Act relating to mediation and procedure in civil disputes (The Dispute Act)

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Act 17 June 2016 No. 55 (section 4-4 paragraph 5 and 6, in force 1 July 2021. Section 4-4 paragraph 4, not yet in force.)
Act 15 June 2018 No. 37 (section 22-5 and new section 22-3a. In force 1 July 2018.)
Act 22 June 2018 No. 79 (sections 13-7, 23-2 and 24-1. In force 1 October 2018.)
Act 22 June 2018 No. 80 (section 6-14. In force 1 January 2019.)
Act 15 March 2019 No. 6 (section 34-4. In force 1 January 2020.)
Act 14 June 2019 No. 21 as amended by Act 18 December 2020 No. 149 (section 6-2. In force 1 January 2021).
Act 27 March 2020 No. 15 (sections 14-4, 22-10, 22-12, new 34-8. In force 1 January 2021.)
Act 17 April 2020 No. 26 (sections 6-2, 6-10, 10-1, 10-5 and 29-13. In force 1 July 2020.)
Act 12 June 2020 No. 67 (section 34-7. In force 1 July 2021).
Act 18 December 2020 No. 147 (section 6-13. In force 1 February 2021).
Act 18 June 2021 No. 97 (amending sections 1-4 a, 36-3 and 36-10. Not yet in force.)
Act 18 June 2021 No. 126 (amending section 22-5. In force 1 July 2021).

Part I – The purpose of the Act. Fundamental preconditions for hearing civil cases

Chapter 1. The purpose and application of the Act

Section 1-1. ***The purpose of the Act***

(1) The Act shall provide a basis for hearing civil disputes in a fair, sound, swift, efficient and trustworthy manner through public proceedings before independent and impartial courts. The Act shall safeguard the needs of individuals to enforce their rights and resolve their disputes, and the needs of society for respect and clarification of legal rules.

(2) To achieve the purposes in subsection (1):
- each party shall be entitled to argue its case and to present evidence,
- each party shall have access to and the opportunity to refute the arguments and evidence of the opposite party,
- each party shall at one stage of the proceedings have the opportunity to argue its case orally and to present its evidence directly to the court,
- the procedure and the costs involved shall be reasonably proportionate to the importance of the case,
- differences in the parties' resources shall not be decisive to the outcome of the case,
- grounds shall be given for important rulings, and
- rulings of considerable importance shall be open to review.

Section 1-2. ***The relevance of international law in the application of the Act***

The Act shall apply subject to such limitations as are recognised in international law or stipulated in any agreement with a foreign state.

Section 1-3. ***The subject matter in dispute, the parties' connection to the dispute and the dispute situation***

(1) An action may be brought before the courts for legal claims.

(2) The claimant must demonstrate a genuine need to have the claim decided against the defendant. This shall be determined based on an overall assessment of the relevance of the claim and the parties' connection to the claim.

Section 1-4. ***Right of action for organisations etc.***

(1) If the conditions in Section 1-3 are otherwise satisfied, an organisation or foundation may bring an action in its own name in relation to matters that fall within its purpose and normal scope.

(2) Public bodies charged with promoting specific interests may, in the same manner, bring an action in order to safeguard such interests.

Section 1-4 a. ***Disputes between the State and municipality or county authority concerning the validity of a decision by a state body***

(1) A municipality or a county authority may bring an action against the State concerning the validity of a decision by a state body that:
a) annuls or amends an administrative decision by a municipality or county authority upon appeal,
b) reverses an administrative decision by a municipality or county authority without an appeal,
c) annuls a decision by a municipality or county authority pursuant to a review of legality, cf. Chapter 27 of the Local Government Act,
d) orders the municipality or county authority to pay costs to a party pursuant to Section 36 of the Public Administration Act,
e) imposes obligations on the municipality or county authority following an audit,
f) divides rights or obligations between municipal or county authorities.

(2) Subsection (1) does not apply to administrative decisions handed down pursuant to the Child Protection Act.

(3) Subsection (1) applies correspondingly for cooperating municipalities in a host municipality cooperation, cf. Chapter 20 of the Local Government Act, and for Longyearbyen local council.

(4) The action must be brought within six months after the decision was made.

(5) A final and enforceable ruling is also binding for third parties that satisfy the requirements in Section 15-3 and who were notified of the action by the claimant according to the procedure stipulated in Section 15-4. The notice must state the potential consequences of joining or not joining the case. The notice must set a time limit for joining the case that shall be a minimum of three weeks. The time limit shall be no later than one month before the conclusion of the preparatory stage.

(6) In connection with an action pursuant to subsection (1), a municipality or county authority may submit a claim for compensation from the State. Compensation may only be imposed when the decision for which an action concerning validity was brought is found to be invalid.

Section 1-5. ***Against whom an action concerning the validity of public decisions should be directed***

An action concerning the validity of an administrative decision shall be brought against the authority that made the decision in the final instance. If this is a state body, the court shall give notice of the action to a municipality or a county authority that made a decision in the case in an earlier instance.

Chapter 2. Parties, procedural capacity and party representatives

Section 2-1. ***Capacity to sue and be sued***

(1) The following have the capacity to sue and be sued:

a) any physical person,
b) the State, municipalities, county authorities and intermunicipal cooperations,
c) companies, including limited liability companies, general partnerships and limited partnerships,
d) cooperative societies, savings banks and foundations,
e) estates in bankruptcy and estates of deceased persons under public administration,
f) other organisations and independent public enterprises if specifically provided by statute.

(2) Other organisations than those mentioned in subsection (1) have the capacity to sue and be sued to the extent justified by an overall assessment, whereby the court shall place particular emphasis on:

- whether the organisation has a permanent organisational structure,
- whether the organisation is represented externally by an executive committee or other body,
- whether the organisation has a formalised membership arrangement,
- whether the organisation has funds of its own, and
- the purpose of the organisation and the subject matter of the action.

Section 2-2. ***Procedural capacity***

(1) Procedural capacity is the capacity to act on behalf of oneself in a lawsuit, including the capacity to bring and defend an action.

(2) Persons of legal age who have not been subject to restrictions in their legal capacity to act have procedural capacity unless otherwise provided by this section. The same applies to a foreign national who is not of legal age or capacity to act pursuant to the law of his/her home country, if he/she would be of legal age and capacity to act pursuant to Norwegian law.

(3) Minors only have procedural capacity if so provided by special statute. Persons who have been adjudged legally incapable pursuant to Section 22 of the Guardianship Act, shall only have procedural capacity if the case concerns assets, transactions or circumstances outside the area in which such persons can be adjudged legally incapable, unless otherwise provided by special statute.

(4) A person who, due to his/her mental state of health, is unable to safeguard his/her own interests during the case, does not have procedural capacity. If the person does not have a guardian, the court shall ensure that a guardian is appointed.

(5) The case may be rejected if it is beyond doubt that it cannot serve any sensible purpose and is brought by a person who abuses the court system by repeatedly bringing such cases.

Section 2-3. ***Party representative***

(1) For natural persons who lack procedural capacity and for artificial persons, the party representative shall attend to all the rights and obligations of the party in the lawsuit. A party may only have one party representative at a time.

(2) Persons who lack procedural capacity pursuant to Section 2-2 (4) are represented by the guardian.

Section 2-4. ***Party representative for minors and persons adjudged legally incapable etc.***

(1) For persons who lack procedural capacity pursuant to Section 2-2 (3), the guardian shall be the party representative. Section 18 of the Guardianship Act applies if the parents of a minor are joint guardians.

(2) A minor over 15 years of age shall receive notice of court hearings. The court shall inform the minor that he/she is entitled, but not obliged, to attend court hearings. The minor shall receive copies of written pleadings at the same time as the guardian unless the minor him/herself has declared that this is unnecessary. The right of minors to access documents is governed by Section 14-1 (1).

(3) If the action concerns assets under the administration of the county governor pursuant to Chapter 7 of the Guardianship Act, the writ of summons shall also be served to the county governor. The county governor is entitled to join the case if the person lacks procedural capacity pursuant to Section 2-2 (3). If so, the county governor's procedural action shall be to the benefit of that person, even if they are inconsistent with the person's own procedural actions.

Section 2-5. ***Party representative of artificial persons***

(1) The party representative of an artificial person shall be the person who has authority to accept service on behalf of the legal entity, cf. Section 191of the Courts of Justice Act. If more than one person has authority to accept service on behalf of the legal entity, the board of directors shall appoint the party representative.

(2) The party representative may delegate the power to act as party representative to another person who is employed by the legal entity or associated with the part of the undertaking to which the action relates. Delegation may apply for an individual case or for specific types of cases, and shall be in writing. Delegation cannot limit the rights of the representative pursuant to Section 2-3 (1).

Chapter 3. Counsel and co-counsel

Section 3-1. ***Right to use counsel***

(1) A party may be represented by counsel.

(2) A party may only be represented by one counsel at a time. The court may permit a party to be represented by more than one counsel if there are special grounds for doing so. If more than one counsel is present at a court hearing, the court and the opposite party shall be informed in advance which counsel is entitled to take procedural actions on behalf of the party at any given time.

(3) Provisions in this Act that refer to a party or parties shall apply correspondingly to the counsel for a party, unless it is expressly stated or implied by the context that the procedural right or obligation in question is incumbent on the party in person.

Section 3-2. ***Obligation to use counsel***

If a party who is not represented by counsel is unable to present the case in a comprehensible manner, the court may order the party to be accompanied by counsel.

Section 3-3. ***Who can act as counsel***

(1) Lawyers may act as counsel in cases that are conducted pursuant to the provisions of this Act. However, only lawyers who are entitled to appear before the Supreme Court can be engaged as counsel in cases that involve an oral hearing before the Supreme Court.

(2) An authorised assistant lawyer may act as a lawyer pursuant to this Act unless otherwise provided by Section 223, paragraph one of the Courts of Justice Act.

(3) A close relative of a party may act as counsel for the said party except in proceedings before the Supreme Court or if the court rejects the person in question as being incapable. If the dispute involves a business undertaking, the same shall apply to employees and other persons affiliated with this part of the undertaking.

(4) The court may permit another suitable person of legal age to act as counsel. Persons involved in commercial or regular provision of legal services may only act as counsel if they satisfy the requirements of Section 218 of the Courts of Justice Act.

(5) A foreign lawyer may act as counsel if the court finds no objections to this in view of the nature of the case and other circumstances.

(6) The King shall issue regulations that prescribe the extent to and the conditions under which lawyers domiciled in other EEA states are entitled to act as counsel.

Section 3-4. ***Authority to represent a party in legal proceedings as counsel***

(1) Counsel may take any procedural action on behalf of the party he/she represents. Any limitations on counsel's authority shall not be binding on the court or the opposite party.

(2) A lawyer is not required to present evidence of his/her authority unless the court finds this necessary. Other counsel shall present written authority if the party is not present in person and confirms the authority. If authority is insufficiently established, proceedings may still commence if adjournment would be harmful.

Section 3-5. ***The relationship between the actions of the party and the actions of counsel***

(1) The party is entitled to act alongside counsel.

(2) The actions and omissions of counsel operate both to the advantage and to the disadvantage of the party.

(3) A party who is present in court is bound by the actions of counsel unless the party immediately raises an objection.

Section 3-6. ***Termination of counsel's authority***

(1) Counsel's authority to represent a party may be revoked at any time. The revocation shall be binding on the court and the opposite party when notice of revocation is given to them.

(2) Counsel may withdraw from representing a party in legal proceedings. Counsel who withdraws is under a duty to take procedural actions that cannot be postponed without exposing the party to loss. The withdrawal shall be binding on the court and the opposite party when they receive notice of revocation.

Section 3-7. ***Co-counsel***

(1) A party may be assisted by co-counsel. Co-counsel must satisfy the conditions for acting as counsel pursuant to Section 3-3.

(2) The court shall determine the extent to which co-counsel is permitted to address the court and to examine parties and witnesses alongside or instead of counsel.

(3) Submissions made by co-counsel operate both to the advantage and to the disadvantage of the party unless the party immediately raises an objection.

Section 3-8. ***Determination by the court of counsel's fees***

(1) A party or counsel may apply to the court to determine counsel's fees. When determining the fee, consideration shall be made to the costs that are reasonable to impose on the party in view of the nature of the litigation, the importance of the case and the relationship between the party and counsel.

(2) An application pursuant to subsection (1) must be filed no later than one month after the ruling in the relevant instance has been served.

Chapter 4. Substantive and territorial jurisdiction

I Substantive jurisdiction

Section 4-1. ***Substantive jurisdiction***

(1) Conciliation boards hear cases referred to in Section 6-2.

(2) Unless otherwise provided in subsection (1) or (3), the district courts are the ordinary courts of first instance for cases brought before the courts.

(3) The courts of appeal hear cases in the first instance where specifically provided, appeals referred to in Section 29-1 and requests for reopening referred to in Section 31-3 (3).

(4) The Supreme Court hears cases referred to in Sections 30-1 and 31-1.

Section 4-2. ***Transfer from the district court to the conciliation board***

If an action is filed directly with the district court contrary to Section 6-2 (2), the case shall be referred to a conciliation board with territorial jurisdiction. If more than one conciliation board has jurisdiction, the claimant may chose the conciliation board to which the case shall be referred. The transfer entails that the writ of summons shall be treated as a complaint to the conciliation board.

II Territorial jurisdiction (venue)

Section 4-3. ***International venue***

(1) Disputes in international matters may only be brought before the Norwegian courts if the facts of the case have a sufficiently strong connection to Norway.

(2) If no venue can be established pursuant to Sections 4-4 and 4-5 but the case is still subject to Norwegian jurisdiction, an action may be filed with Oslo District Court. If the defendant has an asset in the realm that can be applied to settle the claimant's claim, an action may instead be filed with the court of the place where the asset is located.

Section 4-4. ***Ordinary venue***

(1) An action may be filed with the court of the ordinary venue of the defendant.

(2) The ordinary venue of natural persons is the place of their habitual residence. A person who has habitual residence in multiple judicial districts has an ordinary venue in each such district.

(3) Undertakings registered in the Register of Business Enterprises have their ordinary venue at the place where the head office of the undertaking is located according to such registration. Foreign business undertakings that have a branch, agency or similar place of business in Norway have an ordinary venue at this place of business if the action relates to activities at that location.

(4) The ordinary venue of the State is Oslo. County authorities, municipalities and intermunicipal cooperations have their ordinary venue at the place where the main administrative centre is located.

(5) Enterprises or associations that have no ordinary venue pursuant to subsections (3) and (4) have their ordinary venue at the same location as the person who shall be served the writ of summons.

Section 4-5. ***Venues which may be elected by the claimant***

(1) Real property: Actions relating to real property may be brought in the judicial district where the real property is situated. If the property is situated in more than one judicial district, an action may be brought in each of the districts. The same applies if the action relates to several adjacent real properties situated in different judicial districts.

(2) Contractual relationships: Actions relating to contractual relationships may be brought at the location where the obligation upon which the action is based has been performed or is to be performed. This does not apply to claims for the payment of money if the defendant has an ordinary venue in Norway pursuant to Section 4-4.

(3) Damages in tort: Actions for damages for economic and non-economic loss in tort and actions against an insurer in matters relating to cover for such loss may be brought in the place where the damage originated or

where its effect occurred or may occur. If the effect occurred in more than one place, the action may be brought in the place where the main proportion of the effect occurred.

(4) Employment arrangement: An action by an employee against his/her employer for claims arising out of an individual employment arrangement may be brought at the place of work or at the place where the employee normally performs his/her work. If there is no such place, the action may be brought at the place of business from where the employee was employed.

(5) Maritime relations: Actions arising out of maritime relations may be brought in the judicial district where the vessel's port of registry is situated. If the vessel has been arrested, an action relating to the claim for the payment of money secured by such arrest may be brought at the place where such arrest took place. The same applies if the vessel has been released or arrest has been avoided by the provision of security. Actions directed at the shipmaster pursuant to Section 73 of the Maritime Act and actions against the shipmaster or crew relating to obligations incurred during service may be brought in the judicial district in which the vessel is docked when the writ of summons is served.

(6) Inheritance: Actions against heirs may be brought at the most recent ordinary venue of the deceased. This does not apply if the estate is under public administration, if the administration of the estate has been completed or if more than 6 months have elapsed since the date of death.

(7) Consumer relations: A consumer who has entered into an agreement with a trader with respect to goods or services for personal use may bring an action against such a trader at his/her own ordinary venue. This does not apply if the agreement has been entered into by the consumer in person at the trader's permanent place of business.

(8) Actions against the State or county authorities: Actions against the State may be brought at the claimant's ordinary venue. Actions against county authorities may be filed with the court in the county where the claimant has his/her ordinary venue.

(9) Actions against insurance companies: Actions against insurance companies for payment in insurance claims may be brought at the ordinary venue of the claimant.

Section 4-6. ***Agreed venue***

(1) An action may be filed with the court agreed upon by the parties. Such an agreement may either exclude or supplement the venues stipulated in Sections 4-3 to 4-5.

(2) An agreement that broadens or limits the international jurisdiction of the Norwegian courts must be in writing.

(3) An agreement between a consumer and a trader that limits the right to bring an action beyond what is provided in Sections 4-4 and 4-5 shall be entered into in writing. The agreement is not binding on the consumer if it was entered into before the dispute arose.

Section 4-7. ***Hearing on venue. Referral***

(1) If an action is filed with a court that lacks territorial jurisdiction, the court shall refer the case to a court with territorial jurisdiction. If more than one court has territorial jurisdiction, the claimant may choose the court to which the case shall be referred.

(2) Section 38 of the Courts of Justice Act applies to the referral of a case to a different court.

(3) If no Norwegian court has territorial jurisdiction, the case shall be rejected.

Section 4-8. ***Lugano Convention 2007***

The Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, including protocols and annexes, adopted in Lugano on 30 October 2007 (the Lugano Convention 2007), applies as law. The annexes apply insofar as these are binding on Norway at all times.

Part II – Mediation and clarification of the case

Chapter 5. Obligations before bringing action

Section 5-1. ***Scope***

(1) This Chapter applies to proceedings in legal disputes before an action is brought before a district court pursuant to Chapter 9 or 10, except for claims concerning administrative decisions relating to coercive measures pursuant to Chapter 36.

(2) Section 5-2 (1) first and second sentence also apply before an action is brought before a conciliation board.

Section 5-2. ***Notice of claim and grounds for the claim***

(1) Before bringing an action, the party shall give notice in writing to the person or persons against whom the action may be brought. The notice shall contain information about the claim and the grounds for the claim. The notice shall invite the opposite party to respond to the claim and the grounds for the claim.

(2) A person who receives notice of claim shall respond to the claim and the grounds for the claim within a reasonable time. If the claim is contested in whole or in part, he/she shall specify the grounds upon which it is contested. If he/she is of the opinion that he/she has a claim against the party who has given notice of claim, he/she shall, at the same time, give notice of his/her claim and the grounds for his/her claim, and invite the opposite party to respond.

(3) A notice of claim pursuant to subsections (1) and (2) that is made to a private party shall be delivered in paper form unless otherwise agreed between the parties or there is an ongoing business relationship between the parties whereby communication normally takes place electronically.

Section 5-3. ***Obligation to provide information about important evidence***

(1) A person who gives notice of claim or who contests a notified claim is also obligated to provide information about important documents or other evidence of which he/she is aware and of which he/she cannot expect the opposite party to be aware. This applies irrespective of whether such evidence supports his/her position or the position of the opposite party.

(2) The obligation in subsection (1) applies subject to the limitations pursuant to the rules on prohibited evidence and exceptions from evidence in Chapter 22 and other rules of evidence in this Act.

Section 5-4. ***Attempt to reach amicable settlement***

The parties shall investigate whether it is possible to reach an amicable settlement of the dispute before action is brought, and shall make a strong attempt at settlement, if necessary through conciliation before a conciliation board, non-judicial mediation or by bringing the dispute before a non-judicial dispute resolution board.

Chapter 6. Proceedings before the conciliation board

Section 6-1. ***Principles governing the work of the conciliation board***

(1) The procedure before the conciliation board shall assist the parties in achieving a simple, swift and inexpensive resolution of the case through mediation or judgment.

(2) The provisions in Part I, IV and V of this Act shall apply to the conciliation board insofar as these are appropriate and this Chapter does not provide otherwise.

Section 6-2. ***Cases that are heard by the conciliation board***

(1) The conciliation board can hear cases that can be brought by writ of summons to the district court pursuant to the provisions on general procedure or small claims procedure in this Act. However, the conciliation board shall not hear:

a) family cases, except for cases solely concerned with financial settlement upon separation or sharing of travel costs in connection with access,
b) cases against a public authority, institution or civil servant concerning matters which are not exclusively of a private law nature,
c) cases concerning patents, topographies of integrated circuits, plant breeders' rights, trademarks and designs,

d) cases concerning the validity of an arbitration award or an in-court settlement,
e) cases decided on by a tribunal if it is provided by statute that the decisions of such tribunal shall be binding on the parties unless the case is brought before the courts, nor
f) other cases in respect of which it is provided by statute that mediation before the conciliation board shall not take place.

(2) Before an asset claim can be heard by the district court, it shall be heard by the conciliation board provided the conditions in subsection (1) are fulfilled. However, this shall not apply if:
a) the amount in dispute is at least NOK 125,000 and both parties have been assisted by a lawyer,
b) non-judicial mediation pursuant to Chapter 7 has been attempted,
c) the case has been heard on its merits by the complaints board with the consent of the opposite party, or by a similar tribunal that has been publicly approved pursuant to statute, or
d) a new claim or a new party is introduced pursuant to Sections 15-1 to 15-3 after the writ of summons has been served.

Section 6-3. ***Complaint to the conciliation board***

(1) A case shall be brought before the conciliation board by way of complaint. The complaint shall be submitted orally or in writing to the conciliation board pursuant to the provisions of Chapter 12.

(2) The complaint shall state:
a) the name of the conciliation board,
b) the names and addresses of the parties and of any counsel or party representative pursuant to Sections 2-3 to 2-5,
c) the claim that is being made and a prayer for relief which clearly states the result the claimant is requesting by way of judgment, and
d) the grounds for the claim, which must always contain a concise description of the facts upon which the claim is directly based.

(3) Copies of documents upon which the claim is directly based should be attached. If the claimant is claiming compensation for costs for non-judicial debt collection, the request for payment pursuant to Section 10 of the Debt Collection Act, cf. Section 12, shall be attached.

(4) When a case is to be heard by the conciliation board pursuant to Section 7-7 of the Enforcement Act, a request for execution shall be treated as a complaint to the conciliation board.

(5) If the conciliation board does not have jurisdiction over the case, the complaint shall be rejected. If the claim contains errors that can be rectified, the claimant shall first be given the opportunity to rectify these pursuant to Section 16-5. A claim that is submitted to the incorrect conciliation board pursuant to the provisions of Chapter 4 shall be referred to the appropriate conciliation board pursuant to Section 4-7.

Section 6-4. ***Reply***

(1) If the conciliation board proceeds with the case, the complaint shall be served to the defendant together with an order to file a reply within a time limit, which shall normally be fixed at two weeks. The reply shall be submitted orally or in writing pursuant to the provisions of Chapter 12. The conciliation board shall provide necessary guidance on the mandatory contents of the reply and the consequences of not submitting a reply within the time limit or the reply being incomplete.

(2) In the reply, the defendant shall state whether the claim in the complaint is accepted or contested, or whether he/she objects to the conciliation board hearing the case. If the claim is contested, the reply should also briefly state the grounds for the defendant's position. Copies of important documents should be attached.

(3) If the reply is not submitted within the time limit and there are no grounds to believe that the defendant is lawfully absent pursuant to Section 16-12 (2), the conciliation board shall pronounce judgment in default if the conditions for doing so are fulfilled. If there are grounds to believe that the defendant's failure to respond is due to lawful absence, the conciliation board shall either fix a new time limit or convene a meeting.

(4) If, in the reply, the defendant has accepted the prayer for relief in the complaint, the conciliation board shall pass judgment accordingly.

(5) When it is decided that a case will be heard pursuant to Section 7-7 of the Enforcement Act, the recording of the defendant's objections shall be treated as a reply.

Section 6-5. ***Notice of meeting***

(1) The conciliation board shall summon the parties to a meeting to hear the case pursuant to Section 13-2. The meeting should take place within three months after the complaint was submitted.

(2) The notice shall invite the parties to submit copies of any new documents to the conciliation board and the opposite party at least one week before the meeting. The parties shall be specifically informed of the one-week time limit for giving notice of the presentation of evidence pursuant to Section 6-8 (4), for informing about the use of a lawyer pursuant to Section 6-7 (5) and for an application to discontinue the proceedings pursuant to Section 6-11 (2).

Section 6-6. ***Duty of the parties to attend***

(1) A party who has his/her ordinary venue in the municipality or in a neighbouring municipality has a duty to attend either in person or by a party representative pursuant to Section 2-3 unless he/she is lawfully absent. A party in a case which concerns a personally run business undertaking may be represented by one of his/her employees.

(2) A party who is not obliged to attend in person pursuant to subsection (1) may attend by counsel.

(3) The case shall be rejected if the claimant fails to attend and there are no grounds to believe that he/she is lawfully absent. If the defendant fails to attend, the conciliation board shall pronounce judgment in default if the conditions for doing so are fulfilled. If the conditions for striking out or judgment in default are not fulfilled, the case shall be adjourned to a new meeting unless the party who has attended demands that the proceedings be discontinued.

Section 6-7. ***Counsel and co-counsel***

(1) As counsel before the conciliation board, the parties may use:

a) a lawyer or authorised assistant lawyer,
b) a legal services provider pursuant to Section 218 (2) nos. 1 to 3 of the Courts of Justice Act,
c) a licensed debt collector who has a debt collection assignment for the case,
d) a spouse or cohabitant, a relative in a direct line of ascent or descent or a sibling,
e) an employee or other person affiliated with the business undertaking to which the case relates, or
f) a suitable person of legal age, subject to consent from the conciliation board in each individual case.

(2) As counsel at a meeting the parties may also use:

a) a person of legal age who is employed by and under the professional supervision of counsel pursuant to subsection (1)(a) – (c), or
b) a person on the conciliation board's selection of permanent representatives pursuant to subsection (6).

(3) The following persons cannot be engaged as counsel before the conciliation board:

a) a person who carries out work or assignments for the conciliation board, or
b) a person who provides commercial or regular legal services but who does not fall within the scope of subsections (1) or (2).

(4) At a meeting of the conciliation board, the parties may be assisted by someone who is qualified to act as counsel before the conciliation board.

(5) If a party intends to be accompanied by a lawyer as counsel, co-counsel or party representative, he/she shall notify the opposite party and the conciliation board accordingly at least one week before the meeting. In such case, the opposite party may be accompanied by a lawyer without specific notice.

(6) Each conciliation board shall maintain a selection of permanent representatives. The panel shall be appointed by the municipality for a period of four years at a time. The King issues regulations on the number of representatives, their qualifications and remuneration etc.

Section 6-8. ***The procedure of meetings***

(1) The conciliation board shall attempt through mediation to bring the dispute to an amicable resolution in accordance with the purpose of conciliation board proceedings pursuant to Section 6-1 (1). Section 8-2 applies correspondingly. If the parties have declared that they do not want the conciliation board to pass judgment, the conciliation board may propose solutions and express views on the dispute regardless of the restrictions in Section 8-2 (1) third sentence.

(2) The parties shall be given the opportunity to present their views on the case and to respond to the views of the opposite party. The conciliation board shall determine whether counsel or co-counsel of a party present in person shall be permitted to speak in addition to the party.

(3) Documents shall be reviewed during the course of the parties' presentation of the case. If a party presents new documentary evidence at the meeting, the opposite party shall be given the opportunity to assess and refute such material. If required, the case shall be adjourned pursuant to subsection (7).

(4) The conciliation board can permit other evidence to be presented if the evidence is deemed to be of material importance and its presentation will not unduly delay the case. The conciliation board cannot appoint experts or compel anyone to appear as a witness or disclose evidence. The opposite party and the conciliation board shall receive notice at least one week before the meeting if a party wishes to present witnesses who will appear voluntarily or if it wishes evidence to be reviewed by the court.

(5) Parties and witnesses shall not give affirmation but shall be encouraged to tell the truth and shall be made aware of the liability associated with making a false statement.

(6) If the parties reach an agreement, a settlement can be entered into pursuant to the provisions of Section 19-11. If the parties have previously declared that they do not want the conciliation board to pass judgment, the meeting shall close when mediation is concluded. If the conciliation board finds that there may be a basis for passing judgment pursuant to Section 6-10, the conciliation board shall ask the parties whether they wish it to do so and, if so, whether they have anything further to add.

(7) The conciliation board shall seek to finalise the proceedings at the first meeting. The meeting shall only be adjourned if there are grounds to believe that further proceedings will lead to the case being decided by the conciliation board.

Section 6-9. ***Public access, access to information, and the court record***

(1) The meetings of the conciliation board shall be public to the extent provided by Chapter 7 of the Courts of Justice Act. If the parties have declared that they do not want the conciliation board to pass judgment, the mediation may take place in camera if both parties so request.

