

## **Translation from Finnish**

### **Legally binding only in Finnish and Swedish**

### **Ministry of Economic Affairs and Employment and the Economy, Finland**

#### **Act on Job Alternation Leave**

(1305/2002, amendments up to 259/2020 included)

By decision of Parliament, the following is enacted:

#### **Section 1 Purpose of the Act**

The purpose of this Act is to promote the ability of employees to cope at their work through a short-term absence from work, and at the same time to improve the employment potential of unemployed jobseekers through a fixed-term work experience.

#### **Section 2 Scope of the Act**

This Act shall apply to full-time employees and employees whose working hours exceed 75 per cent of the working hours of full-time employees in the relevant sector. It also applies to persons employed in a civil service or comparable service relationship with the State, a municipality or other corporation under public law.

The term 'employer' also means a public corporation as referred to in subsection 1.

This Act shall not, however, apply to persons regarded as entrepreneurs as referred to in chapter 1, section 6, of the Unemployment Security Act (1290/2002) and who is not entitled to unemployment benefits as a result of working in an enterprise.

#### **Section 3 (1127/2007) Definitions**

In this Act:

1) *job alternation leave* means an arrangement whereby an employee, in accordance with a job alternation agreement made with the employer, is released for a fixed period from the duty to carry out work covered by the service relationship while the employer at the same time engages to employ for a corresponding period a person registered as an unemployed

jobseeker at an employment and business office as referred to in chapter 2, section 1, of the Unemployment Security Act; (659/2014)

2) *alternator* means the person taking job alternation leave;

3) *substitute* means the person who has been employed to work during job alternation leave;

4) repealed (1660/2015)

5) *extension of alternation leave* means the continuation of job alternation leave immediately the agreed leave has ended; and

6) *temporary return to work* means a temporary period at work during job alternation leave at the place of work of the employer regarding whose service relationship the alternator is on job alternation leave.

#### **Section 4 (1254/2006) Employment history required for job alternation leave**

As a pre-condition for entitlement to job alternation leave, a person must have an employment period for at least 20 years prior to the beginning of the leave period. If the person has previously received a job alternation leave allowance, the period of employment must be at least five years since the previous job alternation leave period ended. The period of employment is calculated on the basis of earnings under employment pensions laws, as referred to in section 3 of the Employees' Pensions Act (395/2006). (1660/2015)

The number of months in employment is calculated as provided in chapter 6, section 11, subsection 2, of the Unemployment Security Act.

When calculating the period of employment referred to in subsection 1 above, a period of time comparable to work is also any full calendar month

1) for which a person has been paid a maternity, special maternity, paternity or parental allowance or special care allowance under the Sickness Insurance Act (1224/2004) and

2) when a person has been on statutory care leave or care leave under a collective agreement or collective agreement for civil servants or doing military or non-military service.

A maximum of one fourth of the period of employment may consist of time comparable to work as referred to in subsection 3.

#### **Section 4 a (659/2014) Taking into account employment abroad**

The period of employment or a comparable period for the duration of which the person in question has been insured in a member state of the European Union or of the European Economic Area or in Switzerland is also included in the period of employment referred to in section 4 above if the person in question provides sufficient and reliable proof of the period of employment or a comparable period.

#### **Section 5 (761/2011) Working requirement**

As a pre-condition for alternator's entitlement to job alternation leave is, that working and service relationship with the same employer as referred to in section 2 must have lasted for a minimum continuous period of 13 months immediately before the beginning of job alternation leave. This may comprise a maximum of 30 calendar days of unpaid leave. Absence because of sickness or accident is considered equal to active employment when this provision is applied.

In calculating the period of employment referred to in subsection 1 above, time during which the alternator has been in the service of an assignor of business as referred to in chapter 1, section 10, of the Employment Contracts Act (55/2001) or in chapter 1, section 10, of the Seafarers' Employment Contracts Act (756/2011) or of a public corporation subject to rearrangements comparable to assignment of business is also counted.

