

Lesesals-eksemplar

ACT NO. 65

Loi om
yrkerbeskyttelse -
forsikring

1989
Juni
16

relating to industrial injury insurance, dated 16 June No. 65
1989. (Recommendation to the Odelsting No. 73. Decision
of the Odelsting No. 96. Discussed in the Odelsting on
29 May 1989. Discussed in the Lagting on 6 June 1989.)

Chapter 1. Scope of the Act, definitions

§ 1. Scope of the Act

This Act applies in cases of personal injuries incurred
by employees working for employers in the realm.

The king may make further provisions concerning the scope,
including the applicability of the Act to

- a) Norwegian employers abroad,
- b) foreign employers in Norway,
- c) employees on ships, drilling platforms, etc.

§ 2. Definitions

In this Act the following definitions apply:

- a) employer: public authorities and any other person who
in or outside any enterprise has any person in his
service,
- b) employee: any person who performs work or carries out
any task in the service of the employer, including an
ombudsman in public service, officers and non-commissioned
officers and private soldiers in military service, and
other persons obliged to perform public services, as
well as inmates, patients, etc. who participate in
work done in prison institutions, health institutions,
etc.

Chapter 2. Industrial injury insurance

§ 3. Obligation to take out industrial injury insurance

Employers are obliged to take out insurance (industrial
injury insurance) to cover industrial injury and industrial

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disease as specified in chapter 3. Such industrial injury insurance shall entitle one to full compensation regardless of whether any person is to blame for the injury.

The State is exempted from the obligation to insure. The Ministry may consent to municipalities or county municipalities omitting to take out industrial injury insurance.

Employees in the State or in a municipality or county municipality which is exempted from the obligation to insure may claim compensation for injuries as specified in chapter 3 direct from their employer.

§ 4. Further provisions concerning industrial injury insurance

Industrial injury insurance shall be taken out in an insurance company or in an insurance pool of insurance companies that are jointly and severally liable. The insurers and the insurance conditions must be approved by the King.

In the relationship between the insurer and the insured industrial injury insurance must be regarded as liability insurance even though the insured himself is not liable for the injuries covered by the Act.

§ 5. Direct claims against the insurer, which insurer is liable

Industrial injury insurance is directly applicable for the benefit of the injured person.

The insurer of the employer that the injured person has when the injury or disease has been ascertained is liable to pay compensation pursuant to this Act. This applies even though the injury must be regarded as caused while the employee was in the service of another employer.

An injury is regarded as ascertained at the earliest when the person injured either

- a) died of the injury or disease without having sought medical aid,

b) first sought medical aid for the injury or the disease,
or

c) first notified the insurer of his claim on the ground
of the injury or disease.

If the employee is no longer at work, the insurer of the
employee's last employer is liable.

§ 6. Cessation of an insurance contract

If an insurance contract ceases to apply, the insurer is
nevertheless liable until a new insurance contract comes
into operation. The insurer's liability nevertheless
lapses not later than four months after the cessation
of the contract.

When giving notice of payments due or of termination of
the contract, the insurer shall inform the employer of
the consequences that lack of insurance may have.

§ 7. Lack of insurance

If no insurer is liable pursuant to section 5 or 6, the
insurers who are approved in accordance with section 4,
first paragraph, are jointly liable for the employee's
loss. The insurers are both jointly and severally liable.
The King may make further provisions concerning the dis-
tribution of the amount of damages between them.

§ 8. Personal liability, recourse

The employer is not liable to the employee for claims
pursuant to this Act. The employee may nevertheless
claim compensation according to the general principles
of tort law for injuries or diseases that do not come
under this Act.

The insurer may claim recourse against an employer who
has wilfully caused the injury or disease. When insurers
have jointly paid out compensation pursuant to the pro-
visions of section 7, they may claim recourse against
the uninsured employer regardless of fault.

If the employee may according to the general rules of tort law claim that a third person must indemnify the loss covered by the Act, the insurer may assume the employee's rights against such third person.

