

## **SWEDEN**

### **I. Legal notice – disclaimer**

This sheet aims to provide a general overview of the main substantive rules concerning the terms and conditions of employment to be met by legislation transposing Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (OJ L 18 of 21.1.1997). By its very nature, such a sheet can only summarise and does not necessarily contain all the relevant information in this context. In no way can it replace legislative, regulatory or administrative texts, or applicable collective agreements. The information below has been provided by the authorities of the Member States, which have made every effort to ensure its accuracy. Neither the Commission nor the Member States concerned can, however, guarantee that the information provided is always precise, complete, accurate and up to date. Furthermore, publication on the portal of the European Commission does not imply in anyway that the latter or its DGs and Services consider the rules presented in this way to be in conformity with Community law.

### **II. Instrument transposing Directive 96/71/EC**

The Posting of Workers Act (SFS 1999:678) transposes Directive 96/71/EC into Sweden's national legislation.

Official publication: SFS 1999:678 (SFS = Svensk Författningssamling = the Statute Book of Sweden)

Internet links:

English: <http://www.government.se/government-policy/labour-law-and-work-environment/1999678-posting-of-workers-act/>

Swedish: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1999678-om-utstationering-av-arbetstagare\\_sfs-1999-678](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1999678-om-utstationering-av-arbetstagare_sfs-1999-678)

### **III. Information on legislation applicable in accordance with the Directive**

Information on legislation applicable to undertakings which, for a limited period of time, post workers to Sweden can be obtained at the following address:

Liaison office:

Arbetsmiljöverket (The Swedish Work Environment Authority)

SE-112 79 Stockholm

Sweden

Tel.: +46 8 730 9000

Fax: +46 8 730 1967

email: [arbetsmiljoverket@av.se](mailto:arbetsmiljoverket@av.se)

Website in English and other languages: <https://www.av.se/en/work-environment-work-and-inspections/foreign-labour-in-sweden/Posting-foreign-labour-in-sweden/>

Website in Swedish: <https://www.av.se/utstationering/>

Foreign employers are obliged to report the posting as well as a contact person to a registry in Sweden. The registry is maintained by the Swedish Work Environment Authority.

<https://www.av.se/en/work-environment-work-and-inspections/foreign-labour-in-sweden/Posting-foreign-labour-in-sweden/report-a-foreign-posting/>

Further information can be obtained from the National Mediation Office which is an authority for central government mediation activities (to mediate in labour disputes, to promote an efficient wage-formation process and to be responsible for public statistics on wages).

Website: [http://www.medlingsinstitutet.se/pdfs/pdfs\\_2005/sw\\_rules.pdf](http://www.medlingsinstitutet.se/pdfs/pdfs_2005/sw_rules.pdf)

Collective agreements can be obtained from the social partners or from their homepages, for example:

LO - The Swedish Trade Union Confederation

SE-105 53 Stockholm

Sweden

Tel.: + 46 8 796 25 00.

email: [mailbox@lo.se](mailto:mailbox@lo.se)

Website:

<http://www.lo.se/home/lo/home.nsf/unidView/E2A56001E93D5F3EC1256E760040952D>

Links to LO affiliates:

<http://www.lo.se/home/lo/home.nsf/unidView/C1A3CF1838D935F0C1256E4B0034C13E>

TCO – The Swedish Confederation of Professional Employees

Linnégatan 14

SE-114 94 Stockholm

Sweden

Tel.: +46 8 782 9100

Fax: + 46 8 663 75 20

e-mail: [info@tco.se](mailto:info@tco.se)

Website: <http://www.tco.se/>

SACO - The Swedish Confederation of Professional Associations

Box 2206

SE-103 15 Stockholm

Sweden

Tel.: + 46 8 613 48 00

Fax: + 46 8 24 77 01

email: [kansli@saco.se](mailto:kansli@saco.se)

Website: <http://www.saco.se/en/>

Svenskt Näringsliv – Confederation of Swedish Enterprise – The Swedish Association of Local Authorities and Regions

SE-114 82 Stockholm

Sweden

Tel.: + 46 8 553 430 00

Fax: + 46 8 553 430 99

email: [info@svensktnaringsliv.se](mailto:info@svensktnaringsliv.se)

