

Swedish Code of Statutes

SFS 2002:599

issued by the printers in June 2002

Group Proceedings Act

issued on 30 May 2002.

The following is enacted in accordance with a decision¹ by the Swedish Riksdag.

Introductory provisions

Group action

Section 1 In this Act, group action means an action that a plaintiff brings as the representative of several persons with legal effects for them, although they are not parties to the case. A group action may be instituted as a private group action, an organisation action or a public group action.

Group means the persons for whom the plaintiff brings the action.

Group proceedings

Section 2 Proceedings where a group action is brought are referred to as group proceedings. Group proceedings can relate to claims that can be dealt with by a general court in accordance with the rules contained in the Code of Judicial Procedure on civil cases.

The provisions of the Code of Judicial Procedure on civil cases apply to group proceedings, except for Chapter 1, Section 3 d, unless otherwise stated in this Act.

Group proceedings may also be brought in accordance with special provisions contained in the Environmental Code.

How a group action is instituted, etc.

Competent courts

Section 3 The district courts designated by the Government shall be competent to process cases under this Act. There shall be at least one competent district court in each county.

¹ Government Bill 2001/02:107, Commissioners Report 2001/02:02:JuU16, Riksdag Communication 2001/02:246.

Right to bring an action

Section 4 A private group action may be instituted by a natural person who, or legal entity that, himself, herself or itself has a claim that is subject to the action.

Section 5 An organisation action may be instituted by a not-for-profit association that, in accordance with its rules, protects consumer or wage-earner interests in disputes between consumers and a business operator regarding any goods, services or other utility that the business operator offers to consumers.

In the first paragraph

consumers: means natural persons who acted primarily for purposes outside business operations,

business operator: a natural person or legal entity that acted for purposes that are connected with their own business operation.

An organisation action referred to in the first paragraph may also include a dispute of another kind, provided there are significant advantages with the disputes being jointly adjudicated taking into consideration the investigation and other circumstances.

Section 6 A public group action may be instituted by an authority that, taking into consideration the subject of dispute, is suitable to represent the members of the group. The Government decides which authorities are allowed to institute public group actions.

Section 7 The right to represent the group does not end if there is a change to the circumstances on which the right to institute the action in accordance with Sections 4-6 has been founded.

Special preconditions for proceedings

Section 8 A group action may only be considered if

1. the action is founded on circumstances that are common or of a similar nature for the claims of the members of the group,
2. group proceedings do not appear to be inappropriate owing to some claims of the members of the group, as regards grounds, differing substantially from other claims,

3. the larger part of the claims to which the action relates cannot equally well be pursued by personal actions by the members of the group,
4. the group, taking into consideration its size, ambit and otherwise is appropriately defined, and
5. the plaintiff, taking into consideration the plaintiff's interest in the substantive matter, the plaintiff's financial capacity to bring a group action and the circumstances generally, is appropriate to represent the members of the group in the case.

Content of the application

Section 9 An application for a summons shall, in addition to the provisions of Chapter 42, Section 2 of the Code of Judicial Procedure, contain details concerning

1. the group to which the action relates,
2. the circumstances that are common or similar for the claims of the members of the group,
3. the circumstances known to the plaintiff that are important for the consideration of only some of the claims of the members of the group, and
4. other circumstances that are important for the issue of whether the claims should be processed as group proceedings.

The plaintiff shall state in the application the names and addresses of all members of the group. Such details may be omitted if they are not necessary for processing the case. The plaintiff shall also provide details of circumstances that are otherwise important for notifications to the members of the group.

Change of form of action

Section 10 A person who is the plaintiff in proceedings can, by written application to the district court, request that the case should be transformed into group proceedings. In that event, the provisions of Section 9 and Chapter 42, Sections 2-4 of the Code of Judicial Procedure shall apply. An application may only be granted if the defendant consents to this or if it is manifest that the advantages with group proceedings outweigh the inconvenience that such proceedings may be deemed to entail for the defendant.

