because special circumstances make this clearly unreasonable, cf. the first paragraph. Compensation shall be decided in accordance with section 15-12, second paragraph.

## Section 15-6. Protection against dismissal in contracts of employment specifying a trial period

(1) If an employee engaged by written contract for a given trial period is dismissed, such dismissal must be on the grounds of the employee's lack of suitability for the work, or lack of proficiency or reliability.

(2) The provisions of this section do not restrict the employer's right to dismiss an employee pursuant to section 15-7.

(3) The provisions of this section shall only be applicable in the event that notice is given before expiry of the agreed trial period. The trial period may be agreed for up to six months, however cf. the fourth paragraph.

(4) If an employee has been absent from work during the trial period, the employer may extend the agreed trial period by a period corresponding to the period of absence. Such extension may only take place when the employee has been informed of this possibility in writing at the time of his appointment, and when the employer has informed the employee of the extension in writing prior to expiry of the trial period. The right to extend the trial period shall not apply to absences caused by the employer.



(5) The Ministry may issue regulations permitting agreement on a trial period longer than six months in the case of certain groups of employees.

## Section 15-7. Protection against unfair dismissal

(1) Employees may not be dismissed unless this is objectively justified on the basis of circumstances relating to the undertaking, the employer or the employee.

(2) Dismissal due to curtailed operations or rationalisation measures is not objectively justified if the employer has other suitable work in the undertaking to offer the employee. When deciding whether a dismissal is objectively justified by curtailed operations or rationalisation measures, the needs of the undertaking shall be weighed against the disadvantage caused by the dismissal for the individual employee.

(3) Dismissal owing to an employer's actual or planned contracting out of the undertaking's ordinary operations to a third party is not objectively justified unless it is absolutely essential in order to maintain the continued operation of the undertaking.

## Section 15-8. Protection against dismissal in the event of sickness

(1) An employee who is wholly or partly absent from work owing to accident or illness may not be dismissed for that reason during the first 12 months after becoming unable to work.

(2) Unless other grounds are shown to be highly probable, absence from work owing to accident or illness shall be deemed to be the reason for dismissal during the period when the employee is protected against dismissal pursuant to this section.

(3) An employee who claims protection against dismissal pursuant to this section must produce a medical certificate or by other means notify the employer in due time of the reason for his absence. When so required by the employer, a medical certificate shall be produced certifying the total length of the sick leave.

## **Section 15-9. Protection against dismissal during pregnancy or following the birth or adoption of a child**

(1) An employee who is pregnant may not be dismissed on grounds of pregnancy. Pregnancy shall be deemed to be the reason for dismissal of a pregnant employee unless other grounds are shown to be highly probable. If so required by the employer, a medical certificate of pregnancy shall be produced.

(2) An employee who has leave of absence pursuant to sections 12-2, 12-3, 12-4 or 12-5, first paragraph, for up to one year, shall not be given notice of dismissal that becomes effective during the period of absence if the employer is aware that the absence is due to such reasons or the employee notifies without undue delay that the absence is due to such reasons. If the employee is lawfully dismissed at a time falling within this period, the notice is valid but shall be extended by a corresponding period.

(3) In the case of an employee who has leave of absence pursuant to section 12-5, second paragraph, or section 12-6 in excess of one year, the first paragraph, first and second sentence, shall apply correspondingly.

## **Section 15-10. Protection against dismissal in connection with military service, etc.**

(1) An employee may not be dismissed owing to leave of absence pursuant to section 12-12. In connection with leave of absence pursuant to section 12-12, first paragraph, second sentence, protection against dismissal shall also apply to periods when an employee is not absent from work.

(2) Unless other grounds are shown to be highly probable, such service shall be deemed to be the reason for dismissal immediately prior to or during the period during which the employee is absent from work owing to leave pursuant to section 12-12.

## **Section 15-11. The employee's right to remain in his post**

(1) In the event of a dispute concerning whether an employment relationship has been legally terminated pursuant to the provisions of section 15-7, an employee may remain in the post as long as negotiations are in progress pursuant to section 17-3.

(2) If legal proceedings are instituted within the time limits laid down in section 17-4, an employee may remain in the post. If so demanded by the employer, the court may nevertheless decide that the employee shall leave his post while the case is in progress if the court finds it unreasonable that employment should continue while the case is in progress. This shall also apply in connection with full or partial closing down of activities. At the same time, the court shall set the time limit for termination of the employee's post.

