



APPLIES TO ACADEMIC YEAR 2015/2016

## BIK 2930 Employment Law I

### Programme

Single courses

### Responsible for the course

Tore Bråthen

### Department

Department of Law

### Term

According to study plan

### ECTS Credits

7,5

### Language of instruction

Norwegian

### Introduction

Most personal work conflicts are due to inadequate routines for avoiding such conflicts, and for how conflicts that do arise can be handled and solved. The result is often that the extent of the conflict increases and becomes more complicated. This is largely due to poor employer understanding of the basic principles of labour law, and causes major economic and personal problems for the parties.

### Learning outcome

#### Acquired Knowledge:

Labour Law I gives the participants knowledge of legal regulation of employment, insights into legal methods, legislation and contracts in labour law, based on vital problems and theories of importance for the employer function. A thorough introduction is given to individual and collective labour law (tariff law), with an emphasis on the framework conditions for employment, wage and work conditions, the employer's management prerogative, and termination of employment due to the employee's conduct (dismissal, discharge, resignation on account of age, disability, etc. A crucial element in the course is an understanding of the connection between regulations, the employer's management prerogative and the practical organizing of important processes in labour law.

#### Acquired Skills:

Course participants shall be able to organize routines for handling labour law conflicts and be able to carry them out, with the aim of limiting the conflict to a reasonable level.

#### Reflection:

The course participants shall have a positive awareness of regulations and agreements that govern the relationship between the parties and respect these regulations and agreements.

### Prerequisites

No particular prerequisites, but working life experience is a clear advantage, general admission requirements.

### Compulsory reading

#### Books:

Fougner, Jan ... [et al.]. 2013. Arbeidsmiljøloven : lov av 17. juni 2005 nr. 62 om arbeidsmiljø, arbeidstid og stillingsvern mv. : kommentarutgave. 2. utg. Universitetsforlaget. Penumrelevante deler  
Langfeldt, Sverre Faafeng, red. Næringslivets lovsamling 1687-... til Lov og rett for næringslivet. Siste utg. Universitetsforlaget : Focus forlag. Penumrelevante lover. Obligatorisk oppslagsverk  
Storeng, Nils H., Tom H. Beck og Arve Due Lund. 2014. Arbeidslivets spilleregler. 3. utg. Universitetsforlaget. Kapittel 1-8, 10-14, 19-22, 28-33, 41-44

#### Other:

Hovedavtalen LO-NHO. Siste utgave  
Langfeldt, Sverre F. 2015. Arbeidsrett (særtrykk av kapittel 9 i Lov og Rett for Næringslivet). Focus Forlag. Hele kapitlet  
Lovforslag (lovproposisjoner), dommer og andre avgjørelse og annet utdelt materiale (ppt-presentasjoner). Dokumentene er tilgjengelige på its learning og på [www.regjeringen.no](http://www.regjeringen.no)  
Ot.prp. nr 49 (2004-2005). 2005. Ny lov om arbeidsmiljø, arbeidstid og stillingsvern m.v.. (penumrelevante deler)  
Prop 39 L (2014-2015). 2014. Midlertidig ansettelse m.v.. (penumrelevante deler)  
Prop L 2011-2012 nr. 74. 2012. Likebehandling ved utleie av arbeidstakere. (penumrelevante deler)

## Recommended reading

### Books:

Fougner, Jan. 2007. Endring i arbeidsforhold : styringsrett og arbeidsplikt. Universitetsforlaget  
Skjønberg, Alexander Næss og Eirik Hognestad. 2014. Individuell arbeidsrett. Gyldendal juridisk  
Sundet, Tron Løkken. 2014. Tariffavtalen. Fagbokforlaget

## Course outline

1st session :

Sources of labour law. Recruitment process. Equal opportunity and anti-discrimination. Employment conditions. The form and content of the employment contract.

2nd session :

Management prerogative and duty of loyalty. Wage terms. Collective labour law. Holiday and holiday allowance. Sick leave and sickness benefit. Leave of absence.

3rd. session :

Job protection regulation and termination of employment contracts. Dismissal, suspension and discharge.

## Computer-based tools

itslearning

## Learning process and workload

The course duration is 40 lecture hours, organized in three 2-day sessions.

