

Act of 18 July 1958 relating to Civil Service Disputes

Chapter I. Scope of the Act

Section 1. This Act applies to all employees who are permanently or temporarily engaged in Civil Service posts on the standard scale of pay. The King may decide that the Act shall also apply to Civil Service employees who are paid in accordance with other pay scales. Prior to such a decision, the confederation or union to which these employees belong shall be given the opportunity to express an opinion.

The King may decide that the Act shall also apply to other employees in so far as their rates of pay and working conditions are stipulated by collective agreements between the State and the Civil Service unions with the right of negotiation or through other decisions of Government authorities.

For the purpose of this Act, the term *civil servant* shall apply to any employee who comes in under the Act in conformity with the provisions of the first and second paragraphs.

Chapter II. The Right of Negotiation

Section 2. The State and the Civil Service unions with a right of negotiation shall be mutually bound, at the request of the other party, to engage in negotiations for concluding collective agreements.

Section 3. A confederation of Civil Service unions has the right to negotiate, provided that: it has at least 10 000 civil servants as members, and the affiliated Civil Service unions with the right of negotiation (cf. third paragraph) represent at least five government agencies.

A confederation of Civil Service unions that was formed before 1 July 1969, has the right of negotiation, provided that:

the membership of its member unions includes civil servants employed by at least five agencies, it has at least 7 000 members, and

at least five of the affiliated unions fulfil the conditions of the right of negotiation in conformity with the third paragraph.

A Civil Service Union has the right of negotiation, provided that:

its membership includes civil servants employed in government agencies or within a group of Civil Service employees (tjenestegren) or within a group of employees within a specific agency, it has at least 50 civil servants as members, and

the membership constitutes at least half the number of civil servants within the agency or group of Civil Service employees concerned.

A nation-wide union whose members belong to a single occupational group and which admits members from both within and outside of the Civil Service has the right of negotiation provided it has at least 50 civil servants as members and they constitute at least half the number of civil servants in the country within the occupational group concerned.

Section 4. A notification documenting fulfilment of the conditions for the right of negotiation of the confederations or unions concerned shall be sent for registration to the Ministry responsible for Civil Service pay questions. A new notification shall be sent every year not later than 1 April. It may be required that the number of members shall be confirmed by attestation of the Notary Public.

If, in the opinion of the Ministry, the conditions for the right of negotiation are not fulfilled, the confederation or union concerned shall be notified as soon as possible.

If the confederation or union fulfils the conditions for the right of negotiation, the branches shall also be entitled to negotiate about delimited, local problems, provided these branches do not admit members from outside the confederation or union.

Section 5. The provisions of Sections 6-9 are applicable to negotiations concerning questions

mentioned in Section 2.

Section 6.

When a union with the right of negotiation demands to enter into negotiations, it shall, in cases where the claims concern civil servants employed by a single specific Ministry prefer its claims in a registered letter to the Ministry or authority under which the civil servants belong.

The union concerned shall, at the same time as the claims are preferred, send a copy of these by registered mail to the Ministry responsible for Civil Service pay questions.

If the preferred claims also concern civil servants of other unions with the right of negotiation, these unions shall be notified by registered mail by the Ministry responsible for Civil Service pay questions.

Claims concerning civil servants employed by two or more Ministries shall be preferred by the appropriate confederation to the King through the Ministry responsible for Civil Service pay questions, and shall be sent by registered mail. In cases where the claims also concern civil servants belonging to other confederations, these shall be notified by the Ministry by registered mail.

Even if the demands only concern a single Ministry, a confederation may also prefer its claims to the Ministry responsible for Civil Service pay questions.

A nation-wide union of teachers in the primary and continuation schools may submit its demands by registered mail to the Ministry responsible for Civil Service pay questions, provided the union has at least 10 000 members and represents at least half the number of teachers in the primary and continuation schools in the country.

When the State wants to open negotiations, the appropriate confederation or union with the right of negotiation shall be notified hereof by registered mail.

Section 7. Negotiations shall be opened within a fortnight of the claim for negotiations having reached the appropriate government authorities or the appropriate union.

If the claim under discussion concerns a matter that is regulated in a collective agreement, the time limit does not begin to run until the latest date on which the collective agreement can be terminated.

Section 8. Further provisions regarding the exercise of the right of negotiation – including provisions relating to the number of attending representatives – shall be given by the King in joint regulations for all branches of the Civil Service. If special conditions within particular branches of the Civil Service make it necessary, specific regulations can be established in respect of these. Prior to the issue of regulations, these shall be made the subject of negotiation with the appropriate confederations or unions.

