

Swedish Code of Statutes 1994:260

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up to and including Swedish Code of Statutes 2004:833

The Public Employment Act (1994:260)

Scope of the Act

Section 1

This Act contains special provisions concerning employees of

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

There are also special provisions concerning employees referred to in the first paragraph, point 2, in the Letters Patent Act (1994:261). *Act 2004:833*.

Section 2

The following provisions in the Act also apply to employees of municipalities, county councils and local federations, namely

- Sections 7-7 (c) concerning secondary employment,
- Sections 23-29 concerning labour conflicts,
- Section 38 concerning interim orders,

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

The provisions in Section 30 concerning periodic health examinations also apply to employees of municipalities and county councils. *Act 2001:1016*.

Section 3

The Act does not apply to

1. the Ministers,
2. the Parliamentary Ombudsmen,
3. the Auditors General,
4. employees who are locally engaged by the Swedish state abroad and are not Swedish nationals,

5. employees who have been engaged on the basis of special employment support or are in sheltered 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 7-7 (d) 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). *Act 2003:296*.

Criteria for employment

Section 4

When making appointments attention must only be paid to objective factors, such as merit and competence.

Competence must be the primary criterion, unless there are special reasons otherwise.

Swedish nationality as an eligibility requirement

Section 5

In addition to the requirements for Swedish nationality that follow from the Instrument of Government or another act, only Swedish nationals may be employed as a prosecutor or police officer or hold a military appointment.

Section 6

The Government may prescribe or in particular cases decide that only Swedish nationals may hold

1. appointments in the Government Offices or Foreign Service,
2. state appointments that may involve exercising official authority or dealing with matters that concern relations with other states or with international organisations,
3. state appointments that may entail knowledge of circumstances that are significant for the security of the country or for other important, public or private economic interests.

As regards employees of the Riksdag or its authorities, the powers vested in the Government under the first paragraph, points 2 and 3, are exercised by the Riksdag or the authority determined by the Riksdag. *Act 1999:311.*

Secondary employment

Section 7

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

Section 7 (a)

Employers must provide appropriate information to employees regarding the types of circumstances that can make secondary employment unlawful under Section 7. *Act 2001:1016.*

Section 7 (b)

At the request of the employer, an employee must provide the information needed for the employer to be able to assess the employee's secondary employment. *Act 2001:1016.*

Section 7 (c)

If an employee has or intends to take on secondary employment that is incompatible with Section 7, the employer must order him to discontinue or refrain from beginning that secondary employment. The order must be in writing and must include reasons for the decision. *Act 2001:1016.*

Section 7 (d)

Permanent judges and heads of authorities directly answerable to the Government must notify their employer, on their own initiative, of the types of secondary employment in which they are engaged. *Act 2004:833.*

Certain provisions concerning cessation of employment

Section 8

A notice from the employer concerning removal from a probationary post under the Employment Protection Act (1982:80) is only valid if given in writing.

Section 9

A notice of termination from the employer to an employee on a permanent contract is only valid if given in writing.

A summary dismissal is also only valid if given in writing.

Section 10

A request from an employee for the employment to cease is only valid if given in writing.

Section 11

If an employee obtains a new appointment with an employer referred to in Section 1, the first appointment ceases without any special action, unless otherwise provided by a collective agreement or, in the case of letters patent employees, by provisions issued by the Government.

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

Section 12

When determining the rank of an employee in the order of selection for termination with notice under the Employment Protection Act (1982:80), account must also be taken of the requirement that the authority properly 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) are not applicable if the Parliamentary Ombudsmen or the Chancellor of Justice request a ruling on summary dismissal six months or less after the circumstance referred to occurred.

Disciplinary liability

Neglect of duty

Section 14

A disciplinary sanction for neglect of duty may be imposed on an employee who intentionally or by carelessness neglects the duties associated with his position. If the fault, having regard to all circumstances, is minor, no sanction may be imposed.

A disciplinary sanction may not be imposed on an employee because he has taken part in a strike or a comparable industrial action.

Disciplinary sanctions

Section 15

The disciplinary sanctions are a warning and docking of pay. No more than one disciplinary sanction may be imposed on an employee simultaneously.