(2) The parties and the public shall be entitled to access to the documents of the conciliation board relating to the case to the extent provided in Chapter 14.

(3) The record of the meeting of the conciliation board shall contain the information stated in Section 13-6.

Section 6-10. ***The power of the conciliation board to pass judgment***

(1) The conciliation board may pass judgment with the consent of both parties.

(2) The conciliation board may pass judgment at the request of one of the parties if the case concerns an asset claim and the amount in dispute is less than NOK 125,000.

(3) In addition, the conciliation board may pass judgment at the request of the claimant if:

a) the conditions for passing judgment in default are fulfilled, or
b) the only defence raised by the defendant in a case concerning a claim for the payment of money is inability to pay or other clearly untenable objections.

(4) The conciliation board may only pass judgment if its members agree that there are sufficient grounds for passing judgment.

Section 6-11. ***Discontinuation of the case***

(1) After it has received the reply, the conciliation board may discontinue the conciliation proceedings if it finds it unlikely that the case is suited for continued conciliation board proceedings.

(2) Up until one week before the hearing, the defendant can demand that the conciliation board proceedings shall be discontinued if the case is brought before a tribunal referred to in Section 6-2 (2)(c). However, this shall not apply if the case has previously been discontinued pursuant to this provision.

(3) The case shall be discontinued following an unsuccessful attempt at mediation if the conciliation board does not pass judgment.

(4) A party may request that the conciliation proceedings be discontinued if the hearing has not been adjourned within three hours. The conciliation proceedings shall be discontinued at the request of a party if the case is not concluded within three months after the complaint to the conciliation board was served. The parties can waive the right to make such a request.

(5) Where conciliation proceedings have been discontinued, the case may only be brought before the conciliation board again:

a) after 12 months have elapsed,
b) with the prior consent of the opposite party, or
c) if the proceedings before a tribunal referred to in subsection (2) have been concluded.

Section 6-12. ***The rulings of the conciliation board***

(1) Claims that form the subject matter of the dispute shall be determined by way of judgment. All other rulings shall be made by way of decision.

(2) Outside conciliation meetings, all rulings on the proceedings of the case that can be made by a preparatory judge pursuant to Section 19-2 (2) shall be made by the chairman of the conciliation board, or, in accordance with regulations issued pursuant to Section 27 (6) of the Courts of Justice Act, by the secretariat of the conciliation board. If there is no doubt about the ruling, the chairman of the conciliation board may also pass judgment pursuant to Section 6-4 (3) and (4).

(3) If the case is disputed, grounds for the judgment shall be given. In its grounds, the conciliation board shall briefly explain what the case applies to, state the parties' prayers for relief and describe the factors which the conciliation board has taken into account in reaching its conclusion. The parties' prayers for relief need not be stated if these are included in the record from the meeting that is distributed together with the judgment.

(4) Decisions that conclude the case shall state the statutory provision upon which the ruling is based.

(5) Judgment shall be pronounced within one week after the case has been closed for judgment.

Section 6-13. ***Costs***

(1) Compensation for costs before the conciliation board shall only be granted for the following items:

a) the fee for the hearing by the conciliation board and fee for the request for execution when a case is heard by the conciliation board pursuant to Section 7-7 of the Enforcement Act,
b) the travel expenses of parties who are under a statutory obligation to attend in person,
c) an amount of up to one half of the court fee to cover attendance expenses for parties who are not under a statutory obligation to attend in person, and
d) an amount of up to four times the court fee to cover legal assistance in the preparation of the complaint or the reply or other preparation of the case, but not exceeding an amount equivalent to the court fee if the claimant also claims compensation for costs incurred in non-judicial enforcement pursuant to subsection (2), and
e) an amount in addition to the amounts referred to in c) and d) above equivalent to the ordinary rate of value added tax unless the legal circumstances in the case arise principally out of business activities of the party that is liable to pay value added tax.

(2) Claims for compensation for costs incurred in non-judicial enforcement (debt collection) shall not be deemed to be costs for the purposes of this section.

(3) Claims for compensation from the State pursuant to Section 20-12 for errors in the proceedings before the conciliation board shall be brought before the district court.

(4) The King can issue regulations on the ordinary rates for legal assistance pursuant to subsection (1)(d).

Section 6-14. ***Remedies against the rulings of the conciliation board***

(1) Judgments of the conciliation board may be reviewed by way of action before the district court pursuant to the provisions in Chapters 9 and 10. A writ of summons must be filed within one month. Reinstatement may be granted if the time limit is exceeded. Section 9-2 (4) shall apply to simplified writs of summons.

(2) Only the following rulings may be appealed:
a) rulings on costs, court fees or the fixing of legal fees, and
b) rulings to amend a judgment beyond what is permitted by Sections 19-8 or 19-9.

(3) The appeal shall be lodged with the district court, which shall make a new ruling on the merits on the issues that are subject to review. Subsection (1) fourth sentence on simplified formulation of writs of summons shall apply correspondingly to the notice of appeal. In all other respects, the case shall be heard pursuant to the rules on appeals against decisions to the court of appeal.

(4) A claim for reinstatement cannot be made for mistakes before the conciliation board.

(5) Judgments of the conciliation board may be reopened by application to the district court pursuant to the provisions of Chapter 31.

Chapter 7. Non-judicial mediation

Section 7-1. ***Agreement on non-judicial mediation***

(1) The parties may, in respect of a legal dispute, agree to non-judicial mediation pursuant to this Act. The agreement shall be in writing and shall specify that the provisions relating to non-judicial mediation in this Act shall apply. An agreement entered into before a legal dispute has arisen shall not be binding on a consumer.

(2) The parties may at any time demand that the non-judicial mediation shall be concluded.

Section 7-2. ***The mediator***

(1) The parties may agree on who shall act as mediator or on the procedure for appointing the mediator. At the request of the parties, the district court shall appoint a mediator from the court's selection of judicial mediators. The request shall be made in writing and signed by both parties. The request shall state the subject matter of the dispute. If the court declines to appoint a mediator, the decision may be appealed by the parties acting jointly. Section 29-3 (3) does not apply.

(2) The mediator shall be impartial and independent of the parties and qualified for the task. The mediator shall, at his/her own initiative, provide information about circumstances that could cast legitimate doubt on his/her impartiality or independence. Section 8-4 (2) applies correspondingly to mediators appointed by the court.

(3) The mediator may engage an assistant with the consent of the parties. The parties may require the court to appoint the assistant, who does not need to be appointed from the court's selection of judicial mediators. Subsection (2) applies correspondingly for the assistant.

(4) Mediators and assistants may make their participation in out-of-court mediation conditional upon an advance payment or security for their claim for remuneration pursuant to Section 7-4. The King may issue regulations with more detailed provisions relating to mediators and assistants appointed by the court.

Section 7-3. ***The mediation procedure***

(1) Parties shall participate in non-judicial mediation in person or be represented by a person authorised to enter into an amicable settlement agreement.

(2) The mediator shall adhere to the parties' agreement concerning the procedure to be followed in the non-judicial mediation as long as this enables proper conduct of the mediation.

(3) In the absence of an agreement on the procedure to be followed, the procedure shall be determined by the mediator in consultation with the parties. Meetings with the parties may be held jointly or separately. The mediator shall act impartially and promote an amicable settlement. The mediator may present proposals for a solution and may express his/her views on the strengths and weaknesses of the parties' legal and factual arguments.

(4) A record shall be kept of the mediation stating who has participated. The identity of any third party who gives testimony shall be recorded. A party who makes an offer of settlement may require that the offer be recorded.

(5) Non-judicial mediation shall be concluded upon the entering into of an amicable settlement, a declaration by the mediator that further mediation would be inexpedient or a declaration by one or both of the parties that they do not request further mediation. The record shall state that mediation has concluded.

(6) Section 8-6 relating to prohibited evidence and the duty of confidentiality following judicial mediation applies correspondingly to non-judicial mediation pursuant to this Chapter.

Section 7-4. ***The mediator's remuneration***

(1) The mediator and the assistant are entitled to remuneration for their work. Unless otherwise agreed, the parties are accountable for the remuneration in equal shares.

(2) The court can be required to determine the remuneration of mediators and assistants appointed by the court. The King may issue regulations with more detailed provisions on remuneration.

Chapter 8. Mediation and judicial mediation before the ordinary courts

I Amicable settlement and mediation

Section 8-1. ***Amicable settlement of disputes before the courts***

(1) At each stage of the case, the courts shall consider the possibility of a full or partial amicable settlement to the legal dispute through mediation or judicial mediation, unless the nature of the case or other circumstances suggest otherwise.

(2) In proceedings before the conciliation board, this consideration shall take place through mediation pursuant to the provisions in Section 6-8.

Section 8-2. ***Mediation***

(1) Mediation takes place by the court attempting to provide a basis for an amicable settlement, either at a court hearing or through other contact with the parties. During mediation, the court shall not hold separate meetings with each party nor receive information that cannot be communicated to all parties involved. The court may not present proposals for a solution, offer advice or express points of view that could impair confidence in the impartiality of the court.

(2) If the parties reach an agreement, the settlement may be concluded as an in-court settlement pursuant to Section 19-11.

II Judicial mediation

Section 8-3. ***Judicial mediation***

(1) The court may decide that judicial mediation pursuant to Sections 8-4 to 8-6 shall take place instead of or in addition to mediation pursuant to Section 8-2.

(2) When making the ruling, the court shall take into account the views of the parties regarding judicial mediation and the likelihood of reaching a settlement or simplifying the case. The court shall also take into account whether judicial mediation may be inappropriate due to differences in the relative strength of the parties, the costs of judicial mediation, previous attempts at mediation or other circumstances. Judicial mediation shall only take place against the will of the parties when special circumstances so dictate.

Section 8-4. ***The judicial mediator***

(1) The preparatory judge in the case, one of the other judges of the court or a person from the court's selection of judicial mediators may act as the judicial mediator. The court may, with the consent of the parties, appoint a

judicial mediator who is not on the selection of judicial mediators. The court may also appoint an assistant to the judicial mediator with the consent of the parties.

(2) Judicial mediators and assistants are subject to the same requirements as to impartiality as judges. An appointment of a judicial mediator or an assistant may be appealed on the grounds of partiality.

(3) An assistant or a judicial mediator who is not a judge at the court shall be entitled to remuneration determined by the court. The remuneration shall be determined according to legal aid rates unless the court, the parties and the judicial mediator or assistant have agreed otherwise. The King may issue regulations with more detailed provisions on remuneration.

(4) The chief judge shall establish a selection of judicial mediators. Courts may have a joint selection. The duty to establish a selection of judicial mediators does not apply to the Supreme Court. The members of the selection should together cover the range of expertise required for judicial mediation before the court. The judicial mediators in the section shall have the qualifications necessary to act as judicial mediators. The King may issue regulations on the selection of judicial mediators, including qualification requirements.

Section 8-5. ***The proceedings in and the content of judicial mediation***

(1) Judicial mediation shall take place outside court hearings. The judicial mediator shall determine the procedure to be followed in consultation with the parties. Meetings with the parties may be held jointly or separately.

(2) The parties shall attend the judicial mediation in person and may be accompanied by counsel.

(3) The judicial mediator shall act impartially and seek to clarify the parties' interests in the dispute with a view to reaching an amicable settlement. The mediator may identify proposals for a solution and may discuss the strengths and weaknesses in the parties' legal and factual arguments.

(4) The judicial mediator shall determine whether and to what extent evidence shall be presented at judicial mediation. Evidence shall not be presented without the consent of the parties and any third party by whom evidence or testimony is to be given.

(5) The judicial mediator shall maintain a record of mediation meetings, which shall state the name of the court, the time and place of the mediation meeting, the case number, the names of the mediator, parties and counsel, whether the parties attend in person and, if applicable, the names of representatives. The record shall state whether witnesses or experts have been examined and their identity. A party who makes an offer of settlement may require that the offer be recorded. The record shall form part of the case documents.

(6) If the parties reach an agreement, the settlement may be concluded as an in-court settlement, which shall be recorded in the judicial mediation record. In all other respects, Section 19-11 (2) to (4) apply correspondingly.

Section 8-6. ***Prohibited evidence and duty of confidentiality***

(1) The parties cannot, in the same or in another case, testify as a party or a witness about what emerged at the judicial mediation. However, they are not precluded from providing information about specific evidence that was referred to and which has not emerged in another manner, or about proposals for an amicable settlement that are recorded pursuant to Section 8-5 (5). In all other contexts, the parties shall refrain from disclosing matters that were conveyed to them on condition of confidentiality.

(2) Judicial mediators and other persons who fall outside the scope of subsection (1) shall maintain confidentiality about what took place during the judicial mediation. However, they may testify as to whether a written agreement is in accordance with what was agreed during the judicial mediation.

Section 8-7. ***Further proceedings if no agreement is reached***

(1) If the case is not concluded during mediation, it shall continue to be heard before the court. The court shall, insofar as possible, seek to ensure that unsuccessful judicial mediation does not cause delay in the progress of the case.

(2) A judge who has acted as judicial mediator in the case may only participate in the further hearing of the case at the request of the parties and if the judge does not consider it imprudent. Section 109 of the Courts of Justice Act shall not apply in the event of a change of judge.

Part III – The proceedings in the court of first instance

Chapter 9. General procedure

I General

Section 9-1. ***Scope***

This Chapter applies to proceedings in the district court and to proceedings in the court of appeal in cases where the court of appeal is the court of first instance.

II Preparation of the case

Section 9-2. ***Instituting proceedings. The writ of summons***

(1) An action shall be brought by submission of a writ of summons to the court. The writ of summons shall be submitted in writing or orally pursuant to Section 12-1 (2).

(2) The writ of summons shall state:

a) the name of the court,
b) the names and addresses of the parties, their party representatives and counsel,
c) the claim that is being asserted and a prayer for relief which states the outcome the claimant is requesting by way of judgment,
d) the factual and legal grounds upon which the claim is based,
e) the evidence that will be presented,
f) the basis upon which the court has jurisdiction to hear the case, if this may be in doubt, and
g) the claimant's view on the further proceedings of the case, including any agreements which may be of relevance to the proceedings.

(3) The writ of summons shall provide a basis for the parties and the court to hear the case in a sound manner. Claims, prayers for relief and the factual and legal grounds shall be stated in such a manner to enable the defendant to consider the claims and prepare the case. The claimant's argumentation shall not go further than necessary to satisfy these requirements. The writ of summons shall give the court a basis for assessing its jurisdiction and shall provide the information necessary to enable the writ of summons to be served and to contact the parties.

(4) If the action seeks review of a judgment of the conciliation board or of a decision by a tribunal that would have the effect of a judgment if it was not brought before the courts, it is sufficient to submit the decision to the court together with a statement that requests review and states the amendment that is being requested and the alleged error in the decision. The court shall obtain the documents from the body that has made the decision. Section 36-2 (1) applies to the institution of proceedings for review by the court of administrative decisions on coercive measures pursuant to Chapter 36.

Section 9-3. ***Written reply***

(1) Unless the court decides that the reply shall be submitted at a court hearing pursuant to Section 9-5, the defendant shall submit a written reply, or an oral reply which the court puts in writing, cf. Section 12-1 (2). The court shall set a time limit for the defendant to submit the reply or have it put in writing, which should normally be three weeks. The court shall provide necessary guidance on the mandatory contents of the reply and the consequences of not submitting a reply within the time limit or submitting a reply that is incomplete.

(2) The defendant shall state in his/her reply whether the claim is accepted or contested, or whether he/she objects to the court hearing the case.

(3) The reply should state:

a) the defendant's prayer for relief which states the outcome the defendant is requesting by way of judgment,

b) the factual and legal grounds upon which the prayer for relief is based,
c) the evidence that will be presented, and
d) the defendant's view on the further proceedings of the case.

(4) The defendant's argumentation shall not go further than necessary to provide an adequate basis for the further preparation of the case.

Section 9-4. ***Management of the case. Plan for further proceedings***

(1) The court shall actively and systematically manage the preparation of the case to ensure that it is heard in a swift, cost effective and sound manner.

(2) Immediately after the reply has been submitted pursuant to Section 9-3, the court shall, after discussions with the parties, prepare a plan for the further proceedings, including setting time limits and making necessary decisions. This includes:

a) whether judicial mediation or mediation at a court hearing should be attempted,
b) whether the case should be heard pursuant to special provisions,
c) whether court hearings shall be held during the preparatory stage and whether it could be appropriate to rule on the case following such a court hearing,
d) whether written submissions shall be made and form part of the basis for ruling on the case,
e) whether the proceedings in the case should be split,
f) a review of the presentation of evidence, including whether an on-site inspection, access to evidence or production of evidence is being requested, whether evidence shall be secured and whether an expert should be appointed,
g) whether the parties shall submit closing statements,
h) scheduling of the main hearing, which may only be set for a date more than six months after the date of submission of the writ of summons if special circumstances necessitate this,
i) whether the court shall sit with expert or regular lay judges, and
j) other issues of importance to the preparation of the case.

(3) Discussions pursuant to subsection (2) shall take place at a court hearing, which may be held in the form of a distance meeting. If justified by the need for progress in the case or if it is evident that discussions at a court hearing are not required, the court can request the parties to submit their remarks in writing or obtain the required clarification in some other manner.

Section 9-5. ***Court hearings during the preparatory stage***

(1) If the court decides that the reply shall not be submitted in writing, the reply shall be submitted at a court hearing during the preparatory stage, to which the parties shall be summoned pursuant to Section 13-2.

(2) At the court hearing, the defendant shall, in accordance with Section 9-3 (2), state his/her position regarding the claims and the jurisdiction of the court. A plan for the further proceedings in the case shall be discussed and determined pursuant to the provisions of Section 9-4.

(3) Court hearings other than those stipulated in subsection (1) and Section 9-4 (3) may be held if necessary for or appropriate to the further preparation of the case. Such court hearings may be held in the form of distance meetings. If at the main hearing the court is to sit with lay judges or more than one professional judge, the court may decide that the same shall apply to court hearings during the preparatory stage of the case.

(4) The court can pronounce judgment following proceedings at a court hearing during the preparatory stage provided that it has a sound basis for doing so and the parties have granted their consent.

Section 9-6. ***Remarks, objections and rulings on procedural issues***

(1) The parties shall be given the opportunity to submit remarks concerning issues of importance for rulings on procedural issues.

(2) A party shall raise any objection to procedural actions as soon as the party is able to do so. An objection that is raised at a later stage shall be disallowed unless the party was unaware of the basis for the objection and it would be unreasonable to disallow it.

(3) Rulings on procedural issues, including whether the case shall be rejected or dismissed, shall be made as early as possible during the preparatory stage. The procedural issue may be heard and decided on at the main hearing if this is considered expedient due to its connection to the claims to be decided on or other circumstances. If there are clear grounds for doing so, the court may find in favour of the defendant without addressing a doubtful issue regarding the striking out of the case.

(4) Rulings on procedural issues during the preparatory stage shall be made following a written hearing. Oral proceedings shall be held if required to fulfil the purposes of the Act regarding fair and sound proceedings. The oral proceedings may be limited to specific issues.

Section 9-7. ***Rulings based on agreement between the parties***

(1) If the parties agree on a claim and the agreement is binding on the court pursuant to Section 11-2, the claim shall be determined immediately on that basis. The court may postpone the ruling on the claim until the remaining rulings in the case are to be made unless the interests of one of the parties suggest otherwise and provided that such postponement is expedient in all other respects.

(2) A ruling pursuant to subsection (1) may be made notwithstanding that the parties disagree on the costs relating to the hearing of the claim.

Section 9-8. ***Simplified judgment proceedings***

(1) If it is evident that the claim that has been brought cannot succeed either in whole or in part or it is evident that the objections to the claim are unsustainable as a whole, the court may, at the request of one of the parties, rule on the claim by judgment following simplified judgment proceedings. The court shall only process a request for simplified judgment proceedings if it finds grounds to do so. No appeal may be brought against a decision of the court regarding such proceedings.

(2) Simplified judgment proceedings may take place at any time during the preparatory stage. Section 9-6 (4) applies correspondingly.

(3) The judgment may be appealed pursuant to the provisions relating to ordinary judgments. The appeal may be decided on pursuant to Section 29-12 (2).

Section 9-9. ***Type of proceedings and the basis for the ruling***

(1) The court shall rule on the subject matter of the action following oral proceedings at a main hearing pursuant to Section 9-14 or a written hearing pursuant to subsection (2), unless a ruling is made pursuant to Sections 9-5 (4), 9-7 or 9-8. In cases that are decided on following a main hearing, written submissions pursuant to subsections (3) and (4) shall be included in the grounds for the decision in the case.

(2) The parties may, with the consent of the court, agree that the ruling shall be made on the basis of a written hearing or a combination of a written hearing and a court hearing. Consent can only be given if it would result in the case being heard in a more effective and cost-efficient manner.

(3) If the case raises particularly complex legal or factual issues, the court may order the parties to provide written submissions on such specific issues. Written submissions can only be ordered if necessary to establish a considerably firmer basis for making a ruling and if the interests of cost-efficient proceedings do not suggest otherwise. The court can decide in more detail on the format and scope of the submissions. If a party objects to providing a written submission pursuant to this subsection, the issue shall be determined by interlocutory order.

(4) If the facts in the case are complex, the court may order the claimant to submit a brief chronological or other systematic account of the facts or part thereof. The defendant shall submit a reply stating which parts of the description of the facts are accepted and which parts are contested. With regard to the latter, the defendant shall provide his/her own brief account of the facts. The court can encourage the parties to cooperate on preparing accounts pursuant to this provision.

Section 9-10. ***Completion of the preparatory stage. Closing statements***

(1) The preparatory stage shall be completed two weeks prior to the main hearing, unless the court sets a different date.

(2) As a general rule, the court shall order the parties to submit a closing statement before the preparatory stage is completed. The closing statement shall briefly state the prayer for relief, the grounds upon which the prayer

for relief is based, the legal rules that are invoked and the evidence that the party will present. The closing statement shall be accompanied by a proposed schedule for the main hearing, cf. Section 9-11 (2).

Section 9-11. ***Preparation for the main hearing***

(1) The court shall summon the parties to the main hearing, cf. Section 13-2.

(2) After the preparatory stage has been completed, the court shall clarify how the main hearing will proceed. This includes, among other things, how the dispute will be presented, the time and date of oral testimony and how this will be given, issues relating to on-site inspections and the length of various submissions to be made during the course of the proceedings. The court may set timeframes for the parties' submissions, testimony from the parties and other presentation of evidence, provided that the timeframes are reasonable and appropriate.

III The main hearing

Section 9-12. ***The composition of the court during the main hearing***

(1) During the main hearing, the court shall sit with two lay judges in addition to the professional judge or the professional judges if requested by one of the parties or deemed by the court to be desirable.

(2) The lay judges shall be expert lay judges if required for the proper conduct of the case.

(3) The expert lay judges shall be appointed to ensure that that they have the expertise suited to the case. Lay judges with different expertise may be appointed. A person may only be appointed as lay judge with legal expertise if nominated by both parties.

(4) The chief judge of the district court may decide that the court shall sit with more than one professional judge at the main hearing, if:

a) the case involves particularly complex legal or factual issues, or other circumstances so require, or
b) the parties have agreed to such procedure and pursuant to this agreement have waived the right to appeal, and the value of the subject matter of the dispute exceeds the minimum required for an appeal to the court of appeal pursuant to Section 29-13.

(5) Three professional judges shall participate if the district court is to sit with more than one professional judge. If the court is also to sit with lay judges, it shall sit with two professional judges and three lay judges. Deputy judges cannot sit in cases where the court is to sit with more than one professional judge. If there are fewer permanent professional judges attached to the court than the number of judges who are to participate in hearing the case, the court shall summon a judge from another court pursuant to Section 19 (2) of the Courts of Justice Act. The chief judge will decide who shall be the presiding judge.

Section 9-13. ***Administration of the main hearing***

(1) At the start of the main hearing, the court shall verify that circumstances are conducive to the proceedings taking place as determined during the preparatory stage and in a manner that is appropriate for conducting the case.

(2) The court shall ensure that the main hearing proceeds in a focused and proper manner without unnecessary delays for the court, the parties, the witnesses and the experts. Proceedings on issues that are irrelevant to the case shall be denied. The same applies to unnecessary repetition, unnecessarily broad proceedings and proceedings on issues that have already been sufficiently discussed. If timeframes for submissions or the presentation of evidence have been agreed or imposed, the court shall ensure that these are observed and may make such preclusions as are required.

Section 9-14. ***Oral main hearing***

(1) The proceedings during the main hearing shall be oral and the presentation of evidence shall be immediate pursuant to Section 21-9.

(2) The requirement that the proceedings shall be oral shall not prevent a party, a witness, an expert or counsel from presenting and referring to supporting documents to assist his/her submission. Such supporting documents shall not constitute evidence in the case independent of the explanation they are intended to assist. Nor shall they be formulated as written pleadings. If by virtue of the complexity or proportion of a supporting document,

the opposite party needs to review it before it is presented, it shall be submitted in sufficient time for the opposite party to be able to review it. If the supporting document is not submitted in sufficient time, the court can disallow it if its use would otherwise delay the progress of the case. Section 9-16 (2) shall apply correspondingly.

Section 9-15. ***The different stages of the main hearing***

(1) The court shall clarify the prayer for relief, the grounds upon which the prayer is based and the previously announced presentation of evidence.

(2) The claimant shall present the case in a focussed manner and review documentary evidence and other evidence that will not be given in the course of testimony or at an on-site inspection.

(3) The defendant shall be given the opportunity to present his/her views. The defendant's presentation shall preferably be limited to correcting and supplementing the claimant's presentation.

(4) The parties shall give testimony. The claimant shall testify first unless special reasons suggest otherwise.

(5) Witnesses shall be examined.

(6) Other evidence shall be presented, including the examination of experts.

(7) The parties shall each be permitted to address the court twice by way of closing submissions. The claimant shall address the court first unless, for special reasons, the court decides otherwise.

(8) The court may vary the order of the different stages of the main hearing. Presentation of evidence after the parties' closing submissions pursuant to subsection (7) shall only be permitted with the parties' consent or if they are given the opportunity to argue their views on such evidence after it has been presented. In particularly comprehensive cases, the court can decide that one or more claims or points of dispute shall be heard at a time, such that all or several of the different stages may be repeated several times.

(9) If it is not possible during the main hearing to present evidence that the parties are entitled to present, the court may, if proper conduct of the case permits such, proceed with the main hearing so that only the presentation of such evidence and the arguments related thereto shall remain. The proceedings shall then continue at a court hearing unless the parties consent to written submissions.

(10) If a significant part of the basis for the ruling is written documentation, the court can decide that the parties shall make their main address and go through the case and present factual and legal arguments immediately after clarification pursuant to subsection (1), instead of making presentations pursuant to subsections (2) and (3). In that case, the parties shall be permitted to address the court by each giving a brief closing statement at the end of the proceedings, which shall be limited to matters that emerged during the opposite party's main address to the court and the subsequent presentation of evidence.

Section 9-16. ***Amendments to the claim, the prayer for relief, the grounds for the prayer for relief and evidence***

(1) After the preparatory stage is completed, a party cannot, if the opposite party objects, submit new claims, broaden the prayer for relief in respect of a claim, submit new grounds upon which to base such prayer for relief or present new evidence, unless this occurs before the main hearing and is occasioned by the opposite party's closing submission or permitted by the court. The court shall grant permission when:

a) the party cannot be reproached for the amendment not having been made earlier and it would be unreasonable to refuse the amendment,
b) the opposite party is sufficiently able to safeguard his/her interests following the amendment without the need for an adjournment, or
c) refusal could lead to unreasonable loss for the party.

(2) Even if that the conditions in subsection (1) are not fulfilled, the court may permit an amendment on condition that the party is ordered to pay the opposite party's additional expenses resulting from the amendment having been made after the expiry of the time limit for amendments, provided no other important interests pertaining to the opposite party suggest otherwise.

(3) Even if no objection has been made to an amendment pursuant to subsection (1), the court may disallow the amendment if concern for the progress of the case or other important considerations suggest that the amendment should not be permitted. Refusal must not be unreasonable.

Section 9-17. ***The case is closed for judgment. Continued proceedings***

(1) When the case is ready to be ruled on either during or after the main hearing, the court shall declare that the case is closed for judgment.

(2) The court shall ensure that further proceedings are conducted after the case has been closed for judgment if it finds that such proceedings are necessary in order to ensure a proper basis for ruling on the case.

Chapter 10. Small claims procedure

Section 10-1. ***Main rule and scope***

(1) The small claims procedure shall be the normal procedure for dealing with small claims in cases before the district court, where particular consideration shall be given to adapting the proceedings to the importance of the dispute.

(2) The following cases shall be heard pursuant to the small claims procedure:

a) all cases where the amount in dispute is less than NOK 125,000,

b) cases where the amount in dispute is more than NOK 125,000 and the parties consent to the case being heard pursuant to the small claims procedure and the court so decides, and

c) cases that do not concern asset claims where the court finds that application of the small claims procedure will be proper and appropriate, and both parties do not object to the procedure.