(3) The employee's right to remain in his post shall not apply to disputes concerning summary dismissal, dismissal during a trial period, workers hired from temporary-work agencies or other companies or other temporary employees. If so demanded by an employee, the court may nevertheless decide that the employment shall continue until the matter has been legally decided if legal proceedings are instituted within the time limits provided in section 17-4.

(4) The employee's right to remain in his post shall not apply to participants in labour market schemes under the auspices of or in cooperation with the Labour and Welfare Service who are dismissed because they are offered ordinary employment or transferred to another scheme or because the scheme is terminated.

(5) The court may decide that an employee who has been unlawfully locked out of his place of work after the period of notice or term of the contract of employment has expired shall be entitled to resume the post if the employee so requests within four weeks of such a lockout.

## **Section 15-12. Consequences of unfair dismissal, etc.**

(1) If a dismissal is in contravention of sections 15-6 to 15-10, the court shall, if so demanded by the employee, rule the dismissal invalid. In special cases, if so demanded by the employer, the court may decide that the employment shall be terminated if, after weighing the interests of the parties, the court finds it clearly unreasonable that employment should continue.

(2) An employee may claim compensation if a dismissal is in contravention of sections 15-6 to 15-11. Compensation shall be fixed at the amount the court deems reasonable in view of the financial loss, circumstances relating to the employer and employee and other facts of the case.

## Section 15-13. Suspension

(1) If there is reason to assume that an employee is guilty of an offence that may involve summary dismissal pursuant to section 15-14 and the needs of the undertaking so indicate, the employer may suspend the employee while the matter is investigated.

(2) Continuous assessment shall be made as to whether the conditions laid down in the first paragraph have been fulfilled. If this is not the case, the suspension shall immediately be revoked. Suspension in excess of three months must be justified by the special nature of the offence.

(3) An employee shall retain the salary he or she received on the date of the suspension until termination of the suspension.

(4) In the event of suspension, the provisions of sections 15-1, 15-4 and 15-12 shall apply correspondingly in so far as they are appropriate.

## Section 15-13 a. Termination of employment on account of age

(1) Employment may be terminated when an employee reaches the age of 72.

(2) A lower age limit may be decided where necessary out of regard for health or safety.

(3) A lower age limit, but not lower than 70 years, may be decided if such limit is made known to the employees, if it is practised consistently by the employer and if the employee is entitled to a satisfactory service pension scheme. The employer shall discuss a lower age limit with the employees' elected representatives.

(4) A lower age limit decided pursuant to the second or third paragraph must be objectively justified and shall not involve disproportionate intervention, cf. section 13-3, second paragraph.

(5) An employee is entitled to written notification of the date on which he is to leave his post. Termination of the employment may, at the earliest, be demanded six months after the first day in the month after such notification is received by the employee.

(6) Before issuing such notification, the employer shall as far as possible invite the employee to an interview unless this is not desired by the employee himself.

(7) Employees who wish to terminate their employment shall be subject to a corresponding notification time limit of one month, with the exception that this need not be given in writing.

## Section 15-14. Summary dismissal

(1) The employer may summarily dismiss an employee if he or she is guilty of a gross breach of duty or other serious breach of the contract of employment.

(2) The provisions of sections 15-1 and 15-4 shall apply correspondingly to summary dismissal.

(3) If summary dismissal is unlawful, the court shall rule it invalid if so demanded by the employee. In special cases, the court may nevertheless, if so demanded by the employer, decide that the employment shall be terminated if, after weighing the interests of the parties, the court finds it clearly unreasonable that employment should continue. The court may also decide that the employment shall be terminated when it finds that dismissal is objectively justified.

(4) An employee may claim compensation if the summary dismissal is unlawful. Compensation shall be decided in accordance with section 15-12, second paragraph.

## Section 15-15. References

(1) An employee who leaves after lawful dismissal is entitled to a written reference from the employer. The reference shall state the employee's name, date of birth, the nature of the work and the duration of employment.

(2) This provision does not restrict the employee's right to request a more detailed reference in relation to employment where this is customary and not otherwise provided in a collective pay agreement.

(3) An employee who is summarily dismissed is also entitled to a reference, but the employer may state that the employee was summarily dismissed without giving the reasons for the dismissal.

## Section 15-16. The chief executive of the undertaking

(1) The employer may enter into a written agreement with the chief executive of the undertaking to the effect that disputes in connection with termination of the employment relationship shall be settled by means of arbitration.

(2) The provisions of this chapter concerning dismissal shall not apply to the chief executive of the undertaking if this person has in a prior agreement relinquished such rights in exchange for compensation on termination of employment.

