

ACT
Of 23 May 1991
on solving collective labour disputes

Chapter 1
General provisions

Article 1. A collective dispute between employees and an employer or employers may concern conditions of work, wages or social benefits as well as union rights and freedoms of employees or other groups of persons who have the right to found trade unions.

Article 2. 1. The rights and collective interests of employees referred to in art. 1 shall be represented by trade unions.

2. The rights and interests of employers in collective disputes may be represented by appropriate employers organizations.

Article 3. 1. In establishments where more than one trade union is operating, each trade union may represent the interests that are the subject of the collective dispute.

2. If trade unions operating in the establishment so decide, the joint trade union representation may act in the collective dispute.

3. The provision referred to in item 2 applies accordingly to the representation of collective interests in disputes involving more than one establishment.

4. On behalf of employees of an establishment in which none trade union operates, collective dispute may be conducted by the trade union solicited by employees to represent their collective interests.

Article 4. 1. A collective dispute may not be entered to support individual claims of employees that may be settled in proceedings before the competent body for settling disputes concerning individual employee' claims.

2. If the dispute concerns the content of a collective agreement or other agreement to which the trade union organization is a party, and the purpose of the dispute is to amend the agreement, such a dispute may not be entered and conducted prior to the date of notice of termination of the agreement.

Article 5. An employer in the meaning of this Act is an entity defined in article 3 of the Labour Code.

Article 6. Provisions of this Act referring to employees shall apply to persons specified in art. 2 item 1 and 2 of the Act on trade unions of 23 May 1991.

Chapter 2

Negotiations

Article 7. 1. A collective dispute originates on the day that the party representing employees' interests notifies to the employer demands concerning matters referred to in art. 1, if the employer does not accept all the demands within a period specified in the demand, not less than three days.

2. The notification shall determine the subject of demands covered by the dispute. The party who initiates the dispute may warn that in case of non-acceptance of the demands, a strike will be declared. The strike may not begin before the expiry of 14 days period from notification.

Article 8. The employer shall begin negotiations immediately in order to settle the dispute by an agreement, while notifying the competent regional labour inspector that collective dispute has occurred.

Article 9. Negotiations shall end upon signing of an agreement by the parties, and in the case when no agreement is reached, by drawing up the records of divergences indicating the position of each party.

Chapter 3

Mediation and arbitration

Article 10. If the party, which initiated the dispute, sustains its demands, the parties shall conduct the dispute with the assistance of a person who ensures to be impartial, further referred to as the "mediator".

Article 11. 1. A mediator shall be agreed upon by parties to the collective dispute. The mediator may be a person from a list fixed by the minister competent for labour issues in agreement with trade union organisations and employers' organisations, representative in the meaning of the law of 6 July 2001 concerning Tripartite Commission for Socio-Economic

Issues and voivodship social dialogue commissions (Dz. U. No. 100, Text 1080, with further amendments⁸⁾).

2. If the parties to the collective agreement do not reach agreement within 5 days as to the choice of the mediator, further proceedings shall be conducted with participation of a mediator indicated, on a proposal of one of the parties, by the minister competent for labour issues from the list referred to in paragraph 1.

3. The minister competent for labour issues shall lay down, by means of an ordinance, terms of remuneration of mediators from the list referred to in paragraph 1, taking into consideration duration of mediation.

Article 11¹. 1. Mediators are entitled to release from work for the period of mediation. The overall release time in a calendar year may not exceed 30 days.

2. The remuneration of the mediator, transportation and accommodation costs are agreed in a contract concluded by the mediator and the parties to the dispute.

3. The remuneration of the mediator may not be lower than the remuneration set by regulation referred to in art. 11 item 3.

4. The costs of mediation, mentioned in item 2, are to be paid by the parties to the collective dispute in equal shares, unless different sharing is agreed upon.

5. In the case of documented absence of financial means for covering the costs referred to in paragraphs 2 and 4, on a request by a party to the collective agreement, the minister competent for labour issues shall cover costs of mediation. However, the remuneration of the mediator shall be covered up to an amount fixed in the ordinance referred to in art. 11 paragraph 3.

Article 12. If the course of the mediation justifies the belief that it will not lead to a settlement of the dispute before the expiry of the time periods provided in art. 7 item 2 and art. 13 item 3, the organization that initiated the dispute may conduct a warning strike but only once and for a time limit of no longer than two hours.

Article 13. 1. If in the course of the proceedings the mediator ascertains that the settlement of the dispute requires detailed or additional establishments connected with the subject of the dispute, shall so inform the parties.

2. If in connection with the demand covered by the dispute it is necessary to examine the economic and financial situation of the establishment, the mediator may propose an appropriate expertise. The establishment shall pay the costs of the expertise, unless the parties decide otherwise.

3. If measures referred to in items 1 and 2 have been taken, the mediator may request the trade union organization to postpone the date of the strike for the time necessary for establishments that may have an effect on the settlement of the dispute.

Article 14. The mediation proceedings shall end with an agreement signed by the parties, and when no agreement is reached, with drawing up the records of divergences indicating the positions of the parties. These acts shall be carried out with the participation of the mediator.

Article 15. The lack of an agreement settling the collective dispute entitles to commence the strike.

