

Employment Protection Act

(SFS 1982:80)

Including amendments up to and including SFS 2000:763

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REGERINGSKANSLIET

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Introductory Provisions

SECTION 1 This Act applies to both public and private employees. The following persons, however, are excluded from the application of this Act:

1. Employees whose duties and conditions of employment are such that they may be deemed to occupy a managerial or comparable position;
2. Employees who are members of the employer's family;
3. Employees employed for work in the employer's household;
4. Employees who are employed for work with special employment support or in sheltered employment. (SFS 2000:626)

SECTION 2 Separate provisions contained in other statutes or regulations enacted by statutory authority that deviate from this Act shall have precedence over conflicting provisions contained in this Act.

A contract is invalid to the extent that it excludes or limits employees' rights under this Act.

Deviations from Sections 5, 5 a, 6, 22 and 25-27 may be made through a collective bargaining agreement. If the contract has not been entered into or approved by a central organisation of employees, it is required that a collective bargaining agreement entered into or approved by a central organisation of employees applies as regards other issues between the parties or that such a collective bargaining agreement is temporarily inapplicable. Subject to the same preconditions, it is also allowed to determine by collective bargaining agreement such more detailed calculation of benefits as referred to in Section 12.

Deviations from Sections 11, 15, 21, 28, 32, 33, 40 and 41 may also be made through a collective bargaining agreement entered into or approved by a central organisation of employees. Such collective bargaining agreements may also provide as follows:

1. Deviations from Sections 6a and 6b, provided that such agreement does not provide for the application to the employees of less beneficial rules than those prescribed pursuant to
 - Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses.
 - Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to

the contract or employment relationship.

2. Deviations from Section 30a, as regards notification under Section 15; and
3. Deviations from Sections 30, 30a and 31, as regards the rights of the local organisation of employees.

Agreements prescribing deviations from the provisions contained in Section 21 may also be concluded outside collective bargaining agreement relations, provided such agreement requires the application of a collective bargaining agreement that has been concluded in pursuant to the fourth paragraph for the sector of business involved.

An employer who is bound by a collective bargaining agreement as referred to in the third or fourth paragraph above may also apply that agreement to employees who are not members of the organisation of employees that concluded the agreement, but who are employed in work governed by the agreement. (SFS 1996:1424)

SECTION 3 For the purposes of Section 5, second paragraph, Sections 11, 15, 22, 25, 26 and 39, the following special provisions concerning the calculation of the length of employment shall apply:

1. An employee who changes employment by transferring from one employer to another may, with respect to the second employment, also be credited with the period of employment with the former employer if, at the time of the transfer, both employers belong to the same group of companies.
2. An employee who changes employment as a result of the transfer of an undertaking or business or part of a business from one employer to another by virtue of such a transfer as is subject to Section 6 b, may include the period of employment with the former employer in the calculation of the period of employment with the subsequent employer. This also applies in connection with change of employment in conjunction with bankruptcy.
3. In the event of several such changes of employment as referred to in items 1 and 2 above, the employee may calculate the total period of employment with all the employers.

For the purposes of Sections 22, 26 and 39, the employee may include in the calculation one extra month of employment for each month of employment commenced after the age of 45. The employee may, however, only be credited with a maximum of 60 such extra months.

An employee who has been re-employed pursuant to Section 25 shall be deemed to have accrued the period of employment necessary

to be entitled to notice in accordance with Section 15 and rights of priority in accordance with Section 25. (SFS 1996:1424)

The contract of employment

SECTION 4 Contracts of employment are valid for an indefinite term. Contracts of employment for fixed term may, however, be entered into under the circumstances mentioned in Sections 5, 5 a and 6. Where such a contract is entered into under other circumstances, the employee may, as provided for in Section 36, obtain a judicial ruling that the contract is valid for an indefinite term.

Notice by employer or employee terminating a contract of indefinite-term employment may be given with effect following a certain period of notice. Unless otherwise agreed, or where otherwise provided in Section 5, second paragraph or Section 6, fixed-term employment expires without prior notice at the end of the period of the contract or upon the completion of the work contracted for. Section 33 contains separate provisions concerning retirement pension.

