

Act on Job Alternation Leave (1305/2002)
(as amended by several acts, including No. 1191/2009)

Section 1. Purpose of the Act

The purpose of this Act is to promote the ability of employees to cope with their jobs through short-term absence from work, and at the same time to improve the employment potential of unemployed jobseekers through fixed-term work experience.

Section 2. Scope of the Act

This Act applies to full-time employees and employees whose working hours exceed 75 per cent of the working hours of full-time employees in the field. It also applies to persons employed in a civil service or comparable service relationship with the State, a municipality or some other corporation under public law.

The term 'employer' also means a public corporation as referred to in subsection 1.

This Act does not, however, apply to persons regarded as entrepreneurs as referred to in chapter 1, section 6, of the Unemployment Security Act (1290/2002) who is not entitled to unemployment benefits as a result of working in an enterprise.

Section 3. (1127/2007) Definitions

In this Act:

- 1) *Job alternation leave* means an arrangement whereby an employee, in accordance with a job alternation agreement made with the employer, is released for a fixed period from the duty to carry out work covered by the service relationship while the employer at the same time engages to hire for a corresponding period a person registered at an employment office as referred to in chapter 2, section 1, of the Unemployment Security Act as an unemployed jobseeker;
- 2) *alternator* means the person taking job alternation leave;
- 3) *substitute* means the person who has been hired to work during job alternation leave;
- 4) *division of job alternation leave into periods* means taking the agreed job alternation leave over more than one period of time;
- 5) *extension of alternation leave* means the continuation of job alternation leave immediately the agreed leave has ended; and
- 6) *temporary return to work* means a temporary period at work during job alternation leave at the place of work of the employer regarding whose service relationship the alternator is on job alternation leave.

Section 4. (1254/2006) Employment history required for job alternation leave

In order to be entitled to job alternation leave, a person must have been in employment for at least 10 years prior to the start of the leave period. If the person has received a job alternation leave allowance previously, the period of time in employment must be at least five years since the previous job alternation leave period ended. The period of time in employment is calculated on the basis of earnings under employment pensions laws, as referred to in section 3 of the Employees' Pensions Act (395/1961).

The number of months in employment is calculated as provided in chapter 6, section 11 (2) of the Unemployment Security Act.

When calculating the period of time in employment referred to in subsection 1 above, a period of time comparable to work is also any full calendar month

1) for which a person has been paid a maternity, special maternity, paternity or parental allowance or special care allowance under the Sickness Insurance Act (1224/2004) or

2) when a person has been on statutory care leave or care leave under a collective agreement or collective agreement for civil servants or doing military or non-military service.

A maximum of one fourth of the period of time in employment may consist of time comparable to work as referred to in subsection 3.

Section 5. (1127/2007) Working requirement

As a pre-condition for entitlement to job alternation leave, a working and service relationship with the same employer as referred to in section 2 must have lasted for a minimum continuous period of 13 months immediately before the beginning of job alternation leave, which may comprise a maximum of 30 calendar days of unpaid leave. Absence because of sickness or accident is considered comparable to employment when this provision is applied.

In calculating the period of time in employment referred to in subsection 1 above, time during which the alternator has been in the service of an assignor of business as referred to in chapter 1, section 10 of the Employment Contracts Act (55/2001) or on section 6 of the Seamen's Act (423/1978) or of a public corporation subject to rearrangements comparable to assignment of business is also counted.

Section 6. Duration of job alternation leave

The minimum duration of a job alternation leave is 90 successive calendar days and the maximum 359 calendar days altogether.

Section 7. (1127/2007) Division of job alternation leave into periods and extension of agreed leave

Agreement must be reached on any division of job alternation leave into periods before the leave begins. The minimum duration of each period job alternation leave is divided into is 90 calendar days.

Any extension to the job alternation leave period must be agreed two months before the agreed leave ends.

However, job alternation leave must be taken in its entirety within two years from the time it begins and its aggregate duration must not exceed the maximum duration set for job alternation leave.

Section 8. (1127/2007) Job alternation agreement

The employer must make a written job alternation agreement with the alternator, undertaking to hire a substitute. This agreement and an employment contract or some other reliable document showing that a substitute has been hired for the duration of the job alternation leave

must be submitted to the employment office before job alternation leave begins. Similar necessary documents must be submitted to the employment office when job alternation leave is divided into periods or extended in the manner referred to in sections 7 (1) and (2).

Section 9. (1127/2007) Substitutes

In hiring substitutes, priority must be given to young people registered at an employment office as unemployed jobseekers and referred to in Chapter 1, section 7 (1) (4) of the Public Employment Services Act (1295/2002), or to long-term unemployed as referred to in Chapter 1, section 7 (1) (5) or persons who have recently attained an academic or vocational qualification and whose professional competence is evaluated as sufficient for the job applied for. Employment authorities and employers must carry out such an evaluation jointly. If no suitable unemployed jobseeker as referred to above applies for the job, a substitute who has the greatest need for employment and whose employment opportunities can be expected to improve through fixed-term employment must be hired whenever possible.

