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## **Employment issues related to COVID-19**

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### **Preamble**

This memorandum, updated as indicated above, aims to answer some frequently asked questions related to the current situation due to COVID-19. It functions as a general orientation to the subject and is not exhaustive. Legislation is subject to quick changes and information is updated on a regular basis. Thus, we recommend that no actions are taken within a certain company or organisation before a professional advisor has been consulted. If you have any questions related to the matters touched upon in this memorandum, or any other question concerning labour law, Sigeman & Co is willing to assist you.

### **New rules for short-time work allowance**

#### **Overview**

On 7 April 2020, new rules regarding short-time work allowance entered into force. In Sweden, there has been a law concerning short-time work allowance in force since 2014<sup>1</sup>, however the new rules enable employers to receive economic compensation from the State in further situations than before. New rules were on the way already before the outbreak of the COVID-19 pandemic, but the pandemic has resulted in the government speeding up the legislation process while adapting the legal framework under the current circumstances. As for the levels of compensation, these have been raised temporarily during 2020. Another difference is that during 2020, financial support may be given for short-time work related to an employee's term of notice, and to employees who are part of the employer's family.

As initially mentioned, the new rules went into force on 7 April 2020, yet the rules can be applied retroactively from 16 March 2020. In short, the new rules allow employers to temporarily reduce their employees' working hours and salaries and apply for financial support from the government that will cover a significant part of the cost for the short time work. The aim of this support is for employers to be able to retain employees during a temporary economic setback.

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<sup>1</sup> Lagen (2013:948) om stöd vid korttidsarbete.

The Swedish Agency for Economic and Regional Growth (Tillväxtverket) is the authority responsible for the short-time work allowance. Their website, [www.tillvaxtverket.se](http://www.tillvaxtverket.se), is continuously updated with information about the new rules in both Swedish and English.

The short-time work allowance programme allows employers which are granted financial support to reduce their costs for an employee with more than 50 %, with a salary ceiling of SEK 44,000 per month and employee, meanwhile the employee gets to keep more than 90 % of the salary. All employers, except for certain governmental entities, may receive support in the event of short-time work if the requirements for the support are fulfilled.

As per today, the reduction of working hours can be either 20, 40 or 60 %. If the work hour reduction is 20 %, the salary reduction shall be 4 %, if the work hour reduction is 40 %, the salary reduction shall be 6 %, and if the work hour reduction is 60 %, the salary reduction shall be 7,5 %.<sup>2</sup>

On 14 April 2020 the Government proposed a widening of the scope of the short-time work allowance, including a fourth level equivalent to an 80 % reduction of working hours and a corresponding 12 % wage reduction. The widening is proposed to go into force on 1 June 2020 and will be retroactively available from 1 May 2020 until 31 July 2020. The proposal is dependent on the Parliament's approval.

The costs for a reduction in pay and working hours are apportioned as described below, in respect of a monthly salary which does not exceed SEK 44,000 per month.

Level	Reduced working hours	Reduced wages	Employer	State	Employer costs
1	20 %	4 %	1 %	15 %	-19 %
2	40 %	6 %	4 %	30 %	-36 %
3	60 %	7,5 %	7,5 %	45 %	-53 %
4 <sup>3</sup>	80 %	12 %	8 %	60 %	-72 %

#### **Requirements to be eligible for the short-time work allowance<sup>4</sup>**

For an employer to be able to obtain financial support when applying for short time work allowance, several requirements must be met. Among these are the following:

- The employer must suffer from temporary and serious financial difficulties which could not reasonably have been foreseen or avoided. I.e. the difficulties must have been caused by something outside the employer's control.

<sup>2</sup> Please note that this level of compensation is so far only available during 2020.

<sup>3</sup> The Government's proposal as presented 14 April 2020.

<sup>4</sup> We have focused on the requirements that are in effect during 2020.