The application shall be served on the defendant for views. If the application is unfounded, the court may dismiss it immediately.

If the district court where a case is pending is not competent to deal with the group action, the application shall be transferred to a competent court. If the application is manifestly unfounded, the court may immediately reject the application instead of transferring it.

Attorneys

Section 11 A private group action and an organisation action shall be brought through an attorney who is an advocate. If there are special reasons, the court may allow the action to be brought without an attorney or through an attorney who is not an advocate.

Section 12 A power of attorney that relates to proceedings generally does not empower the attorney to institute a group action or to receive a summons in group proceedings.

Notifications to the members that group proceedings have been instituted

Section 13 If the plaintiff's application to commence group proceedings is not dismissed, the members of the group shall be notified of the proceedings.

The notification shall, to the extent considered appropriate by the court, contain

1. a brief description of the application
2. information about
 - a) group proceedings as a form for processing,
 - b) the opportunity for the members to personally participate in the proceedings,
 - c) the legal effect of a judgment in group proceedings, and
 - d) the rules applicable to litigation costs,
3. details of the names and addresses of the plaintiff and attorney,
4. notice of the date determined by the court for notices in accordance with Section 14, and
5. information about other circumstances that are important for the rights of the members of the group.

Definition of the group

Section 14 A member of the group who does not give notice to the court in writing, within the period determined by the court, that he or she wishes to be included in the group action shall be deemed to have withdrawn from the group.

Status of the member of the group

Section 15 A member of the group shall be equated with a party when applying the rules of the Code of Judicial Procedure on disqualification situations, pending proceedings, joinder of cases, examination during the proceedings and other issues relating to evidence.

Disqualification

Section 16 A member of the group who is not a party may, even if he or she has not entered into the proceedings as an intervenor, present an objection regarding disqualification of a judge within two weeks from the date when he or she became aware that the judge is participating in the processing of the case. If the circumstance on which the disqualification is founded was not then known to the member, the objection may be presented within two weeks from the date when the member became aware of the circumstance.

Subsequent processing

Obligations of the plaintiff

Section 17 When conducting the action, the plaintiff shall protect the interests of the members of the group.

On important issues, the plaintiff shall afford the members of the group an opportunity to express their views, if this can be done without great inconvenience. If a member of the group so requests, the plaintiff shall provide such information as is of importance for the rights of the member.

Extension of action

Section 18 The court may allow the plaintiff to extend a group action to comprise other claims on the part of the members of the group or new members of the group, provided this can be done without it causing any significant delay to the determination of the case and without other substantial inconvenience for the defendant. An application for an extension of an action shall be given in writing and contain such details as are referred to in Section 9.

Transfer of the subject to which the dispute relates

Section 19 If the plaintiff or a member of the group transfers the subject to which the dispute relates to someone else, the provisions of Chapter 13, Section 7 of the Code of Judicial Procedure shall apply as regard the right and obligation of such person to enter as a member of the group.

Sub-groups

Section 20 The court may assign someone, besides the plaintiff or instead of the plaintiff, to conduct the action on a particular issue or a part of the substantive matter that only applies to the rights of particular members of the group, if this promotes an appropriate processing. Such an assignment may be given to a member of the group or, if this is not possible, someone else.

The parties and members of the group affected shall be given an opportunity to express their views before the court makes a decision, provided this is not manifestly unnecessary. The court shall specify in the decision what part of the group and the issue or part of the substantive matter that the appointment relates to.

The provisions of this Act concerning plaintiffs also apply in relevant respects to a person that has been appointed to conduct an action in accordance with the first paragraph.

Substitution of plaintiff

Section 21 If the plaintiff is no longer considered to be appropriate to represent the members of the group in the case, the court shall appoint someone else who is entitled to bring action in accordance with Sections 4-6 to conduct the group's action as plaintiff.