Anyone considered to be a full-time student, as referred to in Chapter 2, sections 6 and 7 of the Unemployment Security Act may not be hired as a substitute.

The substitute's working hours must be at least the same as the alternator's regular hours. When a part-time employee in the employ of the employer is registered at an employment office as an unemployed full-time job seeker, and such a person is hired to fill a vacancy opening as a result of job alternation leave, the job alternation leave can be implemented by hiring an unemployed jobseeker registered at an employment office for the vacancy thus created, notwithstanding Chapter 2, section 5, of the Employment Contracts Act. In such a case the addition to the aggregate working hours of these employees must be at least the same as the alternator's regular hours.

Section 10. (1127/2007) Early end to job alternation leave and temporary return to work

Ending job alternation leave early or a temporary return to work must be agreed between the employer and alternator. Job alternation leave is used up during a temporary return to work and continues afterwards in accordance with the job alternation agreement, unless extended in the manner referred to in section 7 (2).

Job alternation leave is deemed to have ended if the alternator is suddenly entitled to receive a maternity, special maternity, paternity or parental allowance under the Sickness Insurance Act or is granted leave for the same period as that for which job alternation leave is being taken, owing to pregnancy or childbirth or to look after a child, or if the alternator starts to receive a special care allowance. If, however, such an entitlement or granted leave lasts no more than 18 working days, the job alternation leave will be deemed to have been interrupted for said period.

Section 11. Effects of termination of a substitute's service relationship

If a substitute's service relationship is terminated before the job alternation leave ends, the said termination is not considered a breach of the job alternation agreement if:

- 1) the employer hires another substitute as referred to in section 9 without delay and at the latest within two months of the termination of the substitute's service relationship; or
- 2) the employment office is unable to designate a suitable person to replace the previous one.

Section 12. The alternator's right to return to his/her previous job

The alternator has the right to return primarily to his/her previous job at the end of the job alternation leave. If this is not possible, the alternator must be offered equivalent work in accordance with his/her employment contract or service relationship, and if this not possible either, other work by agreement.

Section 13. Right to job alternation allowance

The alternator is entitled to a job alternation allowance for the duration of the job alternation leave.

Entitlement to job alternation allowance continues in accordance with the agreement even when the service relationship of a substitute hired for the duration of the job alternation leave is terminated before the leave ends.

Section 14. Restriction on right to allowance

The alternator is not entitled to job alternation allowance for periods during which the alternator:

- 1) receives from his employer as referred to in section 2 pay or annual holiday pay or other allowances or considerations against which the alternator receives equivalent leisure time;
- 2) performs military service, women's voluntary military service or non-military service;
- 3) is serving time in a penal institution;
- 4) is in full-time employment for longer than two weeks in the service of other than the alternator's employer as referred to in section 2;
- 5) engages in full-time entrepreneurship as referred to in the Unemployment Security Act; or
- 6) receives a benefit referred to in chapter 3, section 3 (1) or section 4 (2) (1-3), 4 (5) or 4 (6) of the Unemployment Security Act.

The pay referred to in subsection 1 (1) does not include training paid for by the employer, unless such benefit is taken into account as the employee's taxable income, or fringe benefits that the alternator continues to enjoy during the job alternation leave in accordance with the job alternation agreement.

Section 15. Size of the job alternation allowance

The full amount of the job alternation allowance is 70 per cent of the unemployment allowance that the person would be entitled to if unemployed under chapter 5, sections 2-5, and chapter 6, sections 1 (1), 2 (1) and 4, of the Unemployment Security Act. The alternation allowance is 80 per cent if the alternator has a minimum of 25 years of employment history as referred to in section 4 before the beginning of the job alternation leave. The child supplements referred to in chapter 6, section 6 of the Unemployment Security Act are not taken into account in determining job alternation allowance. (1191/2009)

In determining the unemployment allowance referred to in subsection 1 above, what is laid down concerning unemployment allowances in chapter 4, sections 1-5, 7 and 8 of the Unemployment Security Act applies to any statutory benefit, pay or other earned income received by the alternator during the leave. The amount of the job alternation allowance is not, however, affected by other remunerations or considerations earned before the job alternation leave and paid during the leave against which the alternator is not given equivalent leisure

time, or by fringe benefits not included in wage income and enjoyed during the job alternation leave in accordance with the job alternation agreement.

Notwithstanding what is provided in Chapter 6, section 4 of the Unemployment Security Act and in the law by virtue of it concerning determination of the pay on which an earnings-related allowance is based, it is the income received by the alternator for a period of at least 52 weeks for complete pay periods prior to job alternation leave which determines the income to be considered regular income. The income does not include the fringe benefits which the recipient continues to receive during job alternation leave in accordance with the job alternation agreement. (1127/2007)

Section 16. Application for job alternation allowance

Applications for job alternation allowance must be submitted to the Social Insurance Institution or the relevant unemployment fund.