An employee may resign from his employment with immediate effect where the employer has in a material respect failed to fulfil his obligations to the employee.

Under the circumstances mentioned in Section 18, an employer may terminate the employment with immediate effect by summary dismissal.

According to Sections 6, 8-10, 15, 16, 19, 20 and 28-33, an employer is obligated in certain circumstances to inform and engage in consultations with the employee and the relevant organisation of employees and to comply with certain procedures in connection with the entry into and cessation of contracts of employment. (SFS 1996:1424)

SECTION 5 A contract of employment for a fixed term may be concluded in the following circumstances:

1. A contract for a fixed term, a specified season or specified task, if necessitated by the special nature of the work.
2. A contract for a fixed term, as regards temporary substitute employment, traineeships or vacation employment.
3. A contract for a fixed term, not exceeding a total of six months during any two-year period, where occasioned by a temporary peak workload.

4. A contract for the period pending commencement of compulsory military service continuing for more than three months under the National Total Defence Act (SFS 1994:1809) by the employee.
5. A contract for a fixed term in respect of employment after pensioning, where the employee has attained the age for compulsory retirement with old-age pension or, in the absence of such a retirement obligation, when the employee has attained the age of 67.

If an employee has been employed by an employer as a substitute for in aggregate more than three years during the last five years, the employment is transformed into indefinite-term employment. (SFS 1996:1424)

SECTION 5A A contract may also in other cases than as referred to in Section 5 be concluded concerning fixed-term employment (agreed fixed-term employment). Contracts concerning such employment may as regards one and the same employee comprise in aggregate at most twelve months over three years, and no contract period may be less than one month. If a contract is concluded for a shorter period than one month, the contract applies for one month.

In an undertaking or a business that has not previously had any employee, a contract as referred to in the first paragraph concerning one and the same employee may, when an employee is employed for the first time and for three years thereafter, be concluded for in aggregate at most 18 months over three years.

An employer may upon one and the same date have at most five employees employed with agreed fixed-term employment. (SFS 1996:1424)

SECTION 6 A contract for probationary employment of a limited duration may also be entered into, provided that the probationary period does not exceed six months.

Where the employer or employee does not wish the employment to continue after the expiry of the probationary period, notification of such must be given to the other party not later than at the expiry of the probationary period. In the absence of the above-mentioned notice, the probationary employment shall become indefinite-term employment.

Unless otherwise agreed, probationary employment may also be terminated prior to the expiration of the probationary period. (SFS 1994:1685)

SECTION 6A Not later than one month after the commencement of work by the employee, the employer shall inform the employee, in writing, of the terms and conditions applicable to the employment. The employer is not bound to provide such information where the period of employment is of less than one month.

The information shall contain the following particulars:

1. the names and addresses of the employer and employee, the commencement date of the employment and the workplace;
2. the employee's duties, occupational designation or title;
3. whether the employment is for a fixed or indefinite term or whether it is probationary; and
 - a) with respect to indefinite-term employment: the periods of notice applicable,
 - b) with respect to fixed-term employment: the final date of employment or the conditions governing its termination;
 - c) with respect to probationary employment: the length of the probationary period.
4. The starting rate of pay, other wage benefits and the intervals at which the pay is to be paid;
5. The length of the employee's paid annual leave and the length of the employee's normal working day or working week;
6. The collective bargaining agreement applicable, where relevant.
7. Terms and conditions for the posting of the employee abroad, where such is intended to be of more than one month's duration.

In the event the terms and conditions of employment are altered pursuant to a decision of the employer or pursuant to an agreement between the employer and employee and the alteration affects any of the particulars referred to in item 2, the employer shall provide new written information of the alteration within one month. (SFS 1993:1496)

SECTION 6B In conjunction with the transfer of an undertaking, a business or a part of a business from one employer to another, the rights and obligations pursuant to contracts of employment and employment relationships that existed at the time of the transfer to the new employer shall also be transferred. The previous employer shall, however, be liable to the employee for any financial obligations that are related to the period prior to the transfer. This paragraph shall also apply to employees who are employed within the public sector or on sea-going vessels.