#### **Section 5 a (659/2014) Maximum age for taking the job alternation leave**

The job alternation leave cannot be taken after the end of the calendar month during which the person has reached the age that corresponds to the minimum age for old-age pension under the Employees Pensions Act subtracted by three years.

#### **Section 6 (1660/2015) Duration of job alternation leave**

The minimum duration of a job alternation leave is 100 calendar days and the maximum 180 calendar days.

#### **Section 7 (1660/2015) Extension of agreed job alternation leave**

Any extension to the job alternation leave must be agreed two months before the agreed leave ends.

### **Section 8 (659/2014) Job alternation agreement**

The employer must make a written job alternation agreement with the alternator, undertaking to employ a substitute. A job alternation agreement must be submitted to an employment and business office before the job alternation leave begins. Additionally an employment contract or other reliable document showing that a substitute has been employed for the duration of the job alternation leave must be submitted to the employment and business office before job alternation leave begins, or as soon as possible after the job alternation leave has begun. Corresponding necessary documents must be submitted to the employment and business office when job alternation leave is divided into periods or extended in the manner referred to in section 7, subsection 1 and 2.

### **Section 9 (659/2014) Substitute**

The substitute must be a person registered as an unemployed jobseeker at an employment and business office who has been an unemployed jobseeker for a minimum of 90 calendar days continuously or in shorter periods during the 14 months preceding the beginning of the job alternation leave. The substitute must be an unemployed jobseeker immediately before the beginning of the job alternation leave.

Notwithstanding what is provided in subsection 1, a person under the age of 30 who is registered as an unemployed jobseeker at an employment and business office and has attained a vocational or academic qualification less than one year before or an unemployed jobseeker who is under the age of 25 or over the age of 55 at the beginning of the job alternation leave may be employed as a substitute.

Anyone considered to be a full-time student, as referred to in chapter 2, section 10, of the Unemployment Security Act may not be employed as a substitute.

The substitute's working hours must be at least the same as the alternator's regular hours. When a part-time employee in the employ of the employer is registered at an employment and business office as an unemployed full-time job seeker, and such a person is employed to fill a vacancy opening as a result of job alternation leave, the job alternation leave can be implemented by hiring an unemployed jobseeker registered at an employment and business

office for the vacancy thus created, notwithstanding chapter 2, section 5, of the Employment Contracts Act. In such a case the addition to the aggregate working hours of these employees must be at least the same as the alternator's regular working hours.

### **Section 10 (1127/2007) Early ending of job alternation leave and temporary return to work**

Ending job alternation leave early or a temporary return to work must be agreed between the employer and alternator. Job alternation leave is used up during a temporary return to work and continues afterwards in accordance with the job alternation agreement, unless extended in the manner referred to in section 7, subsection 2.

Job alternation leave is deemed to have ended if the alternator is suddenly entitled to receive a maternity, special maternity, paternity or parental allowance under the Sickness Insurance Act or is granted leave for the same period as that for which job alternation leave is being taken, owing to pregnancy or childbirth or care for a child, or if the alternator is entitled to receive a special care allowance. However, if such an entitlement or granted leave lasts no more than 18 working days, the job alternation leave will be deemed to have been interrupted for said period.

### **Section 11 (659/2014) Effects of termination of a substitute's service relationship**

If a substitute's service relationship is terminated before the job alternation leave ends, the said termination is not considered a breach of the job alternation agreement if:

- 1) the employer employs another substitute as referred to in section 9 without delay and at the latest within two months of the termination of the substitute's service relationship; or
- 2) the employment and business office is unable to designate a suitable person to replace the previous one.

### **Section 12. The alternator's right to return to his/her previous job**

At the end of the job alternation leave the alternator is in the first place entitled to return to his/her former duties. If this is not possible, alternator shall be offered equivalent work in accordance with his/her employment contract or service relationship, and if this is not possible either, other work in accordance with the contract.

**Section 13 (659/2014) Right to job alternation allowance**

The alternator is entitled to a job alternation allowance for the duration of the job alternation leave.

No job alternation allowance shall be paid for any job alternation leave period set out in the job alternation agreement for which no substitute has been employed.