Website:

[http://www.svensktnaringsliv.se/english/?jsessionid=C102999A8F9B792569D1D6E019C75205?csref=umk\\_english](http://www.svensktnaringsliv.se/english/?jsessionid=C102999A8F9B792569D1D6E019C75205?csref=umk_english)

Sveriges Kommuner och Landsting  
SE-118 82 Stockholm  
Sweden  
Tel.: + 46 8 452 70 00  
Fax: + 46 8 452 70 50  
email: [info@skl.se](mailto:info@skl.se)  
Website: <http://english.skl.se/web/english.aspx>

#### **IV. Failure to comply with the prescribed terms and conditions of employment**

Cases of failure to comply with the prescribed terms and conditions of employment in Sweden and possible cases of illegal transnational activities can be reported to Arbetsmiljöverket if they concern the working environment and working hours, to the ombudsman in the case of laws on discrimination and to the social partners which, as parties to collective agreements, check that the conditions in such agreements are applied.

Arbetsmiljöverket - The Work Environment Authority (supervises the working environment and working hours)  
Ekelundsvägen 16  
SE-171 84 SOLNA  
Sweden  
Tel.: +46 8 730 9000  
Fax: + 46 8 730 19 67  
e-mail: [arbetsmiljoverket@av.se](mailto:arbetsmiljoverket@av.se)  
Website in English and other languages: <https://www.av.se/en/>  
Website in Swedish: <http://www.av.se>

DO – The Discrimination Ombudsman (Ethnic discrimination)  
Box 3686  
103 59 Stockholm  
Sweden  
Tel.: +46 8 120 20 700  
e-mail: [do@do.se](mailto:do@do.se)  
Website: <http://www.do.se/other-languages/english-engelska/>  
For information about how the DO works see: <http://www.do.se/other-languages/english-engelska/working-life/>

The **labour market organisations**, as parties to collective agreements, check that the conditions in such agreements are applied. For contact details, see Section III.

#### **V. Situations constituting a posting [Article 1 of the Directive]**

For the purposes of the Posting of Workers Act “posting” means any of the following transnational measures:

- 1) an employer posts workers to Sweden on his own account and under his direction, under a contract concluded between the employer making the posting and the party for whom the services are intended, operating in Sweden;
- 2) an employer posts workers to an establishment or to an undertaking owned by a group in Sweden; or

3) an employer, in the form of a temporary employment undertaking or placement agency, hires out a worker to a user undertaking established or operating in Sweden.

## **VI. Posted workers [Article 2 of the Directive]**

Directive 96/71/EC applies to workers who, for a limited period of time, carry out their work on the territory of a Member State other than the State in which they normally work. The term “worker” is not defined in the labour legislation, but has been interpreted in case law. Court judgments make an overall assessment of all relevant factors, taking into account the contractual terms and the real circumstances in which the work is performed. There are “lists” of factors, which the courts regularly take into account, such as whether the party uses equipment provided by the principal, whether the work is executed under the control and leadership of the principal, etc. This applies irrespective of the person's designation in the country of origin.

An employment relationship must exist between the employer and the worker during the period of posting.

“Posted worker” means any worker who normally works in another country but, for a limited period, carries out his work in Sweden.

According to the case law of the Court of Justice of the European Communities, the temporary nature of an activity carried out on the territory of a Member State in the context of free provision of services cannot be determined abstractly but should be judged on a case-by-case basis, depending on the duration, frequency or continuity. If an occupational activity in Sweden can no longer be considered as being exercised temporarily, taking account of the above mentioned criteria, but is stable and continuous, *all* the binding rules and regulations in force in Sweden apply.

## **VII. Work periods and rest periods [Article 3(1)(a) of the Directive]**

The Working Hours Act (1982:673)

In English: <http://www.government.se/government-policy/labour-law-and-work-environment/1982673-working-hours-act/>

In Swedish: [http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/arbetstidslag-1982673\\_sfs-1982-673](http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/arbetstidslag-1982673_sfs-1982-673)

**The Working Hours Act** contains rules on how many hours an employee is allowed to work per day, per week, and per year. It regulates on call-hours and preparedness, which breaks and pauses an employee is entitled to, and the rules on night time rest. For example, employees shall have at least eleven consecutive hours of free time in every twenty-four hour period. This is referred to as the daily rest period.