The provisions contained in the first paragraph shall not apply to

transfers in conjunction with bankruptcies.

Nor shall the provisions contained in the first paragraph apply to old-age, invalidity, or survivor benefits.

Notwithstanding the provisions of the first paragraph, contracts of employment and employment relationships shall not be transferred to a new employer in the absence of consent to such by the employee. (SFS 1994:1685)

Notice of termination by the employer

SECTION 7 Notice of termination by the employer must be based on objective grounds.

Objective grounds for notice of termination do not exist where it is reasonable to require the employer to provide other work in his service for the employee.

The transfer of an undertaking, a business or a part of a business pursuant to Section 6 b shall not, per se, constitute objective grounds for giving notice of termination of employment. The above-mentioned prohibition shall not, however, prevent an employer from giving notice of termination of employment as a consequence of economic, technical or organisational reasons that include changes to the workforce.

Notice of termination that is based on circumstances relating to the employee personally may not be based solely on circumstances that were known to the employer for more than two months before notice was given pursuant to Section 30 or, if no such notice was given, two months before the termination date. However, the employer may base the notice of termination entirely on circumstances known to him for more than two months if upon request by the employee or with the consent of the employee the employer has delayed in providing the information or giving notice of termination or where there are extraordinary reasons for invoking such circumstances. (SFS 1994:1685)

SECTION 8 Notice of termination by the employer must be given in writing. In the notice of termination, the employer must state the procedure to be followed by the employee in the event the employee wishes to claim that the notice of termination is invalid or to claim damages as a consequence of the termination. Such notice shall also state whether or not the employee has rights of priority concerning re-employment.

Information shall also be included in the notice, where applicable, that notification is required in order for the employee to exercise such rights.

SECTION 9 The employer is obligated, upon request by the employee, to state the circumstances on which notice of termination is based. This statement must be in writing, where the employee so requests.

SECTION 10 Notice of termination must be delivered to an employee personally. Where this cannot reasonably be required, notice may instead be posted by registered letter to the employee's last known address.

Notice of termination shall be deemed effective when received by the employee. Where the employee cannot be reached and notice of termination has been dispatched by letter as provided in the first paragraph, notice of termination shall be deemed effective 10 days after the letter was submitted to the post office for delivery. If the employee is on holiday, notice of termination shall be deemed effective not earlier than the day after the holiday ends.

Period of notice of termination

SECTION 11 The minimum period of notice for both employer and employee shall be one month.

The employee is entitled to notice of termination of employment of:

- ▶ *two months*, if the aggregate length of the employment with the employer is at least two but less than four years,
- ▶ *three months*, if the aggregate length of the employment with the employer is at least four but less than six years
- ▶ *four months*, if the aggregate length of the employment with the employer is at least six but less than eight years;
- ▶ *five months*, if the aggregate length of the employment with the employer is at least eight but less than ten years;
- ▶ *six months*, if the aggregate length of the employment with the employer is at least ten years. (SFS 1996:1424)

Pay and other benefits during the period following notice of termination

SECTION 12 An employee who has been given notice is entitled to retain pay and other employment benefits during the period of notice, notwithstanding that the employee is not assigned any duties or is assigned duties different from those the employee previously performed. (SFS 1984:1008)

SECTION 13 Where the employer has stated that the employee need not be available for work following notice of termination or need only work for part of the period of notice any income earned by the employee from other employment during the same period may be deducted by the employer from benefits payable pursuant to Section 12, first paragraph. The employer is also entitled to deduct income that the employee obviously could have earned from other suitable employment during this period. (SFS 1993:718)

SECTION 14 An employee who has been given notice of termination may not be transferred to another locality during the period of notice, if the employee's opportunities of seeking new employment are thereby impaired to an extent that is not insignificant.

An employee who has received notice of termination is also entitled, during the period of notice, to reasonable leave of absence from the employment with full employment benefits in order to visit an employment agency or otherwise seek work.

Notification that fixed-term employment will not be continued

SECTION 15 An employee who is employed for a fixed term as provided in Section 5 or 5a and who will not be given further employment when the employment ends, must be notified to this effect by the employer not less than one month before the expiration of the period of employment. Entitlement to such notification shall be contingent upon the employee, upon the expiration of employment, having been employed by the employer for more than twelve months during the past three years. Where the period of employment is too

short for notification to be given one month in advance, it shall instead be given upon the commencement of employment.

