

**INTERNATIONAL ENCYCLOPAEDIA
FOR LABOUR LAW
AND INDUSTRIAL RELATIONS**

Legislation 6

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By Prof. B. Flodgren
University of Lund

Updated to February 1991

1992

Kluwer Law and Taxation Publishers • The Netherlands

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The Author



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Boel Flodgren's main field of research has been Labour Law and she is the author of several books and a number of articles in this field. Since 1 January 1987 she is professor of Business Law and head of that department at the University of Lund.

The Author

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Chronological List of Acts

**1. Act on the Right to Employee's Inventions
18 June 1949 (No. 345)**

as amended in 1976 and 1980

Section 1

The present law relates to inventions patentable within the Kingdom, of employees in public or private employment.

Instructors at universities, polytechnical institutes or other institutes which fall under the educational system shall not, by virtue of such character, be considered employees pursuant to the present law, but the law is applicable to those instructors at the Armed-Forces Schools and educational institutes who are commissioned or non-commissioned officers in active service.

Nor shall there be considered as employees for the purposes of the present law position-holders or appointees in the Reserve of the Armed Forces or in interim, available or reserve status with the Armed Forces or subject to military service in this capacity.

Section 2

An employee shall have the same right to his inventions as other inventors if not otherwise provided for in the present law.

What is stipulated with respect to this and otherwise in the present law shall serve as criterion insofar as not otherwise expressly agreed upon or insofar as may be deemed to result from the employment relationship or from other existing circumstances. The first paragraph of Section 6 and the second paragraph of Section 7 concern the fact that in certain cases terms and conditions which have been included in agreements concerning the right to employee's inventions are without effect or may be modified.

Section 3

If research or inventive activities constitute the main field of employment of the employee and if an invention has come into existence substantially as a result of this activity, or if the invention otherwise includes the solution of a task indicated in further detail given during the employment, the employer, if the utilization of the invention falls within his sphere of activity, has the right to appear in whole or in part as the employee's assignee with respect to the invention.

If there is concerned an invention the utilization of which falls within the sphere of activity of the employer, but which has come into existence in some other connection with the employment than stated in the first paragraph, the employer may acquire the right to carry out the invention in his business without hindrance from the employee. If the employer in connection with such invention desires to acquire a more comprehensive right than just stated, he has preference over anyone else to reach an agreement with the employee concerning same.

With regard to inventions the utilization of which falls within the sphere of activity of the employer but which have come into existence without relation to the employment, the employer has a right of preference over anyone else to acquire the desired right to the invention by agreement with the employee.

Section 4

If the employee makes an invention the utilization of which falls within the sphere of activity of the employer, he shall immediately advise him thereof.

Section 5

If the employer, in accordance with the first paragraph of Section 3, or the second paragraph, first sentence of Section 3, desires to acquire the right to an invention, this shall be done by advising the employee at the latest within four months from the date when the employer received advice of the invention. The employer does not have the right of preference referred to in Section 3 for a period of time longer than just stated.

Until this period of time terminates or until the employer has declared in advance of such time that he does not desire to acquire any rights in the invention, the employee does not have the right without the approval of the employer to dispose of the invention or to disclose anything regarding it under such circumstances that its publication or utilization for the account of someone else may be feared. The employee may, however, after advice has been given in accordance with Section 4, apply for a patent on the invention within this Kingdom. In such case he must advise the employer of the application within one week from the date on which it has been filed with the patent authorities.

Section 6

If the employer in accordance with the present law or otherwise, appears in whole or in part as assignee of the employee with respect to an invention made by the latter, the employee shall have the right to a reasonable remuneration and what has just been stated shall apply even though something else may have been agreed upon before the coming into existence of the invention.

In the determination of the remuneration, special consideration shall be given to the value of the invention, and the extent of the right to the invention which the employer has assumed as well as to the importance which the employment position may have had with respect to the bringing into existence of the invention. If there is present a case such as referred to in the first paragraph of Section 3, in addition to reasonable compensation for the expenses which the employee may have incurred for the invention, compensation shall be given only to the extent that the value of the right to the invention which the employer has assumed exceeds what can be considered reasonable with respect to the salary or wages of the employee and the other benefits and advantages of the employment.

Section 7

If, within six months after the employee has terminated employment as understood in this law, application is made for a patent of invention which was made by him and the utilization of which falls within the sphere of activity of his previous employer and if the invention is related to research or inventive activity which was the inventor's main task in the employment, or if the invention includes otherwise the solution of a task specified in detail submitted to him within such employment, it shall be considered that the invention was made during the employment. What has just been stated shall however not apply if the inventor is able to make it appear probable that the invention came into existence after the employment was terminated.

An agreement between an employer and employee, containing a restriction of the latter's right to make disposition of an invention which is made more than one year after the termination of the employment shall be void.

Section 8

Whoever acquires knowledge of an invention as a result of the provisions of the present law may not utilize what he has learned, or disclose anything with respect to same without compelling reasons.

Section 9

Repealed.

Section 10

In matters which relate to the application of the present law, the employer or employee and – if the disagreement with respect to this is submitted to the Court – also the latter may obtain the opinion of a special board. This board shall consist of a chairman and six members.

The chairman and two members shall be appointed by the King for a given period of time from among persons who cannot be considered to represent the employer's or employee's interests. The chairman and one of the members, who shall be appointed vice-chairman, shall be versed in the law and experienced in the judicial profession. The other members shall have special knowledge and experience in matters of patent law and matters related thereto.

The other members, who shall be experienced and skilled in labour relationships, shall be appointed by the King for two years at a time, two as representatives of the employers and two as representatives of the employees.

For each member of the Board, the King shall appoint an alternate who has the qualifications stipulated for members.