Regular working hours must not exceed 40 hours per week. If the nature of the work or other working conditions makes it necessary, working hours may amount to an average of 40 hours per week for a period of no more than four weeks. Accordingly, it is possible to work more in some weeks and less in others.

At times when there is a special need for additional working hours, it is allowed to work overtime at a rate of no more than 48 hours over a period of 4 weeks or 50 hours over a calendar month. Overtime must not exceed 200 hours per calendar year.

The Working Hours Act can be set aside by a collective bargaining agreement. The collective bargaining agreement then replaces the Act in whole or in part. This means that employer's and employee's organisations can agree in a collective bargaining agreement on how they want working hours to be regulated for employees within their industry.

#### *The Swedish Work Environment Authority*

The Swedish Work Environment Authority supervises compliance with the Working Hours Act and can grant exemptions from certain provisions in the Act.

However, the Swedish Work Environment Authority does not supervise compliance with the Working Hours Act in case working hours are regulated by a collective bargaining agreement. Accordingly, the authority is unable to grant exemptions from the Act in such cases. It is then up to the employer's and employee's organisations to agree on any exemptions.

If a posted employee experiences that the employer violates the provisions of the Working Hours Act, he or she can turn directly to the Swedish Work Environment Authority. There are special provisions in the Working Hours for Certain Road Transport Work Act, the Working Time, etc. of Mobile Workers in Civil Aviation Act, and the Act on Driving Time and Rest Periods in International Rail Transport. **The Swedish Transport Agency** supervises compliance with these acts.

Contact the Swedish Transport Agency for more information:

<http://transportstyrelsen.se/en>

The Working Time, etc. of Mobile Workers in Civil Aviation Act (2005:426) can be found in Swedish: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2005426-om-arbetstid-mm-for-flygpersonal\\_sfs-2005-426](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2005426-om-arbetstid-mm-for-flygpersonal_sfs-2005-426)

The Working Hours for Certain Road Transport Work Act (2005:395) can be found in Swedish: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2005395-om-arbetstid-vid-visst\\_sfs-2005-395](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2005395-om-arbetstid-vid-visst_sfs-2005-395)

The Driving and Rest Hours in International Rail Transport Act (2008:475) can be found in Swedish: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2008475-om-kor--och-vilotid-vid\\_sfs-2008-475](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2008475-om-kor--och-vilotid-vid_sfs-2008-475)

### **VIII. Paid annual holidays [Article 3(1)(b) of the Directive]**

Sections 2, 2a, 5, 7, 16-16b, 17-17b, 24, 28-29a, 31 and 32 §§ of the Annual Leave Act (1977:480)

In Swedish: <http://www.riksdagen.se/webbnav/index.aspx?nid=3911&bet=1977:480>

Posted employees are subject to the rules on right to paid annual leave (annual leave with holiday pay).

Work on the initial assembly or installation of a product is exempted if the work takes less than eight days and is carried out by a skilled or specialised employee. This is because the employer is only obliged to apply the provisions on paid annual leave if the posting lasts for more than eight days.

For the exception to apply, it is required that the work is carried out in connection with an initial assembly or installation included in the supply contract for the product, and that it is required for the product to be usable.

When calculating whether the posting takes more than eight days, it should be considered whether any other employee has been posted in the same year for the same work.

The eight day rule exception is **not** valid if the work relates to construction operations where buildings are constructed, furnished, renovated, reconstructed, or demolished. In such cases, the provisions on paid annual leave apply to the employee from the first day of the posting.

There are additional exceptions to the right to paid annual leave, see Exceptions..., but exempted employees are entitled to compensation in lieu of annual leave, please see below.

#### *Annual leave with holiday pay*

The number of days of annual leave with holiday pay (paid annual leave) that a posted employee is entitled to depends on how long the employee has been employed. When calculating the number of days of annual leave with holiday pay, the number of days when the employee was absent without pay are deducted. However, absence due to holidays, sick leave, parental leave or similar are not deducted, as such days entitle the employee to annual leave with holiday pay.