(3) Notwithstanding, the following cases shall not be heard pursuant to the small claims procedure:

a) class actions pursuant to Chapter 35,

b) cases subject to special procedure, unless otherwise provided in the relevant Act,

c) actions relating to legal issues in respect of which the right of disposition of the parties is limited, cf. Section 11-4, and

d) cases pursuant to subsection (2)(a) whereby the case for one of the parties must be deemed to be of material importance beyond the specific dispute, or the proper conduct of the case requires it to be heard by general procedure.

(4) Disputes about whether a case shall be heard pursuant to the small claims procedure shall be determined by interlocutory order. If, without the consent of the claimant, the court decides pursuant to subsection (3) (d) that the case shall not be heard by small claims procedure, the claimant may abandon the case without relinquishing the claim and without liability for the opposite party's costs.

Section 10-2. ***Preparation of the case***

(1) Sections 9-2, 9-3 and 9-6 to 9-8 apply correspondingly.

(2) Through contact with the parties and by providing necessary guidance pursuant to Section 11-5, the Court shall pay particular attention to promptly clarifying whether further steps should be taken during the preparation stage and whether there may be a basis for an amicable settlement.

(3) At least one week before the court hearing pursuant to Section 10-3, the parties shall give notice of evidence and submit documentary evidence that has not previously been notified or submitted. The parties may submit written submissions within the same time limit if special grounds so warrant.

Section 10-3. ***Oral final hearing***

(1) The court shall summon the parties to a court hearing for the finalisation of the case. If desirable out of regard for the litigation costs, the court can consent to the parties agreeing that proceedings shall instead be in writing.

(2) The court hearing can be held in the form of a distance meeting. In the summons to the meeting, the court shall provide necessary information on the conduct of the hearing and can set timeframes for the hearing. The hearing shall not exceed one day, unless there are particularly strong reasons that deem this necessary.

(3) If requested within one week after the court received the reply and the proper conduct of the case makes it desirable, the court shall sit with two expert lay judges. Sections 9-12 (3) first and second sentence shall apply correspondingly.

(4) The court hearings shall be oral. Section 9-14 (2) first to fifth sentence shall apply correspondingly. Subject to the provisions of subsection (5), evidence shall be presented directly to the court.

(5) When the court hearing commences, the court shall verify that the circumstances are conducive to the proceedings being conducted in an appropriate manner. Section 9-15 shall apply correspondingly, but the court may simplify the proceedings to achieve the required focus. Evidence shall be reviewed and presented only to the extent required based on a balancing of the considerations for proper and cost-effective proceedings. Any written submissions shall form part of the basis for the decision.

(6) Distance examination may take place unless the court finds it necessary for testimony to be provided directly at the court hearing. Sections 21-10 and 21-11 (1)(a) and (c) do not apply.

(7) Section 9-17 and 16-4 apply correspondingly.

Section 10-4. ***Judgment***

(1) If the case is not concluded in another manner, it shall normally be concluded by judgment within three months after the writ of summons was submitted.

(2) In cases that are heard orally, judgment shall be rendered at the end of the court hearing if the judge finds reason to do so. Otherwise, judgment shall be rendered within one week after the parties have been informed that the case is closed for judgment.

(3) Judgment may be rendered at the end of the court hearing even if only the conclusion of the judgment has been put in writing. In that case, the judge shall give an oral account of the main points in the grounds for the judgment. The judgment shall be put in writing within one week and communicated to the parties.

(4) The judgment shall briefly state the subject matter of the case, cite the parties' prayers for relief and the grounds for the prayer for relief, and provide an account of the factors to which the court has assigned decisive emphasis. Section 9-16 (4) and (5) shall not apply.

Section 10-5. ***Costs***

(1) Compensation for costs may only be granted for the following items:

a) the expenses of the party for travelling to the court hearing,

b) court fees,

c) presentation of evidence which is not deemed unnecessary or disproportionate, and

d) legal assistance and expert lay judges.

(2) Disregarding value added tax, compensation for costs pursuant to subsection (1) d is limited to 20 percent of the amount in dispute, but always up to NOK 2,500 and never more than NOK 25,000. Value added tax on compensation for costs pursuant to the first sentence of this subsection may be reimbursed unless the legal circumstances in the case principally originate from the business activities of the party that is liable to pay value added tax.

(3) A party who has brought or resisted an action clearly without grounds for doing so, may be ordered to pay the opposite party's costs without the limitations in subsections (1) and (2). The same applies to costs that a party has inflicted upon the opposite party by negligent conduct.

(4) Subsections (1) and (2) do not apply to costs relating to an appeal.

Section 10-6. ***Appeal***

The judgment can be appealed pursuant to the provisions on judgments in general procedure. The appeal may be determined pursuant to Section 29-12 (2).

Part IV – General provisions

Chapter 11. The basis for the court's rulings, guidance and management of the case

Section 11-1. *The basis for the court's rulings*

(1) Rulings following a main hearing, an appeal hearing, a final hearing in small claims procedure and Section 9-5 (4) shall be made on the basis of the proceedings at the court hearing. Written submissions shall only form part of the basis for the decision to the extent provided by statute.

(2) Other rulings shall be made on the basis of the case documents and the proceedings at the court hearings.

(3) The court cannot base its ruling on facts in respect of which the parties have not had the opportunity to comment. In that case, the court shall give the parties guidance pursuant to Section 11-5 and if necessary proceed with the case pursuant to Section 9-17 (2).

Section 11-2. *The court's position with regard to the procedural actions of the parties*

(1) The court may only rule on the claims that are made in the case. The ruling must fall within the scope of the parties' prayers for relief and the court may only base its ruling on the grounds for the prayers for relief that have been invoked. The grounds for the prayers for relief are the material facts upon which a party bases its prayer for relief.

(2) The parties have the primary responsibility for presenting evidence. The court can arrange the presentation of evidence if the parties do not object. The court is not bound by the parties' arguments with regard to questions of evidence.

Section 11-3. *The court's responsibility to apply the law*

The court shall, at its own initiative, apply current law within the scope of Section 11-2 (1). In accordance with Section 1-1, the court shall ensure that there is a satisfactory basis upon which to apply the law. If the application of law cannot otherwise be clarified in a fully satisfactory manner, the court may decide that evidence of the legal issues shall be presented, or it may allow the parties to present such evidence. The court shall determine the scope of the presentation of evidence and the manner in which it shall be carried out. Statements on the law occasioned by the case may only be submitted as evidence with the consent of all parties.

Section 11-4. *Exceptions when the right of disposition of the parties is limited*

In cases relating to matters of personal status and legal capacity, the legal status of children pursuant to the Children Act, administrative decisions on coercive measures pursuant to Chapter 36 and other cases where public considerations limit the parties' rights of disposition in the action, the court is only bound by the parties' procedural actions to the extent that these are compatible with public considerations. However, the court may only rule on the claims that are made in the case.

Section 11-5. *The court's duty to provide guidance*

(1) The court shall give the parties such guidance on procedural rules and routines and other formalities as is necessary to enable them to safeguard their interests in the case. The court shall seek to prevent errors and shall provide such guidance as is necessary to enable errors to be rectified. Section 16-5 shall apply to the right to rectify errors.

(2) The court shall, in accordance with subsections (3) to (7), provide guidance that contributes to a correct ruling in the case based on the facts and the applicable rules.

(3) The court shall endeavour to clarify disputed issues and ensure that the parties' prayers for relief and their positions regarding factual and legal issues are clarified.

(4) The court may encourage a party to take a position on factual and legal issues that appear to be important to the case.

(5) The court may encourage a party to present evidence.

(6) During the proceedings, the court shall show particular consideration to the need for guidance of parties not represented by counsel.

(7) The court shall provide its guidance in a manner that is not liable to impair confidence in its impartiality. The court shall not advise the parties on the position they should take on disputed issues in the case or on procedural actions they should take.

Section 11-6. ***The duty of the court to take an active part in the management of a case***

(1) The court shall prepare a plan for hearing the case and following up on it in order to bring the case to a conclusion in an efficient and sound manner.

(2) The court may set time limits for procedural actions pursuant to the provisions in Section 140 and Chapter 8 of the Courts of Justice Act, and otherwise make such rulings as are necessary for the hearing of the case.

(3) In each case, a preparatory judge shall be responsible for managing the case.

(4) At court hearings and deliberations where the court sits with more than one judge, the presiding judge shall manage the hearing or deliberation in his/her capacity as judge in charge of the proceedings pursuant to Section 123 of the Courts of Justice Act.

Section 11-7. ***Responses in the event of inadequate management of the case***

(1) The chief judge shall ensure compliance with the duty to take an active part in the management of the case pursuant to Section 11-6 and shall ensure orders that are necessary for rectifying deficiencies through neglected or delayed management of the case. A party may demand the intervention of the chief judge.

(2) In the event of material neglect of duties pursuant to Section 11-6, the chief judge shall transfer the case to another judge or take over the case himself/herself if this is necessary for the proper conduct of the continued proceedings.

(3) The decision by the chief judge may be appealed. The appeal court has the same powers as the chief judge pursuant to subsection (1) and (2) to determine the management of the case and may also refer the case to another court.

(4) If the chief judge is the preparatory judge or is disqualified for other reasons, claims pursuant to subsection (1) shall be ruled on by the immediately superior court. The same applies to requests from a party if the chief judge has not made a ruling within one month after an application pursuant to subsection (1) was submitted. The rules relating to appeals against a decision pursuant to subsection (3) shall apply correspondingly.

Chapter 12. Pleadings

Section 12-1. ***General provisions on pleadings***

(1) The parties' submissions to the court regarding the action that are made outside court hearings shall be in the form of pleadings. The provisions of this Chapter apply correspondingly to interveners and to submissions pursuant to Sections 15-8 and 30-13.

(2) Parties who are not represented by counsel may submit the writ of summons, reply, notice of appeal, application for reinstatement and application for reopening of a default judgment orally by appearing in court in person. The court may permit counsels other than lawyers to take such oral procedural actions. The court shall put the procedural action into a pleading. If appearing in court in person is not practicable or would be unreasonably onerous or expensive, the court may permit the oral communication to take place by distance examination. Section 21-10 (2) shall apply correspondingly.

(3) If an employee of the court who is not a judge provides assistance as mentioned in the previous subsection, the pleading should be presented to a judge before it is signed.

(4) A judge who has provided assistance pursuant to subsection (2) cannot participate in further proceedings in the case.

Section 12-2. ***The form of pleadings***

(1) Pleadings shall state:

- the name of the court,
- the court reference number for the case,
- the names of the parties,
- the names of counsel for the parties, and
- the enclosures enclosed, and whether an exemption from right of access is requested pursuant to Section 14-4.

(2) Pleadings shall be signed.

(3) Pleadings shall serve to clarify the issues in dispute and to explain the parties' views on the hearing of the case.

(4) Pleadings shall be formulated and dispatched in a manner that ensures orderliness in the communications between the court and the parties.

Section 12-3. ***Filing of pleadings***

(1) Pleadings and enclosures shall be delivered to the court.

(2) Between parties who are represented by lawyers, pleadings and enclosures shall be sent directly to the opposite party at the same time as they are sent to the court.

(3) When pleadings and enclosures are delivered as hardcopies, they shall be delivered in a sufficient number of copies for the court to be able to keep one copy.

Section 12-4. ***Service of pleadings***

The court shall ensure that pleadings that institute legal proceedings, add new claims to the case or contest a legal ruling are served to the opposite party.

Chapter 13. Court hearings and court records

I Court hearings

Section 13-1. ***Court hearings and distance meetings***

(1) The parties' submissions to and communications with the court shall take place at court hearings if they are not made in pleadings.

(2) A distance meeting is a meeting at which not all participants are present in person, but participate using remote communication technology.

(3) Court hearings may be held as distance meetings in whole or in part when:
a) specifically provided, or
b) the parties consent to the court hearing being held as a distance meeting.

(4) The King may issue more detailed regulations on distance meetings.

Section 13-2. ***Summoning parties to court hearings***

(1) The court shall serve a summons to a court hearing on all parties who are under a duty to attend in person. The same applies if non-attendance by a party would be deemed to be absence. The court shall notify the parties of other court hearings by such method as it deems fit.

(2) A party represented by counsel who is a lawyer shall be summoned through the lawyer. A party who is not represented by a lawyer shall be summoned directly by the court. At least two weeks' notice shall be given unless there are special grounds for giving shorter notice.

(3) A party who is under a duty to attend in person shall be summoned directly by the court even if he/she is represented by a lawyer. A party who is summoned pursuant to subsection (2) may be ordered to attend in person upon notice applicable to witnesses pursuant to Section 13-3(2).

(4) The summons shall state the case and the purpose of the court hearing, and give the party such details as are necessary to comply with the duty to attend. The summons shall include brief details of any provisions relating to compensation for attendance and the consequences of non-attendance.

Section 13-3. ***Summons of witnesses and experts to court hearings***

(1) Lawyers shall ensure that witnesses called by their party are summoned unless the court decides otherwise. The court may order a party or his/her counsel who is not a lawyer to arrange the summons. In all other cases, the court shall summon the witnesses. In that case, the summons shall be served.

(2) If possible, witnesses shall be given one week's notice. The notice period may be reduced to one day if necessary to ensure the prompt hearing of the case or that arrangements are made to examine the witness without him/her having to neglect important tasks. Witnesses who are in the vicinity of the court premises or a location where distance examination may take place are obliged to appear immediately if this is possible without significant inconvenience to the witness.

(3) The summons shall contain the same information as a summons to parties pursuant to Section 13-2 (4). In addition, Section 24-3 (2) shall apply to summonses to witnesses who can refuse to testify.

(4) Experts who are to testify at a court hearing pursuant to Section 25-5 (2) shall be served with a summons by the court with a suitable period of notice.

Section 13-4. ***Lawful absence***

(1) A person shall be deemed to be lawfully absent from a court hearing if illness or other obstacle beyond his/her control make it impossible or disproportionately onerous for him/her to attend. A person who has not been lawfully summoned and who was unaware of the court hearing through no fault of his/her own shall also be deemed to be lawfully absent unless the summons was effected by public announcement pursuant to Section 181 of the Courts of Justice Act.

(2) A party shall not be deemed to be lawfully absent for reasons mentioned in subsection (1), first sentence if he/she is represented by counsel or ought to have obtained counsel in time, and his/her attendance in person is not necessary for providing information in the case.

(3) A party shall also be deemed to be lawfully absent if his/her counsel is prevented from attending for reasons mentioned in subsection (1), first sentence and the litigation assignment ought not to have been transferred to someone else in time.

(4) A person who is lawfully absent from a court hearing shall immediately inform the court of this.

II Court records

Section 13-5. ***Keeping of court records***

A court record shall be kept during court hearings in accordance with Section 13-6. Testimony shall be entered in the court record to the extent provided by Sections 13-7 to 13-9.

Section 13-6. ***The content of the court record***

(1) The court record shall state:

a) the name of the court, the time and place of the hearing, the names of the judges and the parties, the court reference number for the case and the subject of the hearing,
b) whether the parties attend in person, the names of their representatives and the names of witnesses and experts,
c) the parties' prayers for relief,
d) the evidence that has been examined,
e) applications for and objections to procedural matters, and
f) judicial rulings and orders unless these are issued in separate documents.

(2) The proceedings shall be recorded as they occur. A party who makes an offer of settlement may require that the offer be entered in the court record.

(3) Recording may be made by reference to previous court records or to appended documents. If a party is represented by counsel, the court can require the prayers for relief and applications that are made to be drawn up in such a manner that they can be appended to the court record.

(4) The court record shall be signed by the presiding judge and the keeper of the record.

Section 13-7. ***Electronic recording of party and witness testimony during the main hearing***

(1) The testimony of parties and witnesses during the main hearing shall be recorded electronically.

(2) Electronic recording can be waived if:
a) the case is heard pursuant to the provisions of Chapter 10,
b) the court does not have necessary recording equipment available, or
c) the testimony is entered in the court record, cf. Section 13-8.

(3) The person to be examined shall be given notice that his/her testimony will be recorded.

(4) The parties are entitled to borrow the recordings to the same extent as they have a right of access to other procedural materials of the court. A person whose testimony has been recorded has the same right.

(5) If a transcript of the recording is to be made, the court can arrange this itself or leave it to the parties.

(6) The recording shall be archived together with the case. The King may issue more detailed regulations on electronic recording.

Section 13-8. ***Entering testimony given at the main hearing in the court record***

(1) At the main hearing or the appeal hearing before the district court or the court of appeal, the court may decide that the main points in the testimony of the parties and witnesses shall be entered in the court record. In particular, the court shall consider the progress of the case and whether the use of resources is proportionate to the benefit to be gained from a subsequent review of the case.

(2) The court shall decide whether the testimony shall be entered in the court record while the testimony is being given or after the main hearing. The entry shall be as detailed as the court finds necessary.

(3) The testimony as entered shall be sent to the parties to the action no later than at the same time as the ruling is made after the main hearing.

Section 13-9. ***Party and witness testimony outside of the main hearing***

(1) If the parties, witnesses or experts provide testimony outside the main hearing in order to secure evidence, the testimony shall either be recorded electronically in accordance with Section 13-7, or entered in the court record and then read aloud for confirmation.

(2) Testimony from parties, witnesses and experts in other cases shall be entered in the court record to the extent the court finds this necessary.

Chapter 14. Right of access and inspection

Section 14-1. ***The parties' right of access***

(1) The parties are entitled to access to pleadings, court records, judicial rulings and other documents relating to the case at the court and may require hard or electronic copies. Parties who are minors over the age of 15 have the same right of access. Parties under the age of 15 may be granted access when their age and maturity so warrant, but must not become acquainted with information that is subject to a statutory duty of confidentiality.

(2) The right of access does not apply to the internal documents of the court.

(3) A person who by virtue of his/her own legal position has a justifiable need for access to documents has the same right of access as the parties in the case.

Section 14-2. ***The public's right of access***

(1) The public is entitled to access court records, records of judicial mediation, judicial rulings and statements of costs pursuant to Section 20-5.

(2) In cases that are not heard entirely in writing, the public is also entitled to access the following documents:
a) closing statements pursuant to Section 9-10,
b) submissions pursuant to Section 9-9 (2) to (4), Section 15-8 (2), Section 29-16 (3) to (5), Section 30-10 (2) and (4), and Section 30-13 (2),
c) evidence that is invoked at an oral hearing or in submissions referred to in (b) above,
d) supporting documents pursuant to Section 9-14 (2).

(3) Subsection (2) applies correspondingly if a ruling is made on the merits or on costs in a case that is heard entirely in writing.

Section 14-3. ***Exceptions to the public's right of access to court records and judicial rulings***

(1) The right of access to judicial rulings shall only apply to the extent that there is no prohibition against publication. If publication is prohibited, the public shall have access to the conclusion of the ruling if the ruling is not more than five years old. The public is entitled to access to the court record unless it was made at a closed court hearing, or publication of the recorded proceedings or the court record is prohibited.

(2) Access may be restricted to the conclusion of the judgment if it would be inadvisable to allow inspection or provide transcripts in the interests of national security or relations with a foreign state, or if there is reason to fear that the information will be used in an unlawful manner. The same applies if the court has imposed an order of secrecy.

Section 14-4. ***Exceptions to the public's right of access to other case documents***

(1) The right of access to documents relating to the case shall not apply to:
a) cases pursuant to the Marriage Act,
b) cases pursuant to the Children Act,
c) cases between common law partners or former common law partners concerning division or allotment of assets, and
d) cases pursuant to Chapter 36 of this Act.

The court can grant access in whole or in part if special grounds exist.

(2) The court can refuse access to documents relating to the case if:
a) consideration of the relationship of the State to a foreign state so requires,
b) consideration of privacy or concerns of a strictly personal nature so require,
c) there are special reasons to fear that access will impede clarification of the case and refusal of access is therefore required, or
d) in times of war, the interests of military operations or the safety of military forces or other special reasons so require.

If access is however granted, the court may prohibit publication in whole or in part by way of interlocutory order.

(3) The court shall refuse access to evidence that the parties can require is presented in camera pursuant to Chapter 22 that relates to:
a) trade or business secrets,
b) information of importance to national security or relations with a foreign state,
c) issues subject to a statutory duty of confidentiality,
d) court proceedings in respect of which an order of secrecy has been imposed, or
e) confidences imparted to persons in special occupations.

(4) The court may only grant access to psychiatric reports to the extent prescribed by the King in regulations.

Section 14-5. ***The time and date of the public's right of access***

(1) The right of access arises as the documents are received by the court. However, a request to access evidence cannot be made before the evidence is invoked in a manner referred to in Section 14-2 (2)(c). If a case is heard entirely in writing, the right of access to any of the documents shall not arise before the case has been decided on in the current instance.

(2) If a party has claimed exemption from the right of access, the court may decide that a ruling on the question of access shall be postponed, but not beyond the pronouncement of the judgment or interlocutory order that concludes the case. If in doubt, the court should normally postpone the question of access until the oral hearing. After evidence has been presented at an open court hearing, the court can no longer postpone its ruling on the right of access pursuant to this provision.

Section 14-6. ***Procedure in disputes relating to the right of access***

(1) When an application for access is made, the court shall decide whether access shall be refused:
a) if a party objects to access;
b) if persons other than the parties to the case may be protected by a duty or right of confidentiality.

(2) The right of access shall be determined for each single document or part thereof.

(3) A ruling to refuse access pursuant to Sections 14-3 and 14-4 (2) to (4) shall be made by interlocutory order. A ruling to refuse access pursuant to Section 14-4 (1) shall be made in the form of a decision. If the ruling is appealed, access shall not be granted until the appeal has been decided.

Section 14-7. ***Regulations relating to access***

The King may issue regulations on the implementation of the right of access pursuant to this Chapter.

Chapter 15. Joinder of claims and actions. Third-party intervention

Section 15-1. ***Multiple claims***

(1) The claimant may, in one and the same action, bring several claims against the same defendant, if:
a) the claims fall under Norwegian jurisdiction,
b) the court is the correct venue for one of the claims, and
c) each of the claims may be heard by the court with the same composition and principally pursuant to the same procedural rules. Multiple claims may be raised in the same action notwithstanding that, due to the processing of one of the claims, the court shall sit with lay judges or more than one professional judge. If, in these circumstances, the action is split pursuant to Section 16-1, the court shall only sit with lay judges or more than one professional judge when hearing the claims when there are special grounds for this.

(2) The defendant may bring counterclaims against the claimant if the conditions in subsections (1)(a) and (c) are fulfilled.

(3) Section 9-16 shall also apply if amendments pursuant to subsections (1) and (2) are made after the completion of the preparatory stage.

(4) If the court refuses to hear a claim in the case and the claim falls within Norwegian jurisdiction, it shall be heard as a separate action upon application by the party within a time limit determined by the court. Section 4-7 applies correspondingly.

(5) Sections 29-4 and 30-7 apply to the inclusion of new claims before the appellate courts.

Section 15-2. ***Multiple parties as claimants or defendants***

(1) Multiple parties may act as claimants or defendants in one action if:
a) the conditions in Section 15-1 (1)(a) to (c) are fulfilled, and
b) no party objects, or the claims are so closely connected that they should be heard in the same action.

(2) During the course of the action, one or more parties may bring into the action claims against third parties provided that the conditions in Sections 15-1 (1)(a) and (c) and 15-2 (1)(b) are fulfilled.

(3) The court may refuse to permit a party to bring a claim against a third party into the action pursuant to subsection (2) if it would considerably delay or complicate the processing of claims that have already been brought. After the preparatory stage has been completed, Section 9-16 shall also apply correspondingly.

(4) Section 15-1 (4) applies correspondingly.

(5) This provision shall not apply to the appellate court. However, the acquirer of the asset to which the action relates may be joined into the appeal case.

Section 15-3. ***Joinder of third parties***

(1) A third party may be joined as a party to the proceedings if:
a) the conditions in Section 15-1 (1)(a) and (c) are fulfilled, and
b) the third party intends to submit an independent prayer for relief concerning the subject matter of the dispute in the action, or to submit a claim that is so closely connected to the original claim that it ought to be heard in the action.

(2) Section 15-2 (3) to (5) apply correspondingly.

Section 15-4. ***Method of bringing new claims into the action and amending the parties***

Amendments shall be made in pleadings or at a court hearing. If an amendment is made in a pleading, the pleading shall fulfil the requirements for a writ of summons, cf. Section 9-2. The court shall then decide whether a reply to the amendment shall be required. If a reply is required, the provisions on reply and incomplete or deficient reply shall apply.

Section 15-5. ***The relationship between multiple parties on the same side***

(1) Multiple parties on the same side in an action shall be regarded as independent parties in relation to the opposite party. Evidence presented by one party shall be deemed to be evidence in respect of all parties.

(2) If the same judgment must be rendered for all parties, procedural actions taken by one party shall be deemed to be for the benefit of the other parties on the same side even if they are contrary to procedural actions taken by such other parties.

Section 15-6. ***Consolidation of cases for joint hearing***

Actions that raise similar issues and that shall be heard by a court with the same composition and principally pursuant to the same procedural rules may be consolidated for joint hearing and joint ruling. Section 4-7(2) shall apply.

Section 15-7. ***Third party intervention***

(1) Third-party intervention shall be permitted by:
a) a person who, by virtue of his/her own legal status, has a real interest in one of the parties succeeding with its action, and
b) associations, foundations and public bodies charged with promoting specific interests in cases that fall within the purpose and normal scope of the organisation pursuant to Section 1-4.

(2) Third-party intervention shall be declared in pleadings or at a court hearing before the case is ruled on by a final and enforceable judgment. The declaration shall state the grounds for the intervention. The declaration shall be notified to the parties together with a time limit for contesting the intervention. If the intervention is contested, the issue of the right to intervene shall be determined by interlocutory order. An interlocutory order that allows intervention cannot be appealed. The ruling is only binding in the proceedings in the current instance. A person who has declared intervention may exercise procedural rights pursuant to subsections (3) and (4) until an interlocutory order refusing intervention has been passed.

(3) The intervener shall join the action as it is at the time of joinder. The intervener may take procedural actions for the benefit of the party who is to benefit from the support. Such procedural actions shall not be contrary to those of the party.

(4) If the intervention is based on subsection (1)(b), the procedural rights of the intervener shall be limited to safeguarding the interests of the organisation or body in the issues raised in the action. The intervener cannot claim remedies against the ruling on the claim that is made in the action.

Section 15-8. ***Written submission to highlight public interests***

(1) Written submissions to highlight matters of public interest that are at stake in a case may be submitted by:
a) organisations and associations within the purpose and normal scope of the organisation, or
b) a public body within its area of responsibility.

(2) The submission shall be made in a pleading. The court can reject the submission by interlocutory order if, due to its form, scope or content, the submission is ill-suited for highlighting the public interests in the case. If the submission is not rejected, it shall form part of the basis for the decision and shall be distributed to the parties.

Section 15-9. ***Third-party notice***

(1) If it is important to a party to give notice to a third party about the action, he/she may notify such a third party in a pleading, which shall be served to the third party. The pleading shall contain the necessary details about the action and the reason for the notice.

(2) If it is important to a third party who has been notified pursuant to subsection (1) to give notice to another third-party, he/she may also give notice pursuant to subsection (1).

Chapter 16. Managing the progress of the case. Special remedies

I Splitting

Section 16-1. ***Splitting the proceedings and the adjudication***

(1) The court may decide that the proceedings in respect of one or some of the claims in the action, or in respect of one or more of the points in dispute in a claim, shall be heard separately.

(2) The court may rule separately on one or more of the claims in the action or on part of a claim. The ruling on a claim for compensatory damages or other claim in respect of which the scope is in dispute may be split so that determination of the scope is postponed. If the court is unanimous or the parties consent, the court may also rule separately on:
a) grounds for a prayer for relief that do not lead to a decision on a claim, and
b) which country's law a claim shall be decided on.

(3) If a claim is ruled on separately and the opposite party has made a counterclaim that is not ruled on at the same time, the ruling cannot be enforced unless the court so decides. The court may make enforcement conditional upon the provision of security.

II Rescheduling and adjournment

Section 16-2. ***Rescheduling or adjournment of court hearings due to absence***

(1) A party who will have lawful absence from a court hearing may request that this hearing be rescheduled.

(2) If a party is absent from a court hearing, and there is reason to believe that he/she is lawfully absent, the court hearing shall be adjourned until the reason for his/her absence has been clarified. If there is no reason to believe that he/she is lawfully absent, the case shall be ruled on by way of interlocutory order or judgment pursuant to Sections 16-9 or 16-10. If the conditions for such a ruling are not fulfilled and the case cannot be tried on its merits in the absence of the party, the court hearing shall be rescheduled.

Section 16-3. ***Rescheduling in other cases***

(1) The court may reschedule court hearings if this is necessary to ensure the proper conduct of the case or if other compelling reasons so suggest. In deciding whether to reschedule a hearing, the court shall have regard to the need for swift, proper and cost-effective proceedings.

(2) To the extent possible, the court shall fix a new date and time for the rescheduled hearing.

