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Act (2011:427) on European Works Councils

Content and purpose of the Act / Entry into force: 6 June 2011 /

Section 1. This Act contains provisions for the establishment of European works councils comprising employees' representatives, or the introduction of another procedure for informing and consulting employees on transnational questions in Community-scale undertakings and groups of undertakings which operate in at least two EEA Member States.

Section 2. The procedure for informing and consulting employees shall be fit for purpose and shall be conducted in such a way that Community-scale undertakings and groups of undertakings can take decisions in an effective manner. Therefore:

1. information shall be given at such time, in such fashion and with such content as enables employees' representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare for consultations with the Community-scale undertaking or group of undertakings; and
2. consultation shall involve the establishment of a dialogue and exchange of views between employees' representatives and the Community-scale undertaking or group of undertakings, at such time, in such fashion and with such content as enables employees' representatives to express opinions, on the basis of the information provided, about the proposed measures within a reasonable time, so that these can be taken into account in the decision-making process by the Community-scale undertaking or group of undertakings.

Definitions

Section 3. For the purposes of this Act 'EEA Member States' means the States of the European Union and the other States covered by the Treaty on the European Economic Area;

- 'undertaking' means an economic activity under private or public management which is conducted by a natural or legal person;
- 'Community-scale undertaking' means any undertaking operating in at least two EEA Member States;
- 'controlling undertaking' means an undertaking which exercises a dominant influence over another undertaking;
- 'controlled undertaking' means an undertaking over which another undertaking exercises a dominant influence;
- 'Community-scale group of undertakings' means a group of undertakings which possesses undertakings in at least two EEA Member States, comprising a controlling undertaking and at least one controlled undertaking, and
- 'transnational question' means a question that affects the whole Community-scale undertaking or group of undertakings or at least two its operations in different EEA Member States.

Sections 7 and 13–16 contain special provisions on controlling undertakings.

Scope of the Act

Section 4. This Act shall apply to the following:

1. Community-scale undertakings with
 - at least 1 000 employees within the EEA Member States, of which
 - at least 150 employees in each of at least two EEA Member States;
2. Community-scale groups of undertakings with

- at least 1 000 employees within the EEA Member States, of which
- at least 150 employees in at least one of their undertakings in one EEA Member State and at least 150 employees at least one of their undertakings in another EEA Member State.

The number of employees in Sweden shall be calculated as the average number of employees during the previous two financial years of the business.

Section 5. This Act shall apply where the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings has its registered office in Sweden.

Where the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings does not have its registered office in an EEA Member State, the Act shall apply when

1. the Community-scale undertaking or the controlling undertaking has designated a branch office or undertaking in Sweden to be responsible for the obligations pursuant to Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees, or
2. no operation or undertaking in an EEA Member State has been designated to take responsibility for the obligations pursuant to Directive 2009/38/EC, and the branch office or the controlled undertaking that has the most employees within the EEA is located in Sweden.

The provisions laid down in Section 18 on the duty of branch offices and controlled undertakings in Sweden to provide information, Sections 24, 25 and 38–40 on how employee representatives from Sweden should be appointed, and Section 56 on the protection of employee representatives, shall apply regardless of where the Community-scale undertaking or the controlling undertaking in a group of Community-scale undertakings has its registered office.

Section 6. In cases covered by Section 5(2), the provisions of this Act with respect to Community-scale undertakings or controlling undertakings in a group of Community-scale undertakings shall apply to the branch office or undertaking that renders the Act applicable according to the said provision.

Section 7. If a Community-scale undertaking or an undertaking in a group of Community-scale undertakings is controlled by another undertaking in an EEA Member State, the provisions on Community-scale undertakings or controlling undertakings in a group of Community-scale undertakings shall not apply to the controlled undertaking.

Exception for certain Community-scale undertakings or groups of undertakings

Section 8. For the following Community-scale undertakings or groups of undertakings, only that set out in Sections 59–62 regarding damages and litigation shall apply:

1. Community-scale undertakings or groups of undertakings that have had a valid agreement since 22 September 1996 on transnational information and consultation of employees covering all the operations of the Community-scale undertaking or group of undertakings in EEA Member States with the exception of the United Kingdom of Great Britain and Northern Ireland. If the undertaking or group of undertakings also had an operation in the United Kingdom on 1 July 2000, the agreement must also have covered that operation from that date at the latest.
2. Community-scale undertakings or groups of undertakings that fell within the scope of the Act (1996:359) on European Works Councils after 1 March 2000 only because the scope of the Act was extended to cover operations in the United Kingdom of Great Britain and Northern Ireland, and which had a valid agreement at that date on transnational information and consultation of employees if the agreement covered all the employees of the Community-scale undertaking or group of undertakings in EEA Member States.
3. Community-scale undertakings or groups of undertakings which concluded or extended a valid agreement pursuant to Section 21 or 22 of the Act on European Works Councils in the period from 5 June 2009 to 5 June 2011 inclusive.

