

GUIDELINES RELATING TO THE EMPLOYER'S RIGHTS TO WORK RESULTS

Laid down by	The Board of the Norwegian University of Life Sciences 12.06.2014 (US 85/2014)
Into force from	12.06.2014. Revised 11.09.2017.
Basis	The Act relating to Universities and University Colleges (Act of 1 April 2005 no. 15) sections 1-1, 1-3 and 1-5, the Act respecting the right to employees' inventions, (Act of 17 April 1970 no. 21), Regulations governing the distribution of net income from commercial exploitation of inventions (HS case 11.12.2003), Principles for the Research Council of Norway's Policy on Intellectual Property Rights, IPR policy common to all Norwegian universities, Copyright issues at universities and university colleges, Report on copyright issues at the University of Oslo, harmonisation with guidelines adopted by other Norwegian universities.
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1. The guidelines' purpose and background

1.1 Purpose

The guidelines' purpose is to clarify the employer's right to work results.

The guidelines shall be an integral part of the contract of employment between the Norwegian University of Life Sciences (from this point referred to as NMBU or the employer) and the individual employee, from this point referred to as the employee.

1.2 Background

NMBU shall "disseminate knowledge of the institution's activities and promote the understanding and application of scientific methods and results, in public administration, cultural life and business and industry", cf. section 1-1 c of the Act relating to Universities and University Colleges. If NMBU is to fulfil this responsibility in an adequate and effective manner, the results created at NMBU must be the property of NMBU.

If NMBU is to meet its obligations in projects with third parties, NMBU must be entitled to manage the work results that are brought into and created in projects with third parties. Such administrative rights are most practically exercised through right of ownership.

The Research Council of Norway has adopted principles under which ownership is to be transferred from employees to the research institutions. Such a condition is also a prerequisite for participation in EU research programmes.

2. Ownership of work results

2.1 Work results and rights are the property of the employer

The employer acquires ownership rights to all work results and rights that the employee creates or develops in connection with his/her position at NMBU. Such work results and rights might, for example be (the list is not exhaustive):

- Patentable inventions,
- Work results that may form the basis for the registration of trademarks or designs,
- Non-patentable technology (non-patentable inventions and other solutions and principles; know-how, including trade secrets, technical, scientific and commercial information and business concepts),
- Databases,
- Software,
- Any material product (organic, inorganic or biological material), including substances, organisms and crops, and materials.

2.2 Exceptions for traditional academic literature, musical composition and artistic works

The employer does not assume ownership rights to traditional academic works, musical compositions and artistic works unless otherwise agreed. For the purpose of these regulations, academic literature means monographs, textbooks, scientific articles and doctoral theses.

2.3 Exception for "personal" teaching material

The employer does not assume ownership rights to "personal" teaching material unless otherwise agreed. "Personal" teaching material includes lectures and support material, e.g. notes that are distributed and overhead presentations.

2.4 Work results or rights that are unrelated to the position at NMBU

Work results and rights that in their entirety have been created or established in connection with an employee's second job or self-employment are not the property of NMBU assuming that:

- The employee documents that the development of the results has taken place outside of the employee's working hours at NMBU and without any use of NMBU's resources, and
- The employee has reported and received approval, where this is called for regarding the work relationship or assignment, in the prescribed manner, cf. the guidelines that apply at any time in respect of employees' rights to accept second jobs.

2.5 Work results and rights that are created in collaboration between NMBU and third parties

In the event that the work results emerge in collaboration between a NMBU employee and a third party, these regulations apply for that part of the work results or rights that have been produced by the NMBU employee. Reference is made to Guidelines for the administration of intellectual property rights and physical objects in external relationships -US case X-2010.

3. Obligation to contribute to NMBU's agreements with third parties

3.1 The employee's obligation to contribute to compliance with agreements with third parties

If the employer, directly or through one unit, has entered into agreements with third parties governing research cooperation or research financing, including supported or commissioned research and agreements on other ways of cooperating with each other, the employee is obligated to familiarise himself/herself and to comply with these agreements, as well as to contribute to the employer's fulfilment of its obligations to third parties.

3.2 The employer's information duty and the employee's duty to inspect

The employer is obligated, directly or through a unit, to inform the employee of agreements with third parties or relevant provisions in the agreement in question. Employers who participate in such collaboration as mentioned above and who have not received information on agreements with a third party have an independent duty to request information from the employer or the unit manager relating to the agreement situation.

3.3 Mutual responsibility for ensuring academic staff a right to publish

Both the employer and the employee are obligated to ensure that the academic staff's right to publish pursuant to section 1-5 sixth paragraph of the Act relating to Universities and University Colleges is safeguarded in cooperation agreements with third parties. Publication may be postponed for a short period if this is necessary in order to fulfil NMBU's obligations under agreements with third parties in respect of research work.

4. Registration of work results with commercial value

4.1 Patentable inventions – publication rights

Academic staff has a right to publish inventions that takes precedence over the employer's right to protect the invention. A desire to exploit the right of publication shall be indicated on the disclosure of invention form. The employer and the employee are obligated to cooperate on reaching an agreement regarding the time span for publication and commercialisation so that both the academic staff's need to publish and the employer's need to protect the result are safeguarded

4.2 Patentable inventions – duty to report pursuant to the Employee Inventions Act

In the case of patentable inventions, the employee is obligated to report to the employer without undue delay, cf. the Act respecting the right to employees' inventions (Act of 17 April 1970). NMBU has established a system, with a disclosure of invention form that is to be submitted to the Technology Transfer Office/ ARD Innovation AS at Campus Ås. NMBU is entitled to acquire the ownership rights to the invention by advising the employee in writing within 4 months of having received the registration form.

4.3 Patentable inventions – regulations governing the distribution of net income

The "Rules governing the distribution of net income from commercial exploitation of inventions" shall apply to patentable inventions. (US xx/2017).

4.4 Reporting other work results with commercial value

The employee is obligated to report all work results that have a commercial value. Should the employee be in doubt as to whether the work results are entirely or partly suited for reporting on the basis of the commercial value of the results, the question shall be presented to the employer and the disclosure of invention form shall be submitted to the Technology Transfer Office/ ARD Innovation AS at Campus Ås.

4.5 Established routines for patentable inventions shall also be followed for other results

Established routines for reporting, publishing and the distribution of new income from commercial exploitation of inventions shall also apply to other work results to the extent this is possible.