Where a seasonal employee, who at the end of the employment has been employed by the employer for a specific season for more than six months during the past two years, will not be given further seasonal employment at the beginning of the new season, the employer must notify the employee to this effect at least one month prior to the commencement of the new season. (SFS 1996:1424)

SECTION 16 Notification pursuant to Section 15 must be in writing.

The employer must state in the notification the procedure to be followed by the employee in the event the employee wishes to initiate proceedings to have the contract declared to apply as an indefinite-term employment, or to claim damages for a breach of Section 4, first paragraph of this Act. The notification must also inform the employee whether or not the employee is entitled to rights of priority in connection with re-employment. Information shall also be included in the notice, where applicable, that notification is required in order for the employee to exercise such rights.

Notification must be delivered to the employee personally. If this cannot reasonably be required, notification may instead be posted by registered letter to the employee's last known address.

SECTION 17 An employee who has received notification as provided in Section 15, first paragraph, is entitled to a reasonable leave of absence with full employment benefits in order to visit an employment agency or otherwise seek work.

Summary dismissal

SECTION 18 An employee may be summarily dismissed where he has grossly neglected his obligations to the employer.

Summary dismissal may not be based solely on circumstances that were known to the employer more than two months before notice was given pursuant to Section 30 or, where no such notice was given, two months before the date of dismissal. However, the employer may base the summary dismissal entirely on circumstances known to him for more than two months if upon the request of the employee or with the consent of the employee the employer has delayed the giving of notice or dismissal or where there are extraor-

dinary reasons for invoking such circumstances. (SFS 1993:1496)

SECTION 19 Notice of summary dismissal by the employer must be given in writing.

The employer shall state in the notice of summary dismissal the procedures that the employee must comply with in the event the employee wishes to claim that the dismissal is invalid or wishes to claim damages as a consequence of the dismissal.

The employer is obligated, upon request by the employee, to state the circumstances on which notice of summary dismissal is based. This statement must be in writing, where the employee so requests.

SECTION 20 Notice of summary dismissal must be delivered to an employee personally. Where this cannot reasonably be required, notice may instead be posted by registered letter to the employee's last known address.

Notice of summary dismissal shall be deemed given when communicated to the employee. Where the employee cannot be reached and notice of summary dismissal has been dispatched by letter as provided in the first paragraph, notice of summary dismissal shall be deemed given 10 days after the letter was submitted to the post office for delivery. If the employee is on holiday, notice of dismissal shall be deemed given not earlier than the day after the holiday ends.

Pay and other benefits during lay offs

SECTION 21 An employee who is laid off is entitled the same pay and other employment benefits as if the employee had been allowed to continue his or her duties. This however, does not apply where the lay off is a consequence of the seasonal nature of the work or the fact that the work is otherwise inherently intermittent. (SFS 1984:1008)

Order of priority in connection with termination of employment

SECTION 22 In the event of notice of termination on the grounds of shortage of work, the employer shall observe the following rules on priority.

Before order of termination is determined, an employer with at most ten employees, irrespective of the number of in the group subject to order of priority rules, may exempt at most two employees who, in the opinion of the employer, are of particular importance for the future activities. When computing the number of employees at the employer, employees referred to in Section 1 are not included. The or those employees who are exempted have priority for continued employment.

Where the employer has several operational units, the order of termination shall be determined separately within each unit. The circumstance alone that one employee has his workplace at his home, does not mean that the workplace comprises a separate operational unit. If the employer is, or is usually, bound by a collective bargaining agreement, a special order of termination shall be established for each agreement sector. Where, under circumstances as mentioned above, there are several production units in the same locality, a single order of termination shall be drawn up for all the units in the locality that fall within the agreement sector of an organisation of employees, provided the organisation makes a request to this effect not later than the time for negotiations as provided in Section 29.

