



The "Greatest reform of Swedish employment law in modern times"



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On 8 June 2022, the Swedish parliament voted to implement significant changes to Swedish employment law. The new rules will enter into force on 30 June 2022, and shall be applied as of 1 October 2022. Eva Nordmark, Sweden's minister for Employment and Gender Equality, this is the "*greatest reform of Swedish employment law in modern times*".

Many of the changes will be implemented in the cornerstone of Swedish employment law, namely the Employment Protection Act (Sw. *Lagen om anställningsskydd*). The goal is to make the Act more flexible yet more predictable for both employers and employees. In contrast to traditional legislative products, these new amendments have been negotiated and agreed upon in principle by the Swedish employer federations on the one hand, and the trade unions on the other, and subsequently fine-tuned as part of the legislative process. The changes have been criticized e.g. for being unfairly advantageous to the labour parties and their members, providing for less flexible rules for employers not bound by any collective bargaining agreement.

In parallel to the reform above, Sweden will also implement the EU directive on transparent and predictable working conditions (Sw. *Arbetsvillkorsdirektivet*) on 29 June 2022.

We recommend all employers to familiarize themselves with the upcoming legislative changes and to ensure that their employment agreement templates and policies are aligned with the new rules. We look forward to hearing from you if you have any questions.

Significant changes to the Swedish Employment Protection Act

The changes covers a broad spectrum, from redundancy to performance terminations. The new act will make it easier for employers to safeguard key employees when making reductions in the force, enabling employers to exclude up to three persons from the selection pool in case of redundancy. Currently this possibility is only available for smaller companies, but now all companies will be able to exclude up to three persons. Employers bound by collective bargaining agreement will be able to ringfence even more employees.

Historically, employers in Sweden have struggled with terminations due to reasons relating to the employees personally (such as performance terminations), e.g. since employees merely needed to dispute the termination in order to be entitled to remain employed (with pay) throughout the court proceedings. That right will no longer apply. Instead the employee is entitled to back-pay if the claim for reinstatement is successful. The assessment of "just cause" will also become more standardized, focusing more on the act or omission as such, and less on the employee's personal situation and potential to improve going forward.

The enhancements for employers when it comes to handling its indefinite term employees is balanced with less flexibility in relation to its fixed term staff. The maximum duration of the generic fixed term employment is reduced from 24 to 12 months, and the employees will qualify for preferential treatment to other vacancies already after 9 months. Employers will also be required to offer agency employees an indefinite term employment after 24 months at the same customer site, alternatively pay the employee a fee equivalent to two months' salary.

Throughout, the new rules contains several openings for the employer federations and the trade unions to agree on different or additional regulations – e.g. on how "just cause" should be understood. However, this must be done through a centrally negotiated collective bargaining agreement, meaning that the large, national umbrella organizations needs to be involved.

EU directive on transparent and predictable working conditions

Sweden is on track with its implementation of Directive (EU) 2019/1152 on transparent and predictable working conditions and the directive will be implemented into Swedish law on 29 June 2022.

In brief, the directive significantly increases the scope of the information that employers are obliged to provide to employees at the outset of the employment. Also, instead of a unified timeline (of one month) as before, the new rules will have different deadlines for different categories of information – in some cases as short as a week.

Going forward, it will also be more difficult for employers to limit employees' rights to hold other employments in parallel unless objectively justified.

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