The expenses of the activities of the Board shall be paid from the public funds. More detailed provisions concerning the activities shall be promulgated by the King.

Act No. 2

**2. Act on Various Employment-promoting Measures
1 July 1974 (No. 13)
(EXTRACT)**

as amended in 1975, 1977, 1980, 1982, 1984 and 1985

NOTIFICATION OF CURTAILMENT IN PRODUCTION

Section 1

(1) Any employer who intends to curtail production in accordance with Section 2 or Section 3, shall, within the period there stated, give advance notification to the County Employment Board in the county where the curtailment is to take place, if not less than five employees are involved.

(2) There is, however, no obligation to give notification if the curtailment in production constitutes a normal step in the employer's activities.

Section 2

Notification of a curtailment in production which may involve dismissals shall be given

1. not less than two months before the curtailment in production, where a maximum of 25 employees are affected by the proposed dismissals,
2. not less than four months before the curtailment in production, where more than 25 but not more than 100 employees are affected by the proposed dismissals,
3. not less than six months before the curtailment in production, where more than 100 employees are affected by the proposed dismissals.

Section 3

(1) Notification of a curtailment in production which may involve lay-offs shall be given not less than one month in advance.

(2) Where an employee who has been engaged for a certain period, a certain season, or a particular job, cannot, by reason of a curtailment in production, be provided with any further employment in connection with the ceasing of the previous employment or the beginning of the new season, notification of the curtailment in production shall be given not less than six weeks in advance.

Section 4

If the employer has not been able to anticipate the circumstances giving rise to the curtailment in production as far in advance as provided for in Section 2 or Section 3, notification shall be given as soon as possible.

Section 5

(1) Notification in accordance with Section 2 or Section 3 shall include information as to the reason for and nature of the curtailment in production,

the time at which it is planned to take place, and the number of employees affected, classified into occupational groups.

(2) As soon as is possible, the employer shall also state which employees are to be affected by the curtailment in production. The County Employment Board may order the employer to discharge this obligation on pain of a fine.

Section 6

An employer may, instead of notifying the County Employment Board about a curtailment in production, inform the Board that he has called for, or intends to call for, negotiations under Section 11 of the Act on the Joint Regulation of Working Life (SFS 1976:580), or a corresponding provision in a collective agreement, in relation to an alteration of his activity which involves, or may involve, a curtailment in production. In order for the employer to take this course of action instead of giving notification, it is necessary that the information be in writing, that it is given not later than the time at which notification is to be made under Sections 2 – 4 of this Act, and that the employer also furnishes, within the same time, such information as is referred to in Section 5(1). In any other event, the duty to notify shall remain in force.

MEASURES FOR PROMOTING THE EMPLOYMENT OF OLDER EMPLOYEES AND EMPLOYEES WITH REDUCED WORKING CAPACITY

Section 7

(1) The County Employment Board may, to the extent that the Board considers necessary, order an employer to furnish information

1. concerning the size and composition of the labour force in respect of employees' age, sex, nationality and primary job tasks,
2. concerning the number of employees with reduced working capacity,
3. concerning proposed changes in the labour force, such as notices of dismissal, lay-offs, replacements or vacant jobs which may give rise to new employment, and
4. concerning the existence of fixed-term employments.

(2) Such an order may be backed by the penalty of a fine. Before any such order is given, the employer and the employers' organisations and trade unions concerned shall be given an opportunity to make representations.

Section 7a

If an employer in a collective agreement deviating from Section 22 of the Act on Security of Employment intends to dismiss an employee who at the time of the termination of the period of notice has exceeded the age of 57 years and a half, the employer shall inform the County Employment Board in advance. This shall apply only if such information is not provided in accordance with Section 5.

Section 8

(1) An employer shall be under a duty to discuss with the County Employment Board, or a representative appointed by the Board,

1. about measures for improving working conditions for older employees or for employees with reduced working capacity,
2. about measures to ensure continued employment for such employees,
3. about the new employment of older persons or of persons with reduced working capacity, and measures for promoting such employment.

(2) In addition to the employer, the trade unions concerned shall be called to discussions held in accordance with subsection (1) of this section. The organisation to which the employer is affiliated shall be called to discussions at the County Employment Board. Any such call to an employer may be backed by the penalty of a fine by the County Employment Board.

Section 9

Where reasons exist so to do, the County Employment Board, shall, on the basis of what has emerged in discussions with the Board in accordance with Section 8, give the employer directions on the taking of measures to improve working conditions for older employees with reduced working capacity. The Board may then request the employer, in connection with new employment, to increase the number of such employees in the labour force in line with further provisions made by the Board.

(2) The Board may also request the employer to refrain from dismissing older employees in such manner as is referred to in Section 7a.

Section 10

If the employer fails to participate in discussions at the County Employment Board in accordance with Section 8, or does not follow directions given by the Board under the provisions of Section 9, the matter shall be referred to the National Labour Market Board. The same shall apply if the employer fails to discharge undertakings entered into during the discussions.

Section 11

(1) In any matter referred to the National Labour Market Board under Section 10, or taken up by the Board after a report by an employers' organisation or trade union, or taken up on the Board's own initiative, the employer, the employers' organisation, and the trade unions concerned shall be given an opportunity to make representations, and, if thought suitable, shall be called to discussions at the Board.

(2) The Board may give such directions as are referred to in Section 9. The Board may also call upon the employer to furnish documents which may be thought to be of importance in assessing that employer's personnel policy.

(3) The calling of an employer to discussions and instructions to furnish documents may be backed by the penalty of a fine. Before instructions are given to furnish documents, the employer and the organisations involved shall be given an opportunity to submit their comments.