The order of termination for those employees who are not exempted is determined on the basis of each employee's total time of employment with the employer. Employees with longer employment times shall have priority over employees with shorter employment times. In the event of equal employment times, priority shall be given to the older employee. Where it is only possible to offer continued work to an employee with the employer following a re-location of the employee, priority shall be contingent on the employee possessing satisfactory qualifications for the continued work. (SFS 2000:763)

SECTION 23 An employee who has reduced working capacity and who has, therefore, been given special duties by the employer shall be given priority for continued work, notwithstanding the rules on priority, where such can be accomplished without serious inconvenience to the employer.

SECTION 24 Repealed. (SFS 1984:1008)

Rights of priority for re-employment, etc.

SECTION 25 Employees whose employment has been terminated as a consequence of shortage of work shall have rights of priority for re-employment in the business in which they were previously employed. The above-mentioned rights shall also apply with respect to employees who have been employed for a fixed term as provided in Section 5 or 5a and who have not been given continued employment due to a shortage of work. The right to priority, however, shall be contingent upon the employee having been employed by the employer for a total of more than twelve months during the last three years or, in the case of a former seasonal employee's right to priority for new seasonal employment, six months during the past two years, provided the employee is sufficiently qualified for the new employment.

An employee may not claim his or her right to priority for re-employment if a re-employment would violate Section 5, first paragraph item 3 or Section 5 a.

The right to priority shall apply from time of the notice of termination or when notice was given or should have been given in accordance with Section 15, first paragraph, and thereafter until nine months from the date that the employment ceased. With respect to seasonal employment, rights of priority shall instead apply from the time when notice was given or should have been given pursuant to Section 15, second paragraph, and thereafter until nine months have elapsed from the commencement of the new season. Where, under the aforementioned time periods, the undertaking, the business or the part of the business in which the activities are conducted has been transferred to a new employer by such a transfer as is subject to Section 6 b, the right to priority shall apply with respect to the new employer. Rights of priority shall also apply in circumstances where the previous employer was put into bankruptcy.

Where the employer has several production units, or if the employer's business involve several collective bargaining agreement sectors, the rights of priority shall apply to employment within the unit and the collective bargaining agreement sector to which the employee belonged at the termination of his previous employment. Where, under such circumstances, there are several production units in the same locality, priority within the collective bargaining agreement sector of an organisation of employees shall apply to all of the

employer's production units in the locality, provided such a request is made by the organisation not later than the time for negotiations as provided for in Section 32. (SFS 1996:1424)

SECTION 25A A part-time employee who has notified his or her employer that he or she desires to have employment at a higher level of occupation, though at most full-time, has notwithstanding Section 25 priority right to such employment. This right is contingent upon the employer's need of labour being satisfied by the part-time employee being employed at a higher level of occupation and that the part-time employee has sufficient qualification for the new work tasks.

If an employer has several production units, the priority right applies to employment at the unit where the employee is engaged part-time.

The priority right does not apply as regards a person who is entitled to re-allocation of work in accordance with Section 7, second paragraph.

An employee cannot claim his or her priority right if the employment would violate Section 5, first paragraph 3 or Section 5 a. (SFS 1996:1424)

SECTION 26 Where several employees are entitled to priority for re-employment in accordance with Section 25 or priority right to employment at a higher level of occupation in accordance with Section 25 a, the order in which they are inter se to be re-employed shall be determined on the basis of each employee's total period of employment with the employer. Employees who have longer periods of employment shall have priority over employees with shorter periods of employment. In the event of equal periods of employment, the employee who is senior in age shall be given priority. (SFS 1996:1424)

SECTION 27 Where notice regarding the right of priority to re-employment has been given as provided in Section 8, second paragraph or Section 16, second paragraph, the right of priority may not be exercised by the employee prior to notice by the employee to the employer of his intention to exercise such right.

An employee who accepts an offer of re-employment shall not be obligated to commence the new employment until after a reasonable period of transition.

Where an employee declines an offer of re-employment that the

employee should reasonably have accepted, any right to priority shall be forfeited.

Negotiations, etc.

SECTION 28 An employer who is bound by a collective bargaining agreement and who enters into a contract of fixed-term employment regarding work governed by the collective bargaining agreement, shall immediately notify the relevant local organisation of employees of the contract of employment. Such notice shall also be given when a collective bargaining agreement is temporarily not in force.

