

Employee's Right to Educational Leave Act

(SFS 1974:981)

Including amendments up to and including SFS 1994:1687

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SECTION 1 An employee in public or private service, who wishes to undergo education shall be entitled to the necessary leave from his employment in accordance with the provisions of this Act.

If any Act contains a provision that differs from this Act, that provision shall apply. In respect of scheduling of educational leave, different provisions may be made otherwise than by an Act if they concern employees whose pay benefits are determined in conjunction with the Government or a public authority appointed by the Government, or employees of the Riksdag or its departments.

SECTION 2 Any part of an agreement whereby an employee's rights pursuant to this Act are restricted is invalid.

Notwithstanding the provisions of the first paragraph, deviations may be made from Section 3, Section 4, third paragraph, Sections 5 and 7, and Section 10, second and third paragraphs on the basis of a collective bargaining agreement which has been concluded or approved on behalf of the employees by an organisation which is deemed to be a central organisation of employees under the Employment (Co-determination in the Workplace) Act (1976:580).

An employer who is bound by collective bargaining agreement as referred to in the second paragraph, may also apply such agreement to employees who are not members of the contracting employees' organisation, provided that the employees are engaged in work covered by the agreement and are not bound by any other applicable collective bargaining agreement. (SFS 1976:595)

SECTION 2A For the purposes of this Act, the transfer of an undertaking or part of an undertaking is deemed to be such a transfer of an undertaking, a business or part of a business as is covered by Section 6 b of the Employment Protection Act (1982:80). The provisions in this Act in respect of such transfer shall also apply where the previous employer has been put into bankruptcy. (SFS 1994:1687)

SECTION 3 The right to educational leave shall accrue to an employee who, at the commencement of the educational leave, has been in the employ of the employer during the preceding six months, or for a total of at least twelve months during the preceding two years.

An employee who wishes to participate in education, a significant part of which concerns trade union matters or matters connected with trade union activity, shall be entitled to educational leave not-

withstanding that he has not satisfied the required period of employment prescribed in the first paragraph.

In the determination of the period of employment pursuant to the first paragraph, account shall be taken of the period of time during which the employee was in the employ of another undertaking within the group of companies to which the employer belongs. Where an undertaking or part of an undertaking has been transferred to a new employer, the period during which the employee was in the employ of the former employer or an undertaking within the group of companies to which the former employer belonged, shall be taken into account in the determination of the period of employment with the new employer.

SECTION 4 An employer shall be entitled to postpone educational leave until a later date than that requested by the employee in accordance with the provisions of Section 5 to 7.

Where the employer wishes to postpone educational leave, he shall immediately inform the employee thereof and state the reasons for the postponement.

Where the employer is, or usually is, bound by a collective bargaining agreement in respect of the category to which the employee belongs, notification of the postponement shall be immediately given to the local employees' organisation concerned, in addition to the employee. The employees' organisation shall be entitled, within one week of the notification, to call for discussions with the employer in respect of the postponement.

SECTION 5 Where the employer is, or usually is, bound by a collective bargaining agreement in respect of the category to which the employee belongs, and where the employer wishes the educational leave to commence later than six months after the request was submitted by the employee, consent to the postponement is required from the local employees' organisation concerned or, where the matter is referred to central negotiations, from the relevant parent organisation of employees.

Where the total educational leave corresponds to not more than one working week, the consent referred to in the first paragraph shall be required where the postponement desired by the employer is for more than two weeks. The aforesaid shall also apply in respect of educational leave referred to in Section 3, second paragraph.

The provisions of this Section shall also apply where an undertaking, or part of an undertaking, has been transferred to a new employer.

SECTION 6 Where an employee has not been permitted to commence his educational leave within two years after the request was submitted, he shall be entitled to demand a judicial examination of the matter of scheduling the leave.

Where the total educational leave is not more than one working week, a judicial examination such as referred to in the first paragraph may be called for after one year has elapsed from the time the employee's request was submitted.

The provisions of this Section shall also apply where an undertaking, or part of an undertaking, has been transferred to a new employer.

SECTION 7 When a judicial examination is made pursuant to Section 6, due regard shall be given both to the wishes of the employee and to the employer's interest in the continuation of business activities without serious disruptions.

Where several employees cannot be afforded educational leave concurrently, priority shall be given to the employee wishing to participate in such education as referred to in Section 3, second paragraph. Thereafter, priority shall be given to an employee lacking education corresponding to nine years compulsory school and thereafter, between the remaining employees, to the employee who has inconvenient working hours.

Judicial examination pursuant to the second paragraph shall take place within each collective bargaining agreement area individually.

