

Act relating to Civil Servants, etc. of 4 March 1983 no. 3 (Civil Service Act)

Chapter 1 Scope of the Act. Appointments

Section 1 *Persons to whom the Act applies*

This Act applies to employees of the Norwegian Civil Service. The Act applies to senior civil servants where expressly stated. The Act does not apply to ministers or state secretaries.

A *senior civil servant* (embetsmann) is either a government official appointed by the King and installed as a senior civil servant or an official who is temporarily appointed by the King in a senior administrative post.

A *civil servant* (tjenestemann) is any employee of the Norwegian Civil Service who is not a senior civil servant.

The King may stipulate that the Act shall also apply to other employees whose salary and working conditions are laid down through collective agreements between the government and Civil Service unions. In cases of doubt, the King may stipulate to whom the Act shall apply, and may also decide that groups of employees wholly or partly shall be excepted from the Act when special grounds so indicate. The King may then lay down special regulations.

Section 2 *Announcement of vacancies for senior civil servants and civil servants*

Vacancies for senior civil servants (embetsmenn) or civil servants (tjenestemenn) shall be announced publicly if nothing else is laid down in rules and regulations or in the collective agreement.

Section 3 *Permanent and temporary appointments, etc.*

Senior civil servants are normally permanently appointed but may be appointed temporarily when:

The senior civil servant is needed only for a limited period or to carry out a specific assignment.

The senior administrative post has not yet been defined as permanent or changes are planned in the work area or province.

The senior civil servant shall deputize for another.

In the cases mentioned under b, the King, instead of making a temporary appointment, may make it a proviso that the senior civil servant shall tolerate such changes in the work area or province of the senior administrative post as are later established.

Civil servants shall be appointed permanently unless:

The civil servant is needed only for a specific period or to carry out a specific assignment.

The work has not yet been defined as permanent, and staffing needs are therefore uncertain.

The civil servant shall deputize for another.

The civil servant shall be a trainee or pupil at a Civil Service school.

The civil servant shall serve in a trainee post.

The civil servant shall serve on a fixed-term contract.

The King issues directions stipulating whether a post shall be a trainee post or a fixed-term post. By direction of the King, special regulations may also be laid down concerning specific groups of civil servants.

Section 4 *Nominations to appointments*

The King may lay down rules concerning who shall advise about nomination to permanent and temporary appointments.

When a civil servant shall be appointed, a nomination is made either by a nomination committee or by the immediately superior Civil Service authority.

Regulations are laid down governing whether there shall be a nomination committee or whether the right of nomination shall be held by the immediately superior Civil Service authority. A nomination committee shall include the immediately superior Civil Service authority as a member, and shall consist of equal representation by ordinary members of staff and by the management. The chairman shall be appointed by the management. Regulations shall also be laid down giving further particulars concerning the composition of the committee and the appointment of staff representatives.

In cases of doubt, the ministry concerned may decide who shall be regarded as the immediately superior Civil Service authority, and may decide that another shall subrogate when special grounds so indicate.

The immediately superior Civil Service authority who is a member of a board or an appointment committee with the right of appointment may not make a separate nomination.

When there are several qualified applicants to a post, three applicants shall normally be nominated in the order in which they should be considered.

If the right of appointment is held by others than the King, and the appointing authority concerned wishes to appoint a candidate who has not been nominated, the appointment committee shall request that an opinion about the person concerned be submitted in writing by the nomination committee. A minority in an appointment committee or board may also request such an opinion. If however the nomination committee refuses to nominate the person concerned and the appointment committee upholds its view, the case shall be decided by the King if the right of appointment is held by a ministry and otherwise by the agency laid down in the regulations. The candidate appointed must then either be one of the nominated candidates or the candidate whom the appointment committee wishes to appoint.

This applies also in cases where the right of appointment is laid down in a separate Act.

A candidate nominated by a minority in a nomination committee is also regarded as nominated.

Section 5 *Appointment of civil servants*

Civil servants are appointed by the King, or if the King so directs, by a ministry, by a collegiate board for an agency or group of agencies, or by an appointment committee. The procedure to be followed in connection with appointments is laid down in regulations. The King may set out general guidelines for the practice of the right of appointment.

