

January 2016

Collective Redundancies and Reorganisations

Norway

Summary

The same provisions apply to dismissals of single employees as they do for a higher number, although the Government must be notified if the redundancy involves more than 10 employees. The employer must show due cause related to the justifiable needs of the employer's situation, and there are specific procedural requirements that need to be followed.

What are the requirements?

The employer needs to show due cause related to the justifiable needs of the employer. It is important that the necessary rationalisation plans, downsizing criteria and selection proposal, as well as board resolutions, are carried out before the process is implemented.

The employer must carry out mandatory consultation with, and give written notice to, the employees' elected representatives/local union chapter /works council. Consultation shall take place at the earliest opportunity with a view to reaching an agreement to avoid collective redundancies, or to reduce the number of persons made redundant. There is no legal obligation to inform the trade unions, unless required by a collective agreement. Dismissal of more than 10 persons must be reported to the public labour and welfare service as soon as possible, and at the latest when summoning to consultations.

What sanctions apply if the process is not followed?

Projected redundancies cannot come into effect earlier than 30 days after the labour and welfare service has been notified of the collective redundancies. It is therefore important to contact the agency as soon as possible to avoid an extension of the notice period.

If the information and consultation process is not followed this will be a breach of the Employment Act. This may result in the courts finding the dismissal unwarranted, and might in any case impact on the possibility of reaching a negotiated outcome. It will also be used as an argument against the employer should one or more individual cases be brought to court.



Are certain employees protected from dismissal?

Sick employees may not be made redundant on account of their sickness for the first 12 months after becoming unable to work. Pregnant employees may not be dismissed on grounds of pregnancy. If a pregnant employee is dismissed on account of other reasons, the dismissal is valid, but the notice period shall be extended until the pregnant employee's leave of absence has expired. Employees serving military service may not be dismissed on grounds of absence caused by such service.

How do I choose which employees to dismiss?

The employer must establish objective criteria in order to choose which employees to dismiss. The usual criteria are length of service, qualifications, individual and social circumstances (family situation, and the number of dependents). Collective agreements might have other criteria.

Unfair dismissal

All dismissals including collective redundancies must be fair and justifiable.

What will it cost?

Norway has no statutory redundancy payments. The main rule is that employees may challenge the reason for the dismissal in court, and may remain in their post until the matter is concluded either by agreement or by a final court decision. This legislation has the potential of making redundancies costly, and makes it extremely important to carry out the redundancy process correctly both legally and otherwise.

In practice, a well carried out redundancy will usually end up costing the employer i) wages during the termination period and ii) severance payment of 1 – 3 months' pay in addition. The severance amount depends on the circumstances (mainly how bad the situation is for the employer and how many employees are being made redundant).

Are members of staff required to work during the consultation process?

Employees must, as a main rule, work in accordance with their employment contract until the employment ends, but the employer will in some cases offer to put the employee on garden leave as a part of a settlement package. The employee may demand to work and, if so, the employer has no right to send the employee on garden leave. The statutory notice period is one month, but may be up to six months depending on age and length of service. Individual and collective agreements may have longer notice periods than one month.



Can I ask employees to sign a waiver agreement?

Many disputes arising out of dismissals are settled by agreement. There is no requirement that the employee be represented by legal counsel, but they often will be. In such cases, the employer will normally pay the employee's legal counsel as a part of the settlement.

Do I need consent from a public authority?

The employer has a duty to inform the authorities when dismissing more than 10 employees. The authorities however, do not play a role in the process, and will not delay the execution as long as the redundancy has been duly and timely reported.

Can disgruntled employees bring claims?

Employees can bring dismissal claims before the courts. Such claims must be brought before the courts within a certain time after the dismissal has taken effect usually three months.

This material is for general information only and is not intended to provide legal advice.

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