

Ius Laboris Webinar

Countdown to the new Swedish employment protection law

Thursday, 15 September 2022

3:00 – 4:00pm CEST



SPEAKERS



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Agenda

- The legal changes as such
- When the changes enter into force
- What should the HR department do next?
- Questions

Termination of employment

- The employer must have "objective grounds".
- **Personal reasons**
 - Terminations due to personal reasons: misconduct, refusal to work/absence, sickness, poor performances.
- **Redundancy**
 - All other reasons not related to an individual' failure, but business-related: shortage of work, organizational changes, closure, changed business focus.

"Objective grounds" will be replaced with "objective reasons"

- **Before:** Objective *grounds* for termination
 - How will the employee manage to remain employed going forward?
- **After:** Objective *reasons* for termination
 - No actual change in redundancy situations
 - The aim is to make the assessment of terminations for personal reasons more predictable
 - Focus on how serious is the employee's breach of the employment agreement?
 - One offer to relocate is as a main rule enough

Possible to derogate in collective bargaining agreement? Yes

Redundancy and last-in-first-out

- The employer enjoys considerable freedom to terminate employments for business related reasons
- The employer must first investigate if it is possible to relocate the affected employees:
 - primarily to vacant positions within the company
 - and thereafter a seniority list; last-in-first-out
 - requirement: satisfactory qualifications
- Consultations with trade unions

Exemption to the current priority rules

- **Before:**

Possible to exempt 2 employees to the current priority rules (last-in-first-out) – if having maximum 10 employees

- **After:**

- Possible to exempt 3 employees – regardless of the size of the employer
- The employees shall be of "particular importance" for the continued work
- If an exemption has been made, the employer cannot make an exemption within three months
- **Possible to derogate in collective bargaining agreement? Yes**

Employment ends regardless of dispute

- **Before:**

Right to remain employed and receive ordinary salary and employment benefits during a dispute

- **After:**

- Employment will terminate at the end of the notice period
- It will no longer be possible to claim reinstatement during the court procedure

- **Possible to derogate in collective bargaining agreement? No**

- **Punitive damages shall be increased;**

- Summarily dismissal; from SEK 125 000 to SEK 190 000
- Termination; from SEK 80 000 to SEK 135 000

Priority list in case of reduced working hours

- **Before:**

Possible to choose whom should receive an offer to relocate

- **After:**

Employers must apply priority rules in case of a reorganization which results in reduced working hours for certain employees

- The employees must work at the same department
- And have the same working tasks
- The relocation must mean a reduction of working hours

- **The priority rule:**

- The employees with the shortest employments must be offered the least number of hours, if the number of hours are reduced as a result of a reorganization.

In case of reduced working hours

- An employee who accepts a reduced employment rate shall be entitled to a transition period.
- The transition period begins to run when the employee accepts the offer.
- The transition period corresponds to the notice period but will not be longer than three months.
- **Possible to derogate in collective bargaining agreement? Yes**

Special fixed-term employment

- **Before:** General fixed-term employment for two years

- **After:**

Special fixed-term shall turn into an indefinite term employment if being employed for more than 12 months;

1. during a five-years period; or
 2. during a period when the employee has had fixed-term employments i.e., special fixed-term employment, temporary substitute employment or seasonal work and the employment followed one another.
- Temporary substitute employment: becomes indefinite term employment after two years.

Special fixed-term employment

- If employed in special fixed-term employment for more than 9 months during the last three years; priority right to reemployment in special fixed-term employment
- The period in between the employments will be seen as period of employment, in case three or more employments during the same month
- **Possible to derogate in collective bargaining agreement? Yes**

Full-time – as a main rule

- **Before:** -
- **After:** Employments will be considered as full-time employments – in case nothing else has been agreed upon
- In case the employment is not a full-time employment; the employer shall provide reasons thereof to the employee upon request
- The information shall be given three weeks from the request was made
- **Possible to derogate in collective bargaining agreement?** No

Agency workers

- **Agency worker or not?** Employees of employed for the purpose of being hired out to customer companies, to work under their “control and management”
- **Before:** Obligation to inform about indefinite term employments at the customer company
- **After:** Agency workers must be offered an indefinite term employment when engaged by the customer for at least 24 months during a period of 36 months
- The employer may decide deadline for such offer; but it must be reasonable
- In case the agency worker accepts – the employment through the agency ceases when the employee starts the new employment
- The customer company can choose to pay a compensation (damage) of two monthly salaries instead of offering an employment
- Payment shall be made no later than when the offer should have been given
- **Possible to derogate through collective bargaining agreement? Yes.**

When does the new rules begin to apply?

