

Swedish Code of Statutes



Swedish Code of Statutes 2012:854

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Non-official translation

Agency Work Act;

issued on 6 December 2012.

In accordance with a decision¹ by the Riksdag, the following is enacted².

Introductory provisions

Section 1 This Act applies to workers who are employed by temporary-work agencies for the purpose of being temporarily assigned to work for a user undertaking under the latter's supervision and direction.

Section 2 An agreement that restricts the rights of a worker under this Act is null and void, unless otherwise stated in Section 3.

Section 3 Deviations from Section 6 may be made through a collective agreement concluded or approved by a central employee organisation, on the condition that the agreement respects the overall protection of workers within the meaning of Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work³.

Section 4 An employment agency that is bound by a collective agreement under Section 3 may also apply the agreement to a worker who is not a member of the employee organisation that concluded the agreement. This applies on the condition that the worker is engaged in the kind of work to which the agreement refers and is not covered by any other applicable collective agreement.

Definitions

Section 5 In this Act the following terms have the meaning set out in this Section:

1. *temporary-work agency*: any natural or legal person who employs temporary agency workers in order to assign them to user undertakings to work under their supervision and direction;

¹ Government Bill 2011/12:178, Committee Report 2012/13:AU5, Riksdag Communication 2012/13:53

² Cf Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work, OJ L 327, 5.12.2008, p. 9 (Celex 32008L0104).

³ OJ L 327, 5.12.2008, p. 9 (Celex 32008L0104).

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2. *user undertaking*: any natural or legal person for whom, and under the supervision and direction of whom, a temporary agency worker works temporarily; and

3. *basic working and employment conditions*: conditions laid down in collective agreements or other binding general provisions in force in the user undertaking relating to:

- a) the duration of working time, overtime, breaks, rest periods, night work, holidays or public holidays;
- b) pay;
- c) protection for children and young people, pregnant women, new mothers and breastfeeding women; or
- d) protection against discrimination on grounds of gender, transgender identity or expression, ethnic origin, religion or other belief, disability, sexual orientation or age.

Obligations of the temporary-work agency

Equal treatment

Section 6 A temporary-work agency shall, for the duration of the worker's assignment at a user undertaking, guarantee the worker at least the same basic working and employment conditions as would apply if they had been recruited directly by that undertaking to carry out the same job.

Section 7 The equal treatment requirement in Section 6 does not apply to workers employed through special employment support, in sheltered employment or in development employment.

Section 8 The equal treatment requirement in Section 6 in relation to pay does not apply to workers who have a permanent contract and receive pay between temporary assignments.

Other obligations of the temporary-work agency

Section 9 A temporary-work agency shall not, through conditions in agreements or in any other manner, prevent a worker from accepting employment with a user undertaking for which he or she is working or has worked.

Section 10 A temporary-work agency shall not request, lay down in an agreement or receive from a worker any remuneration in exchange for arranging for them to be placed at a user undertaking, or because a worker concludes a contract of employment with a user undertaking for which he or she is working or has worked.

Obligations of the user undertaking

Section 11 A user undertaking shall give a worker working at the user undertaking access to collective facilities and amenities under the same conditions as workers employed directly by the undertaking, unless there are special reasons to the contrary.

Section 12 A user undertaking shall inform workers at the undertaking of any vacant permanent positions and probationary employment at the undertaking. Such information may be provided by being made generally available in the workplace.

Damages

Section 13 A temporary-work agency that breaches Section 6, 9 or 10 shall pay damages to the worker for the loss incurred and for the violation that has occurred.

Section 14 A user undertaking that breaches Section 11 or 12 shall pay damages to the worker for the loss incurred and for the violation that has occurred.

Section 15 Damages can be reduced or cancelled if it is reasonable to do so.

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Statute of limitations

Section 16 If action for damages on grounds of a breach of Section 6 is to be brought concerning holiday, the claim must be brought within two years of the end of the holiday year in which the worker should have received the benefit to which the action refers.

If action for damages on grounds of a breach of Section 12 is to be brought, the claim must be brought within four months of the worker becoming aware that a person was employed to fill the vacant position, but no later than two years after the date of employment.

For matters concerning other damages claims under this Act, Section 64, first paragraph and Sections 65 and 66 of the Act on Codetermination at Work (1976:580) apply with regard to the time limit within which a negotiation shall be requested or an action brought. If a negotiation is not requested or an action brought within the prescribed time, the right to a negotiation or to bring an action is lost.

Legal proceedings

Section 17 Cases between workers and temporary-work agencies or between workers and user undertakings concerning the application of this Act shall be dealt with in accordance with the Labour Disputes (Judicial Procedure) Act (1974:371). When applying that Act, the provisions for workers and employers apply in disputes between a worker and a user undertaking.

This Act enters into force on 1 January 2013.