## Section 15-17. Dismissal in connection with labour disputes

The provisions laid down in this chapter shall not apply in connection with dismissal pursuant to section 15 of the Labour Disputes Act or section 22 of the Civil Service Disputes Act.

# Chapter 16. Rights of employees in the event of transfer of ownership of undertakings

## Section 16-1. Scope of this chapter

(1) This chapter shall apply on transfer of an undertaking or part of an undertaking to another employer. For the purposes of this Act, transfer shall mean transfer of an autonomous unit that retains its identity after the transfer.

(2) Sections 16-2 and 16-4 shall not apply in connection with transfer from a bankrupt estate.

## Section 16-2. Pay and working conditions

(1) The rights and obligations of the former employer ensuing from the contract of employment or employment relationships in force on the date of transfer shall be transferred to the new employer. Claims pursuant to the first paragraph may still be raised against the former employer.

(2) The new employer shall be bound by any collective pay agreement that was binding upon the former employer. This shall not apply if the new employer within three weeks after the date of transfer at the latest declares in writing to the trade

union that the new employer does not wish to be bound. The transferred employees have nevertheless the right to retain the individual working conditions that follow from a collective pay agreement that was binding upon the former employer. This shall apply until this collective pay agreement expires or until a new collective pay agreement is concluded that is binding upon the new employer and the transferred employees.

(3) The employees' right to earn further entitlement to retirement pension, survivor's pension and disability pension in accordance with a collective service pension scheme shall be transferred to the new employer pursuant to the provisions of the first and second paragraph. The new employer may elect to make existing pension schemes applicable to the transferred employees. If the employees' previous pension schemes cannot be maintained after the transfer, the new employer shall ensure the transferred employees the right to further earning of pension entitlement through another collective pension scheme.

### **Section 16-3. Right of reservation, etc.**

(1) An employee may object to transfer of the employment relationship to the new employer.

(2) An employee who objects to transfer of the employment relationship to the new employer must notify the former employer of this in writing within the time limit specified by the employer. The time limit may not be shorter than 14 days after information is provided pursuant to section 16-6.

(3) An employee who has been employed by the undertaking for a total of at least 12 months during the two-year period prior to the date of transfer, and who asserts his or her right of reservation pursuant to this section, has a preferential right to a new appointment at the former employer for one year from the date of transfer unless the vacant post is one for which the employee is not qualified. The preferential right shall lapse if the employee fails to accept an offer of employment in a suitable post not later than 14 days after receiving the offer. Preferential rights pursuant to sections 10-2, fourth paragraph, 14-2 and 14-3 take precedence over preferential rights pursuant to this section.

## Section 16-4. Protection against dismissal

(1) Transfer of an undertaking to another employer is not in itself grounds for dismissal with notice or summary dismissal from a former or new employer.

(2) If a contract of employment or employment relationship expires because a change of employer involves major changes in the working conditions to the detriment of the employee, the termination is deemed to be a consequence of circumstances relating to the employer.

(3) In the event of disputes pursuant to this section, the provisions of sections 15-11 and 15-12 shall apply correspondingly with the exception of section 15-12, first paragraph, final sentence. The provisions of chapter 17 shall apply correspondingly in so far as they are appropriate.

## Section 16-5. Information and consultation with elected representatives of the employees

(1) The former and new employer as early as possible provide information concerning the transfer and discuss it with the employees' elected representatives.

(2) Information shall particularly be given concerning:

- a) the reason for the transfer,
- b) the agreed or proposed date for the transfer,
- c) the legal, economic and social implications of the transfer for the employees,
- d) changes in circumstances relating to collective pay agreements,
- e) measures planned in relation to the employees,
- f) rights of reservation or preference and the time limit for exercising such rights.

(3) If the previous or new owner is planning measures in relation to their respective employees, they shall consult with the elected representatives as early as possible on the measures with a view to reaching agreement.



## Section 16-6. Information to the employees

The former and new employer shall as early as possible inform the affected employees concerning the transfer as referred to in section 16-1. Information shall particularly be given concerning matters referred to in section 16-5, second paragraph (a) to (f).

## Section 16-7. Representation

(1) If the undertaking retains its autonomy, the elected representatives of the employees affected by the transfer as referred to in section 16-1 shall retain their legal position and function.

(2) If the undertaking does not retain its autonomy, the transferred employees who were represented prior to the transfer shall still be adequately represented until a new election can be held.