SECTION 8 Where notice of termination is given or summary dismissal is effected solely for the reason that the employee claims or exercises his right to educational leave, such measure shall, upon the application of the employee, be declared invalid. Thereupon, Sections 34, 35, 37, 39, 40, 42 and 43 of the Employment Protection Act (1982:80), shall apply. (SFS 1982:89)

SECTION 9 An employee who has received educational leave shall, upon his return to work, be ensured the same or an equivalent position, with respect to working conditions and terms of employment, as if he had not been on educational leave.

Detailed provisions in respect of the first paragraph may be regu-

lated through a collective bargaining agreement as referred to in Section 2, second paragraph. In such a case, Section 2, third paragraph shall apply *mutatis mutandis*.

SECTION 10 An employee who prematurely terminates his education shall be entitled to return to work.

Where the employee wishes to exercise his right pursuant to the first paragraph, he shall notify the employer of his desire to return to work. The employer, however, shall not be obliged to permit the employee to return to work within two weeks or, if he has been on educational leave for at least one year, within less than one month after receipt of such notification. Where the employer wishes to exercise his right to postpone the return, he shall immediately advise the employee thereof and shall at the same time indicate when the return to work may take place.

The second paragraph shall not apply in respect of educational leave which in total corresponds to a period of not more than one working week.

SECTION 11 Where the employer is, or usually is, bound by a collective bargaining agreement in respect of the category to which the employee belongs, in the event of a dispute in respect of the application of this Act or the provisions of a collective bargaining agreement which, on the basis of Section 2, second paragraph, has superseded Section 3, Section 4, third paragraph, Section 5, 7, or Section 10, second and third paragraphs, or which is referred to in Section 9, second paragraph, the opinion of the local employees' organisation concerning the correct interpretation of the Act or of the collective bargaining agreement shall apply pending the final determination of the dispute.

A collective bargaining agreement as referred to above may prescribe that the right of the local employees' organisation pursuant to the provisions of the first paragraph shall vest instead in the parent organisation.

SECTION 12 Where several employees' organisations are, or usually are, bound by collective bargaining agreements in respect of the category to which the employee belongs, and where the organisations fail to agree on a decision pursuant to Section 5 or 11, the opinion of the organisation or organisations which together represent more than four fifths of the number of employees bound by collective bargaining

agreements at the workplace within the category concerned, shall apply. In the absence of such a majority, the right conferred on an organisation pursuant to the aforementioned Sections shall not apply.

The provisions of the first paragraph shall not apply where the employees' organisations have agreed otherwise with the employer through collective bargaining agreements.

SECTION 13 In the event of the failure of an employer to fulfil his obligations pursuant to this Act or pursuant to the provisions of a collective bargaining agreement that pursuant to Section 2, second paragraph, applies instead of Section 3, Section 4, third paragraph, Section 5 or 7, or Section 10, second and third paragraphs, or as referred to in Section 9, second paragraph, he shall pay compensation for damage incurred, in addition to pay and other employment benefits to which the employee may be entitled. In assessing whether, and to what extent, damage has been incurred, account shall also be taken of the interests of the employees' organisation in compliance with the provisions of the Act in relation to members of the organisation, and also other circumstances which are not purely of a financial significance. Compensation for damage in respect of the period of time after the cessation of the employment shall be determined at not more than the amount referred to in Section 39 of the Employment Protection Act (1982:80).

An employees' organisation may be ordered to pay damages where, in the exercise of the right vested in employees' organisations pursuant to Section 11, it has occasioned an erroneous application of this Act or a collective bargaining agreement as referred to in the first paragraph, and where the organisation was aware, or clearly should have been aware, of the error.

The damages may be adjusted, if it is reasonable to do so, taking into account the scope of the damage or other circumstances. (SFS 1982:89)

SECTION 1 A party wishing to claim damages pursuant to Section 13 shall notify the other party of his claim within four months from the time at which the damage arose. If during that time negotiations in respect of the claim have been called for pursuant to the provisions of the Employment (Co-determination in the Workplace) Act (1976:580), or on the basis of a collective bargaining agreement, the action shall be commenced within four months of the conclusion of negotiations. In other circumstances, the action shall be commenced

within eight months after the damage occurred.

The provisions of the first paragraph shall apply, *mutatis mutandis*, to claims concerning pay and other employment benefits as referred to in Section 13, first paragraph.

If the provisions of the first and second paragraphs are not observed, the right of action lapses.

SECTION 15 Cases concerning the application of this Act shall be processed in accordance with the Labour Disputes (Judicial Procedure) Act (1974:371). The aforementioned shall also apply to enactments referred to in Section 1, second paragraph, save where such enactment contains provisions in respect of the right of limited appeal.

Notwithstanding Section 11, a court may make an order in the disputes issue pending final determination of the dispute. Applications for such orders may not be granted where the other party has not been afforded the opportunity to express his views.