However, no such notice is necessary if the employer is not bound to provide such information where the period of employment is of less than one month.

SECTION 29 Sections 11-14 of the Employment (Co-determination in the Workplace) Act (SFS 1976:580) shall apply in respect of the duty of employers to enter into negotiations before deciding on termination of employment on the grounds of a shortage of work, lay-offs or re-engagement following lay-offs.

SECTION 30 An employer who wishes to summarily dismiss an employee or to give notice terminating employment for reasons relating to the employee personally, shall inform the employee of this in advance. Information concerning termination shall be given at least two weeks in advance. Information concerning summary dismissal shall be given at least one week in advance. If the employee is a union member, the employer shall notify the local organisation of employees to which the employee belongs at the same time as notice is given to the employee.

The employee and the local organisation of employees to which the employee belongs are entitled to consultations with the employer concerning the measure to which the information and the notice relate. This shall apply provided that such consultations are requested not more than one week after information or notice was given.

Where such consultations have been requested, the employer may not give notice of termination or summarily dismiss the employee until the consultations have been concluded. (SFS 1989:963)

SECTION 30A An employer who gives an employee notice, as provided in Section 15, of the termination of fixed-term employment, shall at

the same time notify the local organisation of employees to which the employee belongs.

The employee and the local organisation of employees are entitled to enter into consultations with the employer concerning the notice. (SFS 1989:963)

SECTION 31 An employer who intends to give notice to an employee that probationary employment will be terminated prematurely, or that such employment will be terminated without it being converted into indefinite-term employment, shall notify the employee of such at least two weeks in advance. Where the employee is a union member, the employer shall notify the local organisation of employees to which the employee belongs at the same time as notice is given to the employee.

The employee, and the local organisation of employees to which the employee belongs, shall be entitled to consultations with the employer concerning the notice.

SECTION 32 An employer who intends to employ an employee under circumstances where another person has rights of priority for re-employment in the business or rights of priority for employment at a higher level of occupation, shall first negotiate with the relevant organisation of employees as provided in Sections 11-14 of the Employment (Co-determination in the Workplace) Act (SFS 1976:580). The above-mentioned provision shall also apply where a question arises as to which of several persons with rights of priority shall obtain re-employment or employment at a higher level of occupation. (SFS 1996:1424)

Retirement with pension, etc.

SECTION 33 An employer desiring an employee to leave his or her employment when the employee reaches the age at which retirement with old-age pension becomes compulsory or, in the absence of such an obligation, at the age of 67, shall give the employee at least one month's written notice of such.

An employer desiring an employee to leave his or her employment upon becoming entitled to full disability pension under the National Insurance Act (SFS 1962:381) shall give the employee written notice of such immediately upon the employer learning of the

decision concerning the pension.

An employee who has reached the age of 65, or a lower age at which retirement with old-age pension becomes compulsory, shall not be entitled to more than one month's notice of termination and shall not have rights of priority as mentioned in Sections 22, 23, 25 and 25 a. (SFS 1996:1424)

Disputes regarding the validity of notices of termination or summary dismissal, etc.

SECTION 34 Where notice of termination is given without objective grounds, the notice shall be declared invalid upon the application of the employee. However, the above-mentioned provision shall not apply where the notice of termination is challenged solely on the grounds that it is in breach of the rules regarding priority.

If a dispute arises concerning the validity of a notice of termination, the employment shall not terminate as a consequence of the notice prior to the final adjudication of the dispute. Nor may the employee be suspended from work as a consequence of the circumstances that caused the notice to be given, in the absence of special reasons for such. The employee shall be entitled to pay and other benefits as provided in Sections 12-14 for the duration of the employment.

Pending final adjudication of the dispute, a court may rule that employment will terminate at the expiration of the period of notice, or at a later time determined by the court, or that a current suspension shall be discontinued.

SECTION 35 Where an employee has been summarily dismissed under circumstances that would not constitute grounds for a valid notice of termination, the summary dismissal shall be declared invalid upon the application of the employee.