The appointment committee shall have an equal number of representatives from the staff and from the management. The chairman shall be appointed by the management. Regulations shall also be laid down giving further particulars concerning the composition of the committee and the appointment of staff representatives.

If the civil servants are not represented in the board of an agency or group of agencies, at least two representatives for the civil servants shall sit on the board when appointment cases are handled or in such cases as referred to in sections 8-10 and 12-17 (3).

If a board or appointment committee does not reach agreement about an appointment, each member may demand that the case be referred to the ministry concerned or to the agency designated in the regulations. The demand shall be submitted in writing. The candidate appointed must then be chosen from the applicants supported by members of the appointment committee.

If among the applicants there are any who have been dismissed or summarily discharged pursuant to section 10 or have received notice of dismissal or summary discharge from a post with equal or higher pay and the appointment committee wishes to appoint another applicant, the case shall be decided by the King or by an agency thereby authorized. This applies also in

cases where the right of appointment is laid down in a separate Act.

The person appointed shall be notified of the appointment in writing. The notification shall contain information about any special conditions decided. In the case of temporary appointments the notification shall also specify the duration of the appointment or the assignments that shall be carried out.

Section 6 *Exceptions for certain posts*

The rules given in sections 2, 3, 4 and 5 do not apply to civil servants appointed to the Storting, the Office of the Auditor General (Riksrevisjonen), or the staff of the Parliamentary Ombudsman, or to appointments made for periods of less than six months.

It may be laid down in regulations that the right of appointment shall be held by others than those stated in section 5:

in cases where an applicant is unanimously nominated by a nomination committee and the appointment in accordance with established practice is made according to seniority,

in connection with intakes of groups of trainees or pupils,

on the appointment of civil servants for periods of less than one year,

on the appointment of temporary civil servants whose terms and conditions of employment are laid down in a special contract,

in connection with conditions of employment involving a working week of less than 15 hours or a salary of less than 15/40 of the full pay for an equivalent full-time post.

Regulations concerning nomination other than those given in section 4 may also be laid down for such appointments as mentioned above in subsection (2) (b-e).

Chapter 2 Termination of service, disciplinary measures, dismissal, etc.

Section 7 *Termination of temporary service*

When a senior civil servant has been temporarily appointed in a senior administrative post and the reason for the temporary nature of the post has ceased to exist, the person concerned shall be instructed to resign the senior administrative post. If the duration of the temporary post has exceeded one year, he shall be given a minimum of one month's notice. If however the senior civil servant has been temporarily appointed by the King after announcement of the post, he may instead be appointed without a new announcement of the post.

A civil servant who is appointed for a specific period in a fixed-term or trainee post shall automatically resign the post without notice when the period expires.

A civil servant who is appointed as a temporary substitute shall automatically resign the post without notice when duties are recommenced by the permanent incumbent.

If the duration of the temporary service has exceeded one year, the officer shall be given a minimum of one month's notice.

Temporary service shall otherwise be terminated with the period of notice laid down in sections 8, 9 and 10.

Section 8 *Probationary period*

During the first six months, the officer serves a probationary period. The appointment committee may decide that such a probationary period shall apply even if the officer is transferred directly from another Civil Service post. In special cases it may be agreed that a probationary period shall not apply. During the probationary period, the officer shall be given the necessary guidance and appraisal of his work.

The civil servant shall be notified in writing of the regulations for probation before commencing the appointment, and shall acknowledge receipt of the notification in writing.

During the probationary period, the officer may be dismissed with three weeks' notice if he is unable to adapt to the work or fails to satisfy reasonable demands with regard to competence or reliability.

If the officer is not to be allowed to continue in the service, he shall be notified of this when the probationary period is over. He is then dismissed with three weeks' notice.

A civil servant who is appointed on the condition that he complete a specific course of training shall be dismissed with three weeks' notice if the training is not completed satisfactorily. In special cases, a longer period of notice may be laid down in regulations. The means and criteria to be used in deciding whether the training has been satisfactorily completed may also be laid down in regulations.