Section 16-4. ***Adjournment at the main hearing***

(1) If it is necessary to adjourn the case at the main hearing, the court shall rule on the further proceedings in the case to ensure that there is the least possible delay to proceedings.

(2) At the court hearing after the adjournment, the proceedings from the main hearing shall be repeated to the extent necessary to ensure a proper basis for the decision.

III Omissions and judgment in default

Section 16-5. ***Deficient procedural actions***

(1) If a procedural action suffers from a deficiency that can be rectified, the court shall fix a time limit for rectification and shall provide necessary guidance and information on the consequences of failure to rectify.

(2) A party who can be strongly reproached for a deficiency shall only be allowed to rectify this if compelling reasons so warrant.

(3) If a procedural action is rectified, it shall be deemed to be correct as of the time it was originally taken.

(4) A procedural action that still does not fulfil the necessary conditions for it to be taken shall be rejected or disproved unless the deficiency is due to circumstances for which the opposite party ought to bear the risk.

Section 16-6. ***Omitted procedural actions***

(1) When a procedural action has not been taken in time and the omission constitutes unlawful absence pursuant to Sections 16-7 or 16-8, the party may, by way of reinstatement pursuant to the provisions in Sections 16-12 to 16-14, be permitted to take such a procedural action and continue the action in the same position as before the omission.

(2) If the court has reason to believe that the omission is due to lawful absence, the party shall be given an opportunity to apply for reinstatement before a ruling is made pursuant to Sections 16-9 or 16-10.

(3) Even if an omission does not constitute lawful absence, the court may, by interlocutory order, disallow the procedural action if a court hearing would have to be adjourned or the case would be significantly delayed. Section 9-16 shall apply to amendments to the case after the preparatory stage has concluded.

Section 16-7. ***Exceeding time limits and time limit orders***

(1) A party shall be deemed to be unlawfully absent in the case if he/she exceeds the time limit for:

a) payment of the court fee and necessary ancillary expenses pursuant to the Court Fees Act,
b) provision of security pursuant to Section 20-11,
c) submission of a written reply in an action pursuant to Section 9-3,
d) submission of a notice of appeal or other remedy, and
e) first submission in a written appeal pursuant to Sections 29-16 (5) and 30-10 (4).

(2) If a party has failed to take any other procedural action which is of material importance to the opposite party or necessary for the proper conduct of the case, the court may issue an order against such party stating that failure to take such a procedural action within a specified final time limit shall constitute unlawful absence in the case. If the procedural action is to be taken at the request of the opposite party, an order shall only be issued on application from such party.

(3) If the duty to take the procedural action is contested, a time limit order shall not be issued until the duty has become binding.

(4) The time limit order shall be served on the party who is subject to the time limit, and notice shall also be given to a party who is represented by counsel.

Section 16-8. ***Failure to attend court hearings***

(1) A party shall be deemed to be unlawfully absent in the case if he/she fails to attend:
a) a court hearing for the finalisation of the case, and
b) a court hearing for an oral reply pursuant to Section 9-5 (1).

(2) The court may, in respect of other court hearings, decide that failure to attend shall constitute unlawful absence in the case if it is particularly important that the parties attend.

(3) Failure to attend by a party who is under a duty to attend in person shall constitute unlawful absence in the case even if his/her counsel attends.

(4) Subsections (1) to (3) apply correspondingly if a party:
a) leaves the hearing without the permission of the court,
b) refuses to discuss the subject matter of the hearing,
c) is banned from addressing the court or expelled pursuant to Section 133 of the Courts of Justice Act, or
d) attends without counsel in contravention of an order pursuant to Section 3-2.

Section 16-9. ***Striking out in the event of unlawful absence***

(1) The court shall reject the case if the claimant is unlawfully absent and the court does not grant reinstatement. A new action may also not be brought in respect of the claim if the absence is due to a reason other than the reasons stated in Section 16-7 (1)(a) or (b).

(2) Reject due to absence for any other reason than the reasons stated in Section 16-7 (1)(d) shall require that the claimant has been made aware of the consequences.

(3) Subsections (1) and (2) apply correspondingly in the event of the absence of the appellant or the party who has otherwise requested the procedural action.

Section 16-10. ***Judgment in default***

(1) If the defendant is unlawfully absent and the court does not grant reinstatement, the court may rule on the case by way of judgment in default. The court cannot pass judgment in default in cases where, for reasons of public interest, the right of disposition of the defendant in the case is limited, cf. Section 11-4.

(2) Judgment in default shall be passed upon application of the claimant if the court can find in favour of the claimant in full or in the main. The judgment shall be based on the grounds for the claimant's prayer for relief pursuant to Section 11-2 provided that the defendant has been notified of these and they do not appear to be clearly incorrect. Section 16-9 (2) applies correspondingly to the defendant.

(3) A ruling that strikes out or rejects an application for judgment in default shall be made by way of interlocutory order.

(4) Subsections (1) to (3) apply correspondingly to absence on the part of the respondent on appeal or absence by other person against whom the claim is directed.

Section 16-11. ***Remedies against rulings pursuant to Sections 16-9 and 16-10***

(1) An interlocutory order that grants rejection or judgment in default may be challenged by way of an application for reinstatement.

(2) If, at the same time, the court has dismissed an application for reinstatement, the ruling may be appealed instead with a claim for reinstatement pursuant to Section 16-12. The appeal shall be heard pursuant to the provisions on appeals against interlocutory orders.

(3) A ruling on costs can be appealed separately pursuant to Section 20-9(3).

Section 16-12. ***The conditions for reinstatement***

(1) Reinstatement shall be granted to a party who was lawfully absent pursuant to subsection (2) and cannot be reproached for having failed to apply in time for an extension of the time limit or to have the court hearing

rescheduled. If the case has been ruled on pursuant to Sections 16-9 or 16-10, reinstatement shall also be granted if such a ruling should not have been made.

(2) A party shall be deemed to be lawfully absent if he/she exceeds a time limit due to reasons outside his/her control that make it impossible or disproportionately onerous to take the procedural action in time. Section 13-4 shall apply to lawful absence from court hearings.

(3) In other cases, reinstatement may be granted if it would be unreasonable to refuse the party the right to have the case heard because of the omission. In making its decision, the court shall place particular emphasis on the nature of the omission, the party's interest in taking the procedural action and the interests of the opposite party.

Section 16-13. ***The time limit for applying for reinstatement***

(1) An application for reinstatement can be made before the court has pronounced an interlocutory order to reject pursuant to Section 16-9 or judgment in default pursuant to Section 16-10, or as a remedy against the ruling pursuant to Section 16-11.

(2) The time limit for applying for reinstatement is one month.

(3) If there is no ruling pursuant to Sections 16-9 or 16-10, the time limit shall run from the date of the omission.

(4) If the court has made a ruling pursuant to Sections 16-9 or 16-10, the time limit shall run from the date of service of the ruling. If this time limit is exceeded, reinstatement can be granted pursuant to the provisions in this Chapter.

Section 16-14. ***The hearing of an application for reinstatement***

(1) An application for reinstatement shall be decided on by the court that will hear the case if the application is successful. The application must be substantiated and shall otherwise be heard pursuant to the provisions on appeals against interlocutory orders to the extent that these are appropriate. At the same time, the omitted procedural action shall, if possible, be taken.

(2) An appeal may be brought against an interlocutory order that grants reinstatement on the grounds of error in the application of law or error in procedure.

IV Stay of proceedings

Section 16-15. ***The consequences of a stay of proceedings***

(1) A stay of proceedings shall suspend the proceedings temporarily and time limits shall cease to run. Procedural actions may only be taken with the consent of the court.

(2) A stay of proceedings shall not preclude the court from ruling on claims in respect of which proceedings have been concluded before the stay of proceedings.

(3) A stay of proceedings shall apply to the entire case unless the court limits the stay to the claims to which the grounds for the stay relate in accordance with Section 16-1 on splitting of the case.

(4) The consequences of a stay of proceedings shall cease when the court has made a ruling to resume proceedings.

Section 16-16. ***Stay of proceedings pursuant to statute***

(1) The case shall be stayed with effect from such time as:

a) the operations of the court are interrupted by a state of war or other reasons,

b) a party or party representative dies, or

c) the estate of the claimant is declared bankrupt and the subject matter of the dispute forms part of the bankrupt estate.

(2) A case that has been stayed pursuant to subsection (1)(a) shall be resumed by the court when the court resumes operations. A case that has been stayed pursuant to subsection (1)(b) or (c), shall be resumed by the court on application from the relevant person or the opposite party.

Section 16-17. ***Stay of proceedings by agreement***

(1) The parties may, once during the hearing of the case, agree to a stay of proceedings for a minimum of six months. Such an agreement shall take effect when it is received by the court.

(2) The case shall be resumed by the court on application from a party.

Section 16-18. ***Stay of proceedings in other instances***

(1) The court may, on application from a party, stay the proceedings in a case if the outcome of the case is wholly or in part dependent on a legal issue that will be decided with final and enforceable effect in another case.

(2) The court may stay the proceedings in a case for other compelling reasons. The court shall take into account the need for swift, proper and cost-effective proceedings.

(3) A ruling to stay proceedings pursuant to subsections (1) and (2) shall be made by interlocutory order. The stay of proceedings shall take effect when the interlocutory order has been pronounced.

(4) The court shall resume the case when the proceedings can continue.

Section 16-19. ***Dismissing a stayed case***

A case that can be resumed on application shall be dismissed when it has been stayed for two years.

Chapter 17. Valuation

Section 17-1. ***Cases in which the value shall be determined***

(1) The court shall, at its own initiative, determine the value of the subject matter of the action when such value is relevant to the jurisdiction of the court or the hearing of the case.

(2) In cases concerning asset claims, the value shall be determined pursuant to the provisions in Sections 17-2 to 17-5.

(3) The rules on valuation do not apply if, from the point of view of the claimant or the appellant, the case concerns non-economic interests.

Section 17-2. ***The basis for the valuation***

(1) The value shall be fixed at the value of the claim to the claimant at the time the claim is made. In determining whether the conciliation board has jurisdiction pursuant to Section 6-10 (2) or whether the cases shall be heard pursuant to the small claims procedure in Section 10-1 (2), a deduction shall be made for the part of the claim that is acknowledged in the reply. On appeal, the value shall be fixed at the difference in value between the outcome in the lower instance and the appellant's claim at the time when the appeal is lodged.

(2) If the prayer for relief is not for a sum of money, in order to assist the court the claimant shall estimate the value of the subject matter of the action in monetary terms in the writ of summons. On appeal, the same shall apply to the appellant.

(3) The estimated value is not binding on the court.

(4) The court can decide to procure evidence as to the value.

Section 17-3. ***What the valuation shall include***

(1) Several claims against the same or several defendants in the same case shall be cumulated for the purpose of valuation. Claims and counterclaims shall not be cumulated.

(2) Interest accrued before the claim was made in the case shall only be included in the valuation if the claim for interest is specifically contested. Interest and costs accrued after the date that are the basis for the valuation pursuant to Section 17-2 (1) shall not be included.

Section 17-4. ***Special calculation rules***

(1) Payments that run indeterminably shall be valued at ten times the annual amount of such payments. Payments that are to be made a specific number of times shall be valued by multiplying the amount of each payment by the number of times it is to be made, but not at more than ten times the amount of the annual payments. If the amount of the payments varies, the valuation shall be based on the payments for the year immediately preceding the institution of legal proceedings.

(2) In cases relating to liens or other real security, the valuation shall be based on the amount of the debt. If the secured amount is less than the amount of the debt or if the security is worth less than the debt, the valuation shall be based only on the secured amount.

Section 17-5. ***Setting aside a valuation***

(1) The court's valuation of the subject matter of the action can be set aside on appeal if it is contrary to the provisions of this Chapter. The court's specification of the factual basis for the valuation or its discretionary assessment of the same can only be set aside if it is obviously incorrect and must have resulted in a valuation that is significantly too high or too low.

(2) A judgment cannot be appealed on the grounds of error in the valuation of the subject matter of the action pursuant to this Chapter.

Chapter 18. The consequences of an action etc.

Section 18-1. ***Actions that preclude the institution of a new action (litispendence)***

The court shall reject a new action brought between the same parties to a claim that is already the subject matter of a dispute in a pending case. This also applies to actions before foreign courts if the ruling of the foreign court will be final and enforceable in Norway pursuant to Section 19-16.

Section 18-2. ***The time at which an action precludes and ceases to preclude a new action***

(1) The institution of an action shall preclude a new action pursuant to Section 18-1 when an application for conciliation proceedings is received by the conciliation board or a writ of summons is received by the court. The same applies to claims that are joined in pleadings pursuant to Section 15-4. Claims that are made at a court hearing shall preclude a new action when the claim is made. When an application is made to adjudicate a civil claim in criminal proceedings pursuant to Chapter 29 of the Criminal Procedure Act, the claim shall preclude a new action when the application is received by the prosecuting authority or the court.

(2) The consequences of the institution of an action pursuant to Section 18-1 shall cease when the case is ruled on by a final and enforceable judgment.

(3) When it is provided in statute or provision pursuant to statute that proceedings before a tribunal or mediation body shall preclude an action before the courts, an action may still be brought if the tribunal or mediation body has not decided on the case within six months, provided this is not the fault of the claimant. In that case, the proceedings before the tribunal or mediation body shall be discontinued.

Section 18-3. ***The time at which other consequences of the institution of an action arise and cease***

(1) The consequences of bringing an action that follow from other legislation arise when the pleading that institutes the action or joins the claim has been sent, such that the time limit pursuant to Section 146 or Section 146a of the Courts of Justice Act is interrupted. For claims that are made at a court hearing, such consequences arise when the claim is made.

(2) When a limitation period is interrupted by an application for conciliation proceedings, such interruption shall cease to have effect if a writ of summons or, where appropriate, an application for conciliation proceedings, is not submitted to the court within one year after the conciliation board has discontinued hearing of the case.

(3) If the action is rejected or otherwise concluded without judgment, and the claimant cannot be significantly reproached for this, the consequences pursuant to subsection (1) shall remain in force if the claim is brought in a new action within three months after the interlocutory order was served on the claimant. Reinstatement cannot be granted if the three-month time limit is exceeded.

Section 18-4. ***Voluntary waiver of legal action***

(1) After a claim in the case has been served on the opposite party or made at a court hearing, it shall be deemed to be waived if it is withdrawn before the court has ruled on it. The opposite party may require a judicial ruling pursuant to Section 9-7.

(2) The claim may be withdrawn without being waived if the opposite party:
a) agrees to this,
b) has not submitted a reply, or
c) has applied for the claim to be rejected.

(3) In proceedings before the conciliation board, the claim may always be withdrawn without being waived until it has been ruled on by the conciliation board.

(4) A new action in respect of the claim cannot be brought until costs awarded to the opposite party have been paid.

Chapter 19. Judicial rulings and in-court settlements

I Form and procedure

Section 19-1. ***Judgments, interlocutory orders and decisions***

(1) Rulings on the following shall be made by way of judgment:
a) claims that are the subject matter of the action,
b) disputes mentioned in Section 16-1 (2) third sentence, or
c) appeals against judgments.

(2) The following rulings shall be made by way of interlocutory order:
a) rulings to reject a case on the grounds that the conditions for hearing the case are not fulfilled, or to allow a case to be heard following separate proceedings to determine an application for a rejection order,
b) rulings which dismiss a case that, for grounds other than those referred to in (a), lapses without a ruling on the merits,
c) rulings on appeals against interlocutory orders or decisions,
d) rulings on disputes relating to evidence, and
e) rulings which, pursuant to statute, shall be made by way of interlocutory order.

(3) The following rulings shall be made by way of decision:
a) rulings on procedural issues for which there is no statutory requirement to be made by way of interlocutory order, and
b) rulings granting leave or refusing leave to appeal.

(4) The fact that a ruling is made in an incorrect form shall have no impact on its legal effect or on the right of review. An appeal shall be heard in accordance with the provisions pertaining to the type of ruling that the court should have made.

Section 19-2. ***The composition of the court. The authority of the preparatory judge***

(1) A ruling that is made on the basis of a court hearing shall be made by the judges who have participated at the hearing.

(2) A ruling on procedural matters during the preparatory stage of the case shall be made by the preparatory judge. If the preparatory judge is prevented from making the ruling promptly, the ruling may be made by the chief judge or by another judge appointed by the chief judge. The preparatory judge in cases before the Supreme Court may refer the decision to the Appeals Committee of the Supreme Court.

(3) In appeal cases, the preparatory judge cannot make a ruling:
a) to reject the appeal, or to allow the appeal to be heard where this issue is in dispute,

b) to dismiss the appeal or the case where this issue is in dispute,
c) to set aside the appealed ruling, or
d) to grant leave or refuse leave to appeal.

Section 19-3. ***Deliberation and voting***

(1) In cases that are heard at an oral hearing before courts sitting with more than one judge, deliberations should take place with all of the judges present as soon as possible after the oral hearing. If lay judges participate, deliberations shall always take place and cannot take place in the form of a distance meeting.

(2) In all cases, a judge can demand final deliberations. Lay judges shall be made aware of this right.

(3) Each claim or procedural legal issue to be determined shall be voted on separately. If there is more than one ground for rejecting, dismissing or staying a case, for setting aside an appealed ruling or for applying for reinstatement or reopening, each of the grounds shall be voted on separately. A judge who is outvoted on a procedural issue shall take part in the subsequent deliberations in the case.

(4) Each ruling shall be made by majority vote unless otherwise provided by statute. In the event of a tied vote, the presiding judge shall have a casting vote. If there is no majority for any outcome when a sum of money or other quantity is to be determined, the votes in favour of higher amounts or quantities shall be added to the votes in favour of the closest amounts or quantities until there is a majority.

Section 19-4. ***Pronouncement***

(1) A judicial ruling shall be binding on the court when it is pronounced.

(2) The ruling shall be deemed to be pronounced in writing when it is signed by all of the members of the court. The presiding judge, or a professional judge nominated by the presiding judge, shall be the last member of the court to sign the ruling.

(3) The ruling shall be deemed to be pronounced orally when it is read aloud at a court hearing. The court may summon the parties to a separate court hearing for the purpose of pronouncing the ruling orally.

(4) If a case is heard at an oral hearing before the Supreme Court, the ruling shall be made in an oral vote. The ruling shall be deemed to be pronounced when the presiding judge, as the last judge, has voted.

(5) The ruling shall be pronounced within four weeks after the main hearing or appeal hearing has concluded. If the case is heard by a single judge, the time limit shall be two weeks. If the case is so demanding that it is not possible to meet this time limit, the ruling may be pronounced later. The ruling shall state the reason for any delay in pronouncement. If the case is heard at an oral hearing, the court shall advise the parties upon the conclusion of the hearing as to when they can expect the ruling to be pronounced.

Section 19-5. ***Notification of the ruling***

(1) Judgments, interlocutory orders and decisions that conclude the case shall be served on the parties and any interveners. They shall also be notified of other decisions. A person who has made a written submission pursuant to Sections 15-8 or 30-13 shall be notified of the ruling that concludes the case.

(2) Rulings that are pronounced orally shall be deemed to have been served on the parties that have been summoned. When a ruling is served by being read aloud to the parties present at a court hearing, the court may give an oral account of the main points in the reasoning for the ruling instead of reading them aloud. The written ruling shall be delivered to the parties no later than one day after it is pronounced.

II The content of the ruling

Section 19-6. ***Form and grounds***

(1) The rulings of the court shall state the name of the court, the time when and the place where the ruling was pronounced, the members of the court, the parties and the court reference number for the case.

(2) The ruling shall be in writing and be signed by the members of the court. In cases that are heard pursuant to the small claims procedure, judgment can be pronounced pursuant to the rules in Section 10-4 (3).

(3) The ruling shall state whether it is unanimous. If there are dissenting votes, the ruling shall state who is in dissent and the issues to which the dissent relates.

(4) Grounds shall be given for judgments and interlocutory orders. The grounds shall include:

a) a presentation of the case,

b) the parties' prayers for relief and the grounds upon which the prayers for relief are based, and

c) the assessment of the court.

(5) The description of the case and the grounds upon which the prayers for relief are based shall contain a brief account of the legal issue that is the subject matter of the action, the background to the case and the parties' legal and factual arguments to the extent necessary to explain the ruling. The court shall thereafter give an account of its assessment of the evidence and the application of law upon which the ruling is based. Superior courts may, in whole or in part, base their description of the grounds on the descriptions given in the rulings of the lower courts.

(6) In Supreme Court rulings that are pronounced by oral vote, grounds shall be described through the votes cast by the justices.

(7) Judgments and interlocutory orders shall contain a conclusion that accurately states the outcome of the ruling that is made.

Section 19-7. ***Time limits for performance***

(1) If the ruling can be enforced when it is pronounced, the court shall fix a time limit for performance of the obligation. The time limit shall be a fixed date or a fixed period of time, which shall run from the date of service. The time limit for pecuniary obligations shall be two weeks unless the claim falls due and is payable at a later date.

(2) Otherwise, if the time limit for seeking a remedy does not leave sufficient time to comply with the order, the court shall fix a time limit to run from the date when the ruling becomes final and enforceable.

(3) If an obligation is contingent, the court shall decide which condition must be fulfilled before the ruling can be enforced.

III Rectification, supplementary judgment and reversal

Section 19-8. ***Rectification of errors***

(1) The court may rectify a ruling which, due to spelling or arithmetic errors, misunderstandings, oversights or other obvious errors has been formulated in a way that does not reflect the intention of the court.

(2) The court shall hear any application for rectification that is submitted before the ruling becomes final and enforceable. The rectification decision shall, insofar as possible, be made by the judge who made the ruling. If the court sat with more than one member, the presiding judge may decide on the issue if there is no doubt as to how rectification shall take place.

(3) A rectification decision shall be added to the ruling in order to specify what has been rectified. Section 19-5 (1) shall apply correspondingly.

(4) Rectification of a ruling or an application for rectification shall not affect the time limit for appeal.

Section 19-9. ***Supplementary ruling***

(1) If no ruling was made on an issue that should have been ruled on, a supplementary ruling may be made upon application before the time limit for appeal. Section 19-8 (2), second and third sentence, and subsection (3), shall apply correspondingly.

(2) When an application for a supplementary ruling is submitted, the time limit for appeal shall be suspended. A new time limit for appeal shall begin to run if a supplementary ruling is made. If the application is dismissed, the time limit for appeal shall continue to run.

Section 19-10. ***Reversal***

(1) Decisions and interlocutory orders of a procedural nature may be reversed by the court that pronounced these if reversal is justified by the purpose of the Act and reversal is not disproportionately onerous for a party who has acted in accordance with the ruling. Rulings made during the preparatory stage of the case shall not be binding at the main hearing or other court hearing at which the case is decided on.

(2) An interlocutory order passed by an appellate court on issues related to the proceedingsof the case before a lower court shall not be binding at a subsequent ruling on the same issue by the appellate court.

(3) A ruling by a superior court may only be reversed if important new information has emerged.

(4) The court may, at its own initiative or upon application by a party, make a reversal. The court shall only process an application for reversal if it finds cause to do so. A ruling not to reverse shall be made in the form of a decision, including if the underlying ruling is an interlocutory order.

IV In-court settlements

Section 19-11. ***Entering into an in-court settlement***

(1) In-court settlements shall be entered in the court record.

(2) The in-court settlement shall be signed by the parties and the members of the court.

(3) The court shall ensure that the settlement states precisely what the parties have agreed, and that the settlement is not contrary to considerations of public policy that limit the parties' right of disposition in the action, cf. Section 11-4. If the settlement is to be enforceable, the court shall ensure that a time limit for performance is fixed. Before entering into the in-court settlement, the parties shall be informed of its effect, cf. Section 11-5(1).

(4) If the settlement does not include provisions on the allocation of costs, the court shall, at the request of the parties, determine such allocation at its discretion.

Section 19-12. ***Effects of in-court settlements. Power to set aside in-court settlements***

(1) In-court settlements shall have legal effect pursuant to Section 19-15.

(2) In-court settlements may be declared invalid or amended by judgment pursuant to the rules for invalidity and amendment of contracts.

(3) An action pursuant to subsection (2) shall be brought before the district court. The claim with which the settlement is concerned may be brought into the action for adjudication pursuant to the provisions of Section 15-4.

(4) An action must be brought within six months of the date when the party became aware or ought to have obtained knowledge of the alleged grounds for invalidity. The court may grant reinstatement pursuant to the provisions of Chapter 16 III if the time limit is exceeded. An action for invalidity of an in-court settlement based on circumstances that prevailed at the time it was entered into cannot be brought more than ten years after it was entered into.

V Enforceability and legal force

Section 19-13. ***Enforcement***

(1) Judicial rulings that order a person to perform, refrain from or accept an act can be enforced pursuant to the provisions of the Enforcement Act.

(2) A ruling that orders a third party to the action to give testimony or an affirmation, disclose evidence or serve as an expert cannot be enforced until the ruling is final and enforceable.

(3) If an enforceable ruling is challenged by the exercise of a legal remedy, the court may, on application, decide that enforcement of the ruling shall be suspended in whole or in part until the issue has been decided on. The court may decide that enforcement or suspension of enforcement shall be conditional on the provision of security.

(4) A decision to suspend enforcement pursuant to subsection (3) shall be made by the court before which the case is being heard. The ruling may be reversed by a superior court if the case is brought before a superior court.

Section 19-14. ***The time when a ruling becomes final and enforceable***

(1) A ruling shall become final and enforceable when it can no longer be challenged by exercising an ordinary legal remedy. The time when a ruling becomes final and enforceable shall be determined separately for each individual claim that is heard in the same action.

(2) When a final and enforceable ruling is challenged by the exercising of a legal remedy, the court before which the matter is brought can, on application, decide that legal force shall be temporarily suspended.

Section 19-15. ***The implications of a final and enforceable ruling***

(1) A final and enforceable ruling is binding on the parties. The ruling is also binding on third parties who would be bound by a corresponding agreement on the subject matter of the action due to their relationship with the party.

(2) A final and enforceable ruling on a claim shall be recognised in any new action in which the court is required to consider the claim in order to rule on the case, without being tried on its merits.

(3) The court shall reject any new action on a claim between the same parties that has been ruled on by a final and enforceable judgment, unless the claimant, due to a dispute on the binding effect of the ruling or other special circumstances, still has a legal interest in the action pursuant to Section 1-3.

(4) If, within ten years, a court or public body has made a final ruling that substantially changes the basis for a final and enforceable judgment, this may be pleaded in a new case on the same or other claims.

Section 19-16. ***The legal force of foreign rulings***

(1) Civil claims that have been decided in a foreign state by way of a final and enforceable ruling passed by that state's courts or administrative authorities or by way of arbitration or in-court settlement, shall also be legally enforceable in Norway to the extent provided by statute or agreement with the said state. The Lugano Convention 2007 applies as law, cf. Section 4-8. Judgments that do not need to be recognised or enforced pursuant to Article 61 of the Lugano Convention 2007 do not have legal effect and executory force in the Kingdom.

(2) Final and enforceable rulings on civil claims rendered by a foreign court shall be final and enforceable in Norway if jurisdiction has been agreed pursuant to Section 4-6 for a specific action or for actions that arise out of a particular legal circumstance.

(3) Rulings referred to in subsections (1) and (2) shall not be recognised if such recognition would be contrary to mandatory laws or be offensive to the legal order.

Chapter 20. Legal costs

Section 20-1. ***Scope***

(1) This Chapter applies to claims by the parties for compensation for costs in legal proceedings. The Court Fees Act shall apply to the parties' duty to pay fees to the state for procedural actions.

(2) Compensation for legal costs pursuant to this Chapter can only be claimed when provided by law or agreed between the parties.

(3) The provisions relating to parties apply correspondingly to interveners and in cases where the State appears in the case pursuant to Section 30-13.

Section 20-2. ***Award of costs to the successful party***

(1) A party who is successful in an action is entitled to full compensation for his/her legal costs from the opposite party.

(2) An action is successful if the court finds in favour of the party in the whole or in the main, or if the opposite party's action is rejected or dismissed because it is waived or because the courts do not have jurisdiction. If the action relates to several claims between the same parties, the overall outcome shall be decisive.

(3) The court can exempt the opposite party from liability for legal costs in whole or in part if the court finds that compelling grounds justify exemption. In particular, the court shall take into account:

a) whether there was just cause to have the case heard because the case was doubtful or because the evidence was clarified only after the action was brought,
b) whether the successful party can be reproached for bringing the action or whether the party has rejected a reasonable offer of settlement, or
c) whether the case is important to the welfare of the party and the relative strength of the parties justifies an exemption.

Section 20-3. ***Award of costs to a party who has succeeded to a significant degree***

A party who the court has found in favour of but has not won the case, cf. Section 20-2, may be awarded legal costs from the opposite party in whole or in part if there are compelling grounds for doing so. In addition to the factors mentioned in Section 20-2 (3), second sentence, the court shall place particular emphasis on the extent to which the court has found in favour of the party and the proportion of the legal costs that relate to that part of the case.

