

## **The Public Employment Act (1994:260)**

Amendments: up to and including SFS 2015:384

### **Scope of the Act**

**Section 1** This Act contains special provisions concerning employees of

1. the Riksdag (Swedish Parliament) and its authorities,
2. authorities reporting to the Government.

There are also special regulations concerning employees referred to in the first paragraph, item 2 in the Power of Attorney Employment Act (1994:261). (SFS 2004:833)

**Section 2** The following provisions in the Act also apply to employees of municipalities, county councils and municipal associations, namely

Sections 7 - 7 c concerning incidental employment, Sections 23 - 29 concerning labour market conflicts,

Section 38 on interim decisions,

Section 42, first and second paragraphs, concerning certain exceptions from the Employment (Co-Determination in the Workplace) Act (1976:580).

The regulations contained in Section 30 regarding periodic health examinations also apply to employees of municipalities and county councils. (SFS 2001:1016)

### **Section 3**

The Act does not apply to:

1. ministers;
  2. parliamentary ombudsmen;
  3. auditors-general;
  4. employees who are local employees of the Swedish State abroad and who are not Swedish citizens;
- or
5. employees who are employed with special employment support, in sheltered employment or in development employment.

As regards the Chancellor of Justice, the Justices of the Supreme Court and the Justices of the Supreme Administrative Court, the only sections of the Act that apply are Section 4 concerning criteria for employment, Sections 7–7d concerning secondary employment, Sections 23–29 concerning labour conflicts, Section 38 concerning interim orders and Section 42, second paragraph, concerning certain exceptions to the Employment (Co-Determination in the Workplace) Act (1976:580). (SFS 2010:1492)

### **Basis of assessment upon appointment**

**Section 4** When making appointments attention shall be paid only to objective factors such as service merits and competence.

Competence shall be a primary consideration, unless there are special reasons for doing otherwise.

Swedish citizenship as an eligibility requirement

**Section 5** In addition to the requirements for Swedish nationality that follow from the Instrument of

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Government or another act, only Swedish citizens may be employed as a prosecutor or police officer or hold a military appointment. (SFS 2014:758)

**Section 6** The Government may prescribe or for special cases decide that only Swedish citizens may hold

1. posts within the Government Offices or foreign service,
2. public posts that may be combined with exercise of official duties or dealing with issues that affect the relationship with other States or with international organisations,
3. public posts that may involve knowledge about circumstances that are of importance for the security of Sweden or for other important, public or private financial interests.

The powers that the Government has under the first paragraph, items 2 and 3, are exercised as regards employees of the Riksdag or its authorities by the Riksdag or the authority determined by the Riksdag. (SFS 1999:311)

### **Incidental employment**

**Section 7** An employee may not have any employment or any assignment or exercise any activities that may adversely affect confidence in his or any other employee's impartiality in the work or that may harm the reputation of the authority.

**Section 7 a** The employer shall in an appropriate way inform the employees of which kinds of circumstances can constitute incidental employment that is not allowed under Section 7. (SFS 2001:1016)

**Section 7 b** An employee shall at the request of the employer provide the information necessary for the employer to be able to assess the employee's incidental employment. (SFS 2001:1016)

**Section 7 c** An employer shall decide that an employee who has or intends to undertake incidental employment that is not compatible with Section 7 shall cease with or not undertake such incidental employment. This decision shall be in writing and include reasons. (SFS 2001:1016)

**Section 7 d** A permanent judge and heads of authorities that report directly to the Government shall on their own initiative notify to the employer what kinds of incidental employment they have. (SFS 2004:833)

### **Certain provisions concerning cessation of employment**

**Section 8** A notice from the employers' side concerning discontinuance from probationary employment under the Employment Protection Act (1982:80) shall be in writing in order to be valid.

**Section 9** Notice of termination from the employers' side of an employee who is employed for an indefinite term shall be in writing in order to be valid.

Summary dismissal shall also be in writing in order to be valid.