If no new plaintiff can be appointed in accordance with the first paragraph, the group action shall be dismissed. If the plaintiff is the appellant's counterparty in a superior court, the court may appoint someone else who is considered appropriate to conduct the group's action as plaintiff.

Section 22 In cases other than those referred to in Section 21, another person may only take over the plaintiff's action if the plaintiff has transferred their part of the subject of dispute or if there are other special reasons.

Discontinuation of group proceedings or part of them

Section 23 If the plaintiff withdraws the group action within the time period for notice, in accordance with Section 14, the case shall be written off in its entirety. If the plaintiff, within the period, withdraws the case regarding a part that refers to a claim of a particular member of the group, that claim shall be written off.

Should, at the expiry of the period for notice, an issue arise concerning the writing off of the case

in its entirety or dismissal of the group action, the court shall afford the parties and the members of the group an opportunity to express their views, unless this is manifestly unnecessary.

The second paragraph also applies if an issue arises concerning the writing off of the case or dismissal of an action in a part referable to a particular claim of a member of the group.

Section 24 The court may decide a period within which a member of the group shall give notice to the court in writing that they, if the group proceedings as regards their claim are discontinued, wishes to enter as a party and bring the action concerning their rights.

If a notice concerning entry is made in accordance with the first paragraph, the court shall separate the plaintiff's case to which the notice applies and decide on the future processing. The court may, subject to the preconditions referred to in Chapter 1, Section 3 d of the Code of Judicial Procedure, decide that the case should be dealt with applying that section.

The court can transfer a separated case to another competent court, if this is best taking into consideration the investigation and the other circumstances.

Section 25 If an appeal is withdrawn or shall be dismissed for reasons other than it having been delivered too late, the provisions contained in Section 23, second and third paragraphs and Section 24, first and second paragraphs shall apply.

If an appeal has lapsed owing to the plaintiff failing to attend a session for a main hearing, the case shall be reinstated in accordance with Chapter 50, Section 22 of the Code of Judicial Procedure upon the application of a member of the group, even if the plaintiff does not have legal excuse for their absence. The application of the member of the group may be limited to a particular claim.

Settlement

Section 26 A settlement that the plaintiff concludes on behalf of a group is valid, provided the court confirms it by judgment. The settlement shall at the request of the parties be confirmed, provided it is not discriminatory against particular members of the group or in another way manifestly unfair.

Postponement of consideration of a particular issue

Section 27 If it is appropriate taking into consideration the investigation and it can be done without significant inconvenience for the defendant, the court may issue a judgment that for particular members of the group constitutes a final determination of the substantive matter and which for other members of the group involves the postponement of the consideration of a particular issue.

The court shall order each member of the group for whom the case has not finally been determined to request, within a particular period, that the remaining issue is considered. On issues concerning the members of the group who have submitted such a request, the court shall decide in accordance with Section 24, second and third paragraphs, on separation and concerning the future processing. If a member of the group does not submit a request for consideration of the remaining issue, the action of the member shall be rejected, unless the defendant has consented to the request or it is manifest that the action is founded.

Content of the determination

Section 28 The court shall specify in a judgment the members of the group to which the judgment refers. This also applies to a decision, if this is necessary having regard to the nature of the issue.

Legal force

Section 29 The determination of the court in group proceedings has legal force in relation to all members of the group who are subject to the determination.

Special rules on litigation costs, etc.

Right to compensation and liability for costs

Section 30 A person who has been appointed in accordance with Section 21, second paragraph, to conduct the action of a group as plaintiff, is entitled to compensation from public funds corresponding to the costs for the preparation of the proceedings and the conduct of the action and also fees for attorney or counsel, provided the costs were reasonably incurred to protect the rights of the members of the group. Compensation shall also be paid for the plaintiff's own work and time consumed owing to the proceedings. A hearing for the presentation of an issue in a dispute that is directly relevant to the action brought shall be deemed to be a measure for the preparation of the proceedings.

