

The Act relating to the right to employees' inventions [the Employees' Inventions Act]

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Short title	The Employees' Inventions Act

Section 1. This Act applies to inventions patentable in Norway made by employees in public or private service.

Section 2. Subject to the limitations that follow from the provisions in Section 7 first paragraph, Section 9 and Section 10, this Act shall only apply where no agreements to the contrary have been made or must be deemed to exist.

Section 3. Unless otherwise follows from this Act, employees shall have the same rights to their inventions as other inventors.

Section 4. If an employee who is principally engaged in research or inventive work has made an invention through the performance of these duties or if an invention is the result of a specified task assigned to the employee as part of his employment, the employer shall be entitled to demand that part of or all the rights to the invention be transferred to himself if the exploitation of the invention falls within the sphere of activity of the undertaking.

If the invention has a connection with the employment relationship other than that referred to in the preceding paragraph, the employer may demand the right to exploit the invention if its exploitation falls within the sphere of activity of the undertaking. If the employer wishes to acquire a more extensive right to such an invention, he shall, within a period of four months after receiving notification of the invention pursuant to Section 5, have priority over others to conclude an agreement to that effect with the employee.

If the invention has been made in circumstances that have no connection with the employment relationship, the employer, during the same period mentioned in the last sentence of the preceding paragraph, shall have priority over others to conclude an agreement with the employee to take over, in whole or in part, the rights to the invention, if its exploitation falls within the sphere of activity of the undertaking. The provision in this paragraph does not apply to universities and university colleges.

Section 5. An employee who makes an invention that is covered by the provisions of Section 4 shall, without undue delay, notify the employer in writing about it, specifying the nature of the invention.

Section 6. An employer that wishes to acquire the rights to an invention in accordance with Section 4 first paragraph or second paragraph first sentence must notify the employee of this in writing within four months of receiving the notification pursuant to Section 5.

Until the expiry of the said four months after the employer's receipt of the notification pursuant to Section 5, the employee shall not be entitled, without the employer's written consent, to dispose of an invention covered by Section 4 or to take any action that impairs the possibilities of patenting or exploiting the invention for a third party's account. Provided that he has given such notification as referred to in Section 5, the employee may apply for a patent for the invention here in Norway insofar as this right has not been transferred to the employer. The employer shall be notified in writing before such application is filed.

Lecturers and academic personnel at universities and university colleges are nonetheless entitled to publish the invention if the employer was notified of this in the notification of the invention pursuant to Section 5 and third-party rights are not an obstacle to doing so. If the above-mentioned conditions for publication are met, the employer is not entitled to take over the invention pursuant to Section 4. If the inventor has not taken steps to publish within one year of the notification pursuant to Section 5, the employer may nonetheless take over the invention. An employee who has reserved the right to publish his invention may not apply for a patent for the invention without the employer's written consent.

Section 6 a. The King may issue regulations setting out more detailed provisions concerning the right to inventions made by employees at universities and university colleges.

Section 7. If an employer, pursuant to Section 4 or on another basis, acquires rights to an employee's invention, the employee shall be entitled to reasonable compensation even if an agreement to the contrary has been concluded before the invention was made, except where the value of the right taken over by the employer does not exceed the value of the services the employee may reasonably be expected to perform in return for his remuneration and other benefits that may be associated with his employment.

When determining the amount of the compensation, special consideration shall be given to the value of the invention, the extent of the right that the employer has acquired, the employee's conditions of employment and the degree to which the employment may in other respects have contributed to the invention.

Legal proceedings for compensation must be instituted within five years of the date on which the employer acquired rights to the invention. If a patent has been applied for, legal proceedings may nonetheless be instituted within a year of the patent application being finally decided.

Section 8. Where an application for a patent in respect of an employee's invention is filed within six months after termination of his employment, the invention shall, unless the employee can produce evidence to the contrary, be deemed to have been made during the period of his employment insofar as its exploitation comes within the sphere of activity of the former employer's undertaking and the invention is related to the inventor's principal duties, or the invention is the result of a specified task assigned to the employee while in the employer's service.

Section 9. An agreement between an employer and an employee to restrict the latter's right to dispose of an invention that is made more than one year after termination of his employment shall not be binding upon the employee.

Section 10. Notwithstanding any agreement to the contrary, the compensation fixed pursuant to Section 7 may be modified at the request of either of the parties where a substantial change has occurred in the determining circumstances. It shall not be possible, however, to invoke this provision to claim reimbursement of payments made to the employee on the basis of the previously fixed compensation.

Section 11. Any person who unlawfully makes use of or divulges information concerning the inventions of a third party that has come to his knowledge through the application of the provisions of this Act shall be liable to a fine or a term of imprisonment of up to three months.

The same penalties shall apply to any person who violates the provision set out in Section 6 second paragraph first sentence.

Section 12. Any dispute arising from matters covered by this Act may be referred to a mediation board by either of the parties.

Such board shall consist of a chairperson and two members. The rules concerning disqualification shall be the same as those that apply to judges. The chairperson, who must have the qualifications generally prescribed for professional judges, and one of the members, who must have insight into and experience of matters concerning patent law and thereto related matters, as well as their deputies, shall be appointed by the King for a term of five years. The other member, who must have technical insight into the field in which the invention is made, shall be appointed on an ad hoc basis by the competent ministry.

At the request of either party or at the discretion of the board, two members may be added to represent employers' and employees' interests, respectively. These latter members shall be appointed on an ad hoc basis by the competent ministry. Where one of the parties is a member of an employers' or employees' association, the appointment shall be made in consultation with the respective association. If the dispute concerns an invention made by an employee at a university or university college, the ministry may instead expand the board by two members at the proposal of each of the parties.

Section 13. The board shall endeavour to arrive at an amicable settlement between the parties, inter alia by presenting proposals that can serve as the basis for such a settlement.

If the parties so agree, the board shall act as an arbitration court.

The expenses of the board shall be covered out of public funds.

Detailed rules for the work of the board shall be issued by the King.

Section 14. Once a case has been referred to the board for mediation, the said conciliation procedure shall apply in lieu of conciliation proceedings before the Conciliation Board.

Section 15. This Act enters into force from such date as the King may decide.

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