



LOVDATA

Act relating to enterprises' transparency and work on fundamental human rights and decent working conditions (Transparency Act)

Date	LOV-2021-06-18-99
Ministry	Ministry of Children and Families
Entry into force	01.07.2022
Last update	12.10.2021
Abbreviated title	Transparency Act
Original title	Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold (åpenhetsloven)

This is an unofficial translation of the Norwegian version of the Act and is provided for information purposes only. Legal authenticity remains with the Norwegian version as published in Norsk Lovtidend. In the event of any inconsistency, the Norwegian version shall prevail.

The translation is provided by the Ministry of Children and Families.

Section 1. *Purpose of the Act*

The Act shall promote enterprises' respect for fundamental human rights and decent working conditions in connection with the production of goods and the provision of services and ensure the general public access to information regarding how enterprises address adverse impacts on fundamental human rights and decent working conditions.

Section 2. *Scope of the Act*

The Act applies to larger enterprises that are resident in Norway and that offer goods and services in or outside Norway. The Act also applies to larger foreign enterprises that offer goods and services in Norway, and that are liable to tax to Norway pursuant to internal Norwegian legislation.

The King may issue regulations determining that the Act, in whole or in part, shall apply to enterprises on Svalbard, Jan Mayen and the Dependencies of Norway.

Section 3. *Definitions*

- a) For the purposes of this Act, larger enterprises means enterprises that are covered by Section 1-5 of the Accounting Act, or that on the date of financial statements exceed the threshold for two of the following three conditions:
 - 1. sales revenues: NOK 70 million
 - 2. balance sheet total: NOK 35 million
 - 3. average number of employees in the financial year: 50 full-time equivalent.
 Parent companies shall be considered larger enterprises if the conditions are met for the parent company and subsidiaries as a whole.
- b) Fundamental human rights means the internationally recognised human rights that are enshrined, among other places, in the International Covenant on Economic, Social and Cultural Rights of 1966, the International Covenant on Civil and Political Rights of 1966 and the ILO's core conventions on fundamental principles and rights at work.
- c) Decent working conditions means work that safeguards fundamental human rights pursuant to (b) and health, safety and environment in the workplace, and that provides a living wage.
- d) Supply chain means any party in the chain of suppliers and sub-contractors that supplies or produces goods, services or other input factors included in an enterprise's delivery of services or production of goods from the raw material stage to a finished product.
- e) Business partner means any party that supplies goods or services directly to the enterprise, but that is not part of the supply chain.

The Ministry may issue regulations regarding what is considered fundamental human rights pursuant to the first paragraph (b) and decent working conditions pursuant to the first paragraph (c). The Ministry may issue regulations regarding exemptions from larger enterprises pursuant to the first paragraph (a).

Section 4. *Duty to carry out due diligence*

The enterprises shall carry out due diligence in accordance with the OECD Guidelines for Multinational Enterprises. For the purposes of this Act, due diligence means to

- a) embed responsible business conduct into the enterprise's policies
- b) identify and assess actual and potential adverse impacts on fundamental human rights and decent working conditions that the enterprise has either caused or contributed toward, or that are directly linked with the enterprise's operations, products or services via the supply chain or business partners
- c) implement suitable measures to cease, prevent or mitigate adverse impacts based on the enterprise's prioritisations and assessments pursuant to (b)
- d) track the implementation and results of measures pursuant to (c)
- e) communicate with affected stakeholders and rights-holders regarding how adverse impacts are addressed pursuant to (c) and (d)
- f) provide for or co-operate in remediation and compensation where this is required.

Due diligence shall be carried out regularly and in proportion to the size of the enterprise, the nature of the enterprise, the context of its operations, and the severity and probability of adverse impacts on fundamental human rights and decent working conditions.

The Ministry may issue regulations regarding the duty to carry out due diligence.

Section 5. *Duty to account for due diligence*

The enterprises shall publish an account of due diligence pursuant to Section 4. The account shall at least include

- a) a general description of the enterprise's structure, area of operations, guidelines and procedures for handling actual and potential adverse impacts on fundamental human rights and decent working conditions
- b) information regarding actual adverse impacts and significant risks of adverse impacts that the enterprise has identified through its due diligence

- c) information regarding measures the enterprise has implemented or plans to implement to cease actual adverse impacts or mitigate significant risks of adverse impacts, and the results or expected results of these measures.

Section 6, second paragraph (c) and (d), third and fourth paragraph correspondingly apply to the duties pursuant to the first paragraph.

The account shall be made easily accessible on the enterprise's website and may form part of the account on social responsibility pursuant to Section 3-3 (c) of the Accounting Act. The enterprises shall in annual reports inform of where the account can be accessed.

The account shall be updated and published no later than 30 June of each year and otherwise in case of significant changes to the enterprise's risk assessments. It shall be signed in accordance with the rules in Section 3-5 of the Accounting Act.

The Ministry may issue regulations regarding the duty to account for due diligence.

Section 6. *Right to information*

Upon written request, any person has the right to information from an enterprise regarding how the enterprise addresses actual and potential adverse impacts pursuant to Section 4. This includes both general information and information relating to a specific product or service offered by the enterprise.

A request for information may be denied if

- a) the request does not provide a sufficient basis for identifying what the request concerns
- b) the request is clearly unreasonable
- c) the requested information concerns data relating to an individual's personal affairs
- d) the requested information concerns data regarding technical devices and procedures or other operational and business matters which for competitive reasons it is important to keep secret in the interests of the person whom the information concerns.