Section 20-4. ***Costs irrespective of outcome***

A party may be awarded legal costs in whole or in part irrespective of the outcome of the case:

a) if the action has been brought without good reason and the party accepts the claim at the earliest opportunity,
b) if the action is dismissed for reasons beyond the control of the party and there is no doubt that the party would otherwise have succeeded, or
c) to the extent the costs have arisen due to the opposite party's omission.

Section 20-5. ***Assessment of compensation for costs***

(1) Full compensation for costs shall cover all necessary costs incurred by the party in relation to the action, unless there is cause to exclude the costs pursuant to special provisions. In assessing whether costs have been necessary, the court shall take into consideration whether it was reasonable to incur these in view of the importance of the case. The party may claim reasonable compensation for his/her own work on the case if the work has been particularly extensive or would otherwise have had to be undertaken by counsel or other qualified assistant.

(2) Before the conciliation board, compensation for costs can only be awarded within the scope of Section 6-13, and in actions heard pursuant to the small claims procedure only within the scope of Section 10-5. Subsections (3) to (6) do not apply in actions before the conciliation board.

(3) In cases that are ruled on following an oral hearing, a party who claims costs shall submit a statement of costs. The statement shall be submitted at the conclusion of the court hearing. If the amounts of some items are unknown, the statement shall be supplemented within the time limit fixed by the court. Items of expenditure shall be specified so as to give the court an adequate basis upon which to make an assessment. Lawyers' fees shall always state the amount and number of hours related to the following stages of the case:

a) the period up to the submission of a writ of summons or reply, alternatively notice of appeal and reply to notice of appeal,
b) the period up to the start of the main hearing or oral finalisation of the case, alternatively the appeal hearing, and
c) the period up to the conclusion of the case in the current instance.

(4) In cases where no oral hearing is held, the court cannot award compensation for costs in excess of NOK 15,000 unless a statement of costs is submitted pursuant to subsection (3).

(5) The court shall also review items in the statement of costs that have been approved by the opposite party. If the court contemplates reducing the claim despite no objection having been raised by the opposite party, the parties shall be given an opportunity to comment.

(6) No costs shall be awarded to a party who fails to submit a compulsory statement of costs pursuant to subsection (3).

Section 20-6. ***Actions with multiple parties on the same side***

(1) If there are multiple parties on the same side, the rights and duties pertaining to costs in relation to the opposite party shall be assessed separately for each such party.

(2) If more than one party is ordered to pay costs, the court may decide that they shall be jointly liable for all or part of the amount. Among other things, the court shall take into consideration the proximity between the claims in the case and the prospects of the opposite party obtaining payment. If requested, the court shall allocate liability between jointly liable parties.

Section 20-7. ***Liability of party representatives for costs***

(1) Liability for costs lies with the party. If an action brought by an entity is rejected on account of inability to sue or be sued, liability shall lie with the person appointed as the legal representative of the entity.

(2) A claim for compensation for costs against persons other than the opposite party pursuant to provisions outside this Chapter may be included in the action by way of joinder. Sections 15-2 (3) and (4) apply if the claim is brought before the district court. If the claim is brought before the appellate court, the court may refuse to hear it if it would be more practicable to hear it in a separate action or if it would delay the case significantly.

Section 20-8. ***General provisions relating to the award of costs***

(1) Claims for costs shall be determined in respect of each court instance in the ruling that concludes the case before such instance.

(2) The costs to be determined pursuant to subsection (1) shall include costs relating to rulings on issues other than the claim that is the subject matter of the action. If a separate appeal is brought against a ruling on such other issues, the costs relating to such other issues before all instances shall be determined separately by the appellate court.

(3) If the determination of costs is contingent upon the outcome of parts of the action that have yet to be ruled on, the awarding of costs shall be postponed until such a ruling.

Section 20-9. ***Review of the award of costs***

(1) An appellate court may review an award of costs made by a lower court in the appeal action. Any limitations on the jurisdiction of the appellate court shall also apply to such review.

(2) The appellate court shall base its determination of claims for costs for lower courts on its own ruling in the case.

(3) An award of costs that is not reviewed pursuant to subsection (1) may be appealed separately pursuant to the provisions on appeals against interlocutory orders. The appellate court may only review the application of law and the procedure in the case, and the assessment of evidence to the extent that it exclusively relates to the awarding of costs. The appellate court may make a new ruling on costs if it finds that there is sufficient information in the case to do so.

Section 20-10. ***Counsel's preferential right to awarded costs***

In relation to his or her party's other creditors, a counsel shall have a preferential right to costs awarded to his or her her party for his or her fees and expenses. Counsel may require that the costs be paid to him or her directly.

Section 20-11. ***Provision of security for liability for costs***

(1) The defendant may demand that a claimant who is not habitually resident in Norway shall provide security for his or her potential liability for costs that may incur during the proceedings before the current court. Security cannot be required if the claimant has his or her residence in an EEA state, it would violate an

obligation in international law relating to the equal treatment of parties resident abroad and parties resident in Norway, or if it would seem disproportionate in view of the nature of the case, the relationship between the parties and other circumstances.

(2) Security pursuant to subsection (1) cannot be required by the defendant in a claim made pursuant to Section 15-1 (2), in a derivative appeal pursuant to Section 29-7, or in cases where, for reasons of public policy, the right of disposition of the parties is limited.

(3) A request for security must be submitted by the first time limit for the party to comment on the merits of the case before the current court.

(4) The court shall determine the amount in respect of which security shall be provided. Section 3-4 (1) of the Enforcement of Claims Act applies correspondingly with regard to what can be accepted as security. If security is not provided by the prescribed time limit, the case shall be rejected, cf. Section 16-9 (1). The security shall be discharged if there is no longer a basis for maintaining it.

(5) A ruling on a request for security or discharge of security shall be made by interlocutory order. An appeal against an interlocutory order that orders security to be provided or discharged shall have suspensive effect.

Section 20-12. ***The State's liability for costs***

(1) A party who has incurred costs as a result of an error by the court in its hearing of the case may claim compensation for his or her loss from the State, if the error:

a) must be given unconditional effect pursuant to Section 29-21 (2) (b) or (d) because the party was not lawfully summoned, or
b) is due to considerably reproachable conduct on the part of the court.

(2) If the party's costs are incurred as a result of the error having had an impact on a ruling in the case, the conditions in Section 200 (3) of the Courts of Justice Act must also be fulfilled.

(3) A claim for compensation pursuant to subsection (1) must be submitted within three months after the case has been ruled on by a final and enforceable judgment. If a judgment has been passed in a criminal case pursuant to Section 200 (3)(c) of the Courts of Justice Act, the time limit shall be calculated from the date on which the judgment becomes final and enforceable. An application for reinstatement pursuant to Chapter 16 III may be made if the time limit is exceeded. The opposite party shall be the State represented by the Courts of Justice Administration.

(4) The claim shall be made to the court before which the case is being heard or which made the ruling in the final instance. If it is alleged that the error was made in that court, the claim shall be made to the next superior court. The Supreme Court may refer a decision on the matter to the Appeals Committee of the Supreme Court. If the claim relates to an error committed by a conciliation board or district court, the Supreme Court or the Appeals Committee may decide that the claim shall instead be decided on by the court of appeal.

(5) The provisions on appeals against interlocutory orders shall apply correspondingly to the processing of the claim insofar as they are appropriate. If the claim is made while the case is pending, it may be joined in the action if this is deemed expedient.

Part V – Evidence

Chapter 21. General provisions on evidence

Section 21-1. ***The scope of the evidence provisions***

The provisions on evidence apply to the factual basis for the ruling in the case.

Section 21-2. ***The evaluation of evidence***

(1) The court shall establish the facts upon which the case shall be decided through the free evaluation of evidence.

(2) The evaluation of evidence shall be based on facts that come to light in the proceedings that form the basis for the ruling. Evidence that is presented is common for all parties to the case or to all joined cases.

(3) In its evaluation of evidence, the court may rely on facts that are acknowledged by a party, established facts and the court's general or specialist knowledge and experience, irrespective of whether such facts and knowledge have been addressed by the parties during the hearing. Section 11-1 (3) applies to the extent that such knowledge may be uncertain or in dispute.

Section 21-3. ***Right and duty to present evidence***

(1) The parties are entitled to present such evidence as they wish. Limitations on the right to present evidence are set out in Sections 21-7 and 21-8, Chapter 22 and the other evidence provisions in this Act.

(2) In cases where, for reasons of public policy, the right of disposition of the parties is limited, cf. Section 11-4, the court has a duty to ensure that the presentation of evidence provides a sound factual basis for the ruling. In other cases, the court may see to that evidence is provideds unless the parties object.

Section 21-4. ***The parties' duties of truth and disclosure***

(1) The parties shall ensure that the factual basis of the case is correctly and completely explained. They shall provide such accounts and present such evidence as are necessary to fulfil this duty, and they have a duty to give testimony and access to evidence in accordance with Section 21-5.

(2) A party shall also disclose the existence of important evidence that is not in his or her possession and of which he or she has no reason to believe that the opposite party is aware. This applies irrespectively of whether such evidence favours the case of the party or that of the opposite party.

Section 21-5. ***General duty to testify and give evidence***

All persons have a duty to testify about factual circumstances and to grant access to objects etc. that may constitute evidence in legal proceedings, subject to the limitations in the rules on prohibited and exempted evidence in Chapter 22 and other provisions on evidence in this Act.

Section 21-6. ***Summary of evidence***

(1) The parties shall list the evidence that they wish to present in a summary of evidence to the court.

(2) The party shall state what the evidence purports to establish and shall briefly explain important information that will be provided by way of the evidence to the extent that the party cannot expect the opposite party to be aware of it.

Section 21-7. ***General restrictions on the right to present evidence***

(1) The parties may only present evidence about facts which may be of importance to the ruling to be made.

(2) The court may disallow presentation of evidence that:

a) has not been clarified in accordance with Section 21-6(2),

b) is not liable to appreciably improve the basis for the ruling, or

c) the court finds necessary to have presented in a different manner.

Section 21-8. ***Restrictions on account of proportionality***

(1) The scale and scope of the presentation of evidence shall be reasonably proportionate to the importance of the dispute. If the presentation of evidence that is notified to the court is disproportionate to the importance of the dispute, the court may limit the presentation of evidence to achieve the legislative intent as stated in Section 1-1, but only within the limitations set out in that section.

(2) If the presentation of evidence can be limited in different ways, the party may choose between these.

Section 21-9. ***The presentation of evidence at oral hearings***

In cases that are heard orally, the evidence shall be presented directly to the adjudicating court unless otherwise stated in Sections 21-10 to 21-12 and other provisions on evidence. Section 30-11(1) shall apply to the presentation of evidence in cases that are heard orally before the Supreme Court.

Section 21-10. ***Distance examination***

(1) Parties, witnesses and experts may be examined before the adjudicating court by way of distance examination if direct examination is not practicable or would be particularly onerous or expensive. Distance examination should not take place if the testimony may be of particular importance or if it may be imprudent for other reasons. Distance examination may always take place if the expense or disadvantage of direct testimony before the adjudicating court is considerable relative to the importance of the dispute to the parties. Experts who have made a written submission to the court may always be examined by way of distance examination unless, due to special circumstances, this may be imprudent.

(2) Distance examination shall be conducted by way of video examination. If equipment for video examination is not available, audio examination may be used provided that the conditions in subsection (1) are nevertheless fulfilled. The court shall decide where the examination shall take place. The King may issue regulations with more detailed provisions on distance examination.

Section 21-11. ***Taking of evidence***

(1) Judicial examination of parties, witnesses and experts and the review of real evidence for use in the ruling of cases that are heard orally may be conducted in accordance with the rules relating to the taking of evidence in Chapter 27, if:

a) it must be assumed that such evidence will be more reliable than it would be if presented directly before the adjudicating court, and it will not incur disproportionate additional expenses,
b) there is an obvious risk that it will not be possible to present the evidence directly before the adjudicating court, or
c) direct presentation of the evidence before the adjudicating court will result in expenses or disadvantages which are disproportionate to the importance of the evidence or the case.

(2) Evidence taken pursuant to subsection (1) may be presented at the oral hearing if the parties have had the opportunity to safeguard their interests or the conditions in Section 21-12 are fulfilled. Evidence that has been taken or secured in the same case on other grounds may be presented if none of the parties have requested direct presentation of the evidence before the adjudicating court or if the conditions in Section 21-12 are fulfilled.

Section 21-12. ***Written statements as evidence***

(1) Written declarations made for the purpose of the case by experts pursuant to Section 25-5 may be presented as evidence.

(2) Written statements made for the purpose of the case by other persons may be presented as evidence if the parties agree or they have the opportunity to examine the person who has made the statement. The evidence shall not be presented until it is confirmed that the person who made it will attend. If it is impossible to examine the person who made the statement, it may be presented as evidence unless it would be contrary to the legislative intent pursuant to Section 1-1.

Section 21-13. ***The presentation of evidence in cases that are heard in writing***

(1) For cases that are heard in writing, evidence shall be presented by way of documentation pursuant to Section 26-2.

(2) When evidence cannot be presented before the adjudicating court, parties, witnesses and experts may be examined and real evidence may be reviewed for the purpose of ruling on the case in accordance with the rules relating to the taking of evidence. Written statements may be used pursuant to the provisions of Section 21-12.

Chapter 22. Prohibited and exempted evidence

Section 22-1. ***Prohibition against evidence of importance to national security or relations with a foreign state***

(1) Evidence cannot be presented about matters that are confidential for reasons of national security or relations with a foreign state.

(2) The King may consent to the presentation of such evidence.

Section 22-2. ***Prohibition against evidence of discussions in government meetings***

Evidence cannot be presented of discussions held in government meetings.

Section 22-3. ***Prohibition against evidence subject to a statutory duty of confidentiality***

(1) Evidence cannot be presented if such presentation would breach a statutory duty of confidentiality for the person in possession of the evidence that is imposed on him or her as a consequence of his orher service or work for the State or a municipality, family counselling office, postal service, supplier or installer of telecommunication networks or services, technical regulatory body or the State airport company.

(2) The Ministry may consent to the presentation of such evidence. Consent may only be refused if the presentation of evidence may be damaging to the State or public interests or be unreasonable to the person who is entitled to confidentiality.

(3) After giving due consideration to the duty of confidentiality and the need for clarification of the case, the court may decide by interlocutory order that the evidence shall be presented even though consent is refused, or that evidence shall not be presented despite the Ministry having consented. The Ministry shall have the opportunity to present its views before the court makes its ruling. The Ministry's views shall be communicated to the parties.

Section 22-4. ***Prohibition against evidence of legal proceedings and judicial rulings***

(1) Evidence cannot be presented about the proceedings or about testimony that is subject to a duty of confidentiality imposed by a court pursuant to statute on the persons who were present. The person entitled to confidentiality may consent to the presentation of such evidence.

(2) Evidence cannot be presented if it contains information from judges or jury members about the basis for the rulings they have made.

(3) Sections 7-3 (6) and 8-6 shall apply to evidence about matters that have been revealed during non-judicial or judicial mediation.

Section 22-5. ***Prohibition against and exemption from evidence for information confided to persons in certain occupations***

(1) The Court cannot hear evidence from clergymen in the state church, priests or pastors in registered religious communities, lawyers, defence counsel in criminal cases, conciliators in matrimonial cases, medical practitioners, psychologists, pharmacists, midwives or nurses about something that was confided to them in their professional capacity. The same applies to subordinates and assistants who, by virtue of their positions, obtained knowledge that was confided to the above-mentioned persons.

(2) The court may exempt a party or a witness from providing access to evidence about something that has been confided to him or her in the course of spiritual guidance, social welfare work, medical treatment, legal aid pursuant to Section 218 (2) of the Courts of Justice Act or any similar activity, even if the matter falls outside the scope of subsection (1).

(3) The person entitled to confidentiality pursuant to this section may consent to the presentation of such evidence.

Section 22-6. ***Prohibition against evidence of character and credibility***

(1) Evidence cannot be presented about the character, sexual conduct or general credibility of a party or a witness. The court may nevertheless permit the presentation of evidence that is of material importance to the ruling and shall determine the manner and extent of the presentation.

(2) As a general rule, questions about a party or a witness' criminal record shall be put forward and answered in writing. The same procedure may be used for other questions about a party or a witness' personal or private life.

(3) Written declarations about a party or a witness' good or bad name and reputation are inadmissible.

(4) Evidence cannot be presented about a party or a witness' credibility if such evidence is based on the testing of physiological reactions.

Section 22-7. ***Prohibition against improperly obtained evidence***

In special circumstances, the court may disallow evidence that has been obtained in an improper manner.

Section 22-8. ***Exemption for close relatives from giving evidence about information given to them by the party***

(1) A party's current or former spouse or cohabitant, relatives in a direct line of ascent or descent and siblings may refuse to provide access to evidence about information that has been given to them by the party.

(2) The court may exempt a party's fiancé, foster parents, foster children and foster siblings from the duty to provide evidence about matters referred to in subsection (1).

Section 22-9. ***Exemption from evidence of incriminating and negative personal details***

(1) A party or witness may refuse to provide access to evidence that may result in a penalty for:

a) Himself or herself or
b) a relative referred to in Section 22-8 (1) or such a relative's spouse or cohabitant,
c) a current or former spouse or cohabitant and their relatives in a direct line of ascent or descent or their siblings, or
d) any person who is married to or cohabiting with any person referred to in (c).

(2) The court can order a party or a witness to provide evidence in circumstances referred to in subsection (1) if it finds that it is reasonable based on an overall assessment of the nature of the case, the importance of the evidence to the clarification of the case and the consequences of providing evidence for the party or the witness.

(3) The court can exempt a party or witness from providing access to evidence if there is a risk of considerable damage to reputation or social standing or considerable loss of any other kind for the party or the witness or his or her close relatives referred to in subsection (1) if, taking into consideration the nature of the case, the importance of the evidence to the clarification of the case and other circumstances, it would be unreasonable to order the party or witness to provide access to such evidence.

(4) The court may exempt a party or witness from the duty to provide access to evidence that relates to his or her fiancé, foster parents foster children and foster siblings as referred to in subsections (1) to (3).

Section 22-10. ***Exemption for evidence of trade or business secrets***

A party or witness may refuse to provide access to evidence that cannot be made available without revealing trade or business secrets. The court may nevertheless order such evidence to be made available if, after balancing the relevant interests, the court finds this to be necessary.

Section 22-11. ***Exemption from the duty to provide evidence for the mass media – protection of sources***

(1) The editor of a printed publication may refuse to provide access to evidence about the identity of an author of an article or report in the publication or the source of any information contained in it. The same applies to evidence about the identity of the source of other information that has been confided to the editor for use in his or her activities.

(2) If important public interests require that evidence referred to in subsection (1) is presented and it is of considerable importance to the clarification of the case, the court may nevertheless, based on an overall assessment, order the evidence to be presented or the source to be revealed. If the author or source has revealed circumstances that are in the public interest to publicise, such an order may only be made if it is particularly necessary for the name to be publicised.

(3) The provisions in this section apply correspondingly to:

a) other persons who have acquired knowledge of the author or the source through their work for the publishers, editor, press agency or printing office in question, and
b) contributors in broadcasting or other media undertaking that has, in the main, the same purpose as newspapers and broadcasting.

Section 22-12. ***Duty of confidentiality and hearings in camera***

(1) When evidence referred to in this Chapter is presented with the consent of the person in question, the court shall impose a duty of confidentiality on the persons present unless the terms of the consent decide otherwise. If the court has imposed a duty of confidentiality, oral hearing of the evidence shall be held in camera.

(2) If evidence is presented pursuant to an order of the court, the court may impose a duty of confidentiality and decide that oral hearing of the evidence shall be held in camera. The same applies if the court has not granted an exemption from the duty to provide evidence pursuant to Sections 22-5 (2), 22-8 (2) or 22-9 (3) and (4).

Chapter 23. The obligations of the parties to attend and testify

Section 23-1. ***The obligation of the parties to attend***

(1) A party who is not lawfully absent is obligated to attend in person any court hearing to which he or she is summoned pursuant to the provisions in Section 13-2. An obligation to attend in person shall be imposed at the request of the opposite party or when the court finds it necessary that the party attends. At the request of a party, the court may exempt him or her from attending if the conditions for distance examination are fulfilled or if the court does not find adequate grounds for the party's attendance.

(2) The party is obligated to remain in attendance throughout the court hearing unless he or she is exempted by the court. The court may decide that a party who is exempted from attending shall make himself or herself available to be contacted for the duration of the court hearing.

(3) Section 24-2 applies correspondingly to a summoned party who is deprived of his orher liberty and committed to an institution.

(4) In cases where the court has a duty to ensure a sound factual basis for the ruling pursuant to Section 21-3 (2), it may, in accordance with Section 24-5, decide that a party who fails to attend without being lawfully absent shall be brought to the court, and that a party who attends in an intoxicated state shall be detained in custody.

Section 23-2. ***Examination of parties***

(1) A party is obligated to testify in person if required by another party or by the court. The testimony shall be given directly to the court if the party is present at the court hearing. Otherwise, the testimony shall be given by distance examination pursuant to Section 21-10 or pursuant to the rules relating to the taking of evidence in Section 21-11.

(2) A party shall first be examined by his or her counsel, then by other parties and thereafter by the court. A party who is not represented by counsel shall first be examined by the court. The court may alter the sequence if this is deemed expedient. Otherwise, the provisions on examination of witnesses in Sections 24-4, 24-7, 24-8, 24-9 (2) to (5), 24-10 and 24-11 shall apply correspondingly to the examination of parties.

(3) The provisions on examination of witnesses shall apply correspondingly to the parties if they give testimony about claims in respect of which they are not parties.

Chapter 24. Testimony

Section 24-1. ***Duty to testify***

(1) Anyone who has information of relevance to the factual basis for the ruling on the case is obliged to attend as a witness at a court hearing following a summons pursuant to Section 13-3.

(2) The duty to testify shall apply to persons who are resident or staying in Norway and who are not lawfully absent pursuant to Section 13-4 (1). The Act of 21 March 1975 number 9 relating to the duty to testify in the Nordic countries applies to persons who are resident or staying in the other Nordic countries. Sections 24-10 and 24-11 apply to the duty to testify for children, the mentally ill and the mentally disabled.

(3) The issue of whether the witness shall be summoned to testify directly before the adjudicating court or by distance examination or the taking of evidence shall be determined pursuant to the provisions of Sections 21-10 and 21-11.

Section 24-2. ***Obligation to attend for witnesses who are deprived of their liberty***

If a witness is deprived of his or her liberty and detained in an institution, the institution shall ensure that he or she attends in order to testify if possible. The institution shall notify the court immediately if the testimony will have to be given in a different manner than assumed in the summons.

Section 24-3. ***Obligation to attend for witnesses in the event of prohibited and exempted evidence***

(1) A witness who is only called to testify about questions that, according to the information available, cannot be answered without consent or an order from the court, should not, as a general rule, be summoned as long as consent has not been given or there is no reason to believe that the witness may be ordered to testify.

(2) A summons to a witness who is entitled to refuse to testify about the issues that are being examined may include a notice that attendance is unnecessary if the witness is determined to refuse to testify. If the witness gives sufficient advance notice prior to the court hearing that he orshe will refuse to give evidence, the summons shall be withdrawn if the refusal is found to be justified.

Section 24-4. ***Obligation to prepare for testimony and to bring evidence***

(1) The court may order a witness to bring with him/or her documents or other evidence that the witness is obligated to produce.

(2) When requested, the witness is obligated to refresh his orher knowledge of the case, among other things by examining or studying evidence to which he or she has access, such as accounts, minutes of meetings etc., and if necessary to prepare notes and bring items to the court.

Section 24-5. ***Witnesses who fail to attend or who attend in an intoxicated state***

The court may decide that a witness who fails to attend without being lawfully absent shall be brought to the same or a subsequent court hearing, and that a witness who attends in an intoxicated state shall be detained in custody until he or she is sober.

Section 24-6. ***Individual examination – the right to attend the hearing***

(1) Witnesses shall be examined individually and shall not attend the hearing until they have been examined unless both parties agree to this and the court does not find the witness' attendance to be problematic. Witnesses may be confronted with one another if their testimony so justifies.

(2) A witness who assists or has assisted a party extensively in the matter to which the case relates shall normally, at the request of the party, be permitted to follow the entire hearing. Section 25-6 (2) applies to expert witnesses.

Section 24-7. ***Order to leave the courtroom during witness testimony***

The court may decide that a party or other person shall leave the courtroom while a witness is being examined if there is special reason to fear that the witness would not otherwise provide unreserved testimony. The court shall ensure that questions that the party would have put to the witness are asked. Following the examination, the court shall provide an account of the testimony to an excluded party.

Section 24-8. ***Preliminary actions to the examination of witnesses***

(1) The court shall ask the witness for his orher name, date of birth, occupation, address and relationship to the parties. The court can ask the witness about other circumstances that may be relevant to the assessment of his or her testimony.

(2) Instead of his or her address, the witness may state his or her place of work, but the witness may then be ordered to state his or her address to the court. If there is a risk that the witness or a person with the type of relationship to the witness as referred to in Section 22-8 may be exposed to a criminal act that threatens his or her life, health or freedom, or other substantial welfare loss, the presiding judge may decide that information on residence or workplace shall only be given to the court in writing.

(3) If the court expects that a witness will have a limited duty to testify in the case because of the rules relating to prohibited evidence and exempted evidence, the witness's attention shall be draw to this fact. A witness who asserts that he or she is not entitled or obliged to testify shall substantiate this assertion. In the absence of other evidence, it is sufficient that the witness confirms the assertion under affirmation.

(4) Before testimony is given, the court shall admonish the witness to give truthful and complete testimony and shall warn the witnesses of the liability associated with giving false testimony and affirmation. The court shall then ask the witness: «Do you affirm that you will tell the truth and whole truth and not conceal anything?» The witness shall stand and reply to this question: «I do so affirm upon my honour and conscience.»

Section 24-9. ***The examination of witnesses***

(1) The witness shall be examined first by the party that has summoned him/her, then by other parties and thereafter by the court. The court shall start the examination of witnesses that it has summonsed at its own initiative, but may leave this to the parties. At the request of a party, the court shall examine witnesses on his/her behalf.

(2) The witness shall give oral testimony. The witness should normally give a continuous account of all or certain parts of the facts of the case before more detailed questions are asked.

(3) The witness may use notes to aid his/her recollection. The witness must state when, by whom and for what purpose the notes were prepared. In his/her testimony, the witness may refer to a written statement that is submitted pursuant to Section 21-12, but shall also answer questions from the parties and the court.

(4) The court shall ensure that the examination is conducted in a manner that is conducive to producing clear and truthful testimony, and that is considerate to the witness. Questions that, by their content or form, invite a desired response may not be asked unless they are asked to test the reliability of information that the witness has previously given or other special reasons justify this. Questions that are not pertinent to the case shall be rejected.

(5) The court shall take over the examination if it is conducted in an unsatisfactory manner or other reasons warrant this.

Section 24-10. ***Child witnesses***

(1) If a request is made to examine a child under 12 years of age as a witness, the court shall decide whether examination shall take place after balancing the interests of the child against the need to clarify the case. The child shall only be summoned if there is reason to believe that he/she can be examined.

(2) If the witness is a child under 16 years of age, the court shall decide how the examination shall be conducted with due regard to the interests of the child and proper clarification of the case. The child shall not give an affirmation.

(3) The child's guardian or other custodian shall be permitted to be present at the examination unless special reasons dictate otherwise.

Section 24-11. ***Seriously mentally ill and mentally handicapped witnesses***

Section 24-10 (1) to (3) applies correspondingly to the examination of a witness who is severely mentally ill or mentally handicapped.

Chapter 25. Expert evidence

Section 25-1. ***Expert evidence***

Expert evidence is an expert assessment of factual issues in the case.

Section 25-2. ***The conditions for appointing experts***

(1) The court may appoint an expert when requested by a party or at its own initiative pursuant to Section 21-3 (2) when such an appointment is necessary to establish a sound factual basis for the ruling in the case.

(2) If the case can have consequences beyond the specific ruling for a party and, for that reason, the party wishes to call expert witnesses, the court may appoint experts if this is necessary to ensure balance between the parties in the presentation of evidence.

Section 25-3. ***Number of experts. Choice of experts. Expert panels***

(1) One expert shall be appointed. More than one expert may be appointed if this is justified by the nature of the expert issues, the importance of the case or other circumstances, and provided that it shall not result in undue expense or delay. The court may appoint additional experts to supplement those previously appointed.

(2) Persons appointed as experts shall have the necessary skills and experience. If a panel of experts has been established, experts shall be appointed from the panel unless it is desirable to appoint someone else. An expert who is nominated by both parties and who is willing to serve, shall be appointed unless special reasons dictate otherwise.

(3) A person who due to conflict of interest could not have sit as judge in the case, shall not be appointed as an expert. It is not an impediment to appointment that a person has served as an expert in a lower instance.

(4) The King may establish panels of experts for specific types of cases and panels for assessing expert reports within specific areas of expertise.