#### *Calculation of holiday pay*

There are two ways for an employer to calculate holiday pay; according to the same pay rule or according to the percentage rule. These rules are found in Sections 16 – 16b of the Annual Leave Act, and have partially been renewed since 1 April 2010. The percentage rule was already in use and stipulates that the holiday pay amounts to twelve per cent of the employee's earned salary. This provision has been supplemented with the 'same pay rule', which is based on the annual leave provisions found in collective bargaining agreements. This means that the employee receives his or her regular salary, as well as holiday supplements, during their holiday.

#### *Shorter employment*

It is possible to waive the right to paid annual leave with holiday pay for employees who are employed for a shorter period than three months, and who do not exceed this period. In these cases, the employees are entitled to payment in lieu of annual leave.

#### *Payment in lieu of annual leave*

An employee who is not entitled to paid annual leave due to any of the exceptions above, or who ceases to work for the employer without having received any accrued holiday pay, is entitled to an extra payment as compensation for the missing holiday pay, so-called payment in lieu of annual leave.

The payment in lieu of annual leave is calculated in the same manner as the holiday pay

#### *Damages*

An employer in breach of the rules in the Annual Leave Act may become liable for damages to the employee.

## **IX. Pay [Article 3(1)(c) of the Directive]**

In Sweden, minimum rates of pay are not regulated by law, but by collective bargaining agreements.

The parties in the collective bargaining agreement are responsible for the contents of and compliance with this agreement, and this also relates to pay. In Sweden, the Government is not involved in the supervision of the terms of pay. Instead, any minimum rates of pay in a specific industry are subject to negotiations between the employee's organisations and the employers and employer's organisations. It is up to those organisations to make sure that the provisions in a collective bargaining agreement are abided.

### *Minimum rates of pay for posted employees*

Since there is no Swedish law regulating the minimum rates of pay, there are no special rates of pay that automatically apply to posted employees. Minimum rates of pay are instead found in the Swedish collective bargaining agreements, whose contents differ depending on the industry.

Swedish employee's organisations negotiate with posted employers to make them sign Swedish collective agreements with their employees. In addition, foreign companies can, of course, become members of Swedish employer's organisations, and that way become bound to Swedish collective bargaining agreements.

These organisations may use industrial action against employers in order to make them sign collective bargaining agreements with their employees. There are, however, certain limitations to the right to use industrial action.

- First of all, the demanded conditions are to be minimum conditions in a central Swedish trade agreement (an agreement that generally applies to a certain industry throughout the country)
- Secondly, the conditions must regard holidays, working hours, wages and similar
- Finally, the terms in the agreement must be better than those already stipulated by Swedish law

An employee's organisation may not use industrial action to achieve a Swedish collective bargaining agreement if the employer can prove that the employees are already covered by terms that are as good as those in central Swedish trade agreements.

The Swedish Work Environment Authority may provide further information on which collective bargaining agreements and minimum rates of pay are applicable to a specific industry. That is possible when the employee's organisations have sent their collective agreements to the authority. It is however preferable to turn directly to the employer's and employee's organisations for answers.

For further reading on the Swedish Work Environment Authority and on the employer's and employee's organisations, please see section III.

## **X. Rules concerning hiring-out of workers and terms and conditions which apply to temporary workers [Articles 3(1)(d) and 3(9) of the Directive]**

Sections 4, 6 and 7 of The Private Employment Agencies and Temporary Labour Act (1993:440)

In Swedish:

[https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1993440-om-privat-arbetsformedling\\_sfs-1993-440](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1993440-om-privat-arbetsformedling_sfs-1993-440)

An employee must not be barred from being taken on by a customer for whom he or she is working or has worked. An employee who has given notice and then become employed by a private employment agency must not be hired back to his previous employer earlier than six months after the employment ceased.

A private employment agency must not accept or require compensation from a job applicant.

## **XI. Health, safety and hygiene at work [Article 3(1)(e) of the Directive]**

The Work Environment Act (1977:1160) and the Work Environment Ordinance contain certain supplementary rules issued by the Government.