**Section 10** A request by an employee that the employment should cease should be in writing in order to be valid.

**Section 11** If an employee obtains a new employment with an employer referred to in Section 1, the first employment ceases without any special measure, unless otherwise prescribed by a collective bargaining agreement or, as regards power of attorney employees, by regulations issued by the Government.

If there are special reasons, it may be decided that the employment shall not cease.

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**Section 12** When determining the ranking of an employee in the order for notice of termination under the Employment Protection Act (1982:80), regard shall also be taken to the requirement that the authority in a proper manner fulfils its functions regarding the administration of justice or public administration.

**Section 13** The provisions contained in Section 18, second paragraph of the Employment Protection Act (1982:80) shall not be applied if the Parliamentary Ombudsmen or the Chancellor of Justice requests a decision on summary dismissal within six months after when the circumstance referred to occurred.

### Disciplinary liability

#### Neglect of duty

**Section 14** A disciplinary sanction for neglect of duty may be imposed upon an employee who intentionally or by carelessness neglects his duties in employment. If the neglect, having regard to all the circumstances, is minor, a sanction may not be issued.

A disciplinary sanction may not be imposed upon an employee because he has participated in a strike or industrial action comparable thereto.

#### Disciplinary sanctions

**Section 15** Disciplinary sanctions are a warning and deduction from pay. Several disciplinary sanctions may not be imposed on an employee simultaneously.

Deduction from pay may be made comprising at most thirty days. The deduction from pay per day may amount to at most 25 per cent of the daily pay.

**Section 16** Deviations from Section 15 may be made by collective bargaining agreements.

Such collective bargaining agreements may also be applied for employees who are not members of the contracting employees' organisation, provided they are engaged in such work as is referred to in the agreement.

#### Impediments to disciplinary proceedings

**Section 17** A disciplinary sanction may be issued only if the employee within two years of the neglect has been notified in writing about that alleged against him.

**Section 18** When a measure has been implemented for the institution of a prosecution against an employee, the employer may not commence or continue with disciplinary proceedings relating to that which caused the measure.

If an act has been considered under the criminal law system, a disciplinary measure may only be commenced or continued if the act, for some other reason than inadequate evidence, was not considered to comprise an offence.

**Section 19** A disciplinary sanction may not be imposed after the employee's appointment has ended or notice of termination has been given.

What is stated in the first paragraph does not apply if the employee transfers from one authority to another

1. within the judicial system;
2. within the prosecution system;
3. between the Swedish Police Authority and the Swedish Security Service.(SFS 2014:758)

## **Damages**

**Section 20** The provisions concerning damages contained in Sections 38, 41 and 42 of the Employment Protection Act (1982:80) shall apply if an authority, in a matter concerning disciplinary liability, violates Sections 17 - 19 or the provisions concerning decision-making bodies or concerning voting.

On matters concerning deviations in collective bargaining agreements from that stated in Section 41 of the Employment Protection Act, Section 2, third paragraph of the said Act applies.

## **Exceptions for certain employees**

### **Section 21**

The provisions contained in Sections 14–19 do not apply to:

1. those upon whom disciplinary sanctions may be imposed under the Act concerning Disciplinary Liability in the Total Defence, etc. (1994:1811), for neglect that is subject to that Act;
2. health care and medical staff who, in the practice of their profession, are subject to the supervision of the Health and Social Care Inspectorate, for neglect in the practice of their profession that is subject to consideration by the Inspectorate or the Medical Responsibility Board; or
3. animal health care and medical staff, for neglect in the practice of their profession that is subject to consideration by the Veterinary Discipline Board. (SFS 2012:941)

## **Report for prosecution**

**Section 22** A person who is reasonably suspected of having committed an offence in the course of his or her employment shall be reported for prosecution if the suspicion relates to:

1. one of the following offences under the Swedish Penal Code:
  - a) taking of a bribe, under Chapter 10, Section 5a;
  - b) gross taking of a bribe, under Chapter 10, Section 5c;
  - c) misuse of office or gross misuse of office, under Chapter 20, Section 1; and
  - d) breach of a duty of confidentiality, under Chapter 20, Section 3, first paragraph .
2. another offence, if it can be assumed that it will result in some sanction other than a fine.(SFS 2012:302)

## **Labour market conflicts**

Limitations to the right to implement industrial action

**Section 23** In work that comprises the exercise of official power or which is unavoidably necessary in order ensure the exercise of official power, industrial actions may only be implemented in the form of lockout, strike, refusal of overtime or blockade of new employment.

