

Delphi

A New Labor Law Road Map

Information from Delphi's business areas **Labor Law & Insolvency**



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It is, to say the least, an overwhelming time. On 16 March 2020, the government presented a proposal for support measures to companies and employees to mitigate the effects of the corona virus. The proposal was followed on 19 March 2020, by the bill "Additional Amending Budget due to the Corona Virus".

Short-term work

One of the measures that has received the most attention is short-term work (also referred to as short-time layoffs). The proposal means that employers' salary costs can be reduced by half as the Swedish Government will bear a significantly greater responsibility for costs, compared to when the law was introduced in 2013.

The financial support shall be granted to individual employers after approval by the Swedish Agency for Economic and Regional Growth (SW: Tillväxtverket). Such approval shall only be given if the employer's financial difficulties are temporary and severe and this is caused by circumstances beyond the employer's control. Furthermore, it is required that the decline was unforeseen, and that the employer has undertaken other available measures to decrease the costs. The legislator refers to, for example, termination of probationary

employments and employments per hour as well as termination of consultant assignments.

The Swedish Government's increased responsibility for a proportion of the salary costs is limited to the months within the period of 16 March 2020 until 31 December 2020.

Furthermore, it is required that short-time work either has support in central and local collective agreement or, in workplaces where there are no collective agreements, a written agreement regarding short-time work with at least 70 percent of the employees at the operating unit.

The proposal will enter into force on 7 April 2020 but with retroactive effect as from 16 March 2020.

Alternatives to short-term work and insolvency

The system of short-term work with state support will only suit some companies, e.g. some industrial companies which will need to stop its production. Many other businesses will probably not be able to use this system and terminations of employment due to redundancy may come into question. Voluntary agreements with employees to reduce their working time (without state support) may be an option, e.g. that employees reduce their working time to 50 percent but retain 75 percent of the salary. In such cases it is,

however, important to also consider what would happen if redundancies after all would come into question and which effects such agreements may have in the event of a company reorganization or bankruptcy. Will a termination salary be calculated based on the original salary or on the new and reduced salary? The rules on state wage guarantee in the event of a company reorganization or bankruptcy mean that most employees are entitled to protection for wage claims for certain periods of time up to an amount of four Swedish Price Base Amounts (SW: prisbasbelopp), which currently corresponds to 189,200 SEK. The said amount also includes certain accrued vacation payments. Employees with a medium income, a few months' notice period and some saved vacation will quickly reach this threshold.

Terminations and the obligation to negotiate

Companies bound by collective bargaining agreements need to negotiate more significant changes in the workplace, such as restructuring and redundancies, with the relevant trade unions. Companies that are not bound by collective bargaining agreements also

have an obligation to negotiate in cases concerning redundancies. In such cases, the obligation to negotiate applies in relation to the trade union of the employee concerned. In practice, this means that an employer wanting to terminate an employment agreement first must find out whether the employee is a member of a trade union and, if so, negotiate with the trade union before the termination may be carried out.

Due to the recent significant increase in work load for the trade unions and employer organizations, they are unable to negotiate in the same way as before. In order to try to speed up the process it is important to ensure that the negotiation requests which are sent to the trade unions contain clear information on background, proposed measures and consequences and to enclose a comprehensive list of the employees stating i.a. order of priority. The more comprehensive the information given is, the quicker and easier the trade unions will be able to inform whether they wish to make use of their right to negotiate the re-organization.

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