Section 9 *Dismissal during the first years of service*

Permanently appointed civil servants with less than two years of uninterrupted service and temporarily appointed civil servants with less than four years of uninterrupted service may be dismissed when there are proper grounds for doing so in relation to the agency or officer concerned. After the expiry of a probationary period, notice of dismissal shall be one month if the length of service is one year or less. If the length of service exceeds one year, notice of dismissal shall be three months.

Rules for calculation of the length of service are laid down in regulations.

Section 10 *Dismissal after the first years of service*

Permanently appointed civil servants with more than two years of uninterrupted service and temporary civil servants with more than four years of uninterrupted service may be dismissed with six months' notice if a post is abolished or if the work is discontinued.

Rules for calculation of the length of service are laid down in regulations.

These rules do not apply to fixed-term posts or trainee posts. By direction the King may lay down special regulations for such posts.

A civil servant may also be dismissed with the same period of notice when the person concerned

as a result of illness is permanently unfit to carry out his duties in a satisfactory manner, no longer has the qualifications that are necessary or are prescribed for the post, or for other reasons is permanently unfit for the post.

A senior civil servant may be summarily discharged in cases such as those listed in subsection (2) (a and b).

A civil servant appointed in a managerial post at an establishment or agency of a commercial character may be dismissed when there are proper grounds for doing so in relation to the agency or officer concerned even if the duration of the service has exceeded four years. It is laid down in regulations which posts this shall apply to.

The provisions laid down in the Worker Protection Act of 4 February 1977 no. 4 sections 64 (1-3) and 65 (1 and 2) shall otherwise apply.

Section 11 *The civil servant's right to resign*

A civil servant always has a right to resign his post. The period of notice shall be, unless otherwise laid down in regulations:

during the probationary period: three weeks,

if the length of service is one year or less: one month,

if the length of service exceeds one year: three months.

Shorter periods of notice may be laid down in regulations or collective agreements.

Section 12 *Obligation to take over another post*

Senior civil servants at government offices and all civil servants are obliged to accept changes in their duties and reorganization of the agency. If the conditions for dismissal or summary discharge pursuant to sections 9 or 10 are present, the officer may instead be required to take over another equivalent post in the agency or be available for special tasks. This section entails no change in the obligation to accept transfers pursuant to the Act relating to the Foreign Service of 18 July 1958 no. 1 section 10 or in the duty of regular officers and NCO's in the armed forces to accept transfers, etc. pursuant to the Act relating to Regular Officers and NCO's, etc. in the Armed Forces of 10 June 1977 no. 66 section 3. Nor does this section entail any change in the right to temporarily redeploy civil servants when this is in the interest of the service.

Section 12A *Redeployment of senior civil servants and civil servants who are paid in accordance with special contracts*

Senior civil servants and civil servants who are not subject to the basic collective agreement for the Civil Service and whose terms and conditions of employment are laid down in a special contract are obliged to accept redeployment to other duties in the agency or to be required to be available for special tasks if the contractual requirement with regard to results is not met. This applies even if the conditions for dismissal or summary discharge pursuant to sections 9 or 10 are not present. The provisions in this section do not apply to senior civil servants covered by section 22 (2) of the Norwegian Constitution.

Section 13 *Right of preference to new post. Severance pay*

Before a civil servant is dismissed on any of the following grounds:
the post has been abolished or the work has been discontinued,
the officer as a result of illness is permanently unfit to carry out his duties in a satisfactory manner,
the officer no longer has the qualifications that are necessary or are prescribed for the post,
he shall if possible be offered another appropriate post in the agency if he has at least one year's uninterrupted service. The same applies to civil servants who are dismissed pursuant to section 10 (4).

If the officer is nevertheless dismissed, he shall if possible be offered another appropriate post in the Civil Service, cf. section 5 (4). Only permanently employed civil servants with uninterrupted service of at least two years or civil servants in temporary posts who have uninterrupted service of at least four years have the right to a new post.

Right of preference applies only when the officer has the necessary qualifications and personal qualities for the post. If qualifications that are lacking can be acquired through appropriate supplementary training, the officer may be appointed on the condition that the supplementary training is carried out before a specified date.

The King stipulates by means of regulations more detailed rules concerning right of preference. It may be decided that the right of preference shall not apply to persons who are dismissed from specified posts, and that it shall not apply on appointment in the case of specified posts.