Pay may be docked for a period of no more than thirty days. The pay docked per day may amount to no more than 25 per cent of daily pay.

Section 16

Deviations from Section 15 may be made by collective agreement.

Such collective agreements may also apply to employees who are not members of the employees organisation contracting the agreement, provided they are engaged in such work as the agreement refers to.

Impediments to disciplinary proceedings

Section 17

A disciplinary sanction may be imposed only if the employee has been notified in writing, within two years of the neglect of duty, of what is alleged against him.

Section 18

When a measure has been taken with a view to bringing legal action against an employee, the employer may not commence or continue with disciplinary proceedings relating to the circumstance that has occasioned that measure.

If an act has been considered under the criminal law system, a disciplinary procedure may only be commenced or continued if, for some reason other than lack of evidence, the act was not held to constitute 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 within the courts, prosecution or police service.

Damages

Section 20

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

In the event of deviations in a collective agreement from the provisions of Section 41 of the Employment Protection Act (1982:80), Section 2, third paragraph, of that Act is applicable.

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. healthcare and medical staff who, in the practice of their profession, are subject to the supervision of the National Board of Health and Welfare, for neglect in the practice of their profession that is subject to consideration by the Medical Responsibility Board,
3. veterinarians, for neglect in the practice of their profession that is subject to consideration by the Veterinary Disciplinary Board. *Act 1994:2071.*

Report for prosecution

Section 22

A person who is reasonably suspected of having committed an offence in the course of his employment must be reported for prosecution if the suspicion refers to

1. an offence under Chapter 20, Sections 1 and 2 and Section 3, first paragraph, of the Penal Code,
2. another offence, if it can be assumed that it will result in some sanction other than a fine.

Labour conflicts

Limitations to the right to take industrial action

Section 23

In work that consists of the exercise of official authority or that is absolutely necessary for the

exercise of official authority, the only permissible forms of industrial action are lockouts, strikes, refusal of overtime work and blockades of new recruitment.

In work referred to in the first paragraph, industrial action may not be taken on any grounds other than the relationship between the employer and the employees covered by this Act.

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

Section 24

If a dispute arises as to whether a particular industrial action is permissible under this Act, the action may not be taken before the dispute has been finally settled.

Participation in industrial action

Section 25

An employee may participate in an industrial action only after a decision by the employees organisation that has organised the industrial action.

Section 26

An employees organisation may not organise or in any other way cause industrial action that is prohibited under Section 23 or 24. Nor may any such organisation assist in prohibited industrial actions by giving support or in any other way.

If an employee who belongs to an employees organisation plans to initiate or has initiated a prohibited industrial action, the organisation is obliged to attempt to prevent the action or seek to ensure that it ends.

Duty to discuss

Section 27

If an employee who belongs to an employees organisation has initiated an industrial action in violation of Section 25, the employer and the organisation must immediately begin discussions on the subject of the industrial action and make joint efforts to bring it to an end.

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

Damages

Section 28

If the employer violates Section 23, 24 or 27 or the employees organisation violates Section 26 or 27, the employer or the organisation respectively must compensate any losses that are incurred on the basis of what is stated in Sections 54, 55, 60 and 61 of the Employment (Co-determination in the Workplace) Act (1976:580), even if no obligation pursuant to a collective agreement has 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 the employees organisation has initiated or caused an industrial action that is prohibited under Section 23 or 24, an employee may only be ordered to pay damages for participation in the action if there are exceptional grounds for this.

Periodic health examinations

Section 30

If an employee has duties where defects in the employee's state of health entail a risk to

human life, personal safety or health, or a risk of significant damage to the environment or to property, the employee is obliged, upon special request from the employer, to undergo any regular health examinations that are needed to assess whether the employee has such defects in his state of health.

The first paragraph only applies to employees who are required to undergo health examinations under a collective agreement or government provisions. The collective agreement may also apply to employees who are not members of the employees organisation contracting the agreement, provided they are engaged in such work as the agreement refers to. The provisions may only relate to employees of authorities under the Government.

If another act or an ordinance that has been issued pursuant to an act contains provisions that differ from the first or second paragraph, those provisions apply.