(3) The first paragraph shall not apply if the transfer entails that the basis for the employees' representation ceases to exist. In such cases, elected representatives of the employees shall still be ensured protection in accordance with agreements that protect elected representatives of the employees in this area.

# Chapter 17. Disputes concerning working conditions

## Section 17-1. Disputes concerning working conditions

(1) In legal proceedings concerning rights or obligations pursuant to this Act, the Courts of Justice Act and the Dispute Act shall apply in addition to the special provisions laid down in this chapter.

(2) In connection with the legal proceedings, the court may also consider claims concerning settlement of pay and holiday pay. The same shall apply to other claims in connection with or in the place of claims that may be submitted pursuant to the first paragraph in so far as these do not constitute a major inconvenience to the legal proceedings concerning the matter. The decision of the court pursuant to the preceding sentence may not be contested.

(3) Claims that are the subject of negotiations pursuant to section 17-3, claims as referred to in section 17-1, second paragraph, or claims that have been reviewed by a Dispute Resolution Board pursuant to section 17-2, shall not be subjected to mediation by a Conciliation Board.

(4) In the case of legal proceedings subject to section 17-4, first paragraph, the court shall expedite the case as much as possible and if necessary fix a time for sitting out of turn.

## **Section 17-2. Dispute Resolution Board**

(1) Disputes as referred to in sections 10-13, 12-14 14-3 and 14-4 a may be brought before a Dispute Resolution Board for decision.

(2) A dispute may not be brought before the courts until it has been reviewed by the Board and a decision has been made by the Board. When the dispute is reviewed by a court of law, the conclusion arrived at by the Board shall stand while the matter is under review. If this would have unreasonable consequences, the court may, if so demanded by either of the parties, decide upon another temporary arrangement.

(3) The time limit for bringing the dispute before the courts is eight weeks from the date of the Board's decision.

(4) The Ministry may by regulation issue further provisions concerning appointment of the Board's members, concerning its composition, concerning time limits for bringing matters before the Board and concerning other procedural rules.

## **Section 17-3. The right to demand negotiations**

(1) An employee who wishes to claim that a dismissal with notice or summary dismissal is unlawful, that it is a breach of the provisions of this Act concerning preferential rights or that an unlawful temporary appointment, hiring or suspension has been made may demand negotiations with the employer. The same shall apply if the employee wishes to claim compensation on grounds of circumstances as referred to in the first sentence.

(2) An employee who wishes to demand negotiations must notify the employer of this in writing within two weeks. The time limit for demanding negotiations shall run from:

- a) the date of a dismissal with notice or summary dismissal,
- b) the date the employer rejected a claim from an employee concerning preferential right to a new post,
- c) the date an employee terminated employment in the case of a dispute as to the lawfulness of a hiring or temporary appointment, or
- d) the date a suspension is revoked.

In a dispute as to the lawfulness of a hiring, temporary appointment or suspension, there is no time limit for demanding negotiations.

(3) The employer shall ensure that a meeting for negotiations is held as early as possible and, at the latest, within two weeks of receiving the request.

(4) If an employee institutes legal proceedings or notifies the employer that legal proceedings will be instituted when no negotiations have been conducted, the employer may demand negotiations with the employee. A demand for negotiations shall be submitted in writing as soon as possible and not later than two weeks after the employer is notified that legal proceedings have been or will be instituted. The employer shall ensure that a meeting for negotiations is held in accordance with the provision laid down in the preceding paragraph. If legal proceedings are instituted, the employer shall notify the court in writing that negotiations will be conducted. An employee is obliged to attend the negotiations.

(5) Employees and employers shall be entitled to engage the assistance of an adviser during the negotiations. The negotiations must be completed not later than two weeks after the date of the first negotiation meeting unless the parties agree to continue the negotiations. Minutes shall be kept of the negotiations, which shall be signed by the parties and their advisers.

(6) In a dispute concerning hiring, demands for negotiations shall be made to the hirer. The provisions of this section concerning the employer shall apply correspondingly to the hirer.

## Section 17-4. Time limits for instituting legal proceedings in disputes concerning dismissal with notice, summary dismissal, suspension, etc.

(1) In a dispute as to whether dismissal with notice, summary dismissal, a breach of the provisions of this Act concerning preferential rights or the lawfulness of a temporary appointment, hiring, or suspension, the time limit for instituting legal proceedings shall be eight weeks. If an employee claims compensation only, the time limit for legal proceedings shall be six months. In individual cases, the parties may agree upon a longer time limit for initiating legal proceedings.