In the case of significant restructuring of Community-scale undertakings or groups of undertakings covered by the first paragraph, Sections 1, 4–7, 9–19, 21–36, 53(1), 55, 56 and 58 shall however apply.

If an agreement referred to in the first paragraph has expired or expires, the Act shall apply in its entirety to the Community-scale undertaking or group of undertakings. However, if the agreement has been or is extended, the Act shall continue to apply according to the first paragraph only.

European companies

Section 9. If a Community-scale undertaking or a controlling undertaking in a group of Community-scale undertakings is a European company in the meaning of Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE), this Act shall not apply to the European company or its subsidiaries.

The Act shall however apply to a European company and its subsidiaries if the special negotiating body pursuant to Section 21 of the Act (2004:559) on employee involvement in European companies has decided not to initiate negotiations on an agreement on employee co-determination in the European company or to break off any such ongoing negotiations.

If a Community-scale undertaking or a controlling undertaking in a group of Community-scale undertakings becomes a subsidiary of a European company after its formation, this Act shall apply to the subsidiary if it is not covered by co-determination according to the Act on employee involvement in European companies.

European cooperative societies

Section 10. If a Community-scale undertaking or a controlling undertaking in a group of Community-scale undertakings is a European cooperative society in the meaning of Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE), this Act shall not apply to the European cooperative society or its subsidiaries.

The Act shall however apply to a European cooperative society and its subsidiaries if the negotiating delegation pursuant to Section 24 of the Act (2006:477) on employee involvement in European cooperative societies has decided not to initiate negotiations on an agreement on employee involvement in the European cooperative society or to break off any such ongoing negotiations.

If a Community-scale undertaking or a controlling undertaking in a group of Community-scale undertakings becomes a subsidiary of a European cooperative society after its formation, this Act shall apply to the subsidiary if it is not covered by co-determination according to the Act on employee involvement in European cooperative societies.

Activities of a non-profit nature or with opinion-creating goals

Section 11. Activities which are of a religious, scientific, artistic, or other non-profit nature, or which have co-operative, union, political or other opinion-creating goals, shall be excluded from the scope of application of this Act with respect to the goals and direction of activities.

Derogations through collective bargaining agreements

Section 12. Derogations from the provisions of this Act may be made through collective bargaining agreements concluded or approved by a central employees' organisation.

Derogations may not however be made if the agreement means that less favourable rules will apply to the employees than those set forth in Council Directive 2009/38/EC.

Controlling undertakings

Section 13. Unless otherwise shown, an undertaking shall be deemed to exercise a dominant influence over another undertaking where, in its own name or on behalf of another, it:

1. is entitled to appoint more than half of the members of the other undertaking's board of directors or corresponding management body;
2. controls more than half of the votes attached to the shares or interests of that undertaking; or
3. owns more than half of the shares or interests in the undertaking.

Section 14. Where several undertakings within a Community-scale group of undertakings may be deemed to exercise a dominant influence over another undertaking, such an undertaking as referred

to in Section 13(1) shall, in the first instance, be deemed to be the controlling undertaking, and thereafter the undertaking referred to in Section 13(2).

The first paragraph shall only apply where it is not shown that another undertaking exercises a dominant influence.

Section 15. An investment company as referred to in Article 3(5)(a) or (c) of Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings shall not be deemed to be a controlling undertaking in relation to other undertakings in which it holds shares or interests.

Section 16. In the application of this Act, a receiver, an administrator in a company reorganisation or a liquidator shall not be deemed to exercise a dominant influence over an undertaking.

The responsibility of the undertaking

Obligation to work actively for a European Works Council

Section 17. The Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings shall actively take steps for the establishment of a European Works Council or the introduction of another employee information and consultation procedure.

Provision of information prior to negotiations

Section 18. The Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings shall provide employees with the information required to initiate negotiations pursuant to Section 27. Such information shall be provided by a different undertaking within the Community-scale group of undertakings or an operation within the Community-scale undertaking if the employees request this.

