TRANSLATION
This is an unofficial translation. In case of discrepancy, the Danish text prevails.

Consolidation Act on Conciliation in Industrial Disputes

This Act consolidates the Act on Conciliation in Industrial Disputes, see consolidation act no. 192 of 6 March 1997 with the amendments following Act no. 1078 of 29 December 1999.

Part 1
Conciliators

1.- On the recommendation of the Industrial Court, the Minister for Employment shall for the country as a whole appoint three conciliators, charged with the task of assisting, in the ways set out in this Act, in the settlement of disputes between the employers and employees. The appointment shall be for three years, though in such a way that one conciliator shall retire at the end of each year and a new conciliator shall be appointed to succeed him in December each year. Reappointment may take place.

(2) Likewise on the recommendation of the Industrial Court, the Minister for Employment shall, also for a period of three years, appoint a substitute for each of the conciliators. Reappointment may take place.

(3) The recommendation made by the Industrial Court must be agreed to by at least one of the members of the Industrial Court appointed by the employers and employees, respectively. The Industrial Court recommends candidates who are independent of organisational or commercial interests. Should the Industrial Court fail to submit its recommendation before 15 December each year, the Minister for Employment shall make the appointment without recommendation, the provision under (2) being correspondingly applicable.

(4) In the event of the death of a conciliator, or upon notification from a conciliator to the Minister for Employment of his or her desire to retire, the latter being approved by the Minister for Employment, the Industrial Court will make a recommendation under the rules laid down above within the first month passing after the request for recommendation has been submitted by the Minister for Employment. If a recommendation is not made before the expiration of this time limit, the Minister for Employment shall, without a recommendation, appoint a new conciliator, who shall retire at the time at which the conciliator whom he or she succeeds would have retired.

2.- The conciliators shall from among themselves, and for a period of one year, elect a chairman who shall be the administrative leader of the Conciliation Board.

(2) The conciliators shall at all times keep themselves informed of the general situation relating to working conditions, and particularly wage conditions, and shall meet as often as necessary, when summoned by the chairman, to discuss the current situation under his chairmanship.

(3) The Conciliation Board shall be authorised to require of any employer organisation or undertaking, and any employee organisation, copies of any collective agreement concluded between these parties.

(4) Every individual employer, and every employer or employee organisation, shall also be responsible for submitting to the Conciliation Board copies of any notices of work stoppages, insofar as the dispute concerned is not as a matter of course subject to decision by the Industrial Court. In the case of organisations to which the terms of notice agreed between the Danish Employers' Confederation and the Danish Confederation of Trade Unions, or similar terms of notice, apply, it shall, however, be sufficient to furnish the conciliation board with a copy of a second notice.

(5)The conciliators shall, by procedures determined for each calendar year or in each individual case, decide which working conditions each of the three conciliators shall, at the case in point, mediate under. Mediation by a conciliator shall be carried out by him without assistance from the others (see however section 5) and shall be concluded by him, even though the term for which he has been appointed may have expired.

(6)The Conciliation Board shall make annual reports on its activities to the Minister of Employment.

3.- When there is reason to fear work stoppage or a work stoppage has already occurred, and when the conciliator with whom the matter in question lies (see section 2 (5)) attaches social importance to the effects and extent of the stoppage, he may – insofar that the negotiations between the parties have been carried out under the provisions agreed between them and have been declared by one of the sides as concluded without result – either upon his own initiative or at the request of one of the parties, call on the disputing parties to negotiate. Furthermore, the conciliator may, upon his or her own initiative or at the request of one of the parties, at an earlier stage provide his assistance for the establishment of fresh agreements, even if the on-going negotiations between the parties have not been declared concluded without result. The parties themselves shall decide by whom they wish to be represented, except that it shall not be by anyone from outside the respective e organisations, central organisations or undertakings.

(2) The parties shall be obliged to comply with a summons from the conciliator.