Civil servants as referred to in subsection (1) shall, on dismissal or notice of dismissal, be informed of their rights pursuant to this section. The officer may at the same time be required before a specified date to give notification as to whether he wishes to avail himself of the right of preference.

If the officer is offered a new, appropriate post and this is not accepted within 14 days, the right of preference lapses.

If the officer can be offered a new post in the same agency, he is appointed by the appointment committee after the nomination committee has stated its views on the officer's suitability for the post, and without the post being announced vacant.

If the officer, as referred to in subsection (1), is dismissed and it is assumed that it will be difficult to find other appropriate work, he may be granted severance pay as long as there is no right to pension. Severance pay shall be granted for a maximum of three years at a time, and may only be granted to permanently employed civil servants with at least two years of service or civil servants in temporary posts with at least four years of service. More detailed regulations concerning severance pay may be issued by the King.

The provisions in this section apply correspondingly also for senior civil servants, irrespective of the length of service.

Section 14 *Disciplinary measures*

Senior civil servants (other than judges) and civil servants who are not by Statute subject to another disciplinary authority may be subjected to disciplinary measures for:
infringement of official obligations or failure to fulfil official duties,

improper behaviour in or outside of the service that damages the respect or confidence essential to the post.

As disciplinary measures, senior civil servants and civil servants may be subjected to a written reprimand, or to loss of seniority for a period from one month to two years. Civil servants may also as a disciplinary measure, either permanently or for a limited period be demoted to a lower grade.

An ordinary service reprimand shall not be regarded as a disciplinary measure.

Disciplinary measures are entered in the officer's record or personnel card. Regulations stipulate when the entry shall be removed.

Any officer may demand a printout of his/her record or personnel card.

Section 15 *Summary discharge*

A senior civil servant or civil servant may be summarily discharged when he: has shown gross negligence in the service or is guilty of a gross breach of official duties or despite a written warning or reprimand has repeatedly breached his official duties, by improper behaviour in or outside the service proves himself unworthy of his post or damages the respect or confidence that is essential to the post.

The provision in this section shall not restrict the right to punish a senior civil servant or civil servant by depriving him of his post pursuant to the rules of penal legislation.

Section 16 *Suspension*

If dictated by the interest of the service, a senior civil servant or civil servant may immediately be suspended when there are grounds for suspecting that he is guilty of behaviour that may result in a summary discharge pursuant to section 15. When such grounds no longer exist, the suspension shall be terminated. A suspension shall also be terminated if instituted criminal prosecution is discontinued or if a summary discharge case brought before a court of law is withdrawn.

Suspension shall also be terminated if a summary discharge is not decided within six months. If however prosecution is instituted for behaviour which may give grounds for summary discharge pursuant to section 15, or which may entail punishment by loss of office, or if a civil action has been brought to deprive an officer of his post pursuant to section 10 of the Act concerning the Entry into Force of the Norwegian Penal Code, the suspension may be extended by up to six months at a time until the case is finally decided. The suspension may also be extended by up to six months at a time if the senior civil servant or civil servant has a position of especial trust such that it would be detrimental to the service if he resumed work before the decision of the court or if he would be in a position to destroy evidence needed for decision of the summary discharge case.

If a decision is made to suspend an officer, the summary discharge case shall be brought without undue delay.

Instead of being suspended, civil servants and senior civil servants in government offices, in the armed forces or the Foreign Service may temporarily be transferred to another, less confidential service. For such transfers the same rules apply as for suspension.

Until a decision has been made concerning summary discharge, a suspended senior civil servant or civil servant is entitled to full pay for the post. If the decision is appealed against, the officer is entitled to full pay for the post until the appeal is decided. Deductions may be made from the officer's pay in respect of any income received from other work during the suspension period.

Section 17 *The right of discharge*

Before reaching retirement age, senior civil servants as referred to in section 22 (2) of the Norwegian Constitution may only be discharged by a court of law. Senior civil servants as referred to in the section 22 (1) of the Norwegian Constitution, may also be discharged by the King in Council. The King in Council decides that an officer shall be suspended or transferred to other service pursuant to section 16.