Controlled undertakings in a Community-scale group of undertakings and branch offices of a Community-scale undertaking shall provide the controlling undertaking in a Community-scale group of undertakings or a Community-scale undertaking within the EEA with the information needed for the controlling undertaking and the Community-scale undertaking to meet their obligation to provide information to employees.

Initiation of negotiations

Section 19. The initiative for negotiations for the establishment of a European Works Council, or for the establishment of another employee information and consultation procedure, or for renewed negotiations of this kind shall be taken

1. by the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings, or
2. in writing by at least 100 employees or their authorised representatives in at least two operations or undertakings in at least two EEA Member States.

Section 20. Where the Community-scale undertaking or group of undertakings as defined in Sections 4–11 is covered by the scope of this Act and initiative has been taken pursuant to Section 19, the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings shall initiate negotiations on the establishment of a European Works Council or the introduction of another employee information and consultation procedure.

Paragraph 1 shall not apply where there is an agreement on information and consultation on transnational questions covering all employees in the Community-scale undertaking or group of undertakings and entered into pursuant to the Act (1996:359) on European Works Councils or where Sections 24–35 this Act have been applied.

Section 21. In the case of significant restructuring in the Community-scale undertaking or group of undertakings, and where initiative has been taken pursuant to Section 19, the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings shall initiate new negotiations on the establishment of a European Works Council or the introduction of another employee information and consultation procedure.

Paragraph 1 shall not apply where an agreement on information and consultation on transnational questions covering all employees within the EEA in the Community-scale undertaking

or the group of undertakings regulates what should apply in the case of significant restructuring.

Employees' special negotiating body

Establishment of the special negotiating body

Section 22. When negotiations are to be initiated pursuant to Section 20 or 21, an employees' special negotiating body shall be established in accordance with Sections 23–25.

The special negotiating body shall represent the employees in the Community-scale undertaking or group of undertakings in negotiations on an agreement on a European Works Council or another employee information and consultation procedure.

Composition

Section 23. The employees in the Community-scale undertaking or group of undertakings in each EEA Member State shall be allocated one place in the employees' special negotiating body for each tenth share or part thereof of all employees in the Community-scale undertaking or group of undertakings in all EEA Member States.

Where new negotiations are to be initiated in the case of significant restructuring, every existing European Works Council in the Community-scale undertaking or group of undertakings shall be allocated three places in the special negotiating body over and above the places allocated in accordance with the first paragraph. Members to fill these three places shall be appointed from within the respective Works Councils.

Section 24. Members from Sweden in employees' special negotiating bodies shall be appointed by the local employees' organisations which are bound by collective bargaining agreements in relation to the Community-scale undertaking or one or more undertakings in a Community-scale group of undertakings.

Where several local employees' organisations are bound by collective bargaining agreements and they do not agree otherwise, the following order for the appointment of one or more members shall apply. In respect of the appointment of one member, this member shall be appointed by the local employees' organisation which represents the largest number of employees in Sweden bound by collective bargaining agreements with the Community-scale undertaking or group of undertakings. In respect of the appointment of several members, the order for the appointment of employees' representatives set forth in Section 8(2) and (3) of the Board Representation (Private Sector Employees) Act (1987:1245) shall apply.

Local employees' organisations which belong to the same central organisation shall be deemed to be one organisation.

Section 25. Where the employer is not bound by a collective bargaining agreement in relation to any employees' organisation, the members from Sweden shall be appointed by the local employees' organisation in Sweden which represents the greatest number of employees in relation to the Community-scale undertaking or group of undertakings. This shall apply, however, only where local employees' organisations have not agreed otherwise.

Local employees' organisations which belong to the same central organisation shall be deemed to be one organisation.

Section 26. When an employees' special negotiating body has been established, it shall inform the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings of its composition.

Negotiations

Negotiating meetings

Section 27. The Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings shall request negotiations on the establishment of a European Works Council or the introduction of another employee information and consultation procedure.

The undertaking shall inform affected operations or controlled undertakings in the Community-scale

group of undertakings of the composition of the employees' special negotiating body and when the negotiations are to take place.

The undertaking shall also inform competent European employees' and employers' organisations of the composition of the special negotiating body and when the negotiations are to be initiated.

Separate meetings

Section 28. The employees' special negotiating body shall be entitled to meet separately before and after each meeting with the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings. At such meetings, the special negotiating body shall have access to any interpreters and technical equipment needed to conduct the meeting.