Section 25-4. ***Terms of reference. Instructions***

The court shall determine the issues to be examined by the expert and shall give the necessary instructions. The court may order the parties to prepare draft terms of reference for the experts.

Section 25-5. ***The expert statement. Oral testimony***

(1) The expert shall submit a written statement unless the court decides otherwise. Multiple experts may submit a joint statement unless the court decides otherwise. The court may decide that the expert shall submit a supplementary statement.

(2) The expert is obligated to attend a court hearing to give evidence following a summons from the court pursuant to Section 13-3 (4). The expert shall be summoned if this is justified for the performance of his/her assignment or clarification of the case. If a party requests a summons, the court shall generally consent to this.

(3) An expert may attend the hearing and consult with other experts, and may ask questions to parties, witnesses and other experts if necessary to perform his/her assignment as an expert.

(4) Before giving evidence to the court, the expert shall confirm by way of affirmation upon his/her honour and conscience that the expert assignment has been performed and will be performed conscientiously and to the best of his/her convictions. The examination shall, in other respects, be conducted in accordance with the provisions relating to the examination of witnesses.

Section 25-6. ***Expert witnesses***

(1) A party may call witnesses to give expert testimony.

(2) An expert witness may attend the entire hearing and may be permitted to ask questions to parties, witnesses and experts. The examination shall, in other respects, be conducted in accordance with the provisions relating to the examination of ordinary witnesses.

Chapter 26. Real evidence

Section 26-1. ***Real evidence***

Real evidence consists of individuals and objects (real property, movable property, documents, electronically stored information etc.) where the person or object as such, or its properties, state or content, contains information that may be important to the factual basis for the ruling in the case.

Section 26-2. ***Presentation of documentary evidence***

Documentary evidence shall be presented by a review in which the important aspects are noted. The review shall not be more detailed than necessary for the proper presentation of evidence.

Section 26-3. ***Presentation of other types of real evidence***

Other types of real evidence shall be presented by the adjudicating court itself examining this, or by the adjudicating court having this examined pursuant to the provisions of Chapter 27.

Section 26-4. ***Individuals as evidence***

Individuals are obligated to make themselves available for examination to the extent that this can be done without undue strain and without causing offence.

Section 26-5. ***Objects as evidence***

(1) Anyone is obligated to make available as evidence objects that are in their possession or which they can obtain possession of.

(2) In order to satisfy the obligation in subsection (1), the court may order the parties and other persons to answer questions about whether they are aware of items of evidence and to make necessary investigations in such respect. They may also be ordered to prepare comparisons, extracts or other reviews of information that may be gathered from items of evidence.

(3) The court may refuse access to evidence pursuant to subsections (1) or (2) if such access would incur expenses that are not reasonably proportionate to the dispute and the potential value of the evidence, or if the party has approximately the same possibility of obtaining access to such evidence. The court may make access to evidence conditional upon an advance of the expenses involved from the person having requested access.

Section 26-6. ***Formulation of the request for access to evidence***

(1) A request for access to or questions concerning real evidence shall be specified in such detail that it is clear as to which item of evidence the application relates.

(2) The court may relax the specification requirement if these are unreasonably complicated to comply with and there is a clear possibility that the requirement may give access to evidence.

Section 26-7. ***Disputes concerning access to evidence***

(1) In disputes concerning access to items of evidence, the court may demand that the item be presented in order to determine whether it constitutes evidence.

(2) If the application for access to evidence is disputed on the grounds that the evidence is prohibited or exempted, the item of evidence cannot be presented unless the court is empowered, pursuant to a special statutory provision, to decide that the evidence nonetheless shall be presented. If only part of the item of evidence is prohibited or exempted, the remainder shall be presented if possible. Section 24-8 (3) second and third sentence applies correspondingly.

(3) The court shall determine in more detail and to the extent necessary how the evidence shall be made available, how it shall be stored and other issues of relevance to the presentation of such evidence. The evidence shall not be made known until the dispute regarding access has been resolved in a binding manner.

Section 26-8. ***Enforcement***

(1) If a person who is not a party refuses to comply with a final and enforceable interlocutory order on access to evidence, the court may rule that such an interlocutory order shall be enforced.

(2) The same applies to a party in cases where the court has a duty to ensure a sound factual basis for ruling on the case, cf. Section 21-3 (2).

Chapter 27. Taking of evidence during legal proceedings

Section 27-1. ***Conditions for taking evidence***

(1) Evidence may be taken by way of judicial examination of parties, witnesses and experts and inspection of real evidence for use in ruling on the case to the extent provided in Section 21-11 (1) in cases that are heard orally, and Section 21-13 in cases that are heard in writing.

(2) Evidence may be taken for use in the preparatory stage of the case if it is particularly important to obtain access to the evidence at that stage.

Section 27-2. ***Request for taking evidence. The ruling of the court***

(1) The court before which the case is being heard may decide that evidence shall be taken on request from a party or at its own initiative in cases where, pursuant to Section 21-3 (2), the court has a duty to ensure a sound factual basis for ruling on the case.

(2) If it transpires that the taking of evidence is necessary, a request shall be submitted as early as possible during the preparatory stage of the case. The reasons for the request shall be stated and the summary of evidence shall be clarified pursuant to Section 21-6 (2). The court may refuse the taking of evidence pursuant to Section 16-6 (3) if the request is submitted after the time limit set.

(3) The evidence may be taken by the court before which the case is being heard or by a different court by way of a letter of request pursuant to Sections 44 to 51 of the Courts of Justice Act. If the evidence is to be taken by a different court, the letter of request shall contain the necessary details of the case and the issue to be clarified.

(4) If expertise is necessary to inspect evidence, the court may appoint an expert pursuant to Section 25-2 and entrust the inspection to this expert.

Section 27-3. ***Taking evidence***

(1) Evidence shall be taken in accordance with the general provisions that apply to the relevant type of evidence insofar as these are appropriate.

(2) The parties shall be notified of a judicial examination or judicial inspection of evidence, cf. Section 13-2 (1). Evidence may be taken even if the parties are absent. A party who was not notified or who was lawfully absent may demand that evidence be taken once more. The parties shall be notified of an inspection of evidence by an expert and shall be given the opportunity to safeguard their interests to the extent that this is compatible with the expert's assignment.

(3) Objections to the duty to testify or to provide access to real evidence and other disputes related to the taking of evidence shall, insofar as possible, be determined by the court before which the case is being heard. However, if this would cause undue delay or other inconvenience, the dispute may be decided by the court taking the evidence.

(4) The court before which the case is being heard may refer the ruling of the court taking the evidence to the immediately superior court. If the case is being heard by a superior court, this court may reverse a ruling made pursuant to the first sentence.

(5) If there are deficiencies in the taking of evidence, the parties may require that the deficiencies be rectified by the court before which the case is being heard, if necessary by the evidence being taken once more. The court can rectify the deficiencies at its own initiative.

Section 27-4. ***Direct examination and distance examination***

Taking of evidence determined pursuant to Section 21-11 (1)(a) shall preferably be done by way of direct examination before the court. In other cases, evidence may be taken by way of direct examination or distance examination pursuant to Section 21-10.

Section 27-5. ***Inspection of evidence***

(1) The person undertaking the inspection of evidence shall take such steps as are necessary to achieve the objective of the inspection.

(2) Statements may be obtained from parties or witnesses. If so, Section 27-4 second sentence shall apply correspondingly. The court may decide that information for use in the inspection shall be obtained by way of judicial examination pursuant to Section 27-4.

(3) If it is appropriate and can be done without significant disadvantage or expense, the inspection may be extended to cover matters other than those under inspection.

Section 27-6. ***Reporting on the inspection***

(1) The person who has undertaken the inspection shall provide an account of the inspection and its results in writing or by other suitable means. The account shall include any statements obtained.

(2) The court may obtain further information about the inspection.

Section 27-7. ***Taking of evidence outside the courts***

Evidence may be taken outside the courts by agreement between the parties.

Chapter 28. Securing evidence outside of legal proceedings

Section 28-1. ***Securing evidence***

Evidence may be secured outside of legal proceedings by judicial examination of parties and witnesses and by providing access to and inspecting real evidence.

Section 28-2. ***Conditions for securing evidence***

Evidence may be secured if it can be of significance in a dispute to which the applicant may become a party or intervener, and there is either a clear risk that the evidence will be lost or considerably weakened, or there are other reasons why it is particularly important to obtain access to the evidence before legal proceedings are instigated.

Section 28-3. ***Request for securing evidence. The ruling of the court***

(1) A petition to secure evidence shall be submitted to the court before which a lawsuit could have been brought. The petition may be submitted to a different court if it is clear that the evidence ought to be secured by such a court. If a petition to secure evidence has previously been submitted in relation to the case, a new petition shall be submitted to the same court. Section 4-7 applies correspondingly.

(2) In addition to the person to whom the petition is directly addressed, the request shall identify as the opposing party the person against whom any ensuing action is likely to be directed.

(3) Evidence may be secured immediately if prompt action is necessary to secure the evidence. If possible, the opposing party shall be notified prior to the securing of evidence so that he/she can be represented while the evidence is being secured. If notice cannot be given in time, the court shall, insofar as possible, appoint a representative for the opposing party and shall inform the opposing party as soon as possible of the steps that have been taken.

(4) If there is reason to fear that notice to the opposite party could obstruct the securing of evidence, the court may decide that the securing of evidence shall be heard before the opposite party is notified. Neither the opposite party nor the public shall be informed of the case before the evidence is secured or more than six months have elapsed since the case was concluded. The applicant should not be allowed access to the evidence until the ruling is final if it may be important for the opposite party to prevent such access. Section 32-8 applies correspondingly. The time limit for requesting an oral hearing is two weeks from the date when notice of the hearing was given.

(5) The applicant in subsection (4) shall compensate any loss that the opposite party has sustained as a result of the securing of evidence if it transpires that the applicant has no claim or right which the securing of evidence could serve to protect. The same applies if, in a subsequent oral hearing, it transpires that the request to secure evidence pursuant to subsection (4) was unjustified in other respects because false or misleading information regarding the need to secure evidence was given either intentionally or negligently in the case.

(6) As a condition for securing evidence pursuant to subsection (4), the court may decide that the applicant shall pay or provide security for the expenses involved. The court may also impose a condition that the applicant shall provide security, to be fixed at the court's discretion, for potential compensation to the opposite party.

Section 28-4. ***Implementing the securing of evidence***

The provisions relating to access to real evidence and the taking of evidence during legal proceedings apply correspondingly to the securing of evidence insofar as these are appropriate.

Section 28-5. ***Expenses relating to the securing of evidence***

(1) The party who requests the securing of evidence shall cover the expenses incurred by opposite parties pursuant to Section 28-3 (2) and expenses relating to the appointment of a representative pursuant to Section 28-3 (3).

(2) The obligation pursuant to subsection (1) may lapse in whole or in part if the request to secure evidence was necessary because an opposite party pursuant to Section 28-3 (2) has refused, without reasonable cause, to cooperate in securing and providing access to evidence, or has contested the request without reasonable cause. In such circumstances, the party that has put forward the request and other parties may be awarded costs in whole or in part from the party that was not willing to cooperate.

Chapter 28 A. Right to information in the event of infringement of intellectual property rights etc.

Section 28 A-1. ***Right to information in the event of infringement of intellectual property rights etc.***

(1) When there are reasonable grounds to believe that an intellectual property right has been infringed, the court may, at the request of the rightsholder, order the infringing party to provide information on the origin and distribution networks for goods or services that the infringement pertains to (disclosure order). Such information can also be required from the party that:

a) has contributed to the infringement,
b) has been in possession of goods that constitute an infringement in the course of business,
c) has used a service that constitutes an infringement in the course of business,
d) has provided a service that has been used in connection with an infringement in the course of business, or
e) is designated by the infringing party or any party referred to in (a) to (d), as being involved in the production or distribution of goods, or provision of a service, that the infringement pertains to.

(2) Information on origin and distribution networks includes:

a) name and address of manufacturers, distributors, suppliers and others that have had the goods in their possession or supplied or received the services,
b) name and address of intended wholesalers and retailers, and
c) information on quantities produced, supplied, received or ordered and on the price that was paid and achieved for the goods or services.

(3) Intellectual property rights include copyright and other rights pursuant to the Copyright Act, patents, supplementary protection certificates as referred to in Section 62 a and 62 b of the Patent Act, rights to company names and other business characteristics, rights to topographies of integrated circuits, plant breeders' rights, design rights, trademark rights and designations that are protected pursuant to Regulations no. 698 of 5 July 2002 relating to the protection of designations of origin, geographical indications and designations of specific traditional character of agricultural foodstuffs, and geographical indications that are protected pursuant to Sections 25, 26 or 31 of the Marketing Control Act. This chapter applies correspondingly for violation of Section 30 of the Marketing Control Act, and violation of Section 25 and 26 of the Marketing Control Act that pertain to imitating another party's product, distinguishing marks, advertising material or other produced items.

(4) Subsection (1) and (2) apply correspondingly when a party has initiated significant preparatory measures with the intention of committing an act that will constitute an infringement or has otherwise acted in such a manner that there is particular reason to fear that the party in question will commit an infringement.

Section 28 A-2. ***Proportionality requirements etc.***

(1) Disclosure orders may only be given when the information can be of importance to the enforcement of a right as referred to in Section 28A-1 and the rightsholder's interest in obtaining the information is more important than the disadvantages caused to the party subject to the disclosure order as well as other opposing interests.

(2) The provisions relating to prohibited and exempted evidence in Sections 22-3, 22-5 and 22-7 to 22-12 apply correspondingly with regard to the duty to provide information pursuant to this Chapter.

Section 28 A-3. ***Request for disclosure order and procedure***

(1) A disclosure order can be requested in connection with an action concerning infringement, or independently of such an action. The request is made in the form of a pleading. The request must be presented orally if it is made during a main hearing.

(2) A request for a disclosure order that is made independently of an infringement action is to be submitted to the court in which the infringement action asserted as grounds for the request could have been submitted. The request may also be submitted to the court which is the ordinary venue of the party that the request is directed against. A request directed against multiple parties, may be submitted where one of these parties has its legal venue.

(3) The request shall list the party from whom information is requested as the opposite party. When the request is submitted in an infringement action and is directed at a party other than the opposite party in the action, both shall be listed as the opposite party. The type of information requested and the grounds for this must be specified.

(4) In an infringement action, a request for a disclosure order may be put forward until the case has been closed for judgment. If the request is made during the main hearing, it may only be directed against the opposite party or a witness. If the request is directed at a witness, it must be made before the witness concludes his/her testimony. After the preparatory stage has been completed, new witness evidence cannot be presented with a view to the witness being ordered to provide information on the origin and distribution networks without significance for the infringement action decision. Section 9-16 shall apply if the witness shall also testify about matters that may be significant when deciding the action. If a request that a witness shall be ordered to provide information pursuant to Section 28A-1 is likely or possible, this must be stated when the evidence is offered.

(5) The person that the request is directed against must be given the opportunity to comment before the decision is made.

Section 28 A-4. ***The court's ruling***

(1) Disputes concerning whether information shall be disclosed pursuant to Section 28 A-1 shall be decided by interlocutory order.

(2) In an infringement action, the court shall determine whether the request shall be decided by special interlocutory order or whether the ruling shall be postponed until the judgment or interlocutory order that concludes the case. In both instances, the ruling can be appealed separately.

(3) The court decides how a disclosure order shall be complied with. The disclosure order may require the person that the disclosure order is directed against to provide testimony in court or to provide access to real evidence. The rules in Chapters 23, 24, 26 and 27 apply correspondingly insofar as these are appropriate. The court may also decide that the person that the order is directed against shall prepare a special written declaration instead of testifying. If someone who is not a party refuses to comply with a final and enforceable interlocutory order that orders the person in question to prepare a special written declaration, the court may decide that the interlocutory order shall be enforced.

Section 28 A-5. ***Costs and expenses***

(1) When a disclosure order is requested independently of an infringement action or against a person other than the opposite party in an infringement action, the party that makes the request is required to cover the necessary costs and expenses of the party from whom information is requested. If the request is necessitated by the party from whom information is requested having disputed the claim without reasonable grounds for doing so, the obligation pursuant to the first sentence may lapse in full or in part and the party that has put forward the request shall be awarded full or partial costs.

(2) The provisions in Chapter 20 relating to costs and expenses associated with the processing and execution of a request for information apply between the parties in an infringement action.

Part VI – Remedies

Chapter 29. Appeal to the court of appeal

Section 29-1. ***The court of appeal as appellate court***

The court of appeal is the appellate court for rulings of the district courts and of courts that are sat with a sole judge or only one professional judge.

Section 29-2. ***Rulings that may be appealed***

(1) An appeal may be brought against judgments, interlocutory orders and decisions.

(2) Rulings on procedural issues cannot be appealed after the case has been decided on its merits.

(3) In cases that are heard orally, the limitation on the right of appeal in subsection (2) takes effect when the court hearing for the finalisation of the case is opened. The limitation shall lapse if the hearing is adjourned.

(4) These limitations on the right of appeal shall not apply to a ruling to reject or dismiss the case or to rulings directed at third parties.

(5) Subsections (2) to (4) apply correspondingly to rulings concerning parts of the case.

Section 29-3. ***Grounds of appeal***

(1) An appeal may be brought against a judgment or an interlocutory order on the grounds of error in the assessment of the facts, error in the application of law or error in the procedure upon which the ruling is based.

(2) An interlocutory procedural order which, pursuant to statute, shall be made on an assessment of what is appropriate and necessary for the proper conduct of the case may, as far as the discretionary assessment is concerned, only be appealed on the grounds that the ruling is unsound or clearly unreasonable.

(3) A ruling that is made in the form of a decision may only be appealed on the grounds that the court has based the decision on an incorrect interpretation of the types of rulings that the court may make pursuant to the statutory provision that has been applied, or on the grounds that the ruling is obviously indefensible or unreasonable.

Section 29-4. ***Claims that may be heard in the appeal case***

(1) An appeal can relate to claims that have been determined by the appealed ruling.

(2) If the claim can be heard pursuant to what are substantially the same procedural rules, an appeal may include the following claims in addition to claims referred to in subsection (1):

a) claims that are linked to claims referred to in subsection (1) and that cannot be brought in a separate action,
b) claims that are linked to claims referred to in subsection (1), where the amendment relates to circumstances that have occurred at too late a stage, or that have become known at too late a stage, for the claim to be included in the action at an earlier stage,
c) claims that are connected to claims referred to in subsection (1) and the opposite party does not object to broadening the action and the court does not find that there are important considerations that argue otherwise,
d) other claims that are connected to claims referred to in subsection (1) where the court finds that the new claim may be properly heard on appeal and there are compelling reasons for why it should be allowed to be heard, and
e) new claims that are brought by way of counterclaim where the counterclaim could not have been raised at an earlier stage or where the opposite party consents to this.

(3) The prayer for relief in respect of a determined claim may only be broadened if the opposite party consents to this or if the amendment is based on circumstances that became known to the party after the main hearing in the district court. In cases that are heard according to general procedure, the amendment can also be based on circumstances for which the party cannot be reproached for not having been aware until after the conclusion of the preparation of the case if the district court has denied the amendment.

(4) A party may also bring claims pursuant to subsection (2) or broaden the prayer for relief pursuant to subsection (3) after the time limit for appeal or reply has expired provided that it would be reasonable to allow

the amendment. A party may, at any time, require the court to hear claims pursuant to subsection (2)(a) and amendments to the prayer for relief that could not have been raised at an earlier stage.

Section 29-5. ***Time limits for appeals***

(1) The time limit for appeal is one month unless otherwise provided by statute.

(2) The court may set a one week time limit for appeal against:
a) rulings that order or refuse access to evidence or issues of evidence,
b) rulings that order someone to give an affirmation, and
c) rulings that appoint or reject the appointment of an expert.

(3) The court may require that an appeal against a ruling pursuant to subsections (2)(a) and (b) regarding access to evidence or the provision of an affirmation which, pursuant to Section 19-13 (2) cannot be enforced until it becomes final and enforceable, shall be lodged immediately if the person entitled to an appeal is present in court.

(4) When pronouncing judgment, the court may fix a time limit for appeal of up to six weeks from the date of service if it will be particularly difficult for the parties to observe the time limit pursuant to subsection (1).

Section 29-6. ***Waiver of the right of appeal***

(1) The right of appeal may be waived. The right of appeal may only be waived before the ruling is pronounced if the waiver is mutual. Even if the right of appeal has been waived before the ruling, an appeal may be brought on the grounds of error pursuant to Section 29-21 (2).

(2) The right of appeal must be expressly waived.

Section 29-7. ***Derivative appeal***

(1) A party who lacks a direct right of appeal because the time limit for appeal has expired, or the right of appeal has been waived or the requirement as to the value of the subject matter of appeal is not fulfilled, shall still have a right of appeal unless an appeal by the opposite party is limited to an appeal against procedure.

(2) An appeal pursuant to subsection (1) is not necessary if the party's claim is limited to amending the award of cost.

(3) An appeal pursuant to subsection (1) must be lodged within the time limit pursuant to Section 29-10 (2).

(4) An appeal pursuant to subsection (1) shall lapse if the appeal by the opposite party is not heard on its merits.

Section 29-8. ***Legal standing***

(1) The parties to the action may appeal against judicial rulings to have them amended in their favour. Any person who will be affected by the amendment shall be cited as respondent.

(2) A person who is not a party to the action may appeal against rulings that relate to his/her procedural rights or obligations. Such persons shall be cited as respondents in appeals brought by other persons.

Section 29-9. ***Submitting the appeal. The notice of appeal***

(1) An appeal shall be submitted by notice of appeal.

(2) The appeal shall be submitted in writing or orally pursuant to the provisions of Section 12-1 (2) and to the court that made the appealed ruling.

(3) The notice of appeal shall state:
a) the name of the appellate court,
b) the names and addresses of the parties, their party representatives and counsel,
c) the ruling that is appealed,
d) whether the appeal applies to the ruling in its entirety or only to certain parts thereof,
e) the claim to which the appeal relates, and a prayer for relief that states the outcome the appellant is claiming,
f) the errors in the appealed ruling that are alleged,

g) the factual and legal grounds for the alleged errors,
h) the evidence that will be presented,
i) the basis upon which the court may hear the appeal, if there can be any doubt as to this, and
j) the appellant's views on the further hearing of the appeal.

(4) The notice of appeal shall provide a basis for the parties and the court to hear the case in a sound manner. The notice shall specifically state the issues in the appealed ruling that are contested, and any new factual or legal grounds or new evidence. In all other respects, Section 9-2 (3) shall apply to the appropriate extent.

Section 29-10. ***Preliminary hearing of the appeal by the recipient court***

(1) If the court finds that the appeal is deficient or that the time limit for an appeal may have expired, the appellant shall be given the opportunity to rectify the error pursuant to Sections 16-5 and 16-6. A ruling on whether the appeal shall be rejected or reinstatement granted shall be made by the court of appeal.

(2) The court shall serve the notice of appeal on the respondent and set a time limit for submitting the reply. The time limit shall normally be three weeks for appeals against judgments and one week for appeals against interlocutory orders and decisions.

(3) The case shall be transferred to the court of appeal immediately after the reply has been submitted and communicated to the appellant. The same applies if no reply has been submitted before the time limit has expired.

Section 29-11. ***Reply***

(1) The respondent should submit a reply.

(2) In the reply, the respondent should give an account of his/her views on the appeal. The respondent should prepare a prayer for relief and state the factual and legal grounds for the prayer for relief and the evidence that will be presented. The respondent should express his/her views on the further hearing of the appeal.

(3) If the reply constitutes a derivative appeal, Sections 29-9 and 29-10 apply to the derivative appeal.

Section 29-12. ***Reject and setting aside during the preparation of the appeal***

(1) During the preparation of the appeal, the court of appeal may:
a) reject an appeal which contains errors that must result in the appeal being rejected,
b) dismiss a case or part of the case because the courts do not have jurisdiction or there has been a final and enforceable judgment,
c) set aside a ruling that has been appealed when there are errors that shall be unconditionally given effect, cf. Section 29-21 (2).

(2) In an appeal against a judgment rendered following simplified judgment proceedings or small claims procedure, the court of appeal may set aside the judgment instead of referring the appeal if it finds that the judgment suffers from an error in the application of law or from significant procedural errors, and that the further hearing of the case ought to take place in the district court.

(3) Section 9-6 applies correspondingly to the hearing.

Section 29-13. ***Leave to appeal. Refusal***

(1) An appeal against a judgment in an asset claim shall not be referred for hearing without leave of the court of appeal if the value of the subject matter of the appeal is less than NOK 125,000. In determining whether to grant leave, the court shall, among other things, take into consideration the nature of the case, the parties' needs for review and whether there appear to be flaws in the appealed ruling or the hearing of the case.

(2) The court of appeal may refuse leave to appeal against a judgment if it finds it clear that the appeal will not succeed. Refusal may be limited to certain claims or grounds of appeal.

(3) If a ruling pursuant to subsection (1) has not been made before the appeal hearing, leave may still be refused if at that stage it transpires that the value of the subject matter of the appeal is less than NOK 125,000.

(4) The court of appeal cannot refuse leave pursuant to subsection (2) unless the party has been given notice that refusal is being considered. Such notice must be given before the further preparation of the case is raised with the parties pursuant to Section 29-14 (3), and no later than one month after the court of appeal received the appeal.

(5) Rulings pursuant to subsections (1) and (2) are made by decision without an oral hearing. Reasons must be provided for decisions made pursuant to subsection (1) when special circumstances so warrant. Refusal pursuant to subsection (2) requires unanimity and reasons must be provided. The decision may only be appealed on the grounds of procedural error. An appeal cannot be brought against a decision not to refuse leave pursuant to subsection (2), nor can this constitute grounds of appeal.

Section 29-14. ***Further preparation of the case***

(1) If the appeal is not decided on pursuant to Sections 29-12 or 29-13, the hearing of the case shall proceed in accordance with subsections (2) or (3). Preparation of the case shall focus on the issues to be reviewed on appeal and that are in dispute. Sections 9-6 and 9-7 apply correspondingly.

(2) Unless further preparation of the case is necessary to establish a sound basis for the ruling, appeals against interlocutory orders and decisions shall normally be determined on the grounds that exist when the case is transferred to the court of appeal. If it is necessary to discuss the further preparation of the case, Section 9-4 applies to the appropriate extent.

(3) Sections 9-4, 9-5 (3) and (4), 9-10 and 9-11 apply correspondingly to appeals against judgments.

Section 29-15. ***Type of hearing and the basis for the ruling in appeals against interlocutory orders and decisions***

(1) Appeals against interlocutory orders and decisions shall normally be determined following a written hearing.

(2) An oral hearing shall be held if required due to the need to ensure sound and fair legal proceedings. The oral hearing may be limited to specific issues. Section 29-18 applies correspondingly to the oral hearing to the appropriate extent.

Section 29-16. ***Type of hearing and basis for the ruling in appeals against judgments***

(1) Appeals against judgments shall be determined following an oral appeal hearing pursuant to Section 29-18 or a court hearing pursuant to Section 29-14 (3), cf. Section 9-5 (4). The description of the facts pursuant to subsection (2), accounts pursuant to subsection (3) and submissions pursuant to subsection (4) shall form part of the basis for the ruling in the case. The court may decide that the case shall be determined following a written hearing pursuant to subsection (5).

(2) The court can rely on the description of the facts in the district court's judgment without reviewing this if the description is not contested.

(3) The court may decide that the parties shall submit written accounts of parts of the factual or legal issues involved in the case if this may lead to a more efficient and cost-effective hearing or if it is necessary in order to establish a considerably firmer basis for the ruling. If a party objects to submitting a written account pursuant to this subsection, the issue shall be decided on by way of interlocutory order.

(4) Section 9-9 (2) and (4) apply correspondingly.

(5) If the appeal relates only to procedure and the application of law, or if it only, to a limited extent, raises factual issues in respect of which direct presentation of evidence will be of material importance, the court may decide that the appeal shall be ruled on following a written hearing if this will provide a sound basis for the ruling. After the court's decision, the parties shall submit written submissions which, together with facts that emerge at any court hearing pursuant to the fourth sentence of this subsection, shall form the basis for ruling on the case. Each party shall submit at least one submission, but is entitled to submit two. The court may decide that a court hearing shall be held after the written submissions for an oral hearing of one or more specific issues in the case.

Section 29-17. ***Lay judges***

If an appeal against judgment is not heard entirely in writing, the court may sit with two lay judges. Section 9-12 (2) and (3) apply correspondingly.

Section 29-18. ***Oral appeal hearing***

(1) An oral appeal hearing shall take place pursuant to the provisions in Sections 9-13, 9-14, 9-16, 9-17 and 16-4. The court shall ensure that the hearing is focused on the issues that are raised in the appeal and that are in dispute.

(2) Section 9-15 applies correspondingly to the conduct of the main hearing. The appellant shall normally address the court before the respondent. When both parties have appealed, the court shall determine which party shall address the court first. The court may decide that the parties shall deliver their main addresses pursuant to Section 9-15 (10) in all cases when this would lead to effective management of the appeal hearing.