In work referred to in the first paragraph, industrial action may not be implemented on the grounds of anything other than the relationship between the employer and those employees who are subject to this Act.

Also in work other than that referred to in the first paragraph, industrial action aimed at influencing domestic political circumstances is not allowed within the scope of this Act.

**Section 24** If a dispute arises as to whether particular industrial action is allowed under this Act, the action may not be implemented before the dispute has been finally determined.

### **Participation in industrial action**

**Section 25** An employee may participate in industrial action only following a decision of the employees' organisation that has ordered the industrial action.

**Section 26** An employees' organisation may not order or in any other way cause industrial action that is not allowed under Section 23 or 24. Nor may such organisation by giving support or in any other way participate in industrial action that is not allowed.

If an employee who belongs to an employees' organisation plans to initiate or has initiated industrial action that is not allowed, the organisation is liable to endeavour to prevent the action or work to ensure that it ceases.

### **Duty to discuss**

**Section 27** If an employee who belongs to an employees' organisation has commenced industrial action in violation of Section 25, the employer and the organisation shall immediately commence discussions as a result of the industrial action and jointly work towards its cessation.

Unless otherwise provided by a collective bargaining agreement, the first paragraph applies to the local employees' organisation, if there is such an organisation.

### **Damages**

**Section 28** If an employer violates Section 23, 24 or 27 or if an employees' organisation violates Section 26 or 27, the employer and the organisation respectively shall compensate losses that are incurred in accordance with the basis stated in Sections 54, 55, 60 and 61 of the Employment (Co-determination in the Workplace) Act (1976:580), even if any obligation under a collective bargaining agreement has not been set aside.

This also applies to an employee who violates Section 23, 24 or 25, unless otherwise provided by Section 29.

**Section 29** If an employees' organisation has commenced or caused industrial action that is not allowed under Section 23 or 24, an employee may only be ordered to pay damages for his participation in the action if there are extraordinary reasons for so doing.

### **Periodical health examinations**

**Section 30** If an employee has work tasks where inadequacies in the health status of the employee entail a risk of human life, personal security or health or of substantial damage to the environment or property, the employee, following a special request by the employer, is liable to regularly undergo such health examinations as are necessary for assessing whether the employee has such inadequacies in health status.

The first paragraph only applies for employees who, under a collective bargaining agreement or regulations made by the Government, are liable to undergo health examinations. The collective bargaining agreement may also be applied for employees who are not members of the contracting employees' organisation, provided they are engaged in such work as is referred to in the agreement. The regulations may only relate to employees of authorities reporting to the Government.

If another act or an ordinance that has been issued under an act contains provisions deviating from the first or second paragraph, those provisions shall apply.

### **Suspension from work tasks**

### **Section 31**

An employee of the Swedish Police Authority, the Swedish Security Service, the Foreign Service, the Swedish Armed Forces, the National Fortifications Administration, the Defence Matériel Administration, the Swedish Defence Recruitment Agency, the Swedish National Defence College or the National Defence Radio Establishment may be removed from his or her duties with immediate effect if this is necessary in the best interests of the country. (SFS 2014:758)

### **Employees in managerial or positions comparable thereto**

**Section 32** The provisions concerning the grounds for notice of termination or summary dismissal, ranking order in connection with notice of termination and priority rights to re-employment contained in the Employment Protection Act (1982:80) shall also apply as regards an employee in a managerial position or position comparable thereto who is employed for an indefinite term, unless otherwise provided by this Act or, as far as regards other matters than the grounds for the notice of termination or summary dismissal, by regulations made by the Government.