In English: <http://www.government.se/government-policy/labour-law-and-work-environment/19771160-work-environment-act-arbetsmiljologen/>

In Swedish: <https://www.av.se/arbetsmiljoarbete-och-inspektioner/lagar-och-regler-om-arbetsmiljo/arbetsmiljologen/?hl=arbetsmiljologen>

The Work Environment Act sets the framework for provisions issued by the Work Environment Authority. These contain more detailed specifications and obligations concerning the working environment. For example, they can cover risks of particular kinds, mental and physical loads, dangerous substances or machinery. The provisions are worked out in collaboration with the parties active on the labour market.

The provisions can be found at:

Not all these provisions are yet available in English. They can be found in Swedish at: <https://www.av.se/arbetsmiljoarbete-och-inspektioner/publikationer/foreskrifter/>

and in English at: <https://www.av.se/en/work-environment-work-and-inspections/publications/>

Here you can read more about how to improve the work environment:

<https://www.av.se/en/work-environment-work-and-inspections/publications/brochures/guide-to-improving-the-work-environment-adi-683eng-brochure/>The main responsibility for the working environment lies with the employer, who, for example, must take all measures needed to prevent exposure of employees to the risk of ill health or accidents at work. Employers must systematically plan, direct and control activities in a manner which leads to the working environment meeting the requirements of the Act and of the provisions issued by the Work Environment Authority.



In addition, the Act imposes responsibility on persons hiring out labour. This applies when, in return for payment, an employer places labour at a client's disposal for work connected with the client's activity. The workers are managed and directly supervised by the client. The person hiring out the labour bears the same responsibility as an employer and is duty-bound to find out what the working environment is like at the place to which the employees are sent.

At most joint worksites, there is special responsibility for coordination, as well as the employer's responsibility. On construction sites this responsibility lies with the developer. At permanent worksites, it lies with the business or suchlike controlling the site.

The Act lays down that anyone manufacturing, importing, selling or renting out a machine or other technical equipment must ensure that it affords adequate security against ill health and accidents.

If, in the course of its supervisory activity or in any other way, the Work Environment Authority finds that an employer is breaching the Act or a provision the Authority will ensure that the deficiencies are rectified. The Work Environment Authority can issue an injunction to take a certain measure, such as improving ventilation. The Authority can also prohibit, for example, use of a certain machine or facility or a certain activity unless the machine is fitted with a guard, the facility repaired or other specified measures are taken. Any party failing to comply with such an injunction or prohibition can be punished. The Work Environment Authority can also impose a set fine in the event of non-compliance with an injunction or prohibition. In this case, the fine takes the place of a penalty.

If an employer or any other party with a safety obligation fails to comply with an injunction or prohibition, it can be liable to a penalty in the form of a fine or imprisonment. A penalty can be imposed whether the crime was committed deliberately or through negligence.

## **XII. Rules concerning terms and conditions of employment of pregnant women and women who have recently given birth [Article 3(1)(f) of the Directive]**

Sections 2, 4(1) and 16-22 of the Parental Leave Act (1995:584) confer a right to maternal leave, transfer and employment security.

In Swedish: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/foraldraledighetslag-1995584\\_sfs-1995-584](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/foraldraledighetslag-1995584_sfs-1995-584)

Under Section 4 of the Parental Leave Act, a female employee is entitled to full leave in connection with her child's birth during a continuous period of at least seven weeks prior to the estimated time of delivery and seven weeks after the delivery. If she is not on leave for another reason, it is obligatory to take two weeks of this maternity leave during the period prior to or after delivery.

Furthermore, an employee may not be given notice of termination or be summarily dismissed solely on the basis of the employee's request for, or use of, leave provided for in this Act. Any employee who requests or exercises her right to leave may not be required, for this reason alone, to accept any other reduced employment benefits, less favourable working conditions than those necessitated by the leave, or any transfer other than provided for in the context of the contract of employment and which is necessitated by the leave.