(2) The time limit for initiating legal proceedings pursuant to the first paragraph shall run from the conclusion of negotiations. If negotiations are not conducted, the time limit shall run from the dates referred to in section 17-3, second paragraph.

(3) If the employer's dismissal with notice or summary dismissal does not meet the formal requirements laid down in section 15-4, first and second paragraph, there shall be no time limit for initiating legal proceedings.

(4) In a dispute as to the lawfulness of a temporary appointment, hiring or suspension, there shall be no time limit for initiating legal proceedings.

(5) The employee's right to remain in his post pursuant to section 15-11 shall apply if legal proceedings are instituted before the expiry of the notice period and within eight weeks of the conclusion of negotiations or date of dismissal. The same shall apply if an employee before the expiry of the notice period notifies the employer in writing that legal proceedings will be instituted within eight weeks. The time limits shall not apply if the employer's notice of dismissal does not meet the formal requirements laid down in section 15-4, first and second paragraph, cf. the third paragraph of this section. The court may decide that the employment shall continue, cf. section 15-11 (3), if legal proceedings so claiming are instituted within eight weeks from the date of termination of the employee's post or from the conclusion of negotiations.

## Section 17-5. Extension of time limits and reinstatement of cases in respect of dismissal during sickness, pregnancy, parental leave, military service, etc.

(1) In a dispute as to the lawfulness of a dismissal pursuant to section 15-8, the time limit for demanding negotiations or instituting legal proceedings shall run from the date of expiry of the prohibition against dismissal pursuant to section 15-8, first paragraph.

(2) In the case of dismissal during absence owing to a child's or childminder's sickness pursuant to section 12-9 or absence owing to care of close relatives and/or other close persons pursuant to section 12-10, the time limit for demanding negotiations or instituting legal proceedings shall be extended by the number of days an employee was absent after the date of dismissal.

(3) In the case of dismissal during leave in connection with pregnancy, childbirth, adoption or responsibility for the care of small children pursuant to sections 12-1 to 12-6 or during leave of absence in connection with military service, etc. pursuant to section 12-12 the court may grant reinstatement of the case if the time limit for demanding negotiations or for instituting legal proceedings is exceeded, if the employee so requests and the court finds it reasonable.

## Section 17-6. Panels of lay judges

For each county, the Norwegian Courts Administration shall appoint one or more special panels of lay judges with a broad knowledge of industrial life. At least two-fifths of the lay judges in each panel shall be appointed on the recommendation of the employers' organisation and at least two-fifths shall be appointed on the recommendation of the employees' organisation.

## Section 17-7. Appointment of lay judges

(1) For the main hearing and for hearing in the Court of Appeal the court shall sit with two lay judges.

(2) Lay judges shall be appointed on the recommendation of the parties from the panel of lay judges appointed pursuant to section 17-6. In cases before the Court of

Appeal the lay judges are taken from the panels appointed within the district of the court.

(3) Each party proposes one-half of the number of lay judges included in an individual case. If the proposals from the parties are not available within the time limit stipulated by the judge, the judge may appoint lay judges pursuant to section 94 of the Courts of Justice Act. The same applies if several plaintiffs or defendants fail to agree on a joint proposal.

(4) Nevertheless, the court may sit without lay judges if the parties and the court are agreed that lay judges are unnecessary.

## Chapter 18. Regulatory supervision of the Act

### Section 18-1. The Labour Inspection Authority

(1) The Labour Inspection Authority shall supervise compliance with the provisions of and pursuant to this Act. When supervision pursuant to this Act requires special expertise, the Labour Inspection Authority may appoint specialists to conduct controls, inspections, etc. on behalf of the Labour Inspection Authority. The Ministry may issue provisions concerning the Labour Inspection Authority's organisation and activities.

(2) The Ministry may decide that supervision of parts of the public administration and transport undertakings operated by the State shall be organised in a manner other than that which ensues from this Act. The Ministry may decide that a public body other than the Labour Inspection Authority shall supervise compliance with the provisions laid down in or pursuant to this Act.

### Section 18-2. Protection of sources of information

(1) When the Labour Inspection Authority is informed of circumstances that are in contravention of this Act, any person who performs work or services for the Labour Inspection Authority shall be obliged to prevent other persons from gaining knowledge of the name of the notifier or other information identifying the notifier.

(2) The duty of secrecy shall also apply in relation to the person or undertaking whose affairs are reported. Sections 13 to 13e of the Public Administration Act shall otherwise apply correspondingly.

