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INFORMATION

**ON THE (IN)COMPATIBILITY OF THE MANDATE
OF A MEMBER OF PARLIAMENT
AND THE OFFICE OF CABINET MINISTER ACCORDING
TO THE SWEDISH CONSTITUTION**

By

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The members of the Swedish government - both the prime minister and his ministers - are usually chosen from the elected members of parliament, the Riksdag. To be a member of the Riksdag, however, is not a formal requirement. According to Chapter 6 Article 9 of the Swedish Constitution any person who has been a Swedish citizen for at least ten years may be a minister, but the constitutional principle of parliamentarism makes it practically impossible to elect a prime minister who is not a member of the Riksdag, while ordinary ministers sometimes are not members of the Riksdag. The prime minister is elected by the Riksdag and then appointed by the speaker on behalf of the Riksdag. Ministers are chosen and appointed by the prime minister.

Upon appointment of any minister Chapter 4 Article 9 paragraph 1 of the Constitution becomes applicable, which provides concerning the mandates of those ministers (the prime minister included) who are members of the Riksdag:

“During such time as a member is acting as Speaker or is a member of the Government, his mandate as a member shall be exercised by an alternate. The Riksdag may stipulate in the Riksdag Act that an alternate member shall replace a member while the latter is on leave of absence.”

Therefore, according to this provision both the prime minister and the ministers leave their parliamentary mandates upon appointment as ministers. They leave their mandates only for the time during which they are members of the government, i.e. temporarily, not definitive, and while in government, each of them is replaced by an alternate who temporarily become member of the Riksdag and as such has full member’s rights. When the prime minister or any other minister leaves his office as member of the Government, he automatically resumes his mandate as member of the Riksdag, while the alternate member at the same time leaves the Riksdag. The same rules are applicable to the Speaker of the Riksdag because of his special constitutional duties, and there are similar rules on the replacement of any other member of the Riksdag while on leave of absence in Chapter 1 Article 8 of the Riksdag Act and supplementary provision 1.8.1 to that article:

“A member of the Riksdag may be granted leave of absence from his duties after consideration has been given to the matter. If a member has been granted leave of absence for a period of at least one month, his duties shall be carried out during his absence by an alternate member.

Supplementary provision 1.8.1

An application for leave of absence from the duties of a member of the Riksdag shall state the grounds on which the application is based. The application shall refer to leave of absence for a specific period.

The application shall be considered by the Speaker, if it refers to leave of absence for less than one month, and by the Riksdag if it refers to a longer period. An application which is made during a break of more than one month in the work of the Chamber shall however be considered by the Speaker even if it refers to leave of absence for one month or more.”

Alternates are elected in general elections together with the members according to the elections laws. When an alternate has to be summoned to take up his duties this is done by the Speaker of the Riksdag according to Chapter 1 Article 9 of the Riksdag Act and supplementary provision 1.9.1 to that article:

“When an alternate member is to replace a member by virtue of a provision of the Instrument of Government or Article 8 above, the Speaker shall summon the alternate to take up his duties. In so doing it shall be incumbent upon the Speaker to observe the order of precedence between alternates set out in an act on elections for the Riksdag. The Speaker may however depart from the order thus established if special grounds so warrant.

Supplementary provision 1.9.1

An alternate member who is to take up duty as a member of the Riksdag shall receive a written warrant to this effect. This warrant shall state the name of the member whom the alternate will replace and the dates on which the appointment begins and ends. A separate paper may be issued setting out the date on which the appointment ends.

The Speaker shall notify the Chamber when an alternate replaces a member and when a member resumes his seat.”

According to the election law any alternate will always belong to the same political party as the member, he will always be elected in the same electoral district as the member, and he will always be elected on the same type of list of candidates as the member. The minimum number of alternates for any member is three and their precedence is determined by the number of votes by which they were elected. The Speaker in principle has to follow this order as established by election results and may depart from it (if special grounds so warrant) only to choose an alternate within the same group of alternates but with another precedence.

The provisions on temporary replacement of members of the Riksdag by alternates were drafted in the early 1970ies in order to amend the Constitution of 1809, which was in force until the end of 1973. As part of this reform some pieces of ordinary legislation on the matter were enacted in 1971 and 1972 and the procedure to amend the Constitution was initiated. But the amendment procedure was abandoned, when it had become obvious that the new Constitution would pass the first reading before the general election of 1973. Instead a provision was entered into the draft Constitution which later became Chapter 4 Article 9 paragraph 1. Because of these complicated legislative procedures the *travaux préparatoires* concerning the temporary replacements and alternates were not very well coordinated.¹ The *rationale* of the reform, however, was quite clearly spelled out in 1970 in a special report of the Committee which had to prepare the final draft of the new Constitution.² In this report the Committee pointed out two main arguments for the establishment of a replacement system. *Firstly*, the proposed replacement rules would help to preserve and guarantee the outcome of the latest general election concerning regional representation and representation of political parties. *Secondly*, it would improve the internal work of the Riksdag, if alternate members could carry out the workload of ordinary members who legitimately cannot participate in daily parliamentary work.

¹ Proposition 1972:66 med förslag till ändring i regeringsformen m. m., Konstitutionsutskottets betänkande 1972:30, riksdagens skrivelse 1972:204; lagen (1972:236) om ersättare för riksdagsledamöterna och lagen (1972:237) om ändring i lagen (1920:796) om val till riksdagen. – Konstitutionsutskottets betänkande med framläggande av förslag till ändring i riksdagsstadgan med anledning av ersättarreformen m. m. – Riksdagens förvaltningsstyrelses förslag (1973:18) till vissa ändringar i ersättningsstadgan för riksdagens ledamöter, Konstitutionsutskottets betänkande 1973:50, riksdagens skrivelse 1973:329, lagen (1973:1052) om ändring i ersättningsstadgan (1971:1197) för riksdagens ledamöter. – Statens offentliga utredningar 1972:15, Ny regeringsform – Ny riksdagsordning p. 138, Proposition 1973:90 med förslag till ny regeringsform och ny riksdagsordning m. m. p. 268 f.

² Statens offentliga utredningar 1970:17, Ersättare för riksdagsledamöterna, Betänkande av Grundlagberedningen, Stockholm 1970, p. 37–42.