

Right to Leave to Conduct a Business Operation Act

(SFS 1997:1293)

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REGERINGSKANSLIET

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General provisions

SECTION 1 An employee is, according to this Act, entitled to have leave from her or his employment to conduct a business operation.

SECTION 2 A contract whereby an employee's rights under this Act are restricted is invalid in that respect.

However, by a collective bargaining agreement that the employees' side has concluded or that has been approved by such a central employees' organisation as referred to in the Employment (Co-Determination in the Workplace) Act (1976:580), deviations from this Act may be made on matters concerning

1. Applications for leave (Section 5),
2. The period of notification by the employee concerning return to work (Section 7, second paragraph), and
3. The period that the employer is entitled to postpone the return of the employee to work (Section 7, third paragraph).

More detailed application of the provisions in Section 9 concerning protection for conditions of employment may also be decided by a collective bargaining agreement that has been made in the manner referred to in the second paragraph.

An employer who is bound by a collective bargaining agreement in accordance with the second or third paragraph may apply the agreement also to an employee who is not a member of the contracting organisation but occupied in work that is covered by the agreement and is not subject to any other applicable collective bargaining agreement.

Right to leave

SECTION 3 An employee is entitled to full leave from her or his work for at most six months in order to conduct her or himself or through a legal entity a business operation. However, the operation of the employee may not compete with the employer's operation. Nor may the leave involve significant inconvenience for the operation of the employer.

An employee is entitled to leave only during one period with one and the same employer.

Qualification period

SECTION 4 As a condition for an employee's right to leave in accordance with Section 3, the employee must at the commencement of the leave have been employed by the employer either for the last six months or for an aggregate of at least twelve months for the last two years.

When computing the period of employment Section 3, first paragraph, of the Employment Protection Act (1982:80) applies.

Application and decision concerning leave

SECTION 5 An employee who wishes to utilise her or his right to leave shall give notice of this to the employer at least three months prior to the commencement of the leave. In conjunction with her or his application, the employee shall state how long a period the leave is planned to last.

SECTION 6 The employer shall not later than one month after when the leave was requested give notice to the employee of his, her or its decision concerning the leave.

Return to work

SECTION 7 An employee may discontinue leave commenced and resume her or his work to the same extent as prior to the leave.

If an employee wishes to utilise her or his right to resume her or his work, the employee shall as soon as possible notify the employer of this.

An employer may postpone the return of an employee for at most one month after when the employer received the notification.

Employment protection

SECTION 8 An employee may not be given notice terminating the employment or be dismissed solely on the grounds that the employee requests or claims her or his right to leave in accordance with this

Act. If an employee nevertheless is given notice of termination or is dismissed, the notice or dismissal may be declared invalid, if the employee so requests.

SECTION 9 An employee who requests or claims her or his right to leave in accordance with this Act is not obliged solely for this reason to accept

1. any other reduced employment benefits or worse employment conditions than such as is a necessary consequence of the leave, or
2. any other transfer than such that can be implemented within the framework of the employment contract and which is a necessary consequence of the leave.

Damages

SECTION 10 An employer who breaches this Act, shall pay compensation for any loss that is incurred.

Damages in accordance with the first paragraph may relate to both compensation for the loss that arises and compensation for the infringement that the breach of the Act entails.

If it is reasonable, the damages may be reduced in whole or in part.

Judicial Procedure

SECTION 11 Cases concerning the application of this Act are dealt with in accordance with the Labour Disputes (Judicial Procedure) Act (1974:371).

If an action as a result of notice of termination or dismissal is presented, Sections 34 and 35, Section 37, Section 38, second paragraph, second sentence, Sections 39-42 together with Section 43, first paragraph, second sentence and second paragraph of the Employment Protection Act (1982:80) apply. As regards other actions, Sections 64-66 and 68 of the Employment (Co-Determination in the Workplace) Act (1976:580) apply.