### **Section 18-3. Fees**

(1) Undertakings subject to this Act, may be ordered to pay to the Treasury an annual inspection fee or fees to cover expenses relating to control, approval and certification or to required examinations or tests, including sectoral levies to cover expenses in connection with other monitoring tasks directed at all or parts of the petroleum industry.

(2) The Ministry may by regulation issue further provisions concerning such fees and sectoral levies. The fees and sectoral levies shall be enforceable by distraint.

(3) The Ministry may by regulation provide that the Labour Inspection Authority shall have a right to claim the refund of the costs of inspections and tests which the employer is required to perform pursuant to this Act.

### **Section 18-4. Access of the Labour Inspection Authority to the undertaking**

(1) The Labour Inspection Authority shall have free access at all times to any premises subject to the Act. Inspectors shall produce proof of their identity pursuant to section 15 of the Public Administration Act and, if possible, take contact with the employer and the safety representative. The safety representative may require that other representatives of the employees shall take part in the inspection. In undertakings where no safety representative has been elected, the inspectors shall, if possible, take contact with another representative of the employees.

(2) The employer or his representative shall be entitled to be present during the inspection and may be so ordered. The inspectors may decide that such right shall not apply during interviews of employees or if the presence of the employer would entail a major inconvenience or endanger the purpose of the inspection.

(3) Unless weighty considerations indicate otherwise, the Labour Inspection Authority shall provide the employer with a written report on the result of the inspection. A

copy of this report shall be given to the safety representative and, if necessary, to the occupational health service.

## Section 18-5. Information

(1) All persons subject to inspection pursuant to this Act shall, when so demanded by the Labour Inspection Authority and notwithstanding the duty of secrecy, provide information deemed necessary for performance of the inspection. The Labour Inspection Authority may decide the form in which the information shall be provided.

(2) Information as referred to in the first paragraph may also be demanded by other public inspection authorities notwithstanding the duty of secrecy that otherwise applies. The duty to provide information shall only apply to information that is necessary for the inspection authority's performance of its duties pursuant to statute.

## Section 18-6. Orders and other individual decisions

(1) The Labour Inspection Authority shall issue orders and make such individual decisions as are necessary for the implementation of the provisions of and pursuant to [section 1-7,]<sup>3</sup> chapters 2 to 11 and sections 14-1 a, 14-5 to 14-8, 14-9, first paragraph, (f), second sentence and first paragraph, final sentence, 14-12, second paragraph, second sentence, 14-12, third paragraph, [14-15, fifth paragraph,]<sup>3</sup> 15-2 and 15-15. This shall however not apply to sections 2 A-1, 2 A-2, section 10-2, second to fourth paragraph, and section 10-6, tenth paragraph.

(2) Orders shall be issued in writing, and time limits shall be set for their effectuation. In the event of immediate danger the Labour Inspection Authority may demand that necessary measures be implemented immediately. Orders shall contain information regarding the right of appeal, the time limit for appeals, and the appeal procedure, as well as regarding the right to examine the case documents, cf. section 27 of the Public Administration Act.

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<sup>3</sup> Through an oversight, amendments to section 1-7 and section 14-15, fifth paragraph, pursuant to the Act of 31 March 2017 No. 12 were omitted from the Act of 16 June 2017 No. 42, both Acts were in force from 1 July 2017.



(3) The Labour Inspection Authority may prohibit the manufacture, packaging, use or storage of hazardous chemicals or biological substances in undertakings subject to this Act. The Labour Inspection Authority may also require that the employer shall conduct special inspections or submit samples for inspection. Costs in this connection shall be borne by the employer.

(4) The Labour Inspection Authority may require that manufacturers or importers of chemicals or biological substances shall conduct inspections or submit samples for inspection in order to determine how hazardous the chemical or substance is. The costs of such inspections shall be borne by the party under obligation to conduct the inspection or submit the sample. The Labour Inspection Authority may prohibit the sale of a chemical or biological substance if a manufacturer or importer fails to observe his duty to report or mark the substance or to provide additional information required pursuant to section 5-4, first paragraph (c).

(5) The Labour Inspection Authority may issue orders to the effect that a person who supplies or markets a product which, even if used in accordance with requirements, may entail danger to life or health, shall take the necessary measures to avert such danger. It may, *inter alia*, be required that:

- a) supply or marketing be discontinued,
- b) products be recalled.

(6) In connection with permits, consent, dispensations or other individual decisions, the Labour Inspection Authority may impose specific conditions.