The King may grant authority to the ministry concerned to discharge a senior civil servant in response to an application or on reaching of retirement age, to decide to terminate a suspension or a temporary appointment or to impose disciplinary measures. The same applies to civil servants appointed by the King in Council.

A decision that a civil servant shall be dismissed, subjected to disciplinary action, summarily discharged or suspended, is made by the appointment committee unless it is decided in regulations that such a decision shall be made by a nomination committee. It may also be decided in regulations that the decision shall be made by a collegiate board or a central appointment committee if the right of appointment is otherwise held by a local or regional appointment committee.

If an especially rapid decision of the case is required, the decision concerning suspension or transfer to another service pursuant to section 16 may also be made by the superior Civil Service authority.

As soon as the decision is made, notification of the decision shall be given to the person who should normally have made it and to the ministry to which the agency belongs. The agency concerned or the ministry may reverse the decision and may make decisions pursuant to section 16 if there are grounds for so doing.

Section 18 *Rules of procedure*

Before a civil servant is subjected to disciplinary action, is dismissed or summarily discharged, he shall - in addition to his rights pursuant to the Act relating to Procedure in Cases concerning the Public Administration - be given an opportunity to present his case orally to the authority that shall decide the case. If a decision shall be made by the King, this oral presentation may be given to the ministry concerned. The same applies to senior civil servants if the ministry wishes to propose summary discharge or disciplinary measures.

The officer concerned has the right to be assisted by a union representative or other adviser.

If in a committee or board a majority vote is not reached in favour of dismissal, summary discharge or disciplinary measures, each member of the minority may demand that the case be referred to the ministry concerned or to whichever authority is specified in the regulations. The same applies in cases where a minority wishes an increase in the disciplinary measures imposed.

When a question of summary discharge is raised by the authority responsible for deciding or preparing the case, senior civil servants or civil servants may also demand that evidence be taken as referred to in section 43 (2) of the Court of Justice Act.

Section 19 *The right of senior civil servants and civil servants to appeal and to institute legal proceedings*

When a civil servant pursuant to the Act relating to Procedure in Cases concerning the Public Administration appeals against a decision concerning dismissal, disciplinary measures, suspension or summary discharge, the appeal shall be addressed to the ministry concerned or to the authority specified in the regulations. When the decision has been made by the ministry, the appeal shall be addressed to the King. The same applies to appeals made by senior civil servants concerning disciplinary measures.

Civil servants and senior civil servants may institute legal proceedings to determine the legality of the appeal body's decision, cf. subsection (4). Legal proceedings must be instituted within eight weeks after the date that the senior civil servant or civil servant receives notification of the decision, or within six months if the senior civil servant or civil servant only sues for damages or if the case only concerns a reprimand. The parties may in individual cases agree on a longer period of notice of legal action.

Appeals pursuant to subsection (1) and legal action pursuant to subsection (2) have suspensive effect only to the extent that this is consequent upon the following provisions: Decisions concerning dismissal, disciplinary measures or summary discharge, may not be implemented before the notice period for appeals has elapsed. If the decision is appealed against before the elapse of the notice period for appeals, a decision may not be implemented before the appeal is decided.

The appeal body's decision concerning dismissal or disciplinary measures may not be implemented before two weeks after the officer receives notification of the decision. The same applies to appeals made by senior civil servant concerning disciplinary measures. The first sentence, above, applies correspondingly to summary discharges pursuant to section 10 (3). If the officer institutes legal proceedings during the two weeks referred to in the first sentence of (b), above, or notifies his employer in writing that legal proceedings will be instituted within the period of notice referred to in subsection (2), above, decisions concerning dismissal or disciplinary measures may not be implemented before there is a final judgement or verdict. In cases where legal proceedings are not instituted, decisions concerning dismissal or disciplinary measures may not be implemented before the elapse of the period of notice referred to in subsection (2), above.

In the case of decisions concerning dismissal, the same applies if legal proceedings are instituted or if notice is given of such legal proceedings as referred to in the first sentence, above, within the period of notice referred to in subsection (2).