The right to information regarding actual adverse impacts on fundamental human rights with which the enterprise is familiar, applies irrespective of the limitations in the second paragraph.

The right to information does not cover information that is classified pursuant to the Security Act or protected pursuant to the Intellectual Property Rights Act.

The Ministry may issue regulations regarding the right to information and the right of enterprises to deny a request for information.

Section 7. *Enterprises' processing of requests for information*

Information pursuant to Section 6 shall be provided in writing and shall be adequate and comprehensible.

The enterprise shall provide information within a reasonable time and no later than three weeks after the request for information is received. If the amount or type of information requested makes it disproportionately burdensome to respond to the request for information within three weeks, the information shall be provided within two months after the request is received. The enterprise shall then, no later than three weeks after the request for information is received, inform the person requesting information of the extension of the time limit, the reasons for the extension, and when the information can be expected.

If the enterprise denies a request for information, it shall inform about the legal basis for the denial, the right and time limit for demanding a more detailed justification for the denial and that the Consumer Authority is the supervisory and guidance body.

Any person whose request for information is denied may within three weeks from the denial was received, demand a more detailed justification for the denial. The justification shall be provided in writing, as soon as possible and no later than three weeks after the demand for a more detailed justification was received.

The Ministry may issue regulations regarding the enterprises' processing of requests for information.

Section 8. Guidance

The Consumer Authority shall by way of general information, advice and guidance work to ensure that the rules in the Act and decisions pursuant to the Act are observed. The rules regarding the duty to provide guidance in Section 11 of the Public Administration Act otherwise apply.

Section 9. Monitoring and enforcement

The Consumer Authority monitors compliance with the provisions of the Act. This supervision is based on the interest of promoting enterprises' respect for fundamental human rights and decent working conditions.

The Consumer Authority shall on its own initiative, or based on a request from others, seek to influence enterprises to comply with the Act, including by conducting negotiations with the enterprises or their organisations.

If the Consumer Authority finds that an enterprise is in breach of the Act, the Consumer Authority shall obtain a written confirmation that the illegal conduct will cease, or issue a decision. The Market Council processes appeals of decisions made by the Consumer Authority.

Furthermore, the Marketing Control Act, sections 32, 33, 37 and regulations issued pursuant to Section 38, correspondingly apply to monitoring and enforcement pursuant to this Act.

Section 10. Duty to provide information

Everyone is obligated to provide the Consumer Authority and the Market Council with the information these authorities require to carry out their duties pursuant to this Act. The information may be required to be provided in writing or orally, within a given deadline. Under the same conditions as those mentioned in the first and second sentences, surrender of all types of information and the storage medium of such information may be ordered.

The duty to provide information pursuant to the first paragraph applies irrespective of the duty of confidentiality. However, this does not apply to the duty of confidentiality as mentioned in sections 117 to 120 of the Criminal Procedure Act, with the exception of Section 118, first paragraph, first sentence.

Section 11. Decisions made by the Consumer Authority and the Market Council

The Consumer Authority and the Market Council may, if they find that interventions are necessitated based on considerations as mentioned in Section 9, first paragraph, second sentence, issue individual decisions regarding:

- a) a prohibition or an order pursuant to Section 12
- b) an enforcement penalty pursuant to Section 13
- c) an infringement penalty pursuant to Section 14.

A decision pursuant to (a) and (b) applies for a period of five years unless otherwise is stated in the decision. The maximum duration of a decision is ten years. A decision can be renewed.

Decisions pursuant to the first paragraph may also be directed at abettors.

Legal proceedings concerning the Market Council's or Consumer Authority's decisions must be instituted no later than six months from the party received notification of the decision. The time limit is calculated pursuant to the rules in sections 148 and 149 of the Courts of Justice Act. Reinstatement may be granted if a time limit has lapsed pursuant to the rules in sections 16-12 to 16-14 of the Dispute Act.

Section 12. *Prohibitions and orders*

Prohibitions and orders may be issued to ensure that sections 4 to 7 are observed.

Section 13. *Decisions regarding enforcement penalties*

To ensure that confirmations or decisions pursuant to Section 9, third paragraph and Section 12 are observed, enforcement penalties may be established which must be paid in case of non-compliance with the confirmation or decision.

The enforcement penalty may be established as a running charge or as a lump sum. When determining the enforcement penalty, emphasis shall be given to the consideration it must not be profitable to breach the decision.

To ensure that orders pursuant to Section 10 are observed, an enforcement penalty to be paid in case of non-compliance with the order may be determined. The second paragraph, first sentence applies correspondingly.

A final decision concerning payment of an enforcement penalty constitutes a ground for enforcement of the amount due.

The Ministry may issue regulations regarding the imposition of enforcement penalties.

Section 14. *Decisions regarding infringement penalties*

In case of repeated infringements of sections 5, 6 or 7, an infringement penalty may be imposed, which is to be paid by the party to whom the decision is directed.

An enterprise may be imposed an infringement penalty when the infringement has been committed by someone acting on behalf of the enterprise. An infringement penalty for wilful or negligent infringements may be imposed on natural persons.

In the determination of the amount of the penalty, emphasis shall be given to the severity, scope and effects of the infringement.

The infringement penalty is due for payment four weeks after the decision is made. A final decision concerning an infringement penalty constitutes a ground for enforcement of the amount due.

The Ministry may issue regulations relating to the assessment of infringement penalties.

Section 15. *Entry into force*

The Act applies from the date determined by the King.¹ The King may determine that the individual provisions enter into force at different times.

¹ From 1 July 2022 according to res. 1 October 2021 No. 2919.