An employee who is expecting a child, has recently given birth to a child or is breastfeeding is entitled to be transferred to other work while retaining her employment benefits, provided she has been prohibited from continuing her regular work in accordance with a regulation issued under the Work Environment Act or the Ship Safety Act.

An employee who is expecting a child and, as a result, cannot carry out physically demanding duties is entitled to be transferred to other work while retaining her employment benefits. This right applies with effect from and including the sixtieth day prior to the estimated date of delivery.

The abovementioned rights to transfer apply only to the extent that the employer can be reasonably required to provide the woman with other work within the activity. If such a transfer is impracticable, the woman is entitled to leave insofar as is necessary to protect her health and safety.

Any person who wishes to exercise her abovementioned rights to transfer must give notice thereof to the employer.

Any employer who violates this Act must pay damages for any losses suffered and for any infringement that occurred.

### **XIII. Rules concerning terms and conditions of employment of children and young people [Article 3(1)(f) of the Directive]**

Chapter 5 of the Work Environment Act (1977:1160).

In English:

<http://www.government.se/government-policy/labour-law-and-work-environment/19771160-work-environment-act-arbetsmiljolagen/>

In Swedish: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/arbetsmiljolag-19771160\\_sfs-1977-1160](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/arbetsmiljolag-19771160_sfs-1977-1160)

Any person under the age of 18 is a minor. Minors may not be employed before the calendar year in which they are 16 and must have completed their compulsory schooling. This applies both to minors working as an employee and to minors working as an entrepreneur or in a family business. However, minors aged 13 or over may do light work which is not harmful to their health, development or schooling.

The Work Environment Authority can issue provisions making further exceptions to the 13-year rule, but only for very light work which would otherwise involve major implementation problems. The Authority can also issue provisions imposing conditions on, or totally prohibiting, employment of minors for work which entails substantial risks.

Furthermore, the Work Environment Authority is empowered to issue provisions on medical examinations for minors where necessary. The Authority can also issue provisions on the length and organisation of minors' working hours.

#### **XIV. Equality and non-discrimination [Article 3(1)(g) of the Directive]**

Sections 2 through 7 of the Prohibition of Discrimination against Part Time and Temporary Employees Act (2002:293)

In English: <http://www.government.se/government-policy/labour-law-and-work-environment/2002293-prohibition-of-discrimination-of-employees-working-part-time-and-employees-with-fixed-term-employment-act/>

In Swedish: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2002293-om-forbud-mot-diskriminering-av\\_sfs-2002-293](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2002293-om-forbud-mot-diskriminering-av_sfs-2002-293)

Chapter 1 sections 4,5; chapter 2 sections 1 through 4 and 18, and chapter 5 sections 1, 3 of the Discrimination Act (2008:57)

In English: <http://www.do.se/other-languages/english-engelska/>

In Swedish: <http://www.do.se/lag-och-ratt/diskrimineringslagen/>

The Discrimination Act contains provisions intended to counteract discrimination and promote equal rights and opportunities for all people.

The Discrimination Act prohibits discrimination. In short, the prohibition means that it is not allowed to treat a person unfairly, if the unfair treatment is connected to any of the following grounds of discrimination:

- sex,
- transgender identity or expression,
- ethnicity,
- religion or other belief,
- disability,
- sexual orientation, or
- age.

It is prohibited to harass or sexually harass someone. Harassment is behaviour that violates a person's dignity and is connected to any of the above grounds for discrimination. Sexual harassments refer to conduct of a sexual nature that violates a person's dignity.

##### *Prohibition against discrimination at work*

An employer is not allowed to discriminate against

- an employee,
- a job applicant,
- a trainee or applicant for a trainee position,
- a person who is available to carry out or who is carrying out work as a temporary or borrowed worker.

The prohibition does not preclude differential treatment if this is suitable and necessary to achieve certain acceptable objectives listed in the Act, such as measures (relating to other areas than pay and terms of employment) that are part of efforts to promote equality between men and women.

### *An obligation to investigate and take measures against harassment*

If an employer becomes aware that an employee perceives that he or she has been subjected to harassment or sexual harassment in connection with the work, the employer is obliged to investigate the circumstances surrounding the alleged harassment. The employer is further obliged to take any measures that can reasonably be expected in order to prevent future harassment. This obligation also applies in the relationship with those who carry out work as temporary or borrowed workers.