If the court finds it unreasonable that legal proceedings shall have suspensive effect, it may, in response to a request from the employer, rule that the decision shall be implemented before the final judgement. The court shall at the same time stipulate a final date for implementation of the decision.

The first and third sentence of (c) apply correspondingly for summary discharge pursuant to section 10 (3). Legal proceedings concerning summary discharge do not otherwise have suspensive effect unless so ruled by the court. The first sentence of (c) applies correspondingly when a senior civil servant institutes legal proceedings concerning disciplinary measures.

To legal proceedings shall apply the Court of Justice Act and the Civil Procedure Act, with the special provisions that ensue from this section and the Worker Protection Act of 4 February 1977 no. 4 sections 61 (B) and (C). The court may adjourn proceedings for up to eight weeks if the case is re-examined by the public administration and the government agency notifies the court of this.

In connection with proceedings concerning the legality of the appeal body's decision, the court may deal with questions relating to settlement of pay and holiday pay and disputes concerning other provisions of this Act relating to regulations pursuant to the Act. The same applies to claims relating to the primary claim or which wholly or partly can be set

off by counter-claims, in so far as these do not constitute a major inconvenience to the court's processing of decisions concerning dismissal, disciplinary measures, suspension or summary discharge. The court's decision concerning the previous sentence cannot be appealed against.

There is no conciliation in connection with the primary claim or other claims dealt with in conjunction with the primary claim.

The Working Environment Act section 62 and sections 66 (4) and (5) apply correspondingly. In connection with proceedings concerning transfer of agencies, the second sentence of section 62 (1) and section 73, (C) (3) of the Working Environment Act do not apply to senior civil servants and civil servants.

Chapter 3 Miscellaneous provisions

Section 20 *Prohibition of gifts in the service, etc.*

No senior civil servant or civil servant may on behalf of himself or others accept a gift, commission, service or other payment which is likely, or which by the donor is intended, to influence his official actions, or which regulations forbid the acceptance of.

Violation may entail disciplinary measures or summary discharge.

Section 21 *Criminal prosecution after disciplinary measures or summary discharge*

If a senior civil servant or civil servant is subjected to disciplinary measures or summary discharge for a criminal offence, this shall not preclude normal criminal prosecution, but assessment of the sentence shall take the disciplinary measures or summary discharge into consideration.

Section 22 *Distribution costs as a result of illness, etc.*

If a senior civil servant or civil servant is partly remunerated by the government and partly by a municipality or county, the public expenses associated with holidays, illness, leave or accidents in the course of duty shall be divided between those who pay the salary proportionate to the shares of the total salary paid by each.

Section 23 *Regulations*

When it is stated in this Act that something may or shall be decided in regulations, such regulations shall be laid down according to an agreement between the management of the agency or group of agencies concerned and the Civil Service unions that have the right to negotiate pursuant to the Civil Service Disputes Act. The regulations for ministries are agreed between the King or the agency thereby authorized and confederations of the unions that have a right to negotiate. Before the management of the agency or group of agencies concerned enters into agreement, the ministry concerned shall decide in advance which civil servants shall be appointed by the King and which shall be appointed by the ministry concerned.

The regulations are valid only when confirmed by the King or by the agency thereby authorized. Regulations will not be confirmed if:

some provisions are found to be in contravention of acts of law or resolutions made pursuant to Acts,

rules are lacking, which pursuant to this Act shall be laid down in regulations,

some provisions seem unreasonable for certain groups of employees or job applicants,

some provisions are in contravention of agreements entered into between the government and confederations.

The confirming authority may at any time demand that regulations be revised. Each of the parties in an agency has the same right. Regulations that apply when this Act comes into force or are confirmed later remain in force until such time as they are replaced.

In special cases the confirming authority may in consultation with confederations consent to deviations from the regulations.

Section 24 *Entry into force*

This Act comes into force from the date stipulated by the King.

From the said date the Act of 10 June 1977 no. 65 concerning Civil Servants is repealed.

The Act of 15 May 1964 no. 2 concerning Vocational Schools for Agriculture, section 15 (3) shall read as follows:

Regulations concerning appointments also apply to dismissal and summary discharge. Sections 15-19 of the Act concerning Civil Servants apply correspondingly.