Refraining from and withdrawing from negotiations

Section 29. The employees' special negotiating body may decide to refrain from initiating negotiations on an agreement on a European Works Council or other employee information and consultation procedure, or to withdraw from such ongoing negotiations.

In cases covered by the first paragraph, a party may not make a fresh request for negotiations pursuant to Section 19 for two years, unless the parties have agreed or agree to a shorter time.

Experts

Section 30. The employees' special negotiating body may be assisted by experts of its choice. At the request of the special negotiating body, the experts may be present during the negotiations in an advisory capacity.

Voting rules

Section 31. A decision to refrain from or initiate negotiations or to withdraw from ongoing negotiations pursuant to Section 29 shall require the votes of at least two-thirds of the members of the employees' special negotiating body.

In order for the special negotiating body to enter into an agreement on a European Works Council or another employee information and consultation procedure, more than half of the members must agree to this.

Expenses

Section 32. All expenses to enable the employees' special negotiating body to be formed and carry out its activities shall be borne by the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings, to the extent required for the special negotiating body to discharge its tasks in an appropriate manner.

Agreement

Section 33. An agreement on a European Works Council shall be in writing and shall cover all operations carried out by the Community-scale undertaking or group of undertakings within the EEA. The agreement shall determine

1. the undertakings or operations which are covered by the agreement;
2. the composition of the European Works Council, which shall be balanced with respect to the business activities within the Community-scale undertaking or group of undertakings and to the gender and job roles of the employees,
3. the term of office of the European Works Council;
4. the functions and the procedure for information and consultation of the European Works Council, and the relationship between this procedure and the corresponding procedure at national level,
5. the venue, frequency, and duration of meetings of the European Works Council;
6. the financial and material resources to be allocated to the European Works Council; and
7. the duration of the agreement and the procedure for amending or terminating it and, where it is to be renegotiated, when and how this should happen.

If the agreement contains provisions on a select committee, the composition, functions and rules of procedure for this committee shall also be addressed in the agreement.

Section 34. In lieu of an agreement on a European Works Council, the parties may agree upon another employee information and consultation procedure. Such an agreement shall be made in writing and shall cover all operations carried out by the Community-scale undertaking or group of undertakings within the EEA; it shall contain guidelines for the information and consultation procedure and shall stipulate the right of the employees' representatives to information, in particular in relation to questions which significantly affect employees' interests.

The agreement shall also stipulate the right of the employees' representatives to meet to discuss the information conveyed to them.

Applicable provisions in the absence of an agreement

When the rules shall apply

Section 35. A European Works Council covering all operations carried out by a Community-scale undertaking or group of undertakings within the EEA shall be established in accordance with Sections 37–52 where

1. the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings and the employees' special negotiating body agree thereon,
2. the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings declines to commence negotiations with the employees' special negotiating body within six months of the employees requesting negotiations in accordance with Section 19; or
3. the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings and the special negotiating body have not concluded an agreement on a European Works Council or another information and consultation procedure within three years of the date on which any of the parties took the initiative for negotiations in accordance with Section 19.

Section 36. The provisions laid down in Sections 37–52 shall not apply where the employees' special negotiating body has decided in accordance with Section 29(1) to refrain from initiating negotiations on an agreement pursuant to this Act or to withdraw from negotiations on such an agreement.

Composition of the European Works Council

Section 37. Employees in the Community-scale undertaking or group of undertakings in each EEA Member State shall be allocated one place in the European Works Council for each tenth share or part thereof of all employees in the Community-scale undertaking or group of undertakings in all EEA Member States.

Unless agreed otherwise, the European Works Council shall, every second year, examine whether changes in the operations of the Community-scale undertaking or group of undertakings should result in a new composition of the European Works Council. Upon such examination, the provisions of the first paragraph shall apply.

The Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings shall provide the information required for the examination referred to in the second paragraph.

Section 38. The members from Sweden in the European Works Council shall be appointed from amongst the employees in Sweden of the Community-scale undertaking or group of undertakings.

Section 39. The members from Sweden in the European Works Council shall be appointed by the local employees' organisation or organisations in Sweden which is or are bound by collective bargaining agreements in relation to the Community-scale undertaking or one or more undertakings in a Community-scale group of undertakings.

Where several local employees' organisations are bound by collective bargaining agreements and they do not agree otherwise, the following order for the appointment of members shall apply. In respect of the appointment of one member, such shall be appointed by the local employees' organisation which represents the largest number of employees in Sweden bound by collective bargaining agreements with the Community-scale undertaking or group of undertakings. In respect of the appointment of several members, the order for the appointment of employees' representatives set forth in Section 8(2) and (3) of the Board Representation (Private Sector Employees) Act (1987:1245) shall apply.