Article 16. 1. The party to the collective dispute, which represents the interests of employees, may attempt to settle the dispute by submitting it to a social arbitration committee, instead of exercising the right provided in art.15.

2. The dispute affecting one establishment shall be submitted to the social arbitration committee of a voivodship court that comprises of a labour and social insurance court. The dispute affecting more than one establishment shall be submitted to the Social Arbitration Committee of the Supreme Court.

3. The committee shall be composed of a presiding judge, appointed from among the judges by the presiding judge of the court, and six members, of whom three shall be appointed by each party. The parties should endeavour to appoint persons who are directly not affected by settlement of the dispute.

4. The presiding judge of the court shall assign the date of the session without delay and shall inform the parties to the dispute or their representatives, of this date.

5. If the settlement of the dispute requires special knowledge, the committee may seek the advice of experts. The provision of the second sentence of art.13 item 2 shall apply accordingly.

6. The decision of the committee shall be taken by a majority vote. The decision is binding, unless any party decides otherwise before submitting the dispute to the committee.

7. The Council of Ministers shall determine by regulation detailed procedure to be followed before the social arbitration committee.

Chapter 4

Strike

Article 17. 1. A strike is a collective work stoppage by employees for the purpose of settling a dispute concerning interests referred to in art. 1.

2. A strike shall be the last resort and may not be declared without having previously exhausted all possibilities for settlement of the dispute in accordance with the rules determined in art. 7 to 14. The strike may be declared without observance these rules when the illegal acts of the employer prevented from negotiations or mediation, or when the employer has terminated the employment contract with the trade union representative responsible for leading the dispute.

3. When taken the decision on declaration of the strike, the party representing employee' s interests shall ensure that demands are commensurate with the losses that strike entail.

Article 18. Participation in a strike shall be voluntary.

Article 19. 1. Any work stoppage because of the strike that affects positions, equipment and Installations where the interruption of work constitutes a hazard to human lives or health or to security of the State, shall be prohibited.

2 Strikes shall be prohibited at the Agency of Internal Security, the Intelligence Agency, in units of the Police, Armed Forces of the Republic of Poland, Prison Service, Frontier Guard, Custom Service as well as units of the fire brigades.

3. Persons employed in State authorities, government and self-government administration, courts and public prosecutor's offices, shall not have the right to strike.

Article 20. 1. A strike in the establishment shall be declared by the trade union organization after approval by the majority of voting employees, under condition that at least 50 per cent of employees employed in the establishment participated in voting.

2. A multi-establishment strike shall be declared by the trade union body indicated by the statute after approval by the majority of voting employees in each establishment in which the strike is to take place, under condition that in each of these establishments at least 50 per cent of employees participated in voting.

3. Notice of the strike shall be given at least five days in advance.

Article 21. 1. During the strike, the manager of the establishment shall not be hampered in the performance of duties and exercising of rights in relation to employees who do not take part in the strike as well as, to the extent that is necessary, to ensure the protection of the property of the establishment and the continued operation of the structures, equipment and installations, the interruption of which could constitute a threat to human life or health or to the resumption of the normal activity of the establishment.

2. The leaders of the strike shall cooperate with the manager of the establishment to the extend necessary to ensure the protection of the property of the establishment and the continued operation of the structures, equipment and installations referred to in item 1.

Article 22. In order to defend the rights and interests of workers who do not have the right to strike, the trade union of another establishment may declare a solidarity strike not exceeding one half of a working day. The provisions of articles 17 to 21 shall apply accordingly.

Article 23. 1. Participation in a strike organized in compliance with the provisions of this Act shall not constitute a breach of the employee's duties.

2. During the strike organized in compliance with the provisions of this Act, employees shall retain their right to social benefits, as well as to other rights arising from the employment relationship, with the exception of the right to remuneration. The length of the work stoppage shall be calculated to the length of employment in the establishment.

Article 24. Trade unions shall decide on forming and use of strike funds. These funds shall not be subject to execution.

Article 25. 1. In order to defend the rights and interests of employees referred to in art. 1, after the procedure provided in Chapter 2 has been exhausted, forms of protest other than strike shall be authorized that do not endanger human lives or health, and not involve a work stoppage, subject to respect legal order. Employees who do not have the right to strike shall be entitled to the above right.

2. Farmers shall have the right to protest action in forms determined by farmers trade unions.

Chapter 5

Responsibility for infringement of the provisions of this Act

Article 26. 1. Any person who in connection with the position or function held:

a) impedes the initiation or conducting of a collective dispute that is in compliance with the law,

b) does not fulfil the obligations determined in this Act shall be liable to a fine or a restriction of liberty.

2. The same penalty shall apply to the person who directs a strike or other protest action contrary to the provisions of this Act.

3. The organizer of a strike is liable, in accordance with rules determined in the Civil Code, for all damages resulting from a strike or other protest action organized contrary to the provisions of this Act.

Chapter 6

Transitional and final provisions

Article 27. (Amendment of the art. 241 7 § 7 of the Labour Code)

Article 28. Collective disputes initiated but not settled before the date of this Act become valid shall be governed by the provisions of this Act.

Article 29. This Act shall come into force 30 days after its promulgation.