Removal from duties

Section 31

An employee of the police service, the Foreign Service, the Swedish Armed Forces, the National Fortifications Administration, the Defence Matériel Administration, the National Service Administration, the Swedish National Defence College or the National Defence Radio Establishment may be removed from his duties with immediate effect if this is necessary in the best interests of the country. *Act 1997:178.*

Employees in senior management or comparable positions

Section 32

The provisions concerning grounds for notice of termination or summary dismissal, order of selection for notice of termination and right of priority to re-employment contained in the Employment Protection Act (1982:80) are also applicable to employees in senior management or comparable positions who have a permanent employment contract, unless otherwise provided by this Act or, as far as matters other than grounds for notice of termination or summary dismissal are concerned, by provisions issued by the Government.

What is stated in the first paragraph concerning summary dismissal also applies to employees in senior management or comparable positions who are employed on fixed-term contracts. *Act 2003:297.*

Section 33

If the head of a public enterprise or of the Swedish Agency for Government Employers is employed on a fixed-term contract, he may be removed from his position before the expiry of this term if this is necessary in the best interests of the enterprise or the Agency. *Act 1997:178.*

If the head of another administrative agency that reports directly to the Government is employed on a fixed-term contract, he 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.

Government Disciplinary Board for Higher Officials

Section 34

The Government Disciplinary Board for Higher Officials decides on matters concerning disciplinary liability, report for prosecution and summary dismissal, as regards

1. employees who are employed by government decision,
2. employees who, though not employed by government decision, hold senior management or comparable positions.

The Government may order that the Board shall also decide on such matters where other employees are concerned. *Act 2003:297*.

Enforcement of decisions

Section 35

A decision on docking of pay under Section 15 may not be enforced before a final determination has been made of the matter or the right to take legal action has expired.

Section 36

A decision on removal from employment under Section 33, first paragraph, has immediate effect.

A decision on a transfer under Section 33, second paragraph, may not be enforced before a final determination has been made of the matter or the right to take legal action has expired. However, the decision may be given immediate effect if there are exceptional reasons for this.

Legal 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 on a decision under Section 7 (c), 31 or 36, the court may decide for the period until there is a final, non-appealable ruling that the decision shall not apply until further notice. *Act 2001:1016*.

Section 39

If an employee wishes to seek alteration of a decision under Section 14 or 33, he must bring legal action within three weeks of the day on which he received notice of the decision.

Section 40

Legal action by Parliamentary Ombudsmen or the Chancellor of Justice concerning an alteration of a decision on disciplinary liability under Section 14 must be taken within three weeks of the issuing of the order.

Section 41

Actions for damages under Section 28 or 29 must be brought within three months of the cessation of the industrial action.

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) are not applicable 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 are not applicable as regards decisions under Section 7 (c) that an employee must cease or refrain from taking on secondary employment, decisions under Section 14 concerning disciplinary liability, decisions under Section 22 concerning report for prosecution or decisions under Section 31 on removal from duties.

Concerning employees referred to in Section 1, provisions given in statutes other than acts shall apply, even if these provisions deviate from the Employment Protection Act (1982:80). *Act 2001:1016*.

Transitional provisions

1994:260

1. This Act enters into force on 1 July 1994, when the Public Employment Act (1976:600) will cease to apply.
2. If reference is made in another act or statute to a provision that has been replaced by a provision in this Act, the new provision is applicable instead. *Act 1999:311*.
3. On matters concerning warrant of appointment issued before the entry into force, older provisions are applicable.
4. On matters concerning terms of employment or work for employees who are covered by this Act, the Government or the authority determined by the Government may, until further notice, issue provisions by statute, even if the terms can be regulated by an agreement. However, this only applies to provisions that do not conflict with collective agreements.
5. If, in a statute that has not been decided by or together with the Riksdag, provisions have been issued on matters concerning terms of employment or work for employees who are covered by this Act, the provisions will cease to apply if the terms are regulated by a collective agreement.
6. In cases or matters that have been commenced or that refer to events that occurred before the entry into force, older provisions are applicable.

2003:297

1. This Act enters into force on 1 July 2003.
2. In matters that have been commenced before the entry into force, the older wording of Section 34 applies.