## Examination

There is a 72-hour home exam at the end of the course, which may be answered by groups of up to 3 persons.

## Examination code(s)

BIK 29301; 72-hour home exam, counts 100% of the course BIK 2930, 7,5 ECTS credits.

## Examination support materials

## Re-sit examination

Re-sit at the next ordinary exam

## Additional information

**1st session - Labour Law - foundations and forms of regulation. Recruitment and employment**

### Objective

This session aims to give an introduction to the foundations and basic concepts of labour law, the sources of law and the function of labour law regulation in society and enterprises. A detailed review is given of the rules of law that concern employment and the types of employment that may be utilized. After the session, the participants shall have acquired knowledge of the basic rules for working terms, and the importance of such rules when employment contracts are to be entered into and handled.

## Course outline

### The foundations of labour law

- Regulations in labour law; legislation and contract forms
- Review of employment law regulation

### The sources of law in employment law - national and international

- International conventions, EU and EEA law
- Laws and regulations
- Case law
- The tariff agreement and the personal employment contract
- The employer's management prerogative

### Basic concepts and function

- The aim and function of employment law regulation in society and enterprises.
- The employment law parties - employees and enterprises, organizations, authorities and courts of justice

### Recruitment and forms of employment

- Recruitment, employment office
- Announcement and employment; differences between private and public enterprises
- Forms of employment (permanent employment, probation, temporary employment, temporary positions, trainees, fixed term)
- Hiring in and hiring out of manpower

### The employment contract's form and content

- Requirements as to form when entering the contract and later amendments
- The factual content of the contract; Importance for the right to make later amendments

## **2nd session - Tariff agreements and employment agreements, working terms**

### **Objective**

The session discusses the employer's management prerogative in relation to laws and contracts that regulate the employment. An introduction is also given to the rules concerning tariff agreements and their importance for regulating wages and working terms, the conclusion of such agreements, and the impact of tariff agreements on employment agreements (collective employment law). Finally a review is given of the rules for holiday and holiday allowance, sick leave and sickness benefit and the rules for leaves of absence.

### **Course outline**

#### **Management prerogative and duty of loyalty**

- The management prerogative as residual competence
- The management prerogative in practice
- The employee's subordination duty - resignation

#### **Tariff agreements and their significance**

- Tariff agreements - concept, forms and main effects
- Interaction between legislation and tariff agreements
- Wage determination and other working terms
- Society made up of organizations and tariff agreements, practical significance

#### **Entering into tariff agreements and the effects of them**

- Tariff agreement parties -membership
- "Game rules" when entering into and amending agreements - negotiations, mediation and labour disputes
- The binding effects of tariff agreements; tariff commitment in practice
- Legal disputes and disputes of interest, labour peace guarantee and labour disputes
- The tariff agreement's "binding" effects - "invariability" and effect for employment contracts and enterprises
- The tariff agreement's effects after dismissal and closing-down

#### **Wages and benefits**

- Wage setting, wages and "fringe benefits"
- Types of wages and payment rules

#### **Holiday, sick leave and leave of absence**

- Holiday, holiday period and holiday allowance
- Sick leave, sick benefits
- Leave of absence

## **3rd session Termination of the employment contract - changes and job protection**

### **Objective**

The session aims to give in-depth knowledge of the general rules concerning changes in and termination of the employment contract due to the employee, and how such cases can be handled in the enterprise and in the courts.

### **Course outline**

#### **Changes in employment relationship**

- Foundation and limits. The employer's management prerogative
- Limits to dismissal and discharge; practical approaches

#### **Termination forms and fundamental requirements**

- Resignation. Retraction
- Dismissal, suspension and discharge due to employee conduct
- Termination deadlines based on law or agreement
- General procedural rules; information and discussion
- Requirements as to form and their significance

#### **Dismissal and discharge due to employee**

- Substantive basis for dismissal, suspension and discharge. Case law.
- Employee's right to continue in the position after dismissal
- Conflict resolution; negotiations and legal proceedings
- Legal effects of lawful discontinuance
- Agreements on discontinuance and benefits etc. by resignations
- Indemnification by unlawful discontinuance