Section 17. (1127/2007) Employment policy statements

Employment and Economic Development Offices issue statements binding on the Social Insurance Institution and on unemployment funds regarding the requirements for a job alternation allowance as referred to in sections 5-8, 9 (2) and (3), 11 and 14 (1) (5) and on the preconditions for recovery referred to in section 19 (1). (1054/2008)

What is provided in and in the law by virtue of the Unemployment Security Act applies to employment policy statements, unless otherwise provided in this Act.

Section 18. Duty to notify

Employers must notify the employment office without delay that they have hired a substitute for the duration of a job alternation leave and report any essential changes in the service relationship of the substitute.

Section 19. Recovery of job alternation allowance

If, on the basis of circumstances related to the job alternation arrangement, it is obvious that the purpose has not been implementation of job alternation in accordance with this Act, the allowance must be recovered unless recovery is considered clearly unreasonable.

If job alternation allowance has been paid without cause or in too high an amount, the excess amount of the allowance must be recovered. Recovery can be waived completely or partly if this is considered reasonable and the unjustified payment of the allowance has not been caused by the alternator's dishonesty or gross negligence or if the sum paid unjustifiably is small. Furthermore, recovery can be waived entirely after a decision has been given in the case when recovery is no longer appropriate given the financial situation of the recipient or when continuation of efforts to recover the sum would incur unreasonable costs in comparison with the amount of unrecovered benefit. (363/2004)

What is provided in chapter 11, section 10 (3) (4) of the Unemployment Security Act on recovery of unemployment allowance applies to recovery of job alternation allowance as appropriate.

If the alternator has received job alternation allowance for a period for which he/she is retroactively also granted daily sickness allowance under the Sickness Insurance Act, daily allowance or accident pension under the Employment Accidents Act (608/1948) or any

benefit referred to in chapter 11, section 14 (1) of the Unemployment Security Act, the Social Insurance Institution or the unemployment fund may recover the unwarranted amount paid for this period by deducting it from the benefit to be paid retroactively. Further, what is stipulated in chapter 11, section 14 (2) of the Unemployment Security Act applies to recovery as appropriate.

Section 20. Appeal

Those not satisfied with decisions of the Social Insurance Institution or unemployment funds concerning a job alternation allowance may appeal in writing to the Unemployment Security Appeal Board within 30 days of the date on which the appellant is informed of the decision. (1092/2006)

Those not satisfied with decisions of the Unemployment Security Appeal Board may appeal in writing to the Insurance Court within 30 days of the date on which the appellant is informed of the decision. (1092/2006)

Unless the appellant proves otherwise, said party is considered to have been informed of the decisions referred to in subsections 1 and 2 on the seventh day from the posting of the decision to an address given by said party.

The statement referred to in section 17 above may not be appealed.

In a case concerning the allocation of court costs, the unemployment security official referred to in chapter 1, section 4 (3) of the Unemployment Security Act is entitled to appeal to the Insurance Court in accordance with subsection 2 within 30 days of when the employment authority is informed of the decision. (609/2004)

Section 21. Application of the Unemployment Security Act and the Unemployment Funds Act

Unless otherwise provided in this Act, what is provided in the Unemployment Security Act and the Unemployment Fund(s) Act (603/1984) applies concerning application for a job alternation allowance, its refusal because of lateness of application, the payment method, temporary interruption of, or reduction in, payment, the number of days in a week when there is entitlement to benefit, a decision on a job alternation allowance, annulment and self-rectification of a decision, limitation of actions on recovery claims, a duty to provide information, a right to obtain information and a distraint officer's right to obtain information, receiving and giving information, the allocation of court costs, and the Unemployment Security Appeal Board. (1092/2006)

What is provided in the Unemployment Security Act on distraint of basic unemployment allowance applies to distraint of job alternation allowance granted on the basis of basic unemployment allowance in accordance with the Unemployment Security Act.

Section 22. Financing

The cost of job alternation allowances to unemployment funds and the Social Insurance Institution is financed in accordance with what is provided on unemployment allowance in the Act on Financing Unemployment Benefits (555/1998) and chapter 14, section 3 of the Unemployment Security Act.

Section 23. (1127/2007) Executive bodies

Implementation of job alternation leave is directed, supervised and developed by the Ministry of Employment and the Economy as the supreme authority. What is provided in the Unemployment Security Act and the Unemployment Fund(s) Act applies to supervision of the Social Insurance Institution and the unemployment funds.

Section 24. Supervision

Compliance with this Act is supervised jointly by the labour and labour protection authorities.

Section 25. (961/2009) Entry into force

This Act enters into force on 1 January 2003.

Section 26. Transitional provisions

If a job alternation agreement has been made before this Act enters into force, the provisions of the Act on the Job Alternation Leave Experiment (1663/1995) apply.

In calculating the work history requirement referred to in section 4 of this Act and the working requirement referred to in section 5, time before this Act enters into force is also taken into account. The five-year work history required for re-use of job alternation leave as referred to in section 4 of this Act also applies to job alternation leaves that end while this Act is in force.

If other acts or provisions issued under them refer to the Act on the Job Alternation Leave Experiment, the reference must be considered to mean this Act unless otherwise provided in this Act.