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# COVID-19 and Labour Law: Sweden

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### Abstract

The Swedish approach has been to put social distancing and less public activity in place without closing businesses and public services. To counteract the economic effects for workers, adjustments have been made in the unemployment benefit, sickness benefit and an enforced system for part time furlough has been put in place. Parents receive parental leave benefits for staying home with sick children according to the ordinary system.

**Keywords:** Covid-19; Labour Law; Furlough; Unemployment benefits; Precarious workers.

In order to combat the spreading of the Covid-19 virus, Sweden has mainly used measures based on recommendations and not prohibitions connected to legal sanctions. The country is not on lockdown. Public meetings and events with more than 50 people are, however, forbidden and sanctioned with fines or imprisonment depending on the severity<sup>1</sup>. Public meetings and events include amongst other activities demonstrations, lectures, religious meetings, theatre, cinema and other cultural events, sport events, markets and fairs<sup>2</sup>. Restaurants, bars, stores and supermarkets have received specific guidelines in order to reduce potential crowding but remain open<sup>3</sup>.

The Public Health Agency has issued several recommendations to the public and, as mentioned above, guidelines for specific sectors<sup>4</sup>. Workers that have any kind of symptoms shall stay at home. If possible, work shall be organised so it can be done from home. Unnecessary travels shall be avoided, and all workplaces shall be adapted in order to ensure social distance and good hygiene. Social distancing shall in general be practiced and enabled by employers, business owners and public institutions.

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<sup>1</sup> SFS 2020:162. The decision was made through a change in the Government regulation connected to the Public Order Act (*ordningslag* (1993:1617)), meaning that only a decision by the Government was needed and not one by the Swedish Parliament.

<sup>2</sup> The definition is found in the Public Order Act chapter 2 section 1–3.

<sup>3</sup> HSLF-FS 2020:9 General regulations and recommendations regarding restaurants, cafés etc.

<sup>4</sup> HSLF-FS 2020:9 and HSLF-FS 2020:12 General regulations and recommendations regarding the responsibility to prevent infection. There are more recommendations, some regarding specific issues and some that have been updated in the two above.

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The approach in Sweden is that to a large extent continue having an open society but with less activity. Both the prohibition and the guidelines have meant that many actors have reduced and some ceased their activities, especially within the hotel, restaurant and travel sectors. The same goes for industries that are dependent on global supply chains, which are most manufacturing industries. This of course have had an impact on employment in Sweden. The number of notices of dismissal (*varsel*) has increased and is above the numbers presented during the Swedish financial crisis in the 1990s and during the financial crisis in 2008<sup>5</sup>. A notice does not need to be converted into an actual dismissal, but the number of unemployed registered at the Swedish Public Employment Office is high and it is fair to say that the risk for increased unemployment is imminent. Together with the National Institute of Economic Research's (*Konjunkturinstitutet*) analysis that Sweden is facing a deep recession there are clear indications that more dismissals will follow<sup>6</sup>.

Workers with fixed-term contracts, casual workers or other precarious contracts are already affected to a large extent. In 2017, approximately 760 000 persons worked on fixed-term contracts and about 210 000 of them did not have fixed working hours and was called when needed<sup>7</sup>. The largest group of workers without fixed working hours are found in the health and care sector, where there is an increased need. However, second, third and fourth you find financial services, retail, hotels and restaurants. Workers in these sectors were the first to notice a drop in demand and many have lost their income.

The Swedish government have issued several labour market measures directed both towards workers and businesses. In order to secure jobs and reduce the amount of dismissals, the Parliament has decided to enforce the Short Time Work Allowance Act (*lag (2013:948) om stöd vid korttidsarbete*) which makes it possible for employers part time furlough instead of dismissing workers<sup>8</sup>. The state will cover the majority of the costs and the rest is divided between the employer and the employee. The employer will take a larger responsibility than the employee. The maximum reduction is 60 percent of the working time, meaning that the worker will be at the employer's disposal 40 percent. The worker will receive 92,5 percent of the his or her ordinary salary and the employer will get reduced employment costs with 52,5 percent<sup>9</sup>. The rules are a bit complicated and work differently depending on if the employer is bound by collective agreement or not.

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<sup>5</sup> The Swedish Public Employment Service, press conference the 6<sup>th</sup> of April 2020.

<sup>6</sup> Analysis of the state of the market, April 2020

<sup>7</sup> Swedish Government Official Report 2019:5, p 231.

<sup>8</sup> Government Bill 2019/20:132 and 2019/20:FiU51.