Local employees' organisations which belong to the same central organisation shall be deemed to be one organisation.

Section 40. Where the employer is not bound by a collective bargaining agreement with any employees' organisation, the members from Sweden shall be appointed by the local employees' organisation in Sweden which represents the greatest number of employees in relation to the Community-scale undertaking or group of undertakings. This shall apply, however, only where local employees' organisations have not agreed otherwise.

Local employees' organisations which belong to the same central organisation shall be deemed to be one organisation.

Section 41. The European Works Council shall notify the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings of its composition.

Rules of Procedure

Section 42. The European Works Council shall determine its own rules of procedure.

Select committee

Section 43. The European Works Council shall elect a select committee from amongst its members, comprising at most five members.

The select committee shall be able to conduct its activities at all times.

Right of information and consultation

Section 44. Information provided to the European Works Council shall particularly concern

1. the structure of the Community-scale undertaking or group of undertakings,
2. the economic and financial situation of the Community-scale undertaking or group of undertakings; and
3. the expected development of the business and of production and sales of the Community-scale undertaking or group of undertakings.

Section 45. Information to and consultation with the European Works Council shall particularly concern

1. the situation and probable trend of employment;
2. investments;
3. substantial changes concerning organisation;
4. introduction of new working methods or production processes;
5. transfers of production;
6. mergers;
7. closures of operations or significant cut-backs to operations; and
8. collective redundancies

Section 46. Consultation shall take place in a way that enables the employee representatives to meet with the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings and obtain reasoned answers to any comments.

Section 47. The European Works Council shall be entitled to at least one meeting a year with the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings for information and consultation in respect of the progress of the business of the Community-scale undertaking or group of undertakings and its prospects.

Prior to the meeting, the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings shall provide the European Works Council with a written report concerning the matters to be discussed at the meeting.

Section 48. The Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings shall, as soon as possible, inform the select committee of any exceptional circumstances affecting the employees' interests to a considerable extent, particularly in the event of relocations, the closure of operations or collective redundancies.

Where the select committee so requests, the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings shall meet with the select committee in order to inform and consult with the latter regarding such exceptional circumstances as referred to

in the first paragraph. Those members of the European Works Council who represent the employees at the operations or undertakings which are directly affected by the circumstances in question shall also be entitled to participate in such meetings. Prior to the meeting, the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings shall provide the select committee with a written report on the matters to be discussed at the meeting. The select committee shall be entitled to deliver an opinion on the report.

In the absence of a select committee, the provisions in this section regarding the select committee shall be deemed to refer to the European Works Council.

Experts

Section 49. The European Works Council and the select committee may be assisted by experts of their choice.

Separate meetings

Section 50. The European Works Council or the select committee shall be entitled to meet separately prior to meetings with the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings.

In addition, the European Works Council shall be entitled to meet separately once a year.

New negotiations

Section 51. Four years after the European Works Council is established it shall examine whether to open negotiations for the conclusion of an agreement as referred to in Sections 33 or 34, or whether Sections 37–52 shall continue to apply.

Agreements pursuant to Sections 33 or 34 shall be concluded by the European Works Council and require the support of a majority of members of the Works Council.

If negotiations are not initiated within six months or do not result in any agreement within three years of when the Community-scale undertaking requested negotiations in accordance with the first paragraph, Sections 37–52 shall continue to apply.

Expenses

Section 52. The expenses of the European Works Council and the select committee shall be borne by the Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings, to the extent required for the European Works Council to discharge its tasks in an appropriate manner

Miscellaneous provisions

Legal competence

Section 53. Employees' special negotiating bodies and a European Works Council may acquire rights and assume obligations and pursue claims before courts and other public authorities.

Upon the commencement of the activities of a European Works Council it shall assume all rights and duties of the special negotiating body and shall become a party to the agreement on a European Works Council.

Information to employees

Section 54. The European Works Council shall inform representatives of the employees in the Community-scale undertaking or group of undertakings of the content and outcome of the information and consultation procedure, with any restrictions that may arise from the fact that the employee representatives are subject to a duty of confidentiality pursuant to Section 58. If there are no employees' representatives, all employees shall be informed.

