

# Trade Union Representatives (Status at the Workplace) Act

(SFS 1974:358)

*Including amendments up to and including SFS 1990:1039*

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SECTION 1 This Act applies to any person who has been appointed as a trade union representative, by an employees' organisation, to represent the employees at a particular place of work with respect to matters concerning the relationship to the employer or with respect to other issues relating to union activities.

Employees' organisation, for the purpose of this Act, means an organisation which is, or usually is, bound by a collective bargaining agreement relating to those employees, which are affected by the activities of the representative.

The Act shall apply to a trade union representative when the employees' organisation has notified the employer of the trade union representative appointment. The employees' organisation shall determine when the Act shall apply in relation to the representative. (SFS 1990:1039)

SECTION 2 If any Act contains a provision that differs from this Act, that provision shall apply. Provisions in other enactments than an act shall apply if they relate to an issue concerning a right of priority to continued employment or the planning of time off for a trade union representative whose pay benefits are determined in conjunction with the Government or a public authority appointed by the Government, or a trade union representative of the Riksdag or its departments.

Any part of an agreement whereby a trade union representative's rights pursuant to this Act are restricted is invalid. Deviations may, however, be made from Sections 1, 5-7, Section 8, first paragraph, and Section 9a, first and second paragraphs, on the basis of a collective bargaining agreement that has been concluded or approved on behalf of the employees by an organization that is deemed to be a central employees' organization under the Employment (Co-Determination in the Workplace) Act (1976:580). (SFS 1990:1039)

SECTION 3 An employer may not prevent a trade union representative from performing his duties.

If the appointment relates to a place of work other than the representative's own place of work, the employer is obliged to allow the representative to perform his duties and to be active to the extent necessary to fulfil his duties. The activities may not, however, result in any significant impediment to the proper performance of work. The representative shall be provided with the use of premises or other space at his own place of work as necessary for the performan-

ce of the trade union activity carried out there. (SFS 1990:1039)

SECTION 4 A trade union representative shall not be subjected to worse conditions of work or terms of employment as a result of his appointment. Following the completion of the appointment, the employee shall be ensured the same or an equivalent position, with respect to working conditions and terms of employment, as if he had not received any trade union appointment.

SECTION 5 In the event that an issue arises concerning the alteration of a trade union representative's conditions of work or terms of employment, the employer shall inform the representative and give at least two weeks advance notice to the local employees' organisation. If this is not possible, the representative shall be informed and notice shall be given as soon as possible. The obligation to inform the trade union representative and notify the union shall not arise if the alteration takes place in the normal course of the trade union representative's work and does not detract from his opportunity to perform his trade union duties.

The local employees' organisation and the representative shall be entitled to deliberations with the employer concerning measures referred to in the first paragraph. Such deliberations shall be convened not later than one week after the representative has been informed and the union notified. Once the deliberations have been convened, the employer shall not be entitled to implement the anticipated measure until the opportunity for deliberations has been afforded.

SECTION 6 A trade union representative is entitled to time off, as required, for performance of the trade union duties.

The time off may not, however, exceed what is reasonable taking account of circumstances prevailing at the place of work. The time off may not be scheduled in such a manner as to cause any significant impediment to the proper performance of work.

The amount of time off and the time at which it is to be taken shall be determined following deliberations between the employer and the local employees' organisation.

SECTION 7 The representative shall be entitled to retain his employment benefits in the event that time off is taken for the performance of trade union activities at his own place of work.

If trade union activities at his own place of work take place at times outside the representative's normal working hours and this results from a decision taken by the employer, the representative shall be paid compensation as though the work had been performed on behalf of the employer.

Additional costs incurred shall also be reimbursed, if they are attributable to the employer.

Where, according to law, employment benefits are paid on the basis of the amount of time worked, the time referred to in the first and second paragraphs shall be regarded as equivalent to time worked. (SFS 1990:1039)

SECTION 8 In the event of giving of notice of termination as a consequence of a shortage of work and in connection with redundancies, trade union representatives shall, notwithstanding Section 22 of the Employment Protection Act (1982:80), be given priority to continued employment, if it is of special importance for the trade union activity at the place of work. If the representative can only be afforded an opportunity to continue his work after a transfer, his right of priority to continued employment shall be contingent upon his having sufficient qualifications for that employment.