(7) Individual decisions adopted by local Labour Inspection Authority offices may be appealed to the Directorate of Labour Inspection. Individual decisions adopted by the Directorate may be appealed to the Ministry.

(8) The employees' elected representatives shall be informed of orders issued and individual decisions adopted by the Labour Inspection Authority.

## Section 18-7. Coercive fines

When ordered pursuant to this Act, a continuous coercive fine may be imposed for each day, week or month that passes after expiry of the time limit set for implementation of the order until the order is implemented. A coercive fine may also

be imposed as a single payment fine. The Labour Inspection Authority may waive accrued coercive fines.

## Section 18-8. Halting of work

If orders are not complied with within the time limit, the Labour Inspection Authority may wholly or partly halt the undertaking's activities until the order has been complied with. In the event of immediate danger, the Labour Inspection Authority may halt those activities that are associated with the dangerous situation even if no order has been issued.

## Section 18-9. Consent of the Labour Inspection Authority for erection of new buildings, etc.

(1) Any person wishing to erect a building or perform construction work that must be reported or for which an application must be submitted pursuant to the Planning and Building Act and that will or may foreseeably be used by an undertaking subject to this Act, shall obtain prior consent from the Labour Inspection Authority.

(2) The Ministry may by regulation issue further provisions concerning the obligation to obtain prior consent from the Labour Inspection Authority pursuant to this section, the information that may be required and the conditions that may be imposed for granting such consent.

(3) The Ministry may by regulation provide that prior consent is not necessary for specific working premises or buildings if this is unobjectionable in relation to the working environment.

## Section 18-10. Administrative fines

(1) The Norwegian Labour Inspection Authority may impose an administrative fine on an undertaking if any person acting on behalf of the undertaking has infringed provisions as referred to in section 18-6, first paragraph. An administrative fine may be imposed even when no individual person has evident fault. The administrative fine accrues to the public treasury and may be maximally equivalent to 15 times the National Insurance basic amount.

(2) When considering whether an administrative fine shall be imposed and when assessing the size of the fee, particular emphasis shall be placed on:

- a) the seriousness of the infringement,
- b) the degree of guilt,
- c) whether repeated infringements are involved,
- d) whether the undertaking by means of guidelines, instruction, training, controls or other measures could have prevented the infringement,
- e) whether the undertaking has had or could have obtained any advantage from the infringement,
- f) whether the infringement was committed in order to further the interests of the undertaking,
- g) whether other sanctions as a result of the infringement were imposed on the undertaking or any person acting on its behalf,
- h) the financial capacity of the undertaking, and
- i) the preventive effect.

(3) Unless otherwise provided by an individual decision, the time-limit for compliance shall be four weeks from the time of the decision imposing an administrative fine. A final decision imposing an administrative fine is enforceable by execution. If the undertaking brings an action against the State to contest the decision, the basis for enforcement is suspended. The court may try all aspects of the matter.

(4) Administrative fines may not be imposed after two years following the infringement. The limitation period is interrupted if the Norwegian Labour Inspection Authority gives advance notification of the decision imposing an administrative fine, cf. section 16 of the Public Administration Act.

## Section 18-11. Mutual assistance in connection with recovery and notification of financial administrative sanctions

(1) Decisions concerning financial administrative sanctions and fines imposed by responsible authorities or courts in other EEA member states are binding in Norway, and may be enforced in cases where such decisions concern non-compliance with national provisions implementing Annex XVIII No. 30 of the EEA Agreement (Directive 96/71/EC) concerning the posting of workers in the framework of the provision of services or Directive 2014/67/EU on the enforcement of Directive 96/71/EC and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System, as incorporated in the EEA Agreement, and where such decisions may not be appealed or are legally enforceable.

(2) Financial claims resulting from decisions as referred to in the first paragraph shall be recovered by the Norwegian National Collection Agency, unless otherwise decided by the Ministry.

(3) The Norwegian National Collection Agency may request the responsible authorities of other EEA member states to recover financial claims resulting from decisions referred to in section 18-7 of the Working Environment Act (Coercive fines) and section 18-10 (Administrative fines) which meet the conditions set out in the first paragraph.

(4) Financial claims recovered pursuant to the first paragraph shall accrue to the Treasury. Financial claims recovered pursuant to the third paragraph shall accrue to the EEA member state that carries out the recovery.

(5) The Ministry may in regulations make further provisions concerning notification and enforcement of decisions as referred to in the first and third paragraphs.