Entitlement to job alternation allowance shall continue in accordance with the agreement even when the service relationship of a substitute employed for the duration of the job alternation leave is terminated before the job alternation leave ends.

If the employment relationship of the alternator is terminated for reasons beyond the control of the alternator before his/her job alternation leave has lasted 100 calendar days, the alternator shall be entitled to a job alternation allowance to the end of his/her employment relationship.

**Section 14 Restriction on right to allowance**

The alternator is not entitled to job alternation allowance for periods during which the alternator:

- 1) receives from his/her employer as referred to in section 2 pay or annual holiday pay or other compensation or remunerations against which the alternator receives equivalent leisure time;
- 2) performs military service, women's voluntary military service or non-military service;
- 3) is serving time in a penal institution;
- 4) is in full-time employment for longer than two weeks in the service of other than the alternator's employer as referred to in section 2;
- 5) engages in full-time entrepreneurship as referred to in the Unemployment Security Act; or
- 6) is entitled to a benefit referred to in chapter 3, section 3, subsection 1, or section 4, subsection 2, paragraphs 1-3, 5 or 6, of the Unemployment Security Act.

The pay referred to in subsection 1, paragraph 1 does not include training paid for by the employer, unless such benefit is taken into account as the employee's taxable income, or fringe benefits that the alternator continues to receive during the job alternation leave in accordance with the job alternation agreement.

### **Section 15 Amount of the job alternation allowance**

The full amount of the job alternation allowance is 70 per cent of the unemployment allowance that the person would be entitled to if unemployed under chapter 5, sections 2-5, and chapter 6, section 1, subsection 1, section 2, subsection 1 and section 4, of the Unemployment Security Act. The child supplement referred to in chapter 6, section 6, of the Unemployment Security Act is not taken into account in determining job alternation allowance. (1660/2015)

In determining the unemployment allowance referred to in subsection 1 above, what is laid down concerning unemployment allowances in chapter 4, sections 1-5, 7 and 8, of the Unemployment Security Act applies to any statutory benefit, pay or other earned income received by the alternator during the leave. The amount of the job alternation allowance is not, however, affected by other compensations or remunerations earned before the job alternation leave and paid during the leave against which the alternator is not given equivalent leisure time, or by fringe benefits not included in wage income and received during the job alternation leave in accordance with the job alternation agreement. When calculating compensation for job alternation leave, the protected sum mentioned in section 5, subsections 1 and 2, of the Unemployment Security Act is not deducted from the employee's pay or other work related income. (1054/2013)

Notwithstanding what is provided in chapter 6, section 4, of the Unemployment Security Act and legislation adopted thereunder concerning determination of the pay on which an earnings-related allowance is based, it is the income received by the alternator for a period of at least 52 weeks for complete pay periods prior to job alternation leave which determines the income to be considered regular income. The income does not include the fringe benefits which the alternator continues to receive during job alternation leave in accordance with the job alternation agreement. (1127/2007)

### **Section 16 Application for job alternation allowance**

Application for job alternation allowance must be submitted to the Social Insurance Institution or the relevant unemployment fund.

### **Section 17 (659/2014) Employment policy statements**

The employment and business office issue statements binding on the Social Insurance Institution and on unemployment funds regarding the requirements for a job alternation allowance as referred to in sections 5-9 and section 14 subsection 1, paragraph 5 and on the preconditions for recovery referred to in section 19, subsection 1.

What is provided in and legislation adopted under the Unemployment Security Act applies to employment policy statements, unless otherwise provided in this Act.

### **Section 18 (659/2014) Duty to notify**

Employers must notify the employment and business office without delay that they have employed a substitute for the duration of a job alternation leave and report any essential changes in the service relationship of the substitute.

### **Section 19 Recovery of job alternation allowance**

If, on the basis of circumstances related to the job alternation arrangement, it is obvious that the purpose has not been implementation of job alternation in accordance with this Act, the allowance shall be recovered unless recovery is considered clearly unreasonable.