Section 9. Unauthorized persons shall not be admitted to the negotiations. Minutes shall be kept. The minutes shall include the time and place of the meeting, the names of the parties and their representatives, the documents that are produced, the claims made and the result of the negotiations. If answers shall be given to proposals made, a time limit shall be established and entered into the minutes.

At the close of the negotiations, the parties' negotiators may, for their part, demand the inclusion in the minutes of declarations containing explanations and premises for the stands taken by them. The minutes shall be signed by the negotiators, and a copy of these shall forthwith be sent to each of the parties.

Section 10. (Repealed by Act no. 74 of 19 June 1969.)

Chapter III. Collective Agreements

Section 11. For the purpose of this Act, *collective agreement* shall signify a written agreement on pay and working conditions between the State on the one hand and a confederation, Civil Service union or any other union mentioned in Section 3 on the other hand. A basic collective agreement is a collective agreement on general pay and working conditions. A special agreement is a collective agreement on pay and working conditions not covered by a basic collective agreement.

Within a week of the signing of a collective agreement, it shall be registered with the Ministry responsible for Civil Service pay questions. Within a fortnight of the said date, a copy of the collective agreement shall be sent to the Chief State Mediator.

Section 12. A collective agreement shall contain provisions relating to its coming into force. In the absence of any establishment in the agreement of the date of expiry, it shall run for three years from its coming into force. Unless it is lawfully terminated, it shall be renewed for one year at a time.

Unless otherwise provided in the agreement, the term of notice shall be three months. The notice shall be given in writing and sent by registered mail. Simultaneously, a copy shall be sent by registered mail to the Ministry responsible for Civil Service pay questions.

Section 13. If an agreement relating to pay and working conditions between a civil servant and the State, both of whom are bound by a collective agreement, contains any provision contrary to the collective agreement, this provision shall be invalid. A member or a branch of a union is not, by withdrawing or being expelled, exempt from his or its duties according to a collective agreement that is applicable to the union at the time of resignation.

Chapter IV. Mediation

Section 14. If negotiations concerning the conclusion of a collective agreement do not result in any agreement, the parties may jointly demand mediation in conformity with this Act. If negotiations as mentioned have been terminated without an agreement having been reached, the Chief State Mediator shall forthwith be notified and on his own initiative undertake mediation.

Disputes that according to their nature may be submitted to the Government Wages Committee are excepted from mediation. This also applies to disputes on the establishment of special agreements after a basic collective agreement has been entered into.

The mediation shall be opened within a fortnight of a claim or notification having reached the Chief State Mediator.

Section 15. Mediation pursuant to Section 14 shall be presided over by the Chief State Mediator or by a special mediator, who shall be appointed by the King, and shall be attached to the office of the Chief State Mediator.

Each mediator must fulfil the requirements of Section 10 (3), first sentence of the Labour Disputes Act of 5 May 1927. Members of the Government, members of the Storting, civil servants employed by the Ministry responsible for Civil Service pay questions, members of the executive boards of confederations or Civil Service unions and permanently engaged employees of such unions shall not be nominated to the office of mediator.

Otherwise, the same provisions as those of Sections 30 and 32 of the Labour Disputes Act are applicable to mediators' ineligibility, to their unavoidable absence and to the pledge of mediators.

Section 16. During the mediation the provisions of Sections 8 and 9, second paragraph, and the provisions of Sections 31(3), 34, 35 (1), (2) and (3), 39, 41, 42 and 43, of the Labour Disputes Act of 5 May 1927, are applicable.

Section 17. If a fortnight has elapsed since the commencement of mediation, each of the parties may demand that the mediation be terminated, provided the relevant party has not by absence or in any other manner failed to cooperate in the mediation proceedings.

Subsequent to lawful demand for the cessation of mediation, the latter shall be terminated within a week at the latest.

If a Compromise is proposed, it shall be included in the minutes. The Chief State Mediator may demand that a proposed compromise be put to the vote in conformity with Section 18.

Section 18. If a Compromise has been proposed and an answer is to be given after voting, only the interested members of the unions with the right of negotiation that are affected by the proposal shall have the right to vote on the compromise.

The voting shall be subject to the provisions of Section 35 (3), (4), (5), (6) and (8) of the Labour Disputes Act of 5 May 1927, in so far as they are applicable. Further rules concerning the voting procedure may be laid down in an agreement between the State and the confederations.