Information and consultation during negotiations on a new agreement

Section 55. While negotiations are in progress on the establishment of a European Works Council or the introduction of another employee information and consultation procedure arising from significant restructuring in the Community-scale undertaking or group of undertakings, agreements or other

arrangements for information and consultation shall continue to apply with any modifications agreed by the parties.

Protection for employee's representatives

Section 56. The provisions of Section 3(1), Section 4 and Sections 6–8 of the Trade Union Representatives (Status at the Workplace) Act (1974:358) shall apply correspondingly to employees' representatives who perform their work in Sweden and fulfil functions in accordance with this Act.

Training

Section 57. The Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings shall provide the members of the employees' special negotiating body and the European Works Council with any training required for them to carry out their tasks.

Duty of confidentiality

Section 58. The Community-scale undertaking or the controlling undertaking in a Community-scale group of undertakings may prescribe a duty of confidentiality for employees' representatives and experts who fulfil duties pursuant to this Act, where such is required in the best interests of the undertaking.

A person who under paragraph 1 had received information subject to confidentiality may, notwithstanding the duty of confidentiality, transmit such information to other employee representatives or experts in the same body. The right to transmit information shall only apply where the provider of the information notifies the recipient of the duty of confidentiality. In such cases, the duty of confidentiality shall also apply to the recipient.

The duty of confidentiality shall continue to apply for as long as it is needed, even after the work as an employee representative or expert has ceased.

Damages

Section 59. Whoever breaches this Act or an agreement under this Act or confidentiality as set out in this Act shall pay compensation for damage arising in accordance with the provisions of Sections 55, 56, 57(2), 60(1), and 62 of the Employment (Co-Determination in the Workplace) Act (1976:580).

In applying the Employment (Co-Determination in the Workplace) Act, references to employers shall also apply to Community-scale undertakings or a controlling undertaking in a Community-scale group of undertakings, and references to employees' organisations shall also apply to European Works Councils, employees' special negotiating bodies or other bodies for information and consultation with employees.

An employee or an employees' organisation may not, however, claim damages on the basis of this Act from another employee or employee organisation. An employees' organisation shall also mean a Works Council, a special negotiating body or any other body for employee information and consultation.

Section 60. In the absence of a European Works Council or an employees' special negotiating body which is able to pursue claims in accordance with this Act, the provisions on damages shall instead apply to the employees' organisation affected.

Litigation

Section 61. Cases on the application of this Act, where the dispute concerns the relationship between employer and employee, shall be conducted in accordance with the provisions of the Judicial Procedure (Labour Disputes) Act (1974:371). Such cases shall be dealt with by the Labour Court as a court of first instance

In the application of the Judicial Procedure (Labour Disputes) Act, references to employers shall also apply to Community-scale undertakings or a controlling undertaking in a Community-scale group of undertakings, and references to employees' organisations shall also apply to European Works Councils, employees' special negotiating bodies or other bodies for information and consultation with employees. References to collective bargaining agreements shall also apply to such agreements as

are referred to in this Act.

Cases concerning the applicability of the duty of confidentiality shall be dealt with promptly

Section 62. Where a party wishes to claim damages in accordance with this Act, the provisions of Sections 64, 65 and 68 of the Employment (Co-Determination in the Workplace) Act (1976:580) shall apply correspondingly. In the application of Section 64, a Community-scale undertaking, a controlling undertaking in a Community-scale group of undertakings, a European Works Council, an employees' special negotiating bodies and any other body for information and consultation with employees shall be deemed to have a right to negotiate in accordance with Section 10 of the Act on co-determination in the workplace. The period of time within which claims must be brought pursuant to Section 65 shall be eight months.

Transitional rules

Transitional provisions

2011:427

1. This Act shall enter into force on 6 June 2011, when the Act (1996:359) on European Works Councils shall cease to apply.
2. The repealed Act shall however continue to apply, with the exception of Sections 39–41, to Community-scale undertakings and groups of undertakings where valid agreements pursuant to Sections 21 and 22 of this Act have been entered into or renewed during the period from 5 June 2009 to 5 June 2011 inclusive and where such an agreement is later renewed.
3. If an employees' special negotiating body has started negotiations under the repealed Act, the negotiations shall continue under the new Act.
4. For a Community-scale undertaking or group of undertakings governed by Sections 24–35 of the repealed Act, Sections 37–52 of the new Act shall apply.
5. In cases covered by point 4, a European Works Council established under Section 24 of the repealed Act shall continue its activities under the new Act until the Works Council has reviewed its composition in accordance with Section 37(2) of the new Act.