(3) After a party has presented or, where appropriate, clarified his/her prayers for relief and the grounds for the prayer for relief, the court may preclude further proceedings if it finds it clear that they will not succeed.

Section 29-19. ***Waiver of notice of appeal***

(1) A party who has given notice of appeal may waive the appeal at any time before the appeal hearing has commenced and, with the consent of the opposite party, at any time before the claim is ruled on. Appeals which are heard in writing may be waived at any time before the appeal is ruled on.

(2) Waiver of appeal precludes any subsequent appeal.

Section 29-20. ***The court's review of the appeal***

(1) The court may only review the claims that are appealed. The court shall nevertheless give effect to errors pursuant to Section 29-21 (2) for claims between the appellant and the respondent that are not appealed when such an error also afflicts such claims and it is likely that the error has influenced the determination of such claims.

(2) In appeals against procedure, the court may only review the procedural errors that are invoked and cannot review the merits of the case. The court may give effect to errors pursuant to Section 29-21 (2) beyond the scope of the appeal.

(3) In appeals on the merits, the court is bound by the grounds for appeal, and such that Sections 11-2 and 11-4 provide the framework for the review. The court cannot review the procedure, but may give effect to errors pursuant to Section 29-21 (2) beyond the scope of the appeal.

Section 29-21. ***Procedural errors***

(1) Effect shall be given to a procedural error if it is probable that such an error has had an impact on the appealed ruling.

(2) The following errors shall always be given effect:

a) disregard for mandatory conditions for granting leave or deciding on the claim,
b) unlawful composition of the court,
c) deficiencies in the ruling that cannot be rectified pursuant to Sections 19-8 and 19-9 and that prevent the appeal being heard, or
d) that the ruling was made against a party who was not present and who was not lawfully summoned or who was lawfully absent.

Section 29-22. ***Separate hearing and determination of appeals against procedure***

(1) If a ruling is appealed both on the grounds of procedure and on the merits, the appeal against procedure shall generally be decided first.

(2) Even if there are procedural errors to which effect shall be given pursuant to Section 29-21, the court of appeal can rule on the merits if:

a) the court of appeal has jurisdiction to review the claim to which the appeal relates,
b) the district court has ruled on the claim on the merits, and

c) regard for the parties does not suggest that the claim should be retried in the district court.

(3) A separate appeal cannot be lodged if the court of appeal has granted leave to appeal on the merits.

Section 29-23. ***The determination of the appeal by the court of appeal***

(1) The appeal shall be ruled on by way of judgment or interlocutory order pursuant to Section 19-1.

(2) The appeal shall be dismissed if the court of appeal finds that it cannot succeed.

(3) The appealed ruling shall be set aside if an appeal against procedure succeeds or if the court, at its own initiative, gives effect to a procedural error pursuant to Section 29-21 (2). The court of appeal may decide that the further hearing of the case after the appealed ruling is set aside shall take place before a different court or different judges. If the basis upon which the ruling was set aside implies that the case cannot be heard further, the case shall be rejected.

(4) If an appeal on the merits of a ruling succeeds, the court of appeal shall make a new ruling on the merits if it has a basis for doing so. In all other respects, subsection (3) shall apply correspondingly.

Section 29-24. ***Further hearing after a ruling has been set aside***

(1) After a ruling has been set aside, the case shall be transferred to the court that is to hear the case further.

(2) The court shall, at its own initiative, ensure that the case is heard further. At the subsequent hearing, the district court shall apply the interpretation of the law which the court of appeal applied when setting aside the original ruling.

Chapter 30. Appeal to the Supreme Court

Section 30-1. ***The Supreme Court as appellate court***

(1) The Supreme Court is the appellate court for rulings of the court of appeal and for appeals against judgments where leave to appeal directly to the Supreme Court has been granted pursuant to Section 30-2.

(2) The Appeals Committee of the Supreme Court shall determine appeals against interlocutory orders and decisions.

Section 30-2. ***Direct appeal to the Supreme Court***

(1) An appeal against a judgment that would otherwise fall within the jurisdiction of the court of appeal may, with leave, be appealed directly to the Supreme Court. Leave may only be granted if the case gives rise to particularly important issues of principle upon which it is important to promptly ascertain the view of the Supreme Court, and if regard for the need for a sound hearing does not weigh against direct appeal. Leave to appeal directly to the Supreme Court may not be granted for appeals against judgments rendered following small claims or simplified judgment proceedings.

(2) As a general rule, leave to appeal directly to the Supreme Court shall be granted for the case as a whole. However, leave may be granted to split the hearing and the adjudication if a split is permissible pursuant to Section 16-1 and it would clearly be expedient to the further hearing of the case that a claim or grounds for the prayer for relief be heard separately and ruled on by way of direct appeal pursuant to subsection (1).

(3) An application to appeal directly to the Supreme Court may be submitted by the appellant or the respondent within the time limit for the submission of the reply. Section 29-10 applies correspondingly to the district court's preparation of the appeal, except that the case shall be transferred to the Supreme Court.

(4) Leave to appeal directly to the Supreme Court may be withdrawn if the further preparation of the case reveals that the appeal ought to be ruled on by the court of appeal on account of the presentation of evidence.

(5) If leave to appeal directly to the Supreme Court is not granted or is withdrawn pursuant to subsection (4), the case shall be transferred to the court of appeal, which shall hear and rule on the appeal pursuant to the provisions in Chapter 29. Section 29-13 shall not apply if leave to appeal directly to the Supreme Court has been withdrawn pursuant to subsection (4).

(6) If leave to appeal directly to the Supreme Court is limited pursuant to subsection (2) second sentence, the remainder of the appeal shall be transferred to the court of appeal.

(7) Rulings on leave pursuant to subsections (1) or (2) or withdrawal pursuant to subsection (4) shall be made by the Appeals Committee of the Supreme Court.

Section 30-3. ***Corresponding application of the provisions relating to appeals to the court of appeal***

(1) Sections 29-2 to 29-11 and Sections 29-19 to 29-24 apply correspondingly to appeals to the Supreme Court, subject to any amendments pursuant to the provisions in this Chapter.

(2) The Appeals Committee of the Supreme Court can:

a) reject an appeal which contains errors that must result in the appeal being rejected,
b) dismiss a case or part of the case because the courts do not have jurisdiction or there has been a final and enforceable judgment,
c) set aside a ruling that has been appealed when there are errors that shall be unconditionally given effect, cf. Section 29-21 (2), and
d) set aside a ruling on other grounds if the Appeals Committee unanimously deems it to be clear that there are grounds for setting aside the ruling.

(3) Section 9-6 applies correspondingly for rulings pursuant to subsection (2).

Section 30-4. ***Leave to appeal against judgment***

(1) Judgments cannot be appealed without leave. Leave can only be granted if the appeal concerns issues that are of significance beyond the scope of the current case or if it is important for other reasons that the case is decided by the Supreme Court.

(2) The issue of leave shall be determined for each appeal. Leave may be limited to specific claims and to specific grounds of appeal, including to specifically invoked errors in the application of law, procedure or the factual basis for the ruling.

(3) The issue of leave shall be determined by the Appeals Committee of the Supreme Court by way of decision. A decision to refuse leave or to grant limited leave requires unanimity.

Section 30-5. ***Refusal of leave to appeal against interlocutory orders and decisions***

Leave to appeal against an interlocutory order or a decision may be refused if the appeal does not raise issues that are of significance beyond the scope of the current case and there are no other considerations that suggest that the appeal should be tried on its merits. Leave to appeal may also be refused if the appeal principally raises extensive questions of evidence. Section 30-4 (2) and (3) apply correspondingly.

Section 30-6. ***Limitations on the right of second-tier appeals against interlocutory orders***

An appeal to the court of appeal that is determined by interlocutory order cannot be appealed by way of second-tier appeal. However, this does not apply if:

a) the ruling strikes out a case from the district court because the court lacks jurisdiction over the case or the case has been determined by a final and enforceable judgment,
b) the appeal relates to the procedure in the court of appeal,
c) the appeal relates to the general legal interpretation of a written legal rule, or
d) the appeal relates to a ruling on access to evidence pursuant to Section 22-11.

Section 30-7. ***New claims, broadening the prayer for relief, new factual basis and new evidence***

(1) When leave to appeal has been granted pursuant to Section 30-4, or leave to appeal directly to the Supreme Court has been granted pursuant to Section 30-2, new claims cannot be asserted, the prayer for relief in respect of existing claims cannot be broadened and new facts or evidence cannot be submitted unless special grounds suggest otherwise. The issue shall be decided by the Appeals Committee of the Supreme Court.

(2) In appeals against interlocutory orders and decisions, the court may fix a time limit for extensions or amendments referred to in subsection (1).

Section 30-8. ***Further preparation of the case***

(1) If the appeal is not decided by refusal of leave pursuant to Section 30-4 or 30-5 or by setting aside or striking out pursuant to Section 29-12, cf. Section 30-3, the court shall consider whether further preparation of the case is necessary. Preparation shall focus on the issues to be reviewed on appeal and that are in dispute. Sections 9-6 and 9-7 apply correspondingly.

(2) Unless further preparation of the case is necessary to establish a sound basis for the ruling, appeals against interlocutory orders and decisions shall normally be determined on the grounds that exist when the case is transferred to the Supreme Court. If it is necessary to discuss the further preparation of the case, Section 9-4 applies to the appropriate extent. If the appeal is to be decided by the Supreme Court following a full or partial oral hearing pursuant to Sections 30-9 (4) or 30-12, subsection (3) shall apply.

(3) Sections 9-4 and 9-5 (3) first sentence apply correspondingly to appeals against judgments. The court may decide that the parties shall submit written closing submissions pursuant to Section 9-10 (2). The court may fix time frames for the parties' submissions at the appeal hearing.

Section 30-9. ***Type of hearing and basis for the ruling in appeals against interlocutory orders and decisions***

(1) Appeals against interlocutory orders and decisions shall normally be decided following a written hearing.

(2) The appeal may be rejected or dismissed without further grounds if the Appeals Committee of the Supreme Court unanimously finds that the appeal clearly cannot succeed.

(3) The Appeals Committee of the Supreme Court may decide that court hearings shall be held to hear parts of the issues raised on appeal in more detail if this is required to ensure the proper conduct of the case. Section 30-11 applies correspondingly to oral hearings before the Appeals Committee to the appropriate extent.

(4) If the court decides pursuant to Section 5 (1) of the Courts of Justice Act, cf. Section 6 (1), that the court shall sit with a panel of five judges, it shall at the same time decide whether the case shall be heard in writing or pursuant to the provisions of Sections 30-10 and 30-11 relating to appeals against judgments. A decision to hear the case orally may also be subsequently made by the preparatory judge pursuant to Section 19-2 (2) or by the court before whom the case is being heard.

Section 30-10. ***Type of hearing and basis for the ruling in appeals against judgments***

(1) Appeals against judgments shall be decided following an oral appeal hearing. The description of the facts pursuant to subsection (2) and accounts pursuant to subsection (3) shall form part of the basis for the ruling. The court may decide that the case shall be decided following a written hearing pursuant to subsection (4).

(2) The court may decide that the parties shall submit written accounts of specific factual and legal issues in the case.

(3) The court can rely on the description of the facts in the district court or the court of appeal's judgment without reviewing this if the description is not contested.

(4) The Appeals Committee of the Supreme Court may decide on a written hearing if the issues raised by the case are suited to be heard in writing. Section 29-16 (5) second to fourth sentence apply correspondingly. If a court hearing is held after the written submissions, Section 30-11 shall apply to the appropriate extent.

Section 30-11. ***Oral appeal hearing***

(1) Court-appointed experts may be examined directly before the Supreme Court. In other respects, evidence shall be presented pursuant to Section 26-2.

(2) Sections 9-13, 9-14, 9-17, 16-4, 29-18 (1) second sentence, 29-18 (2) second and third sentences and 29-18 (3) apply to the appeal hearing insofar as these are appropriate. Each party may address the court twice. The parties' second address shall be limited to issues raised by the opposite party and to the oral testimony of the experts. Experts who testify directly before the Supreme Court shall testify after the parties have held their first address unless the Supreme Court determines otherwise.

Section 30-12. ***Hearing cases that are to be ruled on by more than five judges***

A case or legal issue that is to be ruled on by the Supreme Court sitting with a panel of more than five judges pursuant to Section 5 (4) of the Courts of Justice Act shall always be heard pursuant to Sections 30-10 (1) to (3) and 30-11.

Section 30-13. ***The State's right to participate in cases concerning the Constitution or international obligations***

(1) The Supreme Court shall notify the Ministry of Justice and Public Security as representative of the State if a case that is to be heard before the Supreme Court raises the question of setting aside or restrictive interpretation of rules laid down in statute, provisional ordinance or parliamentary decision on the grounds that the rules may be contrary to the Constitution or violate rules that are binding on Norway pursuant to its international obligations. The State is entitled to participate in the case to the extent necessary to safeguard the State's interests with regard to the potential conflict of rules.

(2) If the State participates, the court may decide that the State shall submit written accounts of specific factual and legal issues involved in the case.

Section 30-14. ***Setting aside and further hearing before the lower court when the basis for the ruling is deficient etc.***

(1) The ruling shall be set aside if the hearing demonstrates that there are or may be errors in the factual or legal basis for the appealed ruling, but the Supreme Court does not have a sound basis for making a new ruling on the claim to which the case relates.

(2) If, in order to rule on the appeal, it is necessary to consider evidence that has not been assessed in the appealed ruling, the ruling may be set aside if it is important that the assessment takes place in the lower court out of regard for the need for sound and proper proceedings.

(3) During the preparation of the case, the court may rule that the proceedings before the Supreme Court shall be limited in such a way that deliberation on issues in dispute that may be referred to the lower court pursuant to subsection (2) shall be provisionally postponed.

Section 30-15. ***Setting aside the district court's ruling***

(1) If an error that leads to a ruling being set aside also afflicts the ruling of the district court, both rulings shall be set aside. However, this shall not apply if the court of appeal can decide the case on its merits at a new hearing and this would be an appropriate method of hearing the case.

(2) If the district court's ruling is set aside without the case also being rejected, Section 29-24 shall apply to the further hearing of the case in the district court.

Chapter 31. Reopening

Section 31-1. ***Scope. The court that shall determine whether to reopen a case***

(1) This Chapter applies to the reopening of cases that have been ruled on by a final and enforceable judgment.

(2) Rulings of the conciliation board may be reopened by request to the district court.

(3) Rulings of the district court and the court of appeal may be reopened by request to a court of the same level in a judicial district that borders on to the court that made the original ruling.

(4) Rulings of the Supreme Court, including the Appeals Committee of the Supreme Court, may be reopened by request to the Supreme Court. The application shall be ruled on by the Appeals Committee of the Supreme Court.

Section 31-2. ***Rulings that may be reopened***

(1) Final and enforceable rulings that conclude the hearing of a claim may be reopened. Interim rulings may not be reopened.

(2) If a case has been heard by more than one instance, only the ruling of the last instance may be reopened. However, this shall not apply if the circumstances on which the request for reopening is based fell outside the scope of the proceedings in the last instance.

(3) Decisions that disallow an appeal and interlocutory orders that dismiss an application for reinstatement may only be reopened on the grounds of procedural errors referred to in Section 31-3.

(4) Judgments and interlocutory orders that set aside a ruling may be reopened until a new ruling on the merits has been made. Subsection (3) shall apply correspondingly.

Section 31-3. ***Reopening on grounds of procedural error***

(1) A request to reopen a case may be made:

a) if a judge who, pursuant to law, was not entitled to serve, has participated in the proceedings,
b) if there are reasonable grounds to suspect that a judge or other person who has done work or undertaken an assignment for the court, the opposite party or a person who has taken part in the case for the opposite party, has committed a criminal offence in connection with proceedings,
c) if there are reasonable grounds to suspect that a witness has given false testimony,
d) if in a complaint against Norway in respect of the same subject matter it is determined that the procedure has violated a treaty which, pursuant to the Human Rights Act, is incorporated into Norwegian law, or
e) if the party was not present at the hearing because he/she was not lawfully summoned or because he/she was lawfully absent.

(2) A criminal act in respect of which the accused was acquitted may not be invoked unless the court has found it proven that he/she committed the unlawful act.

Section 31-4. ***Reopening on grounds of errors in the ruling***

A request to reopen a case may be made:

a) if information on the facts in the case that was unknown when the case was ruled on suggests that the ruling would in all likelihood have been different, or
b) if a binding ruling made by an international court or an opinion issued by the Human Rights Committee of the United Nations in respect of the same subject matter suggests that the ruling was based on an incorrect application of international law.

Section 31-5. ***General limitations on the right to have a case reopened***

(1) A request to reopen a case cannot be made on grounds that were dismissed at the hearing of the case. A decision to refuse leave to appeal pursuant to Sections 29-13 (1), 30-4 and 30-5 shall not be deemed to constitute dismissal of grounds.

(2) A request to reopen a case cannot be made on grounds that the party submitting the request ought to have alleged at the ordinary hearing, by appeal or by an application for reinstatement.

(3) A case shall not be reopened if it there is a reasonable probability that a new hearing of the case would not lead to an amendment of significance to the party.

Section 31-6. ***Time limits for reopening a case***

(1) A request to reopen a case must be submitted within six months after the date upon which the party submitting the request became aware of, or ought to have become aware of, the grounds for the request. If the request is based on a criminal offence, a new time limit shall start to run from the date when the accused is convicted by a final and enforceable judgment.

(2) A case cannot be reopened after more than ten years. Reinstatement cannot be granted for failure to observe the time limit.

Section 31-7. ***Request to reopen a case***

(1) A request to reopen a case shall be submitted to a court which has jurisdiction to hear the request pursuant to Section 31-1 (2) to (4).

(2) The application shall state:

a) the court to which the application is being submitted,
b) the names and addresses of the parties, their party representatives and counsel,

c) the ruling in respect of which the request to reopen is being made,
d) whether the request relates to the ruling in its entirety or only to certain parts thereof,
e) the grounds for reopening pursuant to Sections 31-3 and 31-4,
f) a factual and legal reason for why the grounds entail a right to reopen the case,
g) the evidence that will be presented in support of the right to reopen the case,
h) the claims that will be asserted in the reopened case, and a prayer for relief which states the outcome the claimant is requesting in the request and the reopened case,
i) the evidence that will be presented in the reopened case,
j) the basis upon which the court may hear the request, if there can be doubt as to this, and
k) the requester's views on the further proceedings of the case.

(3) Section 9-2 (3) shall apply correspondingly.

Section 31-8. ***The hearing of the request by the court***

(1) A request to reopen a case shall be heard pursuant to the provisions relating to appeals against decisions and interlocutory orders to the extent that these are appropriate. Sections 30-5 and 30-9 (2) shall not apply.

(2) The court shall, at its own initiative, examine whether the conditions to reopen the case are fulfilled. If the grounds for the request include a possible criminal offence where criminal legal proceedings have not been initiated, the court may request the prosecuting authority to undertake an investigation.

(3) If the request succeeds, the reopened case shall be heard pursuant to the ordinary provisions applicable to the type of case in question.

(4) The court may decide that the request and the claim or legal issue to which the request relates shall be heard jointly pursuant to the provisions of subsection (3).

(5) The Appeals Committee of the Supreme Court may decide that a request to reopen a case or a reopened case shall be referred in whole or in part to the court of appeal if the Committee unanimously clearly finds that this is appropriate out of regard for the presentation of evidence.

(6) A judge who has participated in making the challenged ruling shall not participate in the proceedings concerning the reopening of the case.

Section 31-9. ***Simplified ruling on the request***

(1) The court may rule on the request without further proceedings if it is clear that it must be rejected for reasons that cannot be rectified, or be dismissed because the basis is inadequate.

(2) A ruling on the request by the court of appeal or the Appeals Committee of the Supreme Court pursuant to subsection (1) must be unanimous.

Part VII – Provisional security

Chapter 32. General provisions

Section 32-1. ***Introduction***

(1) Provisional security includes arrest of goods and interlocutory measures.

(2) A person who has a pecuniary claim against another person can request to secure the claim by way of arrest pursuant to Chapter 33, provided there is a basis for security.

(3) A person who has a claim for something other than the payment of money can request an interlocutory measure pursuant to Chapter 34 provided there is a basis for security.

Section 32-2. ***Relationship to the general provisions of the Act etc.***

The provisions in Chapters 1 to 3, Sections 4-1, 4-3, 4-4 and 4-7, Chapters 7 and 8, Section 9-6, Chapters 11 to 15, Chapter 16 except Sections 16-2, 16-4 and 16-8, Chapter 18, Chapter 19 except Section 19-13 (1) and (2) and Chapters 20 to 31 shall apply correspondingly to cases concerning provisional security to the extent they are appropriate and the provisions of Chapters 32 to 34 do not provide otherwise. Before making an interlocutory order, the court shall, insofar as possible, give the parties the opportunity to make statements.

Section 32-3. ***Norwegian and foreign ships and foreign State-owned aircrafts***

(1) Chapter 4 of the Maritime Code shall also apply to the arrest of ships and interlocutory measures that involve detention of a ship.

(2) Sections 1-5 to 1-7 of the Enforcement Act shall apply correspondingly to provisional security.

(3) The provisions relating to ships apply correspondingly to floating constructions that are not regarded as ships but that can be registered in the Norwegian Register of Ships or equivalent foreign register.

Section 32-4. ***Competent Court***

(1) A request for provisional security shall be submitted to the district court in the judicial district where the defendant has his/her ordinary venue. A request for attachment can also be submitted to the district court in another judicial district where property or an asset belonging to the defendant is situated, or where moveable property belonging to the defendant is expected to arrive in the near future. A request for interlocutory measures that relates to property or an asset or other object can also be submitted to the district court in the place where the property, asset or object is located or is expected to arrive in the near future. Section 1-9 of the Enforcement Act shall apply correspondingly. A request to impose an exit permit restriction shall be submitted to the district court in the judicial district where the defendant lives or is residing.

(2) A request for interlocutory measures against the State or a county authority can also be submitted to the district court in the claimant's ordinary venue.

(3) If an action in respect of the claim that is the subject of the request for provisional security has been brought before a court other than the conciliation board, the request shall be submitted to this court.

Section 32-5. ***The request***

(1) A request for provisional security shall be submitted in a pleading or orally.

(2) The request shall state the claim in respect of which provisional security is sought and the basis for security. A request for arrest shall state the amount of the claim and a maximum limit. The request shall also include an account of the circumstances invoked by the party submitting the request.

(3) Documents invoked by the party submitting the request and that are in his/her possession should be attached to the request.

Section 32-6. ***Provisional review***

If the court must reject the case at its own initiative, it shall immediately make a ruling to this effect. If the deficiency can be rectified, the claimant shall be granted a time limit within which to rectify this. If the deficiency is not rectified, the case shall be rejected.

Section 32-7. ***Court proceedings***

(1) The court shall rule on the provisional security by way of interlocutory order after the parties have been summoned to an oral hearing. The court shall reject the request if the claimant is absent from the court hearing and the court has not been informed or it is not likely that the party is lawfully absent. If the court has been informed or it is likely that the claimant is lawfully absent, the case shall be postponed. The court can postpone the case if the defendant is absent and the court is informed or it is likely that the defendant is lawfully absent.

(2) If a delay poses a risk, an interlocutory order for provisional security can be made without an oral hearing.

(3) A request can be dismissed immediately if, on the basis of the statement of claim in the request, the court finds that it has no power to allow the request.

Section 32-8. ***Subsequent oral hearing***

(1) If the court has ordered provisional security without an oral hearing, the parties and any other person who is affected by the order can require subsequent oral proceedings with regard to the security. Subsequent oral proceedings can also be required in respect of an order for costs. If subsequent oral proceedings can be required pursuant to this section, the ruling cannot be appealed.

(2) The court can uphold, amend or set aside its first decision either in whole or in part and can make its affirmation or amendment conditional upon the provision of security. The ruling shall be made by way of interlocutory order.

Section 32-9. ***Simultaneous adjudication of the main claim***

(1) In a case concerning provisional security, the claimant or the defendant at the district court can bring the main claim in for adjudication if the main claim:

a) can be satisfactorily determined at the same time as the request for provisional security,

b) will not delay the determination of the provisional security, and

c) does not require different preparation.

(2) An application to include the main claim in the adjudication shall be determined by way of decision. A decision to allow the main claim to be included in the adjudication can subsequently be reversed if it transpires that the conditions in subsection (1) are not fulfilled.

(3) The court shall normally disallow the simultaneous adjudication of the main claim if, in the adjudication of the provisional security, the court finds that there is no basis for security and the application for adjudication of the main claim is made by the claimant alone. In other circumstances, the court can also disallow adjudication of the main claim if it considers this justified.

(4) If the main claim is not adjudicated following a reversal decision pursuant to subsection (2) or because it is disallowed pursuant to subsection (3), the party who applied to have the main claim adjudicated can, within a time limit fixed by the court, require the court to hear the claim as a separate case. If jurisdiction to hear the main claim as a separate action would have belonged to a different court, the court can decide that the main claim shall be heard by the said court.

Section 32-10. ***Liability for costs in the case of provisional security***

The court can also impose costs in cases that are decided on without the parties being summoned to an oral hearing. If costs are imposed the defendant in a case concerning arrest, the costs shall be included in the amount in respect of which arrest is taken.

Section 32-11. ***Compensation in cases of provisional security***

(1) If provisional security is set aside or lapses and it transpires that the claim submitted by the claimant did not exist when the security was ordered, the claimant shall compensate any loss that the defendant has sustained as a result of the security or as a result of measures that have been necessary to avoid the security or have it set aside. The same applies if it transpires that the request was unjustified in other respects because false or misleading information on the basis for security was given in the case, either intentionally or negligently. When an interlocutory measure is granted to secure a main claim based on violation of provisions for the protection of the environment and the grounds for the order are that the claim has been proven, cf. Section 34-2 (1), and the order is made following an oral hearing, cf. Section 32-7 (1), the claimant is only liable to compensate the costs referred to in the first sentence if he/she knew or ought to have known that the claim did not exist when the order for provisional security was made.

(2) If the security consists of an exit permit restriction, the court can, either instead of or in addition to compensation for economic loss, order the claimant to pay a reasonable sum of money to the defendant as compensation for damage of non-economic kind. The court can do the same in other cases if the order for security was made because false or misleading information was given in the case either intentionally or negligently.

(3) A claim for compensation pursuant to this section can be brought before the district court in a case to set aside the security or in an ordinary action.

Section 32-12. ***Provision of security***

Section 3-6 of the Enforcement Act shall apply correspondingly to cases concerning provisional security.

Section 32-13. ***Lapse of security provided***

(1) If the claimant has provided security for his/her potential liability to pay compensation to the defendant, in a case concerning provisional security, the security may be released on application when more than three months have elapsed after the defendant received notice that the security had lapsed or been set aside and no claim for compensation has been brought.

(2) Section 3-7 (3) of the Enforcement of Claims Act shall apply correspondingly.

Chapter 33 Arrest

Section 33-1. ***Introduction***

(1) Arrest is permissible in the debtor's property or assets or, in special cases, by imposition of an exit permit restriction on the debtor. Sections 33-2 to 33-10 shall apply to arrest in property or assets. Sections 33-11 to 33-14 shall apply to exit permit restrictions, and Sections 33-2 to 33-10 shall apply to the extent they are appropriate.

(2) Pecuniary claims against the State, a local authority, a county authority, an intermunicipal cooperation, intermunicipal company or a regional health corporation cannot be secured by arrest.

Section 33-2. ***Basis for security in the arrest of assets***

(1) Arrest of assets is permissible if the debtor's conduct gives grounds to fear that enforcement of the claim would otherwise be evaded or considerably impeded or would have to take place outside the realm.

(2) The debtor may obtain security for a pecuniary claim notwithstanding that it has not fallen due or is conditional, provided that this does not result in there being no value in the claim.

(3) Arrest of certain ships and aircraft is permissible without a special basis for security if the claimant holds a lien in the ship or aircraft that has fallen due for payment. As regards aircraft, this shall nevertheless only apply if the claimant has a legal basis to request enforcement of the lien claim.

Section 33-3. ***Proving the claim and the basis for security***

(1) Arrest is only permissible if the claim in respect of which the application for arrest is made and the basis for security are proven on a balance of probabilities. As a condition for the execution of arrest, the court may decide that the claimant shall provide security as determined by the court for compensation to the defendant for which the claimant may be found liable.

(2) If delay poses a risk, the court may order arrest even if the claimant's claim is not proven. In that case, as a condition for the execution of the arrest, the court shall require that the claimant provides security.

Section 33-4. ***The arrest ruling***

(1) The ruling of the court shall state the parties, the amount of the claim with a maximum limit and the basis for security. If arrest is granted, the court may also state the assets to be arrested. If the court has ordered the claimant to provide security for execution of the arrest and has stated the assets to be arrested, it shall also fix a time limit for the provision of security.

(2) If requested by the defendant, the court shall, in the ruling or in a subsequent ruling, fix a time limit for the claimant to bring an action on the claim or, if the claimant already has a legal basis for execution of its claim, to request enforcement. An action in a foreign country shall be equated with an action in Norway if the ruling of the foreign court is binding in Norway.