If job alternation allowance has been paid without cause or too great amount, the excess amount of the allowance shall be recovered. Recovery may be waived either fully or in part, if this is considered reasonable and if the undue payment of the allowance has not been due to the alternator's deceitful behaviour or gross negligence or if the amount to be recovered is small. Furthermore, recovery may be waived entirely after a decision has been given in the case when recovery is no longer appropriate given the financial situation of the recipient or when continuation of efforts to recover the sum would incur unreasonable costs in comparison with the amount of unrecovered benefit. (363/2004)

What is provided in chapter 11, section 10, subsections 3 and 4, of the Unemployment Security Act on recovery of unemployment allowance shall apply to recovery of job alternation allowance as appropriate.



If the alternator has received job alternation allowance for a period for which he/she is retroactively also granted any benefit referred to in chapter 11, section 14, subsection 1, of the Unemployment Security Act, the Social Insurance Institution or the unemployment fund may recover the unwarranted amount paid for this period by deducting it from the benefit to be paid retroactively. Further, what is stipulated in chapter 11, section 14, subsection 2, of the Unemployment Security Act applies to recovery as appropriate. (481/2015)

### **Section 20 (1556/2015) Appeal**

Those not satisfied with decisions of the Social Insurance Institution or unemployment funds concerning a job alternation allowance may appeal in writing to the Unemployment Security Appeal Board within 30 days of the date on which the appellant is informed of the decision.

Those not satisfied with decisions of the Unemployment Security Appeal Board may appeal in writing to the Insurance Court within 30 days of the date on which the appellant is informed of the decision.

Unless the appellant proves otherwise, said party is considered to have been informed of the decisions referred to in subsections 1 and 2 on the seventh day from the posting of the decision to an address given by said party.

The statement referred to in section 17 above may not be appealed.

### **Section 21 Application of the Unemployment Security Act and the Unemployment Funds Act**

Unless otherwise provided in this Act, what is provided in the Unemployment Security Act and the Unemployment Funds Act (603/1984) applies concerning application for a job alternation allowance, its refusal because of lateness of application, the payment method, temporary interruption of, or reduction in payment, the number of days in a week when there is entitlement to benefit, a decision on a job alternation allowance, annulment and self-rectification of a decision, limitation of actions on recovery claims, a duty to provide information, a right to obtain information and a distraint officer's right to obtain information, receiving and giving information and the allocation of court costs. (259/2020)

What is provided in the Unemployment Security Act on distraint of basic unemployment allowance applies to distraint of job alternation allowance granted on the basis of basic unemployment allowance in accordance with the Unemployment Security Act.

### **Section 22 Financing**

The cost of job alternation allowances to unemployment funds and the Social Insurance Institution is financed in accordance with what is provided on unemployment allowance in the Act on Financing Unemployment Benefits (555/1998) and chapter 14, section 3, of the Unemployment Security Act.

### **Section 23 (920/2014) Executive bodies**

In matters concerning the job alternation allowance, the supreme authority directing, steering and developing the implementation of the job alternation scheme is the Ministry of Social Affairs and Health and in matters concerning labour market policy, the Ministry of Employment and the Economy. What is provided in the Unemployment Security Act and the Unemployment Funds Act applies to supervisory role of the Social Insurance Institution and the unemployment funds.

### **Section 24 Supervision**

Compliance with this Act is supervised jointly by the labour and occupational safety and health authorities.

### **Section 25 (961/2009) Entry into force**

This Act enters into force on 1 January 2003.

### **Section 26. Transitional provisions**

If a job alternation agreement has been made before this Act enters into force, the provisions of the Act on the Job Alternation Leave Experiment (1663/1995) apply.

In calculating the working history requirement referred to in section 4 of this Act and the working requirement referred to in section 5, time before this Act enters into force is also taken into account. The five-year work history required for re-use of job alternation leave as

referred to in section 4 of this Act also applies to job alternation leaves that end while this Act is in force.

If other acts or provisions issued under them refer to the Act on the Job Alternation Leave Experiment, the reference must be considered to mean this Act unless otherwise provided in this Act.