### *Prohibition against reprisals*

An employer must not subject an employee to reprisals on the grounds that the employee has

- reported or called attention to the fact that the employer has acted in contravention of the law,
- participated in an investigation under the Act,
- rejected or given in to harassment or sexual harassment on the part of the employer.

The prohibition also applies to job applicants, applicants for trainee positions, or those who are available to carry out or who are carrying out work as temporary or borrowed workers.

### *Compensation*

Breaches of this Act may cause the employer to be liable for compensation to the offended person.

### *Prohibition of Discrimination of Employees Working Part Time and Employees with Fixed-term Employment Act*

The discrimination legislation also includes the Prohibition of Discrimination of Employees Working Part Time and Employees with Fixed-term Employment Act.

### *The Equality Ombudsman*

The Equality Ombudsman (DO) supervises the compliance with the discrimination legislation.

Reports on discrimination can be submitted to DO. This is free of charge. If DO considers that a person has been discriminated against, DO represents the person if the case goes to court.

DO provides information on the meaning of the discrimination legislation and can advise on how to make a complaint about discrimination.

## **XV. Terms and conditions of employment concerning other matters** **[Article 3(10) of the Directive]**

Posted employees are subject to certain provisions in the **Employment (Co-Determination in the Workplace) Act**. The terms are explained below.

The **right of association** means the right to belong to an employee's organisation, to exercise the rights of membership, and act for the organisation. The right of association must not be infringed. This means that an employee must not be made to suffer any damage (for example, have his or her employment terminated) as a result of exercising his or her right of

association. Furthermore, the employee must not be made to suffer any damage with the intention on preventing him or her to exercise the right of association.

The **right of negotiation** regulates the rights of employee's organisations to negotiate with the employer and any potential employer's organisation that the employer is a member of, with regard to issues concerning the relationship between an employee (who is or has been a member of the organisation) and the employer.

If a collective bargaining agreement has been concluded between the employer and a Swedish employee's organisation, then **labour stability obligations** apply to the relationship between those parties. They must refrain from industrial action (such as strikes) against the other party for the duration of the collective bargaining agreement.

Breaches of the provisions on the right of association, the right of negotiation, and the labour stability obligations may cause liability for damages.

### *Swedish employment law*

Swedish employment law is regulated in legislative acts, collective bargaining agreements, and individual employment agreements.

Certain provisions are peremptory, whereas others can be waived by agreement. The latter means that it is possible to deviate from a legislative provision by collective bargaining agreements and, in some instances, by other agreements. In Sweden, collective bargaining agreements are very common and cover a large part of the employment market.

There are local and central collective bargaining agreements. A collective bargaining agreement can be concluded with an employer or employer's organisation as one party and an employee's organisation as the other party.

The parties in an individual employment agreement are the employee and the employer. An employment agreement may contain provisions from legislation and collective bargaining agreements as well as additional terms and conditions.

### *Collective bargaining agreements*

A collective bargaining agreement is a written agreement. It may contain terms of employment (including pay, annual leave, and working hours) as well as other provisions that govern the relationship between the employer and the employee (subject to negotiation).

A collective bargaining agreement is a complement to the legislative acts and may even replace them, provided this is allowed according to law.

Only certain parties can conclude a collective bargaining agreement. On the employer side, the concluding party can be either an individual employer or an employer's organisation. On the employee side, however, employee organisations are the only possible party of a collective bargaining agreement.

Even though an individual employee cannot be party to a collective bargaining agreement, the employee will be bound by the agreement if he or she is a member of an employee's organisation (trade union). For example, a collective bargaining agreement does not only bind the actual parties to the agreement, but also the members of the organisation that concluded

the agreement. This is the case regardless of whether a member joins the organisation before or after the conclusion of an agreement.

If an employer who is bound by a collective bargaining agreement enters into an agreement that contravenes the provisions in the aforementioned agreement, the employer can become liable for damages to the other party in the collective bargaining agreement.