Where such an application is brought, a court may order that the employment shall continue, notwithstanding the summary dismissal, pending final adjudication of the dispute. Where a court has issued an order pursuant to the second paragraph the employee may not be suspended from work by the employer as a consequence of the circumstances that caused the summary dismissal.

The employee shall be entitled to pay and other benefits as provided in Sections 12-14 for the duration of the employment.

SECTION 36 A contract of employment, the term of which has been limited in contravention of Section 4, first paragraph, shall, upon the application of the employee, be declared valid for an indefinite term.

Where such an application is brought, a court may order that the employment shall continue, notwithstanding the contract, pending final adjudication of the dispute. The employee shall be entitled to pay and other benefits as provided in Sections 12-14 for the duration of the employment.

SECTION 37 Where a court has issued a final order that a notice of termination or a summary dismissal is invalid, the employer may not suspend the employee from work as a consequence of the circumstances that caused the notice of termination or summary dismissal.

Damages

SECTION 38 An employer who violates this Act shall be liable for damages for loss suffered by the employee as well as pay and other employment benefits to which the employee may be entitled. An employee who fails to comply with the notice obligations mentioned in Section 11, first paragraph, shall be liable for damages to the employer.

Damages referred to in the first paragraph may consist of both compensation for losses sustained and for violation of the Act. Compensation for losses in respect of the period following the cessation of employment may not, under any circumstances, exceed the amount mentioned in Section 39.

Where reasonable, damages may be reduced, in whole or in part.

SECTION 39 Where an employer refuses to comply with a court order that notice of termination or a summary dismissal is invalid, or that a fixed-term employment shall be valid for an indefinite term, the employment relationship shall be deemed to have been dissolved. As a consequence of the employer's refusal to comply with the court order, the employer shall pay damages to the employee according to the following provisions.

Damages are to be determined according to the employee's total

period of employment with the employer at the time of dissolution of the employment relationship, and shall correspond to the following amounts:

- ▶▶ 6 months' pay for less than five years of employment;
- ▶▶ 24 months' pay for at least five years but less than ten years of employment;
- ▶▶ 32 months' pay for ten or more years of employment;

Where the employee is aged 60 or more, the above amounts shall be increased to 24, 36 or 48 months' pay respectively.

Damages may not be determined, however, in such a manner that such damages are calculated on the basis of a greater number of months than have actually been commenced with the employer.

Where the employee has been employed by the employer for less than six months, the amount assessed shall correspond to six months' pay.

Limitations

SECTION 40 An employee who intends to initiate proceedings to have a notice of termination or a summary dismissal declared invalid shall notify the employer of such intention not later than two weeks after notice of termination was given or summary dismissal has occurred. Where, however, the employee has not been informed of the procedures to be followed concerning invalidation, as provided in Section 8, second paragraph, or Section 19, second paragraph, the period of limitation shall be one month from the day on which the employment was terminated.

Where an employee claims that the term of a contract of employment has been limited in violation of Section 4, first paragraph, and where such employee intends to initiate proceedings to have the contract declared valid for an indefinite term, he shall notify the employer to this effect not later than one month after the expiration of the period of employment.

Where negotiations have been demanded within the period of notice in respect of a matter governed by the Employment (Co-Determination in the Workplace) Act (SFS 1976:580), or pursuant to a collective bargaining agreement, proceedings must be commenced not more than two weeks after the conclusion of the negotiations. In circumstances other than those referred to above, proceedings shall be

commenced within two weeks of the expiry of the period of notice.

SECTION 41 Any person who wishes to claim damages or advance other claims based upon the provisions of this Act shall notify the other party to this effect not more than four months after the date on which the action giving rise to the damages was taken or the claim became payable. Where an employee has not been informed of the procedures to be followed for bringing a claim for damages referred to in Section 8, second paragraph, or Section 19, second paragraph, the period of notice shall be calculated commencing on the day on which the employment was terminated. Where the employee's claim relates to a breach of Section 4, first paragraph, the period of limitation shall commence at the expiry of employment.

Where negotiations have been demanded within the period of notice in respect of a matter governed by the Employment (Co-Determination in the Workplace) Act (SFS 1976:580), or pursuant to a collective bargaining agreement, proceedings must be commenced not more than four months after the conclusion of the negotiations. In circumstances other than those referred to above, proceedings shall be commenced within four months of the expiry of the period of notice.