- The employer must have made use of other available measures to reduce its labour costs. Such measures may involve dismissal of staff who are not employed as permanent employees (in other words, employees with temporary employments), leased personnel and consultants if these persons are not critical to the operations of the business activities. The assessment will be made on a case-by-case basis taking the particular circumstances of the employer concerned into consideration.
- Employers that at the time of the application are under the obligation to prepare a balance sheet for liquidation purposes, undergoing restructuring, or are in bankruptcy/insolvent are ineligible to receive the support.
- The employer must neither be subject to ban on business activities (sv. näringsförbud), nor have any ongoing cases at the Swedish Enforcement Authority due to unpaid taxes or fees. If the employer is a legal person, neither the legal person, nor the natural persons controlling the business can be subject to a ban on business activity.
- The employer must have been registered as an employer in the Swedish Tax Agency's register at least from the calendar month that occurred three months before the calendar month that the Swedish Agency for Economic and regional Growth decided to grant financial support.
- The financial support must only concern employees
  - who were employed by the employer during the calendar month that occurred three months before the calendar month that the Swedish Agency for Economic and regional Growth decided to grant financial support, and who were employed at least to the same extent as the financial support encompasses, and
  - for whom the employer during the support month had to pay employer's contributions.
- Agreed reduction in working hours must be 20, 40 or 60 % and corresponding agreed wage reduction must be 4, 6 or 7,5 %. If the Parliament approves the Government's proposal regarding an 80 % reduction in working hours, agreed working hour- and wage reduction can also be 80 % respectively 12 %.

In the event the employer is encompassed within a collective bargaining agreement, the following applies:

- the possibility for short-time work must exist within the employer's central collective bargaining agreement,

- the more detailed conditions for the practice of short-time work and which employees that shall be encompassed, shall be regulated within a local collective bargaining agreement, and
- the agreed working hour- and wage reduction shall be compatible with the levels prescribed by law.

In the event an employer is not encompassed within a collective bargaining agreement, the following applies:

- the employer and the employee must have entered into a written agreement concerning short-time work. Such an agreement must have been entered into after short-time work has come into question,
- at least 70 % of the employees in the operating unit must consent to and participate in the short-time work,
- the reduction in working hours and wages that has been agreed must be the same for all participating employees within the operating unit, and
- the agreed working hour- and wage reduction shall be compatible with the levels prescribed by law.

*Please note that it is the employer that must make probable that the requirements for short-time work allowance are fulfilled. Please also be aware that the new rules contain several different requirements with regards of when the employer must take certain measures.*

#### **For how long can an employer receive economic support?**

An employer may receive the support for a period of six months, with the possibility of extension for an additional three months.

Please note that the specific short-time work allowance (i.e. the temporary higher level of economic support) that is in effect during 2020 will, unless otherwise is decided later on, only be granted for short- time work that has occurred during 2020, i.e. up to 31 December 2020. After 31 December 2020, it will still be possible to apply for short-time work allowance, but the eligible support will then be at a lower level.

After having received short-time work allowance, it is possible to apply for financial support again after a set waiting period.

#### **How to apply**

Since 7 April 2020, it is possible to submit applications via the Swedish Agency for Economic and Regional Growth's website ([www.tillvaxtvarket.se](http://www.tillvaxtvarket.se)). Detailed and updated information about the application and what information shall be included in this can be found on the website, as well as a description of the application process.

## **Follow up**

If granted preliminary financial support, every three months the employer must do a follow up on the short time work in order to see how it has actually been applied during the relevant time period in order to see if the employer needs to pay back any of the preliminary financial support (or if the employer is in fact entitled to more money). The employer needs to report back to the Swedish Agency for Economic and Regional Growth within a set time. More detailed information about this and what information such a report shall contain will be published at [tillvaxtvarket.se](http://tillvaxtvarket.se) later on. Please observe that neglecting prescribed deadlines might result in liability to repay the preliminary financial support in full.