<sup>9</sup> The 14<sup>th</sup> of April, the Government proposed an enforcement of the newly adopted rules. According to the latest proposal the maximum reduction of working time would be 80 percent, the worker would receive 88 percent of his or her ordinary salary and the employer would get reduced employment costs with 72 percent. It is very likely that the new proposal will be adopted.

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In case of unemployment the Government has proposed lighter requirements for unemployment benefits<sup>10</sup>. The changes are made within the ordinary system which is organised to give strong incentives to find a new job. It also requires a fairly strong connection to the labour market in order to receive benefits. The changes are connected to these requirements and are presented below.

Normally, the unemployed needs to show that he or she is actively searching for a job by sending in an activity report. This requirement is temporarily removed.

The connection to the labour market is upheld through the ‘work requirement’ and is based on the amount of hours worked before unemployment. The Government has lowered the amount of hours that a unemployed need to have worked before the unemployment from 80 hours a month during six months to 60 hours a month during the same time period<sup>11</sup>.

The Swedish unemployment benefit is organised according to the Ghent system, meaning that in order to receive income-based benefits you need to be member of an unemployment benefit fund. Normally, twelve months membership is required but during the time period March to December 2020 each month shall count as four months, so that the qualification period is reduced to three months.

The amounts in both the basic benefit and the income-based benefit have been raised. The basic benefit is a fixed amount that everyone that fulfils the ‘work requirement’ can receive. It has been raised from 365 to 510 SEK a day. The income-based benefit is calculated on the income but only up to a certain ceiling. Income above that ceiling is not taken into account. The ceiling has been raised from 910 to 1200 SEK a day.

Finally, the initial qualifying period have been temporarily removed which means that the unemployment benefits will be calculated and received from day one instead of day seven. There is also a proposal for making it easier for entrepreneurs to receive unemployment benefits while their companies are dormant<sup>12</sup>.

The measures directed to workers are combined with other, often more costly measures, to ensure companies’ survival such as lowered social fees, subsidised rents, respite for tax payments and facilitated loans.

As mentioned above, everyone that has the possibility to work from home are encouraged to do so. Meetings shall be held digitally when possible and workplaces adapted to reduce the risk of infection<sup>13</sup>. Since not everyone has the possibility to work from home public transport shall be kept according to ordinary schedule. Examples of adapting workplaces are: Ensure that it is possible to wash hands frequently, only allow people to enter buses through the back doors and not sit in the front to ensure the bus drivers’ safety

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<sup>10</sup> Government Bill 2019/20:146.

<sup>11</sup> There is an alternative calculation that has been lowered from 480 hours in total during six consecutive months to 420 hours.

<sup>12</sup> Today’s regulation demands that the company is phased out for the entrepreneur to receive benefits.

<sup>13</sup> HSLF-FS 2020:12 General regulations and recommendations regarding the responsibility to prevent infection.

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and in general reduce the amount of people in vehicles, super markets or other business where workers need to be on site in order to perform work.

If a worker gets sick, even with minimum symptoms, he or she shall stay at home. Sick workers can receive sickness benefits and some changes have been made in the ordinary system<sup>14</sup>. The qualifying period of one day has been subsidised with a flat sum of 700 SEK independent of income, meaning that the state compensates for that day, completely or partly depending on income. Normally, the worker needs to present a doctor's certificate after a week of sickness. That requirement is temporarily removed.

In Sweden, only higher education from high schools to universities is held digitally. Day care and the nine-year compulsory schools are open. However, children that show even the slightest symptom of sickness shall stay at home. The parent that stays at home with a sick child receives parental leave pay according to the normal rules<sup>15</sup>. Supplementary rules are proposed in case of a school closes and the child is not sick. As with sickness benefits, it is proposed that doctor's certificate will be needed during this period<sup>16</sup>. Since health care and medicine are free for children and the price is heavily reduced for adults there is no extra economic support to buy alternative care services.

Some of the measures mentioned above benefit workers with precarious contracts as well, but since the Swedish social security system to a large extent is organised around and calculated on income, it generally disfavours workers with short contracts or irregular income. This means that these workers were vulnerable on the labour market before covid-19 and, in case of unemployment or sickness, risked receiving little or no benefits. Apart from the changes regarding unemployment benefits, no measures that are directed towards strengthen these workers' situation have been taken.

The social partners have put forward proposals where some correspond to the Government's initiative. The mandatory negotiation procedure and system of safety ombudsmen that is part of the Swedish model is in place during the covid-19 crisis as usual. To my knowledge there are at this moment