When the circumstances so indicate, the mediator may propose a joint compromise for two or more unions so that the decision as to whether the compromises have been adopted shall be reached on the basis of the total number of votes of the unions that have in this way combined. In such a case, the mediator shall give a detailed account of the reasons that in his opinion governed the choice of this procedure.

Section 19. If an agreement is not reached, the provisions of the Labour Disputes Act of 5 May 1927, Sections 36 (2), 37 and 28, shall apply correspondingly.

Chapter V. Breach of Agreement. Stoppage of Work

Section 20.

No attempts must be made to settle by stoppage of work, lockouts or any other form of industrial action a dispute concerning the validity, interpretation, or existence of a collective agreement, or claims based on a collective agreement.

No attempts must be made to settle by stoppage of work, lockouts or any other form of industrial action a dispute between a confederation with the right of negotiation, a Civil Service union or any other union mentioned in Section 3 and the State concerning the arrangement of pay or working conditions that are not covered by a collective agreement before the expiry of the time limits mentioned in the first and second paragraphs of Section 17 and the periods of notice relating to the positions concerned. If the dispute concerns the conclusion of a collective agreement that shall replace a previous collective agreement, the period of validity of the collective agreement must also have expired.

During the period when no work stoppage, lockouts or other forms of industrial action may be resorted to, the collective agreement and the pay and working conditions applicable at the outbreak of the dispute shall, in the absence of any agreement to the contrary, remain in force. A confederation, a Civil Service union or other union mentioned in Section 3 may not, as long as it is bound by a basic collective agreement, resort to work stoppage or any other form of industrial action concerning pay and working conditions that are not laid down in the basic collective agreement.

This also applies to those civil servants who are covered by the basic collective agreement.

During the period when those civil servants who are members of a union with the right of negotiation have no right to resort to work stoppage or any other form of industrial action by virtue of the rules of industrial peace of the collective agreement or statutory provisions, other civil servants employed in the agency or group of Civil Service employees concerned may not resort to work stoppage or to any other form of industrial action.

As long as a valid collective agreement is in force, the persons covered by the agreement may not take part in any stoppage of work or any other form of industrial action in support of a party to another conflict on conditions other than those agreed upon between the State and the

confederations of Civil Service unions.

Section 21.

For the purpose of this Act, *stoppage of work* (strike) shall signify a complete or partial cessation of work which civil servants carry into effect according to an agreement or in concert with each other for the purpose of forcing the settlement of a dispute between the State and a confederation with the right of negotiation or a Civil Service union or other civil servants' association whose object is to safeguard the interests of these civil servants in relation to the State.

It is considered a feature of work stoppage when, as a result of the stoppage of work, an attempt is made to cut off the supply of manpower to the appropriate agency or group of Civil Service employees.

For the purpose of this Act, *lockout* shall signify a complete or partial stoppage of work effected by the State for the purpose of forcing the settlement of a dispute between the State and a confederation with the right of negotiation or a Civil Service union or other civil servants' association whose object is to safeguard the interests of these civil servants in relation to the State – regardless of whether other civil servants are admitted in lieu of the ones excluded.

An attempt at preventing the excluded civil servants from obtaining other occupations is considered a feature of the lockout.

A blockade as mentioned in the second paragraphs of subsections (1) and (2) is not considered a boycott according to the Boycott Act of 5 December 1947, when the blockade is carried out in conjunction with an effected stoppage of work or lockout. If a stoppage of work or a lockout has not been effected, it is considered a boycott if an attempt is made at cutting off the manpower of an agency or group of Civil Service employees or if attempts are made at preventing civil servants from obtaining other occupations.

Section 22.

If notification of work stoppage has been given, the King may dismiss civil servants, in which case the otherwise valid rules for dismissal of civil servants shall not apply.

A period of three months notice of dismissal is required unless a shorter period has been stipulated by collective agreement. This also applies to the period of notice given by the civil servants when notifying work stoppage.

If a shorter time limit than three months has been stipulated in a collective agreement, the shortened period of notice shall apply correspondingly to the civil servants in the agency or group of Civil Service employees concerned who are not bound by the collective agreement. It may be stipulated by collective agreement that notice of termination of employment as mentioned in this section may be effected by collective notification to or from the appropriate confederation or Civil Service union.

When civil servants return to work after a work stoppage, the regulations otherwise in force concerning the appointment of civil servants shall not be applicable.

The regulations in this section do not apply to senior civil servants or other civil servants who do not have the right to resort to stoppage of work.