(3) When the conciliator has decided to mediate or is mediating in order to prevent a threatened stoppage he may, as a condition of mediating, call on the parties at any time before or during negotiations to postpone the stoppage. Such a demand may only be made once during a dispute, and may, at the most, cover two weeks, with the proviso that the stoppage thus postponed may at the earliest be commenced on the third day after the conciliator having, within these two weeks, declared the negotiations concluded, or alternatively on the third day after the expiry of the two weeks.

4.- During the negotiations with the parties, the conciliator is authorised to order concessions that might seem appropriate for a peaceful settlement of the dispute.

(2) Should the conciliator gain the impression during mediation that the topic of dispute between the parties either have not been subject of actual negotiations between the parties, or should be negotiated between the parties directly due to the specialised nature of the topic of dispute, should be sought

negotiated between the parties directly, the conciliator may demand that such negotiations are recommenced, and refuse to continue the mediation until such negotiations have taken place. By consent of the parties, or one of them, the conciliator may decide that the resumed negotiations shall take place under the chairmanship of a conciliator (see chapter 2 below). In such a case, section 8 (5) shall be correspondingly applicable. The conciliator shall determine the time limit within which the negotiations shall be concluded.

(3) When the conciliator finds it expedient, he may submit a draft settlement, which may not be made public without his consent until the replies of both parties to the draft settlement have been presented. Before submitting his draft settlement, the conciliator shall, with a view to the formal and technical aspects of the draft, consult representatives of each of the parties, and , if the parties belong to a central organisation, also a representative of each of the central organisations.

(4) After consulting the parties, the conciliator determines the deadline for submission of replies to the draft settlement indicating acceptance or rejection. In connection with this, the conciliator may decide that notified work stoppages may, at the earliest, be initiated on the fifth day after the day for submission of replies.

(5) Should the conciliator find that continued mediation between the parties has no prospect of producing a basis for a draft settlement that will have any possibility of being accepted by both parties, he shall, before abandoning the mediation, in cases where the threatened stoppage will affect vital public institutions or society functions, or where he considers the stoppage as having other far-reaching social consequences, call in the other conciliators and consult them on the advisability of demanding postponement of the stoppage. The conciliators shall then be empowered to require of the parties concerned that the threatened stoppage is postponed for up to two weeks. The demand may also include threatened stoppages which, although not in themselves perhaps considered as having far-reaching social consequences, in the existing situation may be regarded as exerting a vitally unfortunate influence on the possibilities of a peaceful settlement of the overall conflict.

(6) Within the time period concerned, the conciliator who has conducted the negotiations so far shall reinitiate negotiations with the parties on the settlement of the dispute. Failing even then to establish a basis for a draft settlement with a possibility of being accepted by both parties, the conciliator shall declare the negotiations definitively closed. Then, there can be no recourse to the provisions laid down in (5), and the parties shall be entitled to initiate the postponed stoppages on the fifth day after the conciliator, within the two-week period, has issued the mentioned declaration, or on the fifth day after the expiry of the two-week period.

(7)The provisions laid down in (5) and (6) are also applicable in cases where mediation has been conducted by all three conciliators in unison, see section 5.

5.- Insofar that the conciliators estimate that an existing dispute is of far-reaching social consequence, they may decide that mediation in the dispute shall be conducted by all three conciliators together. Such a communication shall be communicated to the interested organisations (central organisations) or

undertakings, and all three conciliators shall participate in the negotiations which thereafter shall take place. The chairman shall be in the chair during the negotiations.

6.- When, in the course of a dispute that has caused the conciliators to intervene under section 3, a disagreement arises about wages, working conditions, overtime, etc., and the correct understanding of how the actual conditions have been in this respect is considered to be of importance to the settlement of the dispute, the conciliator shall be empowered to demand statements from the parties about this.

(2) Should these statements seem to the conciliator uncertain or insufficiently informative, he or she shall be empowered to call for a deposition to be made before the Industrial Court.

(3) During these witness examinations before the Industrial Court, the conciliator is entitled to be present, and under the conditions laid down in (2), he or she is empowered to request of the witness replies to such further questions as their evidence may give reason to.