SECTION 42 A claim shall lapse where notice has not been given or proceedings have not been commenced in respect thereof within the period stated in Sections 40 or 41.

Proceedings

SECTION 43 Proceedings concerning the application of this Act shall be conducted in accordance with the Labour Disputes (Judicial Procedure) Act (SFS 1974:371). Proceedings referred to in Sections 34-36 shall be conducted in a speedy manner.

An application for a court decision as provided in Section 34, third paragraph, Section 35, second paragraph, or Section 36, second paragraph shall not proceed prior to the adversary first having been afforded the opportunity to file submissions. Where, however, harm may result from a delay, the court may grant the application pending an order to the contrary. An interlocutory order by a district court may be appealed against separately. (SFS 1994:1046)

Transitional provisions

SFS 1984:510

This Act shall enter into force on 1 July 1984 and shall apply to local collective bargaining agreements that are entered into after such date.

SFS 1984:1008

This Act shall enter into force on 1 January 1985. Agreements in respect of lay-offs, which were entered into prior to the entry into force of this Act shall be without effect to the extent such agreements deviate from this Act.

SFS 1989:428

This Act shall enter into force on 1 July 1989. Previous provisions shall continue to apply with respect to persons who, following the entry into force of this Act, remain in youth employment in the public sector.

SFS 1989:963

This Act shall enter into force on 1 January 1990.

Where notice or advance has been given prior to the entry into force of this Act that a fixed-term employment shall terminate, the previous provisions of this Act shall continue to apply to such relationship after the entry into force of this Act.

SFS 1990:1357

1. This Act shall enter into force on 1 April 1991.
2. The new provisions in Section 5 shall only apply to contracts of employment that were entered into after the entry into force of this Act. The previous provisions shall apply to contracts of employment entered into prior to the entry into force of this Act.
3. The previous provisions of Section 33, first paragraph, shall apply to employees who attained the age of 65 prior to 1 May 1991.

SFS 1993:718

This Act shall enter into force on 1 July 1993. The previous provisions shall continue to apply where the period of notice commenced prior to the entry into force of this Act.

SFS 1993:1496

1. This Act shall enter into force on 1 January 1994.
2. Repealed (SFS 1994:1685).
3. With respect to employment conditions at the time of the entry into force of this Act, the employer shall, upon request by the employee, provide such information as is referred to in Section 6A within two months of such request.
4. The new provisions in Section 7, third paragraph and Section 18, second paragraph shall only apply in respect of circumstances of which the employer became aware following the entry into force of the new provisions. In all other circumstances, the provisions shall be governed by the previous provisions.
5. Previous provisions in respect of rights of priority pursuant to Section 22 shall apply in conjunction with negotiations pursuant to the Employment (Co-Determination in the Workplace) Act (SFS 1976:580) regarding termination as a consequence of a shortage of work, provided negotiations were demanded prior to the entry into force of this Act.

SFS 1994:1685

1. This Act shall enter into force on 1 January 1995.
2. This Act shall not, however, apply with respect to a transfer of an undertaking, a business or a part of a business that occurred prior to the entry into force of this Act.
3. Previous provisions in respect of rights of priority pursuant to Section 22 shall apply in conjunction with negotiations pursuant to the Employment (Co-Determination in the Workplace) Act (SFS 1976:580) regarding termination as a consequence of a shortage of work, provided negotiations were demanded prior to the entry into force of this Act.

SFS 1996:1424

1. This Act shall enter into force, as regards Section 2 on 1 July 1997, as regards Section 5, second paragraph, on 1 January 2000, and otherwise on 1 January 1997.
2. As regards contracts of employment that have been entered into before 1 January 1997, Section 11 applies with its former wording.
3. As regards a person who has acquired rights of priority for re-employment pursuant to Section 25 before 1 January 1997, Section 25 applies with its former wording.

4. When applying the provisions concerning period of employment in Section 15, first paragraph, and Section 25, first paragraph, periods of employment before 1 January 1995 are ignored.

