

Delphi

Swedish labour law – an introduction

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General Introduction

The Swedish legislation governing contracts of employment is largely mandatory in favour of the employee.

The primary source of labour law is the Employment Protection Act ("LAS"). LAS applies to almost all employment contracts in both private and public sector. Examples of contracts that are excluded from the jurisdiction of LAS are those for executives.

Due to the great importance of trade unions in Sweden, the Employment Co-Determination in the Workplace Act ("MBL") is of interest as well. The membership ratio in trade unions is at a higher level in Sweden than in most other European countries and a majority of the larger employers are bound by collective bargaining agreements. Many smaller employers are however not bound by collective bargaining agreements. At a company bound by a collective bargaining agreement, the employees and the unions have certain rights to participate and influence decisions before they are made by the employer. This applies to some extent also to companies which are not bound by collective bargaining agreements.

Contracts of employment

The normal Swedish contract of employment applies until further notice, however, fixed-term contracts may be concluded under certain circumstances.

It is possible to agree that the first six months of an employment for an indefinite term is a probation period. This is common in Sweden and a good way for the employer to find out if the employee is right for the company. During the six months' probation period the employment can be terminated by either party giving only two weeks' notice and without stating any reason for the termination.

Termination of employment

Termination of an employment, which is for an indefinite term and not during a period of probation, will be effective after a certain period of notice and may only be terminated by the employer when there are objective reasons, "just causes", for dismissal. Objective reasons will not be considered to exist where it is reasonable to require that the employer provides the employee with an alternative work in the company. The termination cannot be completed until a negotiation with the union of the employee has been held, if the employee is a member of

a union (which is the case of the majority of the Swedish employees).

Just cause may be established due to i) personal reasons or ii) shortage of work / organisational changes:

- *Personal reasons*

The personal reasons refer to the employee as an individual and must be objective and specific. It is in most cases difficult to get someone dismissed due to personal reasons and termination due to personal reasons is not common. Examples of situations where a dismissal due to personal reasons can be acceptable are theft, violence against a colleague or competition with the employer.

- *Shortage of work / organisational changes*

Redundancy is considered to be objective reasons since it is not personal and refer to financial considerations, business changes etc., which is up to the employer to decide upon. Before termination proceedings are initiated the possibilities to provide the employee with another job within the company must be examined. Other vacancies, for which the employee is sufficiently qualified, must be offered. If no other employments are available the principle of "last in first out" applies. The principle gives that, in case of redundancy, the employees with the shortest period of employment are those who will have to leave first. The order will be made only among those in the same operational unit and different prioritizing is made for white and blue collar employees if the employer is a party to a collective bargaining agreement. Employers with ten employees or less have the right to exempt two employees that the employer classifies as key employees and wishes to exempt from the order of priority.

If an employer has the right to terminate an employment of a certain employee due to shortage of work / organisational changes, this employee has priority to reemployment at the company during a nine-month period from the last day of employment.

Period of notice

The minimum period of notice for both the employer and the employee is one month.

Unless the individual employment contract or any applicable collective bargaining agreement states longer notice periods, the notice periods for termination by the employer are as follows.

<u>Number of years of employment</u>	<u>Notice period</u>
shorter than 2 years	1 month
at least 2 years but shorter than 4 years	2 months
at least 4 years but shorter than 6 years	3 months
at least 6 years but shorter than 8 years	4 months
at least 8 years but shorter than 10 years	5 months
at least 10 years	6 months

If the employment contract commenced prior to year 1997, the termination period is instead determined by the employee's age.

During the period of notice the employee is entitled to salary and all fringe benefits.

Severance payment /settlements

Swedish legislation does not stipulate any severance pay. Even so, a settlement is commonly reached if the employer wants to deviate from the "last in first out" principle or wishes to terminate an employment due to personal reasons but is unable to prove a just cause.

Summary dismissal

A summary dismissal may only be used if the employee grossly has neglected his/her obligations towards the employer. The effect of a summary dismissal is termination with immediate effect without a period of notice.

Non-competition clauses

Non-competition clauses may in some situations be justified in employment agreements. These clauses must be drafted with great care and can otherwise be declared null and void. Non-compete clauses shall include a financial compensation to the employee during the non-compete period.

Vacation and working hours

An employee is according to law entitled to 25 days of paid vacation per year. Collective bargaining agreements and individual employment agreements can entitle the employee to more vacation. In cases where it is agreed that the employee shall not be entitled to payment for overtime, the employee is generally compensated with both more vacation days (often 30 vacation days) and higher salary.

A normal working week for a full time employee in Sweden is 40 hours. Collective bargaining agreements and individual agreements can stipulate shorter work weeks.

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