Section 23. If the members of a confederation, a Civil Service union or any other union as mentioned in section 3 have breached a collective agreement or been guilty of an unlawful stoppage of work, the confederation or union as well as the members themselves shall be liable for damages. However, the liability of the confederation or union only becomes effective when it is itself guilty of the breach or of continuing the breach of the agreement or of the illegal stoppage of work.

If members of a confederation, a Civil Service union or any other union mentioned in Section 3 are guilty of an unlawful work stoppage, the provisions in the first sentence of the first paragraph shall apply correspondingly to other civil servants who take part in the unlawful work stoppage.

Section 5 and Section 7 (6) of the Labour Disputes Act, of 5 May 1927 shall apply correspondingly.

Chapter VI. The Labour Court and the Ordinary Courts

Section 24. The Labour Court shall deal with disputes mentioned in Sections 20 (1), and 23, as well as disputes as to whether there is a breach of the provisions in Section 20 (2), (3), (4) and (5). However, the Labour Court may not deal with disputes described in Section 23 if proceedings have been exclusively instituted against civil servants, as mentioned in the second paragraph of Section 23. The parties may however adopt private arbitration in the said disputes.

Disputes regarding the interpretation of the provisions of the Civil Service Disputes Act may be brought before the Labour Court unless the parties agree that the dispute concerned shall be brought before the ordinary courts.

Section 25. When the Labour Court hears disputes pursuant to Section 24, it shall be composed as follows:

The chairman and two members not subject to recommendation in conformity with Section 11 of the Labour Disputes Act of 5 May 1927.

Four members to be nominated by the King.

Two of the members and their deputies shall be nominated on the recommendation of the Ministry responsible for Civil Service pay questions, and the two other members and their deputies shall be nominated by proposal of the confederations with the right of negotiation, in conformity with the regulations given in Section 11, subsection (1), second and third sentences, and subsections (2) and (3) of the Labour Disputes Act.

Members of the Government, members of the Storting, civil servants employed by the Ministry responsible for Civil Service pay questions, members of the executive boards of confederations or Civil Service unions and permanently engaged employees of such unions shall not be eligible as members of the Labour Court when it hears disputes pursuant to this Act.

Furthermore, the provisions of Sections 8-10, 12-26, and 41-46 of the Labour Disputes Act are applicable in so far as they are appropriate.

Chapter VII. The National Wages Board.

Section 26. If such a dispute as mentioned in Section 20 (2), is not settled by means of mediation in conformity with this Act, the parties may jointly bring it before the National Wages Board. In dealing with disputes of this kind, there shall, among the five members of the National Wages Board nominated by the King, be one who represents the interests of the civil servants and one who represents the interests of the State. Furthermore, the provisions relating to the National Wages Board laid down in the Act on Wage Boards in Labour Disputes of 19 December 1952 shall be applicable in so far as they are appropriate.

Stoppage of work or lockout may not be resorted to when the parties have decided to bring a dispute before the National Wages Board.

Section 26a. If mediation has been undertaken in a dispute involving civil servants who have no right to resort to stoppage of work, and the mediation has failed, the mediator who has conducted the mediation proceedings shall, within three days after the end of the mediation, notify the Chairman of the National Wages Board. The Board adjudicates the dispute with binding effect for the parties concerned. The provisions in the second and third sentences of Section 26 shall apply correspondingly.

When a notification, as mentioned in the first paragraph, has been submitted, it shall be prohibited to attempt to cut off the supply of manpower to the branch of service in question. As long as the dispute has not been decided by the National Wages Board or settled in another

way, the collective agreement and those pay and working conditions prevailing at the outbreak of the dispute shall remain in force, subject to the parties not having decided otherwise.

Chapter VIII. Select Committee. The Government Wages Committee

Section 27. A dispute relating to the establishment of or amendment to a special agreement may, by each of the parties, be brought before a select committee for decision.

If the parties involved cannot agree on the composition of the select committee, the Chief State Mediator shall nominate the select committee's neutral members.

The decision of the select committee shall have the same effect as a collective agreement.

If one of the parties so requests, the decision of the select committee shall apply only until the expiry of the main collective agreement.

Section 27 a.

The parties may also agree that disputes concerning other working conditions than those mentioned in the first paragraph of Section 27, and that are not of a political nature, may be brought before a select committee for final decision. Should the parties fail to agree on the question of whether a dispute is of a political nature, the question shall be decided by the Ministry.

The composition of the committee shall be determined in the agreement. If the parties fail to agree on who shall be the chairman, the chairman shall be appointed by the Chief State Mediator or by a local mediator if the parties so agree.

