

The Act relating to mediation by the National Mediation Service (the National Mediation Service Act)

Title of the Act amended by the Act of 21 December 2000 No. 121 (in force from 1 January 2001 in accordance with the Decree of 21 December 2000 No. 1357).

Chapter I. General provisions

Section 1. It is the duty of the National Mediation Service to mediate in disputes arising because one or more persons have inflicted damage or loss on or otherwise offended another person.

Section 2. Each National Mediation Service office shall be headed by a Head of Office. The Head of Office must be trustworthy and eligible for election in municipal elections. Any person who

- a) in the five years immediately preceding his or her appointment has been sentenced to a suspended custodial sentence, or
- b) has been sentenced to immediate imprisonment and was not released, on probation or finally, more than ten years prior to his or her appointment,

is precluded from being appointed as head of a National Mediation Service office

The central government is responsible for and covers the expenses of National Mediation Service offices. Further rules regarding the organization and administrative procedures of the National Mediation Service offices will be laid down by the King.

This Act also applies to Svalbard. The Ministry may issue regulations regarding the application of the Act to Svalbard and may lay down special rules that take account of local conditions.

Amended by the Act of 21 December 2000 No. 121 (in force from 1 January 2001 pursuant to the Decree of 21 December 2000 No. 1357), the Act of 15 June 2001 No. 66 (in force from 1 January 2002 pursuant to the Decree of 15 June 2001 No. 695), and the Act of 4 July 2003 No. 75 (in force from 1 January 2004 pursuant to the Decree of 4 July 2003 No. 901).

Section 3. Mediators shall be appointed for each municipality. The mediators are appointed by a representative designated by the Municipal Council/Municipal Councils, a representative of the police and the head of the National Mediation Service office. On Svalbard mediators are appointed by a representative designated by the Longyearbyen Local Council, a representative of the Governor of Svalbard and the head of the National Mediation Service office. Mediators are appointed for a period of four years.

Amended by the Act of 21 December 2000 No. 121 (in force from 1 January 2001 pursuant to the Decree of 21 December 2000 No. 1357), the Act of 15 June 2001 No. 66 (in force from 1 January 2002 pursuant to the Decree of 15 June 2001 No. 695), and the Act of 4 July 2003 No. 75 (in force from 1 January 2004 pursuant to the Decree of 4 July 2003 No. 901).

Section 4. The post of mediator in the National Mediation Service is voluntary. Persons who have reached the age of 18 may be appointed.

The requirements regarding trustworthiness, eligibility and good conduct pursuant to section 2, first paragraph, apply correspondingly to mediators.

Amended by the Act of 21 December 2000 No. 121 (in force from 1 January 2001 pursuant to the Decree of 21 December 2000 No. 1357) and the Act of 4 July 2003 No. 75 (in force from 1 January 2004 pursuant to the Decree of 4 July 2003 No. 901).

Section 5. Mediation by the National Mediation Service requires the consent of the parties concerned. It is also required that they mainly agree on the matter in dispute.

Section 6. Mediation generally takes place in the municipality where the person against whom the complaint is brought lives or is staying.

Section 7. The parties must attend the mediation session in person.

If the injured party is an enterprise, a person in the service of the enterprise may attend on its behalf.

The parties may not bring a proxy with them. The National Mediation Service may permit the parties to be assisted at the mediation session by a person of full age and legal capacity who is not a lawyer.

Section 8. In individual cases the National Mediation Service is conducted by one mediator. The mediator decides whether the agreement reached by the parties shall be approved.

Section 9. The Public Administration Act applies to the activities of the National Mediation Service offices.

When a National Mediation Service office rejects a case or refuses to approve an agreement, the office is obliged to give grounds pursuant to the provisions of sections 24 and 25 of the Public Administration Act.

Section 10. Unless otherwise laid down in or pursuant to a statute, mediators and other persons who perform services or work for the National Mediation Service have a duty to observe confidentiality regarding anything they, in connection with their service or work, should learn concerning a person's personal affairs or other matters as mentioned in section 13, first paragraph, of the Public Administration Act. The parties' name, place of birth, date of birth, personal identity number, nationality, civil status, occupation, residence and place of work are also considered personal matters. In all other respects, sections 13 to 13 e of the Public Administration Act shall apply. A breach of the duty of confidentiality is punishable pursuant to section 121 of the General Civil Penal Code.

A court of justice may not admit evidence which a witness cannot give without breaching his or her duty of confidentiality pursuant to the first paragraph unless the court, after weighing the importance of observing the duty of confidentiality against the importance of obtaining information in the case, decides by court order that the witness shall nevertheless give evidence. Unless both parties consent, the witness may not give evidence concerning what the parties have acknowledged or offered during mediation.

Amended by the Act of 21 December 2000 No. 121 (in force from 1 January 2001 pursuant to the Decree of 21 December 2000 No. 1357).

Chapter II. Special provisions regarding the processing of criminal cases

Section 11. When the prosecuting authority has remitted a criminal case to the National Mediation Service for mediation pursuant to section 71 a of the Criminal Procedure Act, the National Mediation Service shall deal with the case as soon as possible.

Section 12. If one of the parties is under 18 years of age, his or her guardian must also consent to the case being remitted to the National Mediation Service.

The guardian shall be notified of the mediation session and has the right to be present. If the guardian cannot or does not wish to protect the party's interests in the case, a provisional guardian shall be appointed pursuant to section 16 of the Guardianship Act.

Section 13. If the parties reach an agreement, it shall be set out in writing.

An agreement based on the assumption that a payment or service will be rendered to the injured party shall determine the amount of the payment or extent of the service and when it is due. It shall also be determined whether the agreement represents the final settlement between the parties.

If a party is a minor or declared to be without legal capacity, the agreement must be approved by his or her guardian.

Section 14. If the agreement unreasonably favours one of the parties, or is unfortunate for other weighty reasons, the mediator shall refuse to approve the agreement. Otherwise mediation is concluded by the mediator approving the agreement in writing.

Each of the parties may withdraw from the agreement by notifying the National Mediation Service within one week after it has been approved by the mediator. However, this does not apply to an agreement that has been fulfilled. The mediator shall inform the parties of this right.

Section 15. When mediation has been concluded, the National Mediation Service shall send the case documents to the prosecuting authority with the information that the parties have entered into an approved agreement.

The prosecuting authority shall be notified if the person charged breaches the agreement.

When the agreement has been fulfilled, the National Mediation Service shall send confirmation of this to the prosecuting authority.

Section 16. If a case has been remitted to the National Mediation Service and concluded with an approved agreement, the prosecuting authority may only reinstitute criminal proceedings if the person charged commits a material breach of the agreement.

Section 17. A decision to remit a criminal case to the National Mediation Service for mediation shall not be entered in the Record of Fines or the Central Criminal Record.

II.

This Act comes into force from such time as the King will decide. It may be decided that different parts of the Act shall be brought into force at different times in different parts of the country.