- The new rules enters into force on 30 June 2022 and applies for the first time 1 October 2022
- Specific rules for general fixed-term and special fixed-term employments
- In the event of a dispute regarding a dismissal, older rules apply until 1 October 2022, if the employer has sent a request to consult or a notification regarding the indented dismissal
- In the event of dismissal due to redundancy, previous priority rules apply if the employer before 1 October 2022 has requested a consultation

Recommendations to HR

- In case bound by collective bargaining agreements; investigate any special rules that may apply
- Implement and assess current procedures in order to make sure the procedures align with law
- Assess certain rules when it comes to special fixed-term and agency workers
- Set up a process for coordination and information sharing within a legal entity, if the possibility to exempt employees from the order of priority has been used during the last three months

New information obligations

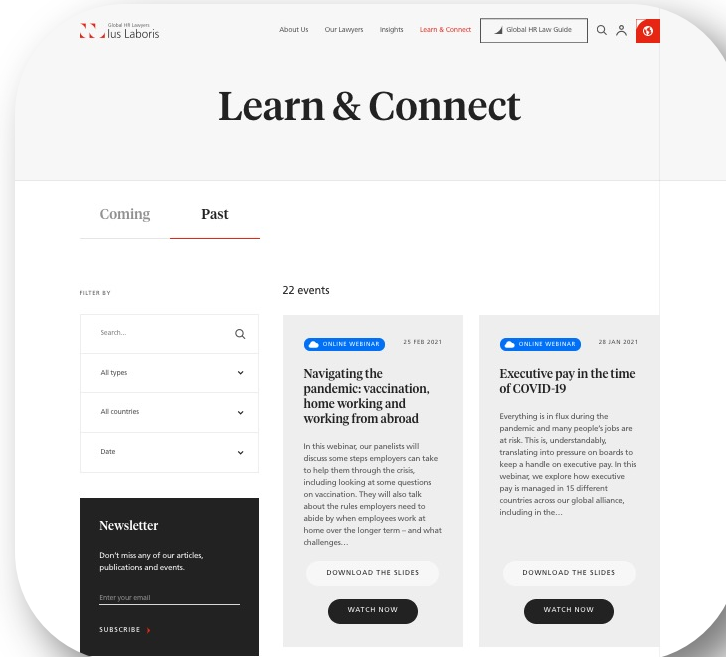
- New requirements since 29 June 2022, after which new employment contracts must be amended
- Provide written information about all conditions that are essential to the employment relationship
- The information requirements also apply to persons with a managerial position, i.e. the CEO
- The employer must for example inform about the rules that must be followed when the employment relationship is to be terminated
- May not prohibit an employee from having an employment with another employer during the employment, with some exceptions.
- [Ius Laboris information](#)

Questions

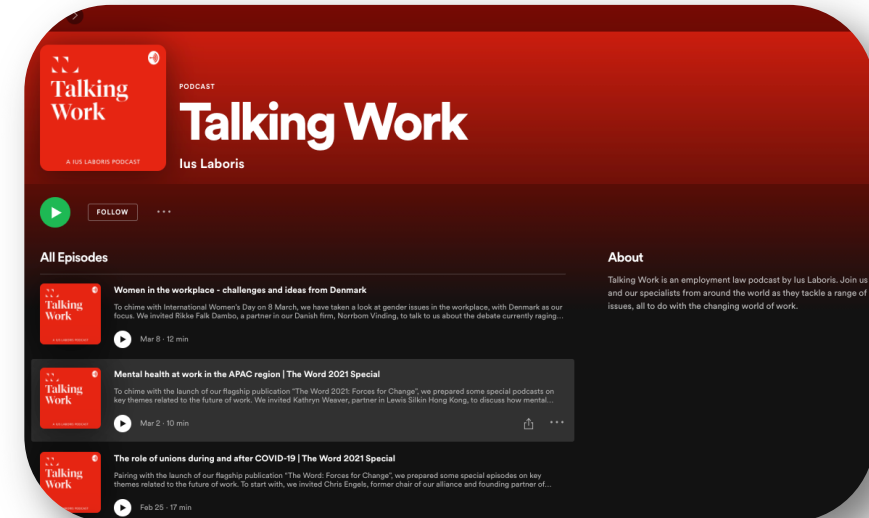


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