§ 9. Obligation to register, right of inspection

The insurers shall register claims resulting from industrial injury and industrial disease. Public authorities, and organizations of employees or employers may require inspection of any such register for use in injury prevention work. The King may make further provisions concerning registration, including that information of a personal nature shall not be registered, and concerning a duty of secrecy vis-à-vis persons other than those who have a right of inspection pursuant to the second sentence.

Chapter 3. Injuries to be covered by industrial injury insurance, the amount of the compensation etc.

§ 10. The extent of the coverage

Industrial injury insurance shall, subject to the exceptions consequent upon section 11, cover injuries and diseases incurred by employees at work at their place of work during working hours.

§ 11. Injuries and diseases to be covered by the insurance

Industrial injury insurance shall cover

- a) injury and disease caused by an accident at work (industrial injury),
- b) injury and disease that in accordance with the National Insurance Act No. 12 of 17 June 1966, section 11-4, item 1, are equated with industrial injury,
- c) other injury and disease if this is due to the effect of injurious substances or work processes.

Injury and disease referred to in the first paragraph, *litra b*, shall be regarded as caused at work at the place of work during working hours unless the insurer can prove that this is evidently not the case.

In considering whether an injury or disease entitles one to coverage, any special tendency on the part of the employee to contract such injury or disease shall be disregarded unless such special tendency must be regarded as the completely predominant cause.

§ 12. Losses that are covered

Industrial injury insurance shall cover losses suffered, losses in future gain, and expenses that the injury is expected to inflict on the injured person in the future. If the injured person has received permanent and considerable injury of a medical nature, special disability compensation shall be given. This Act does not apply to restitution for damage of a non-pecuniary nature pursuant to the Damages Act No. 26 of 13 June 1969, section 3-5.

In the event of death industrial injury insurance shall provide compensation to those whom the employee wholly or partly supported. The Damages Act No. 26 of 13 June 1969, section ~~3-4~~, first paragraph, second sentence, shall apply correspondingly.

§ 13. Assessment of compensation

The Damages Act No. 26 of 13 June 1969, chapter 3, shall apply in so far as it is not otherwise provided in or in accordance with this Act.

The King may make provisions concerning the assessment of compensation pursuant to this Act.

§ 14. Contribution

Compensation may be reduced or lapse if the employee has wilfully or through gross negligence contributed to the

injury. This shall nevertheless not restrict the survivors' right to compensation. Section 5-1 of the Damages Act shall apply correspondingly as far as it is appropriate.

§ 15. Time-barring of claims

The employee's claim against the insurer pursuant to this Act is time-barred after three years. The limitation period begins to run at the expiry of the calendar year when the employee obtained or should have obtained the necessary knowledge concerning the matter on which the claim is based.

The limitation periods in the Insurance Contracts Act and the Limitation Act No. 18 of 18 May 1979, section 9, shall not apply. Otherwise the provisions of the Limitation Act apply in so far as they are appropriate.

Chapter 4. Invariability, procedure, relationship to other Acts, penalties

§ 16. Invariability

Contracts that restrict the employees' rights under this Act are invalid.

§ 17 Power to make procedural rules

The King may make rules concerning dealing with and deciding disputes between the insurer, the insured, and/or the injured person, including rules concerning the establishment of an industrial injury board and concerning a time-limit for lawsuits concerning the board's decision.

§ 18. Relationship to other Acts

The Insurance Contracts Act applies to industrial injury insurance unless it is otherwise provided in or in accordance with this Act or so appears from the context.

§ 19. Penalties

In the event of wilful or negligent contravention of section 3 the employer or any person who is managing the enterprise instead of the employer shall be liable to fines or to a term of imprisonment not exceeding 3 months.

If section 3 is contravened by any person who is acting on behalf of a company with limited liability, a limited partnership, or some other association, a foundation or a public undertaking, fines may be imposed on the enterprise. This applies even if no individual person can be punished for the contravention. In deciding this issue special consideration shall be given to whether the contravention was committed in order to promote the interests of the enterprise or whether the enterprise has benefited from the contravention.

Chapter 5. Entry into force and transitional provisions

§ 20. Entry into force

This Act shall enter into force from the date decided by the King.

§ 21. Transitional provisions

This Act shall not apply to injuries or diseases which are ascertained before the Act enters into force.