Any dismissal which takes place contrary to the first paragraph shall, upon the application of the representative, be declared invalid. The provisions of Section 34, second and third paragraphs, Sections 37, 39, 40 and 42 and Section 43, second paragraph, of the Employment Protection Act (1982:80), shall apply in this connection. (SFS 1982:87)

SECTION 9 If a dispute relating to a trade union representative arises concerning the application of Section 1, 3, 4, 6 or 7 or Section 8, first paragraph, or the provisions of a collective bargaining agreement which, on the basis of Section 2, second paragraph, applies instead of Section 1, 6, 7 or Section 8, first paragraph, the opinion of the local employees' organisation on the correct interpretation of the Act or collective bargaining agreement shall apply pending the final determination of the dispute. A collective bargaining agreement which applies instead of this Act may provide that the right of determination of the party for the employees shall instead accrue to the central employees' organisation.

The employer may, notwithstanding the provisions of the first paragraph, refuse any time off which would jeopardise safety at the place

of work, important public functions or interests equivalent thereto.

SECTION 9A An employer who, pursuant to Section 3, second paragraph, is obliged to afford a trade union representative access to a place of work and permit the representative to be active there, is entitled to negotiate with the relevant employees' organisation with respect to an obligation of confidentiality concerning the information which is to be given to the representative.

In such circumstances, Section 21, second and third paragraphs, of the Employment (Co-Determination in the Workplace) Act (1976:580), shall apply. Information which a trade union representative has acquired subject to an obligation of confidentiality according to the first paragraph, may be disclosed by the representative, notwithstanding the obligation of confidentiality, to a member of the board of directors of the employees' organisation. In such circumstances the obligation of confidentiality shall also apply to the member of the board of directors.

The provisions of Chapter 14, Sections 7, 9 and 10 of the Secrecy Act (1980:100), shall apply, instead of the provisions of the first and second paragraphs of this Section, with respect to issues concerning the performance of appointments pursuant to Section 3, second paragraph at a place of work in the public service. (SFS 1990:1039)

SECTION 10 An employer who fails to comply with his obligations pursuant this Act or the provisions of a collective bargaining agreement which apply instead of this Act, shall, in addition to pay and other employment benefits to which a union representative is entitled, pay compensation for any damage incurred. In assessing whether, and to what extent, damage has been incurred, account shall also be taken of the interests of the employees' organisation in compliance with the provisions of this Act in relation to the union's representatives, and also other circumstances which are not purely of a financial significance.

An employees' organisation may be ordered to pay damages if it has caused the erroneous application of this Act or a collective bargaining agreement which applies instead of the Act and where such organisation was aware, or clearly should have been aware, of the error. This also applies if the organisation fails to take reasonable measures to stop a trade union representative from similar conduct or if the union fails to endeavour to prevent damage arising as a consequence of an incor-

rect procedure. A union representative cannot be ordered to pay damages or to repay pay which he has received for union activities which he has conducted with the approval of the organisation.

Damages may be adjusted if, taking account of the extent of damage or other circumstances, it is reasonable to do so.

SECTION 10A If a union representative or a member of the board of directors of an employees' organisation breaches the obligation of confidentiality as referred to in Section 9a, first and second paragraphs, or makes unauthorised use of knowledge which the union representative or member of the board of directors has acquired subject to such an obligation of confidentiality, the employees' organisation shall be liable for any damage caused thereby. In such circumstances liability shall not be imposed pursuant to Chapter 20, Section 3 of the Penal Code.

Where reasonable, damages may be reduced, in part or in whole. (SFS 1990:1039)

SECTION 11 Any person wishing to claim damages pursuant to this Act shall notify the other party of his claim within four months from the time at which the damage arose. If negotiations have been convened during that time pursuant to the Employment (Co-Determination in the Workplace) Act (1976:580), or on the basis of a collective bargaining agreement, the action shall be commenced within four months from the conclusion of negotiations. In other circumstances, the action shall be commenced within eight months from when the damage arose.

The first paragraph applies, *mutatis mutandis*, with respect to claims concerning pay and other employment benefits pursuant to this Act or collective bargaining agreements which apply instead of this Act.

If the provisions of the first and second paragraphs are not observed, the right of action will lapse. (SFS 1976:594)

SECTION 12 Proceedings concerning the application of this Act shall be processed in accordance with the Labour Disputes (Judicial Procedure) Act (1974:371). Such proceedings shall be conducted expeditiously. The same applies with respect to proceedings concerning collective bargaining agreements which apply instead of this Act. Notwithstanding Section 9, the Labour Court may make orders in the disputed issue pending the final determination of the dispute. Applications for such orders may not be granted until the other party has been afforded an opportunity to express his views.