## Chapter 19. Penal provisions

### Section 19-1. Liability of proprietors of undertakings, employers and persons managing undertakings in the employer's stead

(1) Any proprietor of an undertaking, employer or person managing an undertaking in the employer's stead who wilfully or negligently breaches the provisions or orders contained in or issued pursuant to this Act shall be liable to a fine, imprisonment for up to one year or both. Complicity shall be subject to the same penalties, but employees shall nevertheless be liable to punishment pursuant to section 19-2.

(2) In the event of particularly aggravating circumstances the penalty may be up to three years' imprisonment. When determining whether such circumstances exist, particular importance shall be attached to whether the offence involved or could have involved a serious hazard to life or health, and whether it was committed or allowed to continue notwithstanding orders or requests from public authorities, decisions adopted by the working environment committee or requests from safety representatives or occupational health services.

(3) In the event of contraventions that involved or could have involved a serious hazard to life or health, any proprietor of an undertaking, employer, or person managing an undertaking in the employer's stead shall be liable to penalty pursuant to this section, unless the person concerned has acted in a fully satisfactory manner according to his duties under this Act.

(4) The provisions of this section shall not apply to the provisions of chapters 8, 12, 13, 15 and 16. The provisions shall not apply to the provisions of chapter 14, with the exception of sections 14-5 to 14-8 and 14-15.

### Section 19-2. Liability of employees

(1) An employee who negligently infringes the provisions or orders contained in or issued pursuant to this Act shall be liable to a fine. Contributory negligence shall be subject to the same penalty.

(2) If the infringement is committed wilfully or through gross negligence, the penalty may be a fine, up to three months' imprisonment or both.

(3) In the event of particularly aggravating circumstances imprisonment for up to one year may be imposed. When determining whether such circumstances exist, particular importance shall be attached to whether the offence was contrary to special directives relating to work or safety and whether the employee understood or should have understood that the offence could have seriously endangered the life and health of others.

(4) The provisions of this section do not apply in respect of the provisions of Chapter 10 relating to working hours and of Chapter 14 and 15 relating to protection against dismissal.

### **Section 19-3. Liability for enterprises**

Criminal liability for enterprises is regulated in sections 27 and 28 of the Penal Code of 20 May 2005.

### **Section 19-4. Liability for obstructing public authorities**

Any person who obstructs a public authority in the performance of inspections required pursuant to this Act or who fails to furnish the mandatory assistance or supply information deemed necessary for performing inspections pursuant to this Act shall be liable to a fine unless the offence is subject to the provisions of section 19-1 or to a more severe penalty pursuant to the Penal Code of 20 May 2005. Complicity shall not be liable to penalties.

### **Section 19-5. Public servants**

For the purposes of the Penal Code of 20 May 2005, any person associated with the Labour Inspection Authority shall be regarded as a public servant.

### **Section 19-6. Prosecution**

Contravention of this Act is subject to public prosecution.

Section 19-7. (Repealed by the Act of 19 June 2015 No. 65)

## Chapter 20. Final provisions

### Section 20-1. Entry into force

The Act shall enter into force on the date decided by the King.<sup>4</sup>

### Section 20-2. Transitional provisions

Regulations issued pursuant to the Act of 4 February 1977 No. 4 relating to Worker Protection and Working Environment, etc. shall apply until otherwise decided.

### Section 20-3. Amendments to other Acts

With effect from the entry into force of the present Act, the following amendments shall be made to other Acts: - - -

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<sup>4</sup> Pursuant to the Decree of 17 June 2005 No. 609, the Act entered into force on 1 January 2006 with the following exceptions and specifications: - Section 10-12, sixth paragraph, entered into force on 1 July 2005. - Section 14-9, fifth paragraph, second sentence, shall not apply to temporary contracts of employment that are active on the date of the Act's ordinary entry into force. - In the case of dismissals that took place prior to the Act's entry into force, section 61 (4) of the Act of 4 February 1977 No. 4 relating to Worker Protection and Working Environment, etc. shall apply. - For employees who, on the date of the Act's ordinary entry into force, hold a particularly independent post, in so far as the employee remains in this post, chapter 10 of the Act shall enter into force on 1 January 2011 (according to the Ministry, this postponement of entry into force is no longer relevant following amendment of the provisions by the Act of 21 December 2005 No. 121 to be enforced on 1 January 2006). Section 10-2, first, second and fourth paragraph, nevertheless entered into force on 1 January 2006. - Entry into force of section 2-4 shall be decided later.

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