(3) The court shall inform the defendant of his/her right to avoid execution of the arrest by providing security for the claimant's claim. If arrest is granted without an oral hearing, the court shall inform the parties of their right to demand a subsequent oral hearing.

Section 33-5. ***Execution of arrest***

(1) An arrest shall be executed immediately. If the claimant is ordered to provide security, the arrest shall be executed as soon as the court receives notification that security has been provided. Execution includes deciding which asset shall be arrested if this has not already been decided pursuant to Section 33-4 (1), establishing legal protection for the arrest and notifying the parties of the result of the execution. The court may, in whole or in part, assign execution of the arrest to the enforcement officer in any judicial district. If the court assigns the enforcement officer the task of deciding which asset shall be arrested, it can decide which asset the enforcement officer should preferably seek.

(2) Sections 5-5 to 5-10, 5-13 to 5-16, 5-19, 7-8, 7-9 and 7-12 of the Enforcement Act shall apply correspondingly to execution of an arrest. If the asset to be arrested is to be decided on, Sections 7-18, 7-19 and 7-25 of the Enforcement Act shall also apply. If the ruling has not been served on the defendant in advance, it shall be served upon arrest or, if that is not possible, immediately thereafter.

(3) The defendant can always avoid execution of the arrest by providing security for the claimant's claim.

Section 33-6. ***Choice of asset***

(1) Any asset that can be the subject of an execution lien can be arrested. Pecuniary claims that can be the subject of an attachment of earnings order pursuant to Section 2-7 of the Creditors Security Act can be arrested provided that one month has elapsed since the defendant could have received payment. The asset that is chosen must give the claimant satisfactory security for the arrest claim and take proper account of the defendant's interests. Sections 7-13 to 7-16 of the Enforcement Act shall apply correspondingly.

(2) If the court grants arrest without an oral hearing and the request is for arrest in a specific asset that can be arrested, the said asset shall be arrested. However, this shall not apply if the court clearly finds that the claimant would receive satisfactory security and it must be assumed to be in the defendant's interest to arrest a different asset.

Section 33-7. ***The effect of the arrest, protection against third parties etc.***

(1) The arrest entails that the debtor loses the right to dispose of the arrested assets to the disadvantage of the claimant. The debtor's right of disposal shall be governed by the rules that apply to execution liens.

(2) The arrest shall have protection against the defendant's legal transactions in accordance with the provisions for execution liens in the Mortgages and Pledges Act. Section 7-20 of the Enforcement Act shall apply to the establishment of protection against third parties etc.

(3) Arrest of an asset does not entitle the claimant of the arrest to require settlement by forced execution. If necessary to prevent considerable loss in value, the court can, at the request of the claimant of the arrest, decide by interlocutory order that the claimant of the arrest shall be entitled to request forced execution. Sections 8-19 (3) and 11-36 (3) of the Enforcement Act shall apply to the share of the proceeds that cover the arrest claim.

Section 33-8. ***Special provisions for arrest of aircraft***

Section 95 (2) and (3) of the Maritime Code shall apply correspondingly to arrest of aircraft. However, this shall not apply if the aircraft is engaged in regular service that is open to the public or if the aircraft is otherwise employed in the commercial carriage of passengers or goods and the aircraft is ready for departure and the request for arrest does not relate to a claim that is associated with the journey.

Section 33-9. ***Setting aside an arrest etc.***

(1) The defendant can apply for the arrest to be set aside in whole or in part if new evidence is submitted or new circumstances emerge that prove that the claim or the basis for security does not exist. The same applies if the claimant brings an action or enforcement proceedings and thereafter improperly delays the proceedings.

(2) An application for setting aside pursuant to subsection (1) shall be submitted to the court that has granted the arrest. If an action has been brought, the application can always be submitted to the court that hears the action. The ruling shall be made by interlocutory order. An interlocutory order that sets aside an arrest shall not become effective until it is final and enforceable unless the defendant provides security for the claim.

(3) The defendant can apply for the execution of an arrest to be annulled by providing security for the claim. Subsection (2) shall apply correspondingly.

Section 33-10. ***Lapse of arrest and extension of time limits***

(1) The arrest shall lapse without being annulled:

a) when execution is levied for the claimant's claim on the arrested asset,
b) when the court has given the claimant a time limit for providing security, for bringing an action in relation to the claim or for applying for enforcement of the claim, and the time limit is exceeded,
c) when no time limit has been fixed for bringing an action or for applying for enforcement, and an action is not brought or enforcement is not applied for one year after the court granted the arrest order,
d) when the defendant settles the pecuniary claim, or it lapses in another manner, or the defendant is found not to be liable for the claim by a final and enforceable decision,
e) when the claimant abandons his/her right in the arrest, or
f) when the claimant has obtained an enforcement judgment for the claim and execution is not claimed within one month after the judgment became final and enforceable.

(2) The parties can apply for an extension of the time limits in subsection (1) (b), (c) and (f). Section 33-9 (2) shall apply correspondingly. An extension of the time limit can only be granted if the application is received before the time limit expires. A new extension of the time limit can be granted pursuant to the same rules.

(3) If the arrest has lapsed, the claimant shall, in writing, abandon his/her rights pursuant to the arrest. The defendant can require the court to rule that the arrest has lapsed. Section 33-9 (2) shall apply correspondingly.

Section 33-11. ***Basis of security for exit permit restriction***

(1) The court can impose an exit permit restriction if the debtor is in the process of leaving the realm under circumstances where it is uncertain whether he/she will return. An exit permit restriction can only be granted when it is necessary to secure enforcement and arrest of assets does not give the claimant sufficient security. An exit permit restriction cannot be granted when it would be a disproportionate intervention when considering the nature of the case and the circumstances in general.

(2) An exit permit restriction cannot be granted against a person who has no permanent address in Norway for a claim that cannot be brought before a Norwegian court.

Section 33-12. ***The ruling of the court, subsequent oral hearing***

(1) The ruling on the exit permit restriction shall, instead of information about the arrested asset pursuant to Section 33-4, state that the debtor is subject to an exit permit restriction and is not permitted to leave the country. It shall include an order to confiscate the debtor's passport.

(2) If necessary, and in particularly serious circumstances, the court can decide that the debtor shall be held on remand in custody or be subject to other restrictions in his/her personal liberty. If, in these cases, there has been no oral hearing, the court shall, at its own initiative, summon the parties to a subsequent oral hearing.

Section 33-13. ***Execution of exit permit restriction***

If, in the course of execution of a ruling regarding an exit permit restriction, it is discovered that the defendant owns assets that can be arrested, the authority in charge of the execution of the exit permit restriction shall instead arrest the asset.

Section 33-14. ***Lapse of exit permit restriction***

In addition to the grounds for a lapse in Section 33-10 (1) (b), (c), (d), (e) and (f), remand in custody or other restrictions in the debtor's personal liberty shall lapse after three months unless the court has decided that it shall lapse at an earlier date.

Chapter 34 Interim measures

Section 34-1. ***Basis of security***

(1) Interim measure may be granted:

a) when the defendant's conduct makes it necessary to provisionally secure the claim because the action or execution of the claim would otherwise be considerably impeded, or
b) when it is necessary to make a temporary arrangement in a disputed legal issue in order to avert

considerable loss or inconvenience, or to avoid violence which the conduct of the defendant gives reason to fear.

(2) An interim measure cannot be granted if the loss or inconvenience to the defendant is clearly disproportionate to the interests of the claimant in the interim measure being granted.

Section 34-2. ***Proving the claim and the basis of security***

(1) An interim measure can only be granted if the claim in respect of which the request for an interim measure is made and the basis for security are proven. The court may decide that a measure shall only become effective and be executed if the claimant provides security as may be determined by the court for any compensation to the defendant for which the claimant may be found liable.

(2) If delay poses a risk, the court may grant an interim measure even if the claimant's claim is not proven.

(3) When an interim measure is granted to secure a main claim based on violation of provisions for the protection of the environment, the claimant cannot be ordered to provide security referred to in subsection (1) if the interim measure is made following an oral hearing and the claim is proven.

Section 34-3. ***Ruling on interim measure***

(1) An interim measure can order the defendant to refrain from an act, perform an act or accept an act, or can decide that an asset shall be confiscated from the defendant and taken into custody or administration. An interim measure cannot decide that the defendant shall be held on remand in custody or be subject to other restrictions to personal liberty.

(2) The ruling of the court on the interim measure shall state the parties, the claimant's claim and the basis of security. If the court grants an interim measure, it shall also set the precautionary measures that it finds necessary. At the same time, the court shall determine how the measure shall be executed. The court can decide when the measure shall enter into force and its duration. If the claimant is required to provide security as a condition for a measure to become effective and for its execution of the measure, the court shall fix a time limit for the provision of security. The court can decide that the measure shall not become effective and be executed if the defendant provides security for any compensation to the claimant for which he/she may be found liable.

(3) In the ruling or on application by the defendant in a subsequent ruling, the court may fix a time limit for the claimant to bring an action on the claim. An action in a foreign country shall be equated with an action in Norway if the ruling of the foreign court is binding in Norway.

(4) If an interim measure is granted without an oral hearing, the court shall inform the parties of their right to demand a subsequent oral hearing.

Section 34-4. ***Execution of an interim measure***

(1) An interim measure shall be executed pursuant to the rules in the Chapter 13 II to VI of the Enforcement Act. The measure shall be executed as soon as the claimant requests execution. The request shall be lodged with the court. A request for execution measures that are to be performed by the enforcement officer can be lodged directly with the appropriate enforcement officer. If the request is lodged with the court, the court can assign to the appropriate execution officer the performance of execution measures that require execution proceedings to be held outside the court's office.

(2) If the claimant has been ordered to provide security for an interim measure, the measure shall not enter into force and cannot be executed until the court has given notice to the defendant that security has been provided, unless the court has decided otherwise.

(3) Sections 5-5 to 5-10, 5-13 to 5-16 and 5-19 of the Enforcement Act shall apply correspondingly to execution proceedings that are held outside the court's office. If the order imposing the interim measure has not been served on the defendant in advance, it shall be served during execution or, if that is not possible, immediately thereafter.

(4) If the interim measure relates to a right in an asset that is registered in an asset registry, or if it limits the defendant's right of disposal of an asset that is registered in an asset registry, the court can decide that the measure shall be registered in connection with the execution. The same applies to rights that are registered in a securities register or in a special intellectual property rights register.

(5) If a measure orders an asset to be taken into custody and ownership of the asset is in dispute, any returns on the asset shall be paid to the court, which shall place the funds in a Norwegian bank on the best possible interest terms until the case has been decided.

Section 34-5. ***Setting aside an interim measure etc.***

(1) The defendant can apply for the interim measure to be set aside or limited if new evidence is submitted or new circumstances emerge that prove that the claim or the basis of security does not exist. The same applies if the claimant brings an action or enforcement proceedings and thereafter improperly delays the proceedings.

(2) Both parties can submit a request to the court to make new decisions on how an interim measure shall be executed and when it shall become effective, and on the provision of security.

(3) An application pursuant to subsection (1) and (2) shall be submitted to the court that has granted the interim measure. If an action has been brought, the application can always be submitted to the court that hears the action. The ruling shall be made by interlocutory order. An interlocutory order that sets aside an interim measure shall not become effective until it is final and enforceable unless the defendant provides security for the claim.

Section 34-6. ***Lapse of interim measure and extension of time limits***

(1) An interim measure shall lapse without being setting aside:

a) when a time limit on the duration of the measure has expired,
b) when the court has given the claimant a time limit for providing security or for bringing an action in relation to the claim, and the time limit is exceeded,
c) when the claim has been determined by a final and enforceable judgment,
d) when the defendant satisfies the claim, or it lapses in another manner, or
e) when the claimant abandons his/her right pursuant to the interim measure.

(2) The parties can apply for an extension of the time limits in subsection (1) (a) and (b). Section 34-5 (3) shall apply correspondingly. An extension of the time limit can only be granted if the application is received before the time limit expires. A new extension of the time limit can be granted pursuant to the same rules.

(3) If the interim measure has lapsed, the claimant shall, in writing, abandon his/her rights pursuant to the measure. The defendant can require the court to rule that the measure has lapsed. Section 34-5 (3) shall apply correspondingly.

Section 34-7. ***Special provisions on interim measures to protect intellectual property rights***

(1) As an interim measure against the recipient or the recipient's representative, the court may decide that the customs authorities shall withhold goods that are under their control, when the import or export of the goods would constitute an infringement of an intellectual property right as referred to in Section 28 A-1 (3), first sentence of the Dispute Act. The court may decide this even if the recipient or the recipient's representative is unknown. In that case, the interim measure shall be ordered without a summons to an oral hearing, and no time-limit shall be fixed for the claimant to bring an action on the claim. The recipient or the recipient's representative shall have the status of defendant from the date and time the customs authorities withhold goods in accordance with the measure.

(2) In addition to the rules in this act, the rules in Section 15-1 to 15-5 of the Customs Act apply to interim measures ordered pursuant to this section. Section 34-4 does not apply.

(3) This section applies correspondingly in the event of the import or export of goods that violate Section 30 of the Marketing Control Act, and the import and export of goods that violate Sections 25 and 26 of the Marketing Control Act, when the violation consists of imitating the products, distinguishing marks, advertising materials or other produced items of another party.

Part VIII – Special types of procedure

Chapter 35. Class action

Section 35-1. ***Scope. Definitions***

(1) This Chapter contains special rules for hearing class actions before the district court, and for appeals against rulings in class actions.

(2) A class action is an action that is brought by or directed against a class on an identical or substantially similar factual and legal basis, and which is approved by the court as a class action.

(3) Class procedure is the set of special procedural rules governing class actions.

(4) The class comprises the legal persons who have claims or obligations that fall within the scope of the class action as defined by the court and who are included in the action pursuant to Sections 35-6 or 35-7.

(5) Class members are the individual legal persons in the class.

(6) The class register is the register of class members maintained pursuant to Section 35-6.

(7) The class representative is the person who acts on behalf of the class in the action pursuant to Section 35-9 (1) to (3).

Section 35-2. ***Prerequisites for class action***

(1) A class action can only be brought if:
a) several legal persons have claims or obligations for which the factual or legal basis is identical or substantially similar,
b) the claims can be heard by a court with the same composition and principally in accordance with the same procedural rules,
c) class procedure is the most appropriate method of hearing the claims, and
d) it is possible to nominate a class representative pursuant to Section 35-9.

(2) Only persons who could have brought or joined an ordinary action before the Norwegian courts may be class members.

Section 35-3. ***Bringing the action***

(1) A class action may be brought by:
a) any person who fulfils the conditions for class membership if approval to bring the action is granted, or
b) organisations and associations, and public bodies charged with promoting a specific interest, provided that the action falls within its purpose and normal scope pursuant to Section 1-4.

(2) The action shall be brought by submission of a writ of summons to a district court before which a person who qualifies for class membership could have brought an ordinary action.

(3) The writ of summons shall contain the information that is necessary for the court to assess whether the conditions for a class action are fulfilled and to rule on the issues in Section 35-4 (2). The writ of summons shall state whether the class action is brought pursuant to Section 35-6 or pursuant to Section 35-7.

Section 35-4. ***Approval of class actions***

(1) The court shall, as soon as possible, decide whether to approve or reject the class action.

(2) If the class action is approved, in its ruling the court shall:
a) describe the scope of the claims that may be included in the class action,
b) decide whether the class action shall proceed pursuant to Section 35-6 or pursuant to Section 35-7,
c) in class actions pursuant to Section 35-6, fix a time limit for registration in the class register,
d) fix a possible maximum liability and a possible advance on costs pursuant to Section 35-6 (3), and
e) nominate a class representative.

(3) If it transpires in the further proceedings in the case that it is clearly inappropriate to hear the case pursuant to the rules on class procedure, or that the scope of the claims in the class action ought to be redefined, the court may, at its own initiative, reverse or amend its ruling. Those who are no longer included in the class action

may, within one month of the ruling for reversal or amendment becoming final and enforceable, require the court to continue to hear their claims as individual actions.

(4) Rulings pursuant to subsections (1) to (3) shall be made in the form of interlocutory orders. Section 29-3 (2) shall not apply in appeals.

Section 35-5. ***Notice of approved class action***

(1) After a class action has been approved, the court shall, by notice, announcement or other method, ensure that the class action is made known to those who may join it or who are class members pursuant to Section 35-7.

(2) The notice or announcement shall clearly state what the class action and the class procedure entail, including the consequences of registering or deregistering as a class member, the potential liability for costs that may incur and the authority of the class representative to settle the action. The notice shall state the time limit for registering in the class register.

(3) The court shall decide the contents of the notice, how notice shall be given etc., including whether the class representative shall ensure that notice or announcement is issued and pay the expenses thereof.

Section 35-6. ***Class actions that require registration of class members***

(1) The class action shall only include those who are registered as class members, unless the action is brought pursuant to Section 35-7. Persons who have claims that fall within the scope of the class action can register as class members.

(2) An application for registration must be submitted within the time limit. At any time before the main hearing, the court may, in special instances, approve a delayed registration unless regard for the other parties strongly suggests otherwise.

(3) If requested by a person who has brought the class action or the class representative, the court can decide that registration shall be subject to the class members accepting liability for a specified maximum amount in costs pursuant to Section 35-14. When requested, the court may also decide that all or part of the amount shall be paid to counsel for the class before registration.

(4) The class register shall be maintained by the court. The Norwegian National Courts Administration can issue more detailed regulations on the class register.

Section 35-7. ***Class actions that do not require registration of class members***

(1) The court can decide that persons who have claims within the scope of the class action shall be class members without registration in the class register, if the claims:

a) individually involve amounts or interests that are so small that it must be assumed that a considerable majority of them would not be brought as individual actions, and
b) are not deemed to raise issues that need to be heard individually.

(2) Persons who do not wish to participate in the class action may withdraw pursuant to Section 35-8. The court shall maintain a register of withdrawals. The rules in Section 35-6 (4) shall apply correspondingly.

Section 35-8. ***Withdrawal from class membership***

(1) Anyone may withdraw as a class member. Withdrawal is effected by deregistration from the class register or by entry in the withdrawal register. Withdrawal shall take effect when notification of withdrawal is received by the court. A class member cannot withdraw after his/her claim has been determined by a final and enforceable ruling.

(2) Before a judgment that is binding on the class members pursuant to Section 35-11 has been delivered, a class member may withdraw without waiving his/her substantive claim.

(3) If a class member withdraws after a judgment that is binding on the class members pursuant to Section 35-11 (2) second sentence has been delivered, the further hearing of the case, if any, shall continue before the court pursuant to the rules on general procedure or small claims procedure. If the claim of a class member who has withdrawn has been decided by the court, any application for review must be made by way of individual notice of appeal. The time limit for appeal is one month after the expiry of the time limit for appeal for the class.

However, if the class has appealed, an individual appeal may be filed after the time limit has expired. In that case, the notice of appeal must be filed at the same time as the notice of withdrawal from the class, and the appeal must fall within the scope of the appeal brought by the class.

(4) Unless otherwise stated in the appeal, an appeal from the class' opposing party shall include all persons who were members of the class when the judgment that was binding on the class members pursuant to Section 35-11 was pronounced.

(5) For the purpose of the preceding provisions, a person who has brought a claim by way of individual action shall be deemed to have withdrawn from the class action. In actions pursuant to Section 35-7, this effect shall cease if the individual action is dismissed.

Section 35-9. ***Rights and obligations in the class action. Representation***

(1) The class representative shall safeguard the rights and obligations of the class in the class action. The class representative shall ensure that the class members are kept properly informed about the class action. This applies in particular to procedural actions and rulings that may have consequences for the class members' claims.

(2) Any person who can bring a class action pursuant to Section 35-3 (1), and who is willing, may act as class representative.

(3) The class representative shall be appointed by the court. The representative must be able to safeguard the interests of the class in a satisfactory manner and to bear the class' potential liability for costs to the opposing party. If necessary, the court may revoke the appointment of a class representative and appoint a new class representative. Section 35-4 (4) shall apply correspondingly to rulings on revocation and the new appointment of class representatives.

(4) The class shall be legally represented by counsel who shall be a lawyer. In special cases, the court may grant exemptions from this requirement.

Section 35-10. ***Issues in dispute that only relate to one or a limited number or class members. Subgroups***

(1) The court can decide that the provisions on class actions shall not apply to the hearing of issues in the dispute that only relate to a limited number of class members. In that case, the class members themselves shall have control over the issues. The court shall determine the order in which the various issues shall be heard. The court should normally hear the issues that relate to the class as a whole before it deals with specific issues that relate to one or a limited number of parties.

(2) The court can decide that subgroups shall be established if the class consists of a large number of class members and the same or substantially similar legal or factual issues apply to several of them but differ from the issues that apply to the class as a whole. The provisions of this Chapter shall apply correspondingly to the establishment of subgroups and to the hearing of the issues for which they are established.

Section 35-11. ***Rulings on claims raised in the class action. Settlement***

(1) Rulings on claims raised in the class action shall be binding on those who are class members at the time of the ruling.

(2) The court may split the ruling and rule first on the claims of one or some of the class members if it would be impractical to rule on the merits in respect of the claims of all of the class member at the same time because of the objections and contentions that are made. In subsequent rulings, the court shall follow the first ruling without reviewing it insofar as it is not contended that there are special reasons for deviating from the ruling. This shall not apply to the determination of factual and legal circumstances against which the class members cannot apply for review by way of appeal.

(3) A settlement in a class action pursuant to Section 35-7 requires the approval of the court. Section 35-4 (4) shall apply correspondingly to rulings on approval.

Section 35-12. ***Costs***

(1) The class representative has a right and a duty with respect to the costs of the class action.

(2) If there is a change of class representative, the court shall decide how the right and duty with respect to costs shall be allocated between them.

(3) Subsections (1) and (2) shall not apply to costs with respect to issues in dispute pursuant to Section 35-10 (1).

Section 35-13. ***Remuneration***

(1) The class representative is entitled to remuneration for his/her work and to a refund for his/her disbursements, including the fees and disbursements of the class' legal counsel. The remuneration and refund of expenses to the class representative and the class legal counsel shall be determined by the court. Section 20-9 applies.

(2) A claim for the class representative's costs can be made against the opposite party to the extent that the opposite party is ordered to pay costs, or against the class members within the limitations of Section 35-14.

Section 35-14. ***The financial liability of the class members etc.***

(1) Class members in actions pursuant to Section 35-6 are liable towards the class representative for costs imposed on him/her pursuant to Section 35-12 and for remuneration and coverage of disbursements determined pursuant to Section 35-13 insofar as such liability is a condition for registration. Any amount that is not prepaid shall be paid to the legal counsel for the class.

(2) Former class members who are excluded from the class pursuant to Section 35-4 (3) shall not be liable for costs pursuant to subsection (1). Amounts that are prepaid pursuant to Section 35-6 (3) shall be refunded. Former class members who have withdrawn from the class by deregistration shall be liable pursuant to subsection (1) unless the court determines otherwise. In making its decision, the court shall take into account the consequences that exemption from liability will have for the class representative, and whether liability would be unreasonably onerous for the class member who has withdrawn, with regard to, among other things, the time of withdrawal.

(3) After settling his/her own fees and disbursements, counsel for the class shall transfer any amounts paid in pursuant to subsection (1) to settle any costs awarded to the opposing party of the class before payment is made to cover the class representative's costs.

Section 35-15. ***A class as respondent***

When the class comprises parties who are defendants in an action, Sections 35-1 to 35-14, except for 35-7, shall apply correspondingly to the extent they are appropriate.

Chapter 36. Cases concerning administrative decisions on coercive measures in the health and social services

Section 36-1. ***Scope***

(1) The provisions in this Chapter shall apply to actions which, pursuant to special statutory provisions, may be brought for judicial review of administrative decisions on coercive measures against individuals. Other claims cannot be included in the action.

(2) An action pursuant to these provisions cannot be brought after the administrative decision has lapsed. The action shall be dismissed if the decision lapses after an action for judicial review has been brought.

(3) Renewed judicial review may only take place after an administrative rehearing.

Section 36-2. ***How and where an action shall be brought. The effects of an action***

(1) An action shall be brought by submission of a claim for judicial review to the authority that made the decision. The relevant authority shall immediately forward the claim for judicial review to the court together with the documents relating to the case.

(2) The action shall be heard by the district court in the judicial district where the private party is located according to the administrative decision or where he/she has his/her ordinary venue or had his/her ordinary venue before the decision was implemented.

(3) An action shall not prevent the implementation or maintenance of the decision unless the court decides otherwise by way of interlocutory order. Suspension of the decision does not imply that the decision shall lapse.

Section 36-3. ***The parties and procedural capacity***

(1) The action shall be brought by the person against whom the decision is directed or by any person who is empowered to bring such action pursuant to special statutory provision.

(2) The person against whom the decision is directed may bring an action on his/her own if he/she is able to understand what the case pertains to. Notwithstanding, minors under the age of 15 can only bring an action on their own if provided by special statutory provision.

(3) The action shall be directed against the State, represented by the Ministry. If the case concerns a decision made by the County Committee for Social Affairs, the action shall be directed against the municipality. If the municipality is the claimant, the action shall be directed against the private party or parties to the challenged decision.

Section 36-4. ***The composition of the court. Expert panel***

(1) The district court shall sit with two lay judges, of whom one shall be an ordinary lay judge and the other shall be an expert. In special cases, the court may sit with two professional judges and three lay judges, of whom one or two shall be experts. When the court shall sit with only one ordinary lay judge, the gender of this lay judge shall be determined by drawing lots.

(2) The King can establish one or more panels of persons with expertise in cases to be heard pursuant to this Chapter.

Section 36-5. ***The hearing and review by the court***

(1) The date of the main hearing shall be fixed immediately.

(2) The case shall be given priority and shall be heard as swiftly as regard for the proper conduct of the case permits.

(3) The court shall review all aspects of the case, subject to any limitations in the relevant statute.

Section 36-6. ***Party rights etc. of the private party***

(1) The court may refrain from taking an affirmation from the private party.

(2) Personal examination of the private party may be omitted if the court finds this to be unproblematic.

(3) The court can decide that the private party shall be denied access to documentation or be excluded from the proceedings to the extent that it finds this necessary because of his/her state of health or his/her low age. In such case, the presiding judge or the private party's counsel or party representative shall inform the party about the main contents of the documents or the proceedings to the extent that such information is relevant to the case.

(4) The private party shall be informed of the rulings of the court and the rules for appeal in a manner to be determined by the court.

Section 36-7. ***Access to documentation and court hearings***

(1) The documents relating to the case are exempted from public access.

(2) Court hearings shall be held behind closed doors. However, all or parts of court hearings may be held in open court if requested by the private party and the court finds this to be unproblematic, taking into account the clarification of the case and the interests of the private party and other persons.

Section 36-8. ***The expenses relating to the case***

All expenses relating to the case shall be borne by the State, unless otherwise provided by specific statutory provision.

Section 36-9. ***Anticipatory effect etc.***

(1) A judgment stipulating that the administrative decision concerning the exercising of coercion shall cease shall enter into force immediately.

(2) If particularly compelling reasons exist, the court may nevertheless decide in the judgment that it shall not have anticipatory effect. The decision may only be appealed within the limits laid down in Section 29-3 (3).

Section 36-10. ***Appeal***

(1) Section 29-9 (3) and (4) shall not apply to appeals from the private party.

(2) Section 36-2 (3) on suspension shall apply correspondingly to appeals against judgment. If the appeal is against a judgment that stipulates that the administrative decision concerning the exercise of coercion shall cease, the appellate court may decide by way of interlocutory order that the administrative decision shall remain in force until a final and enforceable ruling is in place. The appellate court may reverse a ruling pursuant to Section 36-9 (2) by way of interlocutory order.

(3) An appeal against the judgment of the district court in cases concerning the County Committee's decisions pursuant to the Child Welfare Services Act requires the leave of the court of appeal. Leave can only be granted if:

a) the appeal concerns issues which are of significance beyond the scope of the current case,
b) there are grounds to rehear the case because new information has emerged,
c) the ruling of the district court or the procedure in the district court are seriously flawed, or
d) the judgment provides for coercion that has not been approved by the County Committee.

(4) At the oral appeal hearing in the court of appeal, the court shall sit with two lay judges, of whom one shall be an ordinary lay judge and the other shall be an expert. The provisions of this Chapter shall otherwise apply to the appeal hearing to the appropriate extent.

Part IX – Entry into force and amendments in other acts

Chapter 37. Entry into force and amendments in other acts

Section 37-1. ***Entry into force***

The Act shall enter into force from the date[1] stipulated by the King. The King can stipulate that different provisions shall enter into force at different times.

Act no. 6 of 13 August 1915 relating to civil procedure (Civil Procedure Act) shall be repealed from the date this act enters into force.

1 As of 1 January 2008 in accordance with res. 26 January 2007 No. 88.

Section 37-2. ***Transitional rules***

The King may issue regulations relating to transitional rules.

Section 37-3. ***Amendments in other acts***

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