Chapter 2

Assistant mediators

7.- Upon recommendation from the Industrial Court, the Minister for Employment shall also, for the country as a whole, appoint up to 21 assistant mediators in the manner indicated below, in order to support the conciliators in their work of assisting to achieve agreement between employers and employees on wages and working conditions. The appointment shall be valid for three years, but in such a way that a third of the assistant mediators shall retire at the end of each year, on the first two occasions by drawing of lots, and that the required number of assistant mediators to succeed those retiring shall be elected in December of each year. Reappointment may take place. Remuneration of assistant mediators shall be fixed by the Minister for Employment after negotiation with the Minister of Finance.

(2) Likewise upon recommendation from the Industrial Court, the Minister for Employment shall appoint, also for three-year terms, three substitutes for the assistant mediators. Reappointment may take place.

(3) The rules laid down in section 1 (3) and (4) shall similarly be applied in the election of assistant mediators and substitutes.

(4) The conciliators may also function as assistant mediators.

8.- In the event that negotiations conducted for a trade between the sub-organisations and the central organisations on the claims submitted during renewal of agreements should fail to produce agreement between the parties, the Conciliation Board, at the request of the central organisations, or of one of them, is empowered to decide that the negotiations shall be resumed, either by the sub-organisations or the central organisations, with an assistant mediator as chairman.

(2) Similar provisions shall apply in the case of individual undertakings or organisations that do not belong to the central organisations.

(3) Upon request by the parties (the central organisations), or by one of them, the Conciliation Board is empowered to decide that the assistant mediator steps in as chairman during the negotiations in the sub-organisations.

(4) The Conciliation Board shall decide which of the assistant mediators shall function in the individual case, and shall at the same time decide whether any of the claims shall be raised excluded from the negotiations between the parties for later consideration. It shall be empowered to fix a time limit for the conclusion of the negotiations.

(5) It shall be the task of the assistant mediator to seek to achieve agreement between the parties during his chairmanship of the negotiations. Should he fail to do so, the assistant mediator shall submit to the Conciliation Board a report on claims originally raised, claims subsequently dropped, questions on which agreement has been achieved, as offers otherwise put forward by the parties during the negotiations. The Conciliation Board shall have the power to decide that the negotiations between the parties under the assistant mediator's chairmanship shall be resumed.

9.- Conciliators and assistant mediators shall, when planning their work, endeavour to ensure that the negotiations can be finally completed before the time at which the parties would be able to free themselves from the collective agreements in respect of the given notices of work stoppage.

Chapter 3

Voting rules

10.- When a draft settlement is submitted for vote in an organisation, it may only be presented in the conciliator's draft, and only clear yes or no votes will be accepted. Before any voting takes place, the organisation must ensure that all members entitled to vote shall be afforded an opportunity to familiarise themselves with all the general and specific provisions of the draft settlement of relevance to the organisation's members. Every vote on the draft settlement – be it by ballot or by qualified assembly - in employer or employee organisations, shall be secret and in writing. Provisions in rules and statute books concerning the manner in which individual members of the qualified assembly shall vote are invalid. When the result of voting is known, the organisation shall notify the conciliator in writing of the number for and against, together with the total number of members entitled to vote.

(2) Nothing shall be published or communicated to anyone but the relevant organisation or conciliator about the results of voting in branches, unions or central organisations before the conciliator has published the main result of the voting.

11.- Within each national union (trade union, trade union branch), the response to a draft settlement shall be decided either by ballot or by a qualified assembly. In order to reject a draft settlement on the employee side, a majority of the voting participants must vote against it. If less than 40 per cent of those entitled to vote participate in the voting, it is furthermore required that at least 25 per cent of those entitled to vote shall have voted against it.

(2) On the employer's side, the decision on a draft settlement shall be decided in accordance with the organisation's rules.