## **Temporary abolished qualifying day, requirement for medical certificate and sick pay costs**

Since 11 March 2020, employees who are sick receive sick pay from the first sick day, without a qualifying day. Insured apply for repayment retroactively. Since the 13 March 2020, sick employees can stay home for up to 14 days without showing a medical certificate and still receive sick pay. The State will pay for all sick pay costs between 1 April and 31 May 2020. If a business is not a limited company, specific rules will apply.

## **Work from home**

The employer is responsible for the working environment regardless if employees desire to work from home or if the employer commands employees to do so. Thus, the employer might be responsible for providing adequate work equipment, such as computers, desks and appropriate lightening. The employer is also responsible for the psychosocial working environment. What actions an employer must undertake varies from case to case and depends on the circumstances (such as time frame and intensity). If the scope of distance working is substantial, the employer and the employee shall agree on applicable terms.

## **Commanded extra working hours**

Due to the current situation, some employees might have to work extra hours, including inconvenient hours such as night shifts. Even though there are regulations in regards with working hours and rest, exceptions might be justified due to the circumstances.

If an employer requires employees to work extra hours, the employer shall pay attention to and work systematically with the concerned employees' working environment, and make sure the employees get enough rest in order to cope with the situation in a longer perspective.

If the employer and an employee has agreed on hours for short-time work, the employer may not require the employee to work more than the agreed number of hours per week. The short-time work allowance is intended to support the costs the employer incurs for reduced working hours. If the employer requires the employee to work the hours which the financial support

relates to, this would be a violation of the regulations governing support, and the employer would then be required to repay the allowance.

### **Temporary reduced employer's contributions and self-employment taxes, and a proposed public loan guarantee**

On 25 March 2020 the Government announced further proposals for actions in order to reduce the impact of the crisis, primarily for smaller and medium-sized companies. Among the proposals were a temporary reduction of employer's contributions and self-employment taxes, and a public loan guarantee in order to facilitate companies' financing.

#### **Temporary reduced employer's contributions and self-employment taxes**

On 3 April the Parliament adopted the Government's proposal. The new temporary rules went into force on 6 April 2020. Under the new rules, the general payroll taxes are reduced for payouts between 1 March 2020 and 30 June 2020. During this period, employers only pay 10.21 percent, which covers the retirement fee (sv. ålderspensionsavgift). The reduction is relevant for up to 30 employees with a salary up to SEK 25 000 per employee and month. For higher salaries, the general payroll tax is the same as usual for amounts exceeding SEK 25 000.

Self-employment taxes (egenavgifter) are also reduced. During 2020, private business owners (sv. enskilda näringsidkare) and physical persons who are part-owners of trading companies (sv. delägare i handelsbolag), do not have to pay any other fee apart from the retirement fee on taxable amounts below SEK 100 000.

#### **A proposed public loan guarantee**

The proposal means that central government will guarantee 70 percent of any new loans that banks provide to companies experiencing financial difficulties due to the COVID-19 virus. The guarantee will be issued to banks, which in turn may provide guaranteed loans to companies.

The loan guarantee programme primarily targets small and medium-sized enterprises, but there is no formal size limit on companies taking part in the programme. However, a limit of SEK 75 million per borrower has been proposed. The Swedish National Debt Office (sv. Riksgälden) may grant exemptions from this limitation.

To take part in the programme, the COVID-19 virus must have adversely affected the company's finances. The Government expects that the guaranteed loans will not be used for bonuses or variable remuneration to senior management, or for profit distribution other than what is comparable with regular salary withdrawals.

Companies apply for a loan by contacting a bank. The bank then conducts the normal credit assessment. Banks that want to take part in the programme sign a guarantee agreement with the Swedish National Debt Office. The agreement covers aspects such as the guarantee fee that banks must pay, the loans concerned and other conditions. The loan is associated with regular bank interest, decided by the bank, however the borrower may defer interest payments during the first 12 months.

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