The provisions of the first paragraph on summary dismissal also apply for an employee in a managerial position or positions comparable thereto who is employed for a fixed term. (SFS 2003:297)

### **Section 33**

If the head of the Swedish Agency for Government Employers is employed on a fixed-term contract, he or she may be removed from the position before the expiry of this term if this is necessary in the best interests of the Agency.

If the head of another administrative agency that reports immediately to the Government is employed on a fixed-term contract, he or she may be transferred to another state post that is subject to the same appointment terms, if this is required for organisational reasons or is otherwise necessary in the best interests of the agency. (SFS 2015:384)

### **National Disciplinary Offences Board**

**Section 34** The National Disciplinary Offences Board decides on matters concerning disciplinary liability, report for prosecution and summary dismissal, as regards

1. employees who are employed by a decision of the Government,
2. employees who without being employed by a decision of the Government have a managerial position or positions comparable thereto.

The Government may prescribe that the Board shall decide on such issues also as regards other employees. (SFS 2003:297)

### **Enforcement of decision**

**Section 35** A decision concerning deduction from pay under Section 15 may not be enforced before the decision has been finally considered or the right of action has lapsed.

**Section 36** A decision concerning suspension from employment under Section 33, first paragraph, applies immediately.

A decision concerning transfer under Section 33, second paragraph, may not be enforced before the decision has been finally considered or the right of action has lapsed. However, the decision may be given immediate effect if there are extraordinary reasons for so doing.

## Judicial proceedings

**Section 37** Cases concerning the application of this Act shall be dealt with in accordance with the Labour Disputes (Judicial Procedure) Act (1974:371).

**Section 38** In a dispute concerning a decision under Section 7 c, 31 or 36, the court may, for the period pending a determination that has entered into final legal force, decide that the decision shall not apply until further notice. (SFS 2001:1016)

**Section 39** If an employee seeks an amendment of a decision under Section 14 or 33, he shall institute proceedings within three weeks of the date on which he received the decision.

**Section 40** Actions by the Parliamentary Ombudsmen or the Chancellor of Justice concerning amendments of a decision on disciplinary liability under Section 14 shall be instituted within three weeks from when the decision was issued.

**Section 41** Actions concerning damages under Section 28 or 29 shall be instituted within three months from when the industrial action was concluded.

## Application of other statutes

**Section 42** The provisions contained in Sections 2, 21 and 22 of the Employment (Co-determination in the Workplace) Act (1976:580), shall not apply to employment relationships that are subject to this Act.

The provisions contained in Sections 11 - 14 of the Employment (Co-determination in the Workplace) Act shall not be applied as regards decisions concerning an employee having to cease with or not undertake incidental employment under Section H7 cH, disciplinary liability under Section 14, report for prosecution under Section 22 or suspension from work tasks under Section 31.

For employees referred to in Section 1, provisions of other statutes than acts shall also apply, even if the provisions deviate from the Employment Protection Act (1982:80). (SFS 2001:1016)

## Transitional provisions

1994:260

1. This Act enters into force on 1 July 1994, when the Public Employment Act (1976:600) shall cease to apply.
2. If a reference is made in any other act or statute to a provision that has been replaced by a provision in this Act, the new provision shall apply instead.
3. On matters concerning warrant of appointment that have been issued before the entry into force, the older provisions shall be applied.
4. On matters concerning employment or conditions of employment for those employees who are subject to this Act, the Government or the authority appointed by the Government may, until further prescribed, by statute issue regulations even if the conditions could be regulated by agreement. However, this only applies to regulations that do not violate a collective bargaining agreement.
5. If, in a statute that has not been decided by or together with the Riksdag, regulations have been issued on matters concerning employment or conditions of employment for such employees as are subject to this Act, the regulations shall cease to apply if the condition is regulated by a collective bargaining agreement.
6. The former regulations shall be applied in cases or matters that have been commenced or relate to circumstances that occurred before the entry into force.

2003:297

## Non-official translation

1. This Act enters into force on 1 July 2003.
2. The former wording of Section 34 shall be applied in cases that have been commenced before the entry into force.