According to some legislative provisions, including the Annual Leave Act and the Employment Protection Act, an employer who is bound by a collective bargaining agreement is also entitled to apply the collective bargaining agreement to employees who are not members of the employee's association that concluded the agreement, and who are not bound by any other collective bargaining agreement.

As long as the agreement is in force, labour stability obligations typically apply to the concluding parties and their members. This means that they are prevented from taking industrial action, such as strikes, against each other.

#### *Local collective agreements*

Local collective agreements are agreements between an employer who is not a member of an employer's organisation, and an employee's organisation. This agreement is not an actual collective bargaining agreement, but an agreement to apply provisions of a certain collective bargaining agreement to the employees.

Local collective agreements between trade unions and foreign companies are common in Sweden.

For more information about local collective agreements, please contact the relevant employee's organisation. Read more about these organisations, section III.

#### *Industrial action*

The most common forms of industrial action include stoppages of work (lockouts and strikes), blockades, and boycotts.

If there is no collective bargaining agreement in force; employers, employer's organisations, and employee's organisations can give notice of and engage in industrial action to exert pressure on the other party to sign a collective bargaining agreement.

Industrial action must not be taken against companies without employees. It must also not be used against companies where the person running the business or the family of the person running the business are the sole employees and sole owners.

A decision to take industrial action must follow the proper procedures – in accordance with the statutes of the organisation - to be legal, and such action must not be taken if labour stability obligations are in force between the conflicting parties.

Third party organisations are allowed to take sympathetic industrial action, such as lockouts, to support a party in a conflict.

### *The Laval judgement*

At the end of 2007, the European Court of Justice ruled on the ‘Laval’ case. Due to this judgement, a number of legal amendments have been made in Sweden. These amendments came into force on 15 April 2010.

### *Industrial action for posted workers*

The new Section 5 of the Foreign Posting of Employees Act was introduced after the Laval judgement. This section clarifies when it is allowed to take industrial action against posted employers. In general, these industrial actions may only be taken if the demanded terms of employment are also found in a central collective bargaining agreement that applies to a specific industry throughout Sweden (for example, the construction industry). Furthermore, the terms may only concern minimum rates of pay and other factors listed in Section 5 of the Foreign Posting of Employees Act. Finally, the conditions in the collective bargaining agreement must be better than those stipulated by law.

In addition to this, employers have another way of protecting themselves against industrial action, namely to prove that the employees already have conditions on par with those demanded. The employer may be required to show documentation or similar evidence to certify that this really is the case.

Employee’s organisations are to submit to the Swedish Work Environment Authority the conditions in the collective bargaining agreement that they will demand by use of industrial action. The Swedish Work Environment Authority can provide information about the content of the demands.

## **XVI. Procedural and administrative requirements**

None.

## **XVII. Mediation mechanisms in case of conflict**

The National Mediation Office is an agency for central government mediation activities. Its tasks are to mediate in labour disputes, to promote an efficient wage-formation process and to be responsible for public statistics on wages.

Further information can be found at: <http://www.mi.se/>

The National Mediation Office (Medlingsinstitutet)

Box 1236

SE-111 82 Stockholm

Sweden

Tel.: +46-8-545 292 40

Fax: + 46-8-650 68 36

e-mail: [info@mi.se](mailto:info@mi.se)

Website: <http://www.mi.se/>

## **Labour market organisations**

For contact details, see Section III.

## **XVIII. Information on judicial enforcement procedures**

Information on possible judicial remedies in Sweden can be obtained from the following addresses:

Arbetsdomstolen – The Swedish Court of Labour

Box 2018

SE-103 11 Stockholm

Sweden

Tel.: + 46 8 617 66 00

Fax: + 46 8 617 66 15

e-mail: [kansliet@arbetsdomstolen.se](mailto:kansliet@arbetsdomstolen.se)

Website: <http://www.arbetsdomstolen.se/pages/page.asp?lngID=7&lngLangID=1>

DO – The Discrimination Ombudsman (Ethnic discrimination)

Box 3686

103 59 Stockholm

Sweden

Tel.: +46 8 120 20 700

e-mail: [do@do.se](mailto:do@do.se)

Website: <http://www.do.se/other-languages/english-engelska/>