The provisions in the first and second paragraphs shall not apply to the central government Ministries.

Section 28. The Government Wages Committee shall consist of a chairman and a main committee with two neutral members and representatives of the State and the confederations. The chairman and the two neutral members with their personal deputies shall be nominated by the Chief State Mediator. The State's representatives with their deputies are nominated by the King in a number corresponding to the number of confederations. Each of the confederations nominates a representative with deputies. If the membership exceeds 50 000, the confederation in question shall nominate two representatives and their deputies. Only one representative of each confederation shall be entitled to vote. Nomination is for a period of three years.

In dealing with disputes to which a union as mentioned in Section 6 (3) is a party, the main committee shall be joined by one representative for the State nominated by the King and one representative for the union concerned.

In dealing with disputes to which the other unions with the right of negotiation outside the confederations are parties, the main committee shall similarly be joined by one representative for the State nominated by the King, and a joint representative for the said Civil Service unions. If the unions fail to reach an agreement concerning the representative, he shall be nominated by the Chief State Mediator.

Section 29. In cases where, in the course of negotiations for the conclusion of a collective agreement, no agreement is reached concerning the pay grade or pay plan in the standard scale of pay under which a government post or group of posts shall be classified,

the upgrading of a civil servant's post from a lower to a higher grade,

amendments to the provisions governing overtime payment or limited special increments, to the extent that these matters are not regulated in the general provisions of the collective agreement,

each of the parties may bring the dispute before the Government Wages Committee, which shall decide the dispute with binding effect for the term of the collective agreement.

Disputes as mentioned in the first paragraph may in conformity with Section 27, if the parties

agree thereto, be brought before a select committee, which shall have the same powers of decision as the Government Wages Committee.

The provisions of this section shall also apply to collective agreements concerning only one group of civil servants.

Section 30. The Government Wages Committee shall reach its decisions as quickly as possible. If a decision is not reached within a month of the case having reached the committee, the reason for this shall be stated in the decision.

No attempt shall be made to settle the disputes mentioned in Sections 27 and 29 by means of a complete or partial stoppage of work, lockout or other form of industrial action.

The rules of procedure shall be established by the Wages Committee itself.

Chapter IX. Regarding who may act on behalf of the State

Section 31. The King enters into collective agreements on behalf of the State with the consent of the Storting. The consent of the Storting is not required in so far as the collective agreement concerns issues that may be decided by a select committee or the Government Wages Committee pursuant to the provisions of Sections 27 or 29.

In order that a dispute may be brought before the National Wages Board in conformity with the provisions of Section 26, the King shall require the consent of the Storting. The King shall bring a dispute before a select committee or the Government Wages Committee on behalf of the State.

Chapter X. Transitional Provision

Section 32.

The King may determine that the unions which do not fulfil the conditions for obtaining the right of negotiation, in conformity with Section 3 shall be granted such a right for a period of to 2 years subsequent to the coming into force of this Act, provided they have, from the date of the coming into force of this Act, had an independent right of negotiation pursuant to the Act of 6 July 1933 relating to the Right of Negotiation of Civil Servants, etc., and that, at the same time, it is considered that the appropriate unions are entitled to a reasonable period of time to adopt the measures pertaining to organization that are necessary in order to obtain the right of negotiation pursuant to Section 3.

The first paragraph shall apply correspondingly to the unions of primary and continuation school teachers who have previously in practice enjoyed the right of negotiation.

The provisions of an Act or a resolution of the Storting to the effect that pay and working conditions shall be established or approved by the Storting or other authorities in the form of pay scales, etc. shall not prevent the establishment of pay and working conditions in conformity with the provisions of this Act.

Chapter XI. Miscellaneous Provisions

Section 33.

The following provisions are repealed from the date of the coming into force of this Act:

The Civil Servants' Act of 15 February 1918, chapter 3 and Section 27 (2) and (3).

The Act of 6 July 1933, relating to the Right of Negotiation of Civil Servants, etc.

From the same date the following amendment are made to other Acts:

The Civil Servants' Act of 15 February 1918, Section 29 (3), shall read as follows:

Prior to the issue of regulations, a draft of these shall be submitted to the appropriate Civil Service union for its opinion provided it has the right of negotiation pursuant to the Act relating to Civil Service Disputes.

The Labour Disputes Act of 5 May 1927, Section 1 (1), shall read as follows:

A *worker* – any person who performs work of any kind for a consideration in another's employ and who is not covered by the Act relating to Civil Service Disputes.