12.- In draft settlements, the conciliator is empowered to decide for a general solution of a conflict submitted to him that these draft settlements shall be considered in part or in full as an entity, regardless of how the trades involved in the conflict are organised (as independent trade unions, national unions or employer's organisations, or grouped as members of a confederation of trade unions, national unions or employer organisations). In any such linking of draft settlements covering several trades, however, organisations consisting of supervisors etc. shall not be included.

(2)Where there is current agreement between the Danish Employers' Confederation and the Danish Confederation of Trade Unions to the effect that their agreement shall be divided into groups, each of which shall decide on proposals for new agreements, the conciliator shall be precluded from requiring that the draft settlements of the groups shall be linked. A corresponding rule shall apply to draft settlements covering employer or employee organisations that are members of other central organisations, in the event that these have made similar agreements on grouping of sub-organisations.

(3) A draft settlement shall only be linked with other draft settlements in the event that the possibilities for negotiations may be considered depleted. The conciliator shall decide whether this condition has been fulfilled.

(4) In the event that the conciliator shall have decided that several draft settlements shall be regarded as an entity, the decision as to whether the draft settlements so linked have been adopted or rejected by the relevant organisations shall be made by comparing the results of the various trades included.

(5) In calculating the overall result of the various trades included on the employees' side, where the decision is made by ballot these shall be the basis, while, where the decision is made by qualified assemblies, the voting by these shall be applied as the basis of distribution.

(6) In the event that both ballots and decision by qualified assembly are applied on the employee side, the voting shall be so calculated that the total membership in areas where decision is by qualified assembly shall be reduced in proportion to the voting percentage found in the balloting area as a whole. The membership thus calculated shall be divided between yes and no votes in the same proportion as votes registered in the qualified assembly, the number of votes thus arrived at being then added to the number of votes from the ballots.

(7) For organisations and individual establishments affiliated with the Danish Employer's Confederation, the voting shall be calculated according to hitherto valid rules. Where organisations and individual establishments affiliated to the Danish Employer's Confederation and organisations not so affiliated are interested in the same draft settlement, or where several organisations not affiliated to the Confederation are interested in the same draft settlement, the voting shall be calculated according to the wages paid to the members of the respective organisations in the preceding calendar year.

(8) The draft settlement shall be regarded as adopted on the employer side if there is an overall majority in favour of acceptance. On the employee side, the draft settlement shall be considered rejected if a majority of those participating in the voting vote against the draft settlement and, if less than 40 per cent of those entitled to vote have participated in the vote, then if at least 25 per cent of those entitled to vote have not voted against it.

Chapter 4

Miscellaneous provisions

13.- It shall be forbidden to issue statements or produce evidence with regard to information given or proposals made to the parties by a conciliator or an assistant mediator, unless this has been agreed to by both parties and concerns elements of the conciliation, or the assistant mediator's statement is given under section 8 (5)

14. - Violation of the provisions of this Act shall be punishable by fine or by imprisonment of up to three months, unless a stricter penalty is warranted under other legislation.

(2) In the adjudication of cases concerning violation of the prohibition on publishing or communicating as contained in sections 4 (3) and 10 (2), it shall be considered a highly aggravating circumstance if the information has reached the public, even though this has occurred through the press in the form of "rumours".

(3) Fines imposed under the present Act shall accrue to the Exchequer.

15.- Costs of salaries, offices etc. shall be held by the state through allocations in the annual Finance Act or by special legislation.

(2) Any disagreement with regard to the competence of the Conciliators may be referred to the Industrial Court for settlement.

16.- Provisions on entry into force etc.

Act no 1194 of 27 December 1996 section 1 of which has amended section 11 (1) item 2 and section 12 contains the following provisions on entry into force:

§ 2

The Act shall come into force on 1 January 1997.

Act no. 1078 of 29 December 1999 amending section 3 (3) and section 4 (4) and (6) contains the following provisions on entry into force:

§ 2

The Act shall come into force on 1 January 2000.

The Ministry of Employment, 20 August 2002

Claus Hjort Frederiksen