The court may decide on advance payment of compensation with a reasonable amount if this is reasonable considering the amount of the costs or the work that the assignment has involved, the time that the proceedings can be estimated to continue and the other circumstances.

Section 31 A person who has been appointed in accordance with Section 21, second paragraph, to

conduct the action of a group as plaintiff is not liable to pay compensation for the other party's litigation costs in cases other than those referred to in Chapter 18, Section 6 of the Code of Judicial Procedure. Instead, the person who was previously the plaintiff in the case shall, as a party, be liable for these litigation costs. He or she shall also compensate the State for that which has been paid from public funds in accordance with Section 30, to the extent the appellant or someone else is not liable to pay such compensation.

If someone has in connection with an appeal or thereafter taken over the plaintiff's action in cases other than those referred to in the first paragraph, he or she is liable as a party only for litigation costs that have arisen in the superior court. For litigation costs in the lower court, the person who was previously the plaintiff in the case shall instead be liable.

Section 32 The provisions contained in the Code of Judicial Procedure concerning liability for litigation costs shall also be applied on issues concerning compensation from public funds that are paid to a plaintiff in accordance with Section 30. Compensation for such costs shall be paid for by the State. The court shall consider the issue of compensation without being requested to do so.

Liability for costs of a member of the group

Section 33 A member of the group who is not a party to the proceedings is only liable for the litigation costs regarding such cases as referred to in Sections 34 and 35.

Section 34 If the defendant has been ordered to compensate the plaintiff for litigation costs or pay such costs to the State as referred to in Section 32 and if the defendant cannot pay, the members of the group affected are liable to pay these costs. The same applies to additional costs in connection with risk agreements that the defendant has, in accordance with Section 41, not been ordered to pay. Each member of the group is liable for their share of the costs and is not liable to pay more than he or she has gained through the proceedings.

Section 35 A member of the group who is not a party to the proceedings should indemnify the costs that the member has caused by any measure referred to in Chapter 18, Section 3, first paragraph of the Code of Judicial Procedure or by such carelessness or oversight as referred to in Section 6 of the same chapter.

Section 36 If a member has entered as a party in the group proceedings in conjunction with an appeal or thereafter, the member is only liable as a party for the costs that have arisen in the superior court.

Separation of plaintiff's case

Section 37 If a plaintiff's case has been separated in accordance with Section 24, the plaintiff and the member of the group are jointly liable for the litigation costs that have arisen prior to the separation. The member of the group is solely liable for costs that have arisen thereafter.

If the plaintiff or the member of the group has caused the litigation costs by carelessness or oversight, he or she shall be solely liable for the costs.

Risk agreement

Section 38 If the plaintiff has concluded an agreement with an attorney that the fees for the attorney shall be determined having regard to the extent to which the claims of the members of the group is successful (risk agreement), the agreement may only be asserted against the members of the group if it has been approved by a court.

Section 39 A risk agreement may only be approved if the agreement is reasonable having regard to the nature of the substantive matter. The agreement shall be concluded in writing. The agreement shall indicate the way in which it is intended that the fees will deviate from normal fees if the claims of the members of the group were to be granted or rejected completely. The agreement may not be approved if the fees are based solely on the value of the subject of dispute.

Section 40 The issue of the approval of a risk agreement shall be considered in pending group proceedings by the court upon the application of the plaintiff. If the legal matter covered by the risk agreement has not been instituted at court, the person who wishes to bring the group action shall request that the issue of the approval is considered by a court that is competent to consider the dispute. If it is not possible to determine which court is competent, the issue of approval shall be considered by Stockholm City Court.

An approval in accordance with the first paragraph ceases to apply, if group proceedings have not been commenced within six months from the approval. If there are reasons to do so, the court may extend this period.

Section 41 When considering what litigation costs are indemnifiable according to Chapter 18, Section

8 of the Code of Judicial Procedure, regard shall not be taken to such additional costs that have arisen owing to a risk agreement.

Appeals

Section 42 When consideration of a particular issue has been postponed in accordance with Section 27, the court shall decide if the judgment may be appealed against separately regarding the part where the determination is not final. However, such part of the judgment may in every case be appealed against separately if an appeal, for or against a group, is made regarding the part of the judgment that is final.

If a judgment is appealed against separately in accordance with the first paragraph, the court may order a stay of proceedings pending the judgment entering into final legal force.

Section 43 The decision of the district court as a result of the withdrawal of the action may not be appealed against, if the withdrawal has been made within the period for notices in accordance with Section 14. However, a decision on issues concerning litigation costs that has been issued in conjunction with the writing off may be appealed against.

Section 44 A decision by a district court to appoint a new plaintiff may be appealed against by the former plaintiff and by a member of the group who has proposed another plaintiff. A decision by a district court to reject a request for the exchange of plaintiff may be appealed against by a member of the group who has proposed such a change. The provisions contained in Chapter 49, Sections 4 and 11, first paragraph of the Code of Judicial Procedure shall apply to issues of appeal.

Section 45 A decision by a district court during the proceedings may, in addition to the provisions of the Code of Judicial Procedure and Section 44, be appealed against separately, if the district court has in the decision

1. rejected the plaintiff's request to be allowed to bring a private group action or organisation action without an attorney or through an attorney who is not an advocate,
2. considered an issue in accordance with Section 19 concerning entry as a member of the group, or
3. considered an issue of approval of a risk agreement in accordance with Section 39.

A person who wishes to appeal against a decision referred to in the first paragraph shall first give notice of dissatisfaction. The notice shall be given immediately, if the decision has been issued at a session and otherwise within one week of the date when the appellant received the decision. A person who fails to do so is no longer entitled to appeal against the decision. If someone gives notice of dissatisfaction, the court may declare a stay of the proceedings pending consideration of the appeal, if there are special reasons.

Section 46 The provisions contained in Sections 44 and 45 also apply in connection with appeals against the decision of a court of appeal that is not final on issues referred to in those sections and which arose in the court of appeal or which have been appealed against to the court of appeal.

Section 47 A member of the group may appeal against a judgment or final decision on behalf of a group and also a decision on approval of a risk agreement in accordance with Section 39.

A member of the group is also competent to appeal, on their own behalf, against a judgment or a decision that concerns their rights.

Section 48 A notice of dissatisfaction by a member of the group who is not a party to the proceedings may be made within one week of the date for the decision provided the decision has been pronounced at a session to which the member has not been summoned nor has attended nevertheless. The same applies if the decision has not been pronounced at a session and not served on the member.

Notifications to the members of the group

Section 49 The court shall, in addition to what is prescribed by other provisions, notify a member of the group affected of a judgment or a final decision and also of a settlement that is subject to a request for confirmation in accordance with Section 26.

If it is necessary taking into consideration the importance the information may be deemed to have for the rights of the member, the court shall also notify a member of the group affected if

1. the plaintiff has been substituted with a new plaintiff,
2. the plaintiff has appointed a new attorney,
3. the plaintiff has waived the action,
4. that an issue has arisen concerning the approval of a risk agreement,
5. that a judgment or decision has been appealed against, and

6. other decisions, measures and overall situation.

Section 50 Notifications to members of the group in accordance with this Act shall be made in the manner considered appropriate by the court and observing the provisions contained in Chapter 33, Section 2, first paragraph of the Code of Judicial Procedure.

The court may order a party to attend to a notification, provided this has significant advantages for the processing. The party is in such a case entitled to compensation from public funds for expenses. The provisions contained in the second paragraph also apply when notification is given by service.

This Act enters into force on 1 January 2003.

On behalf of the Government

GÖRAN PERSSON

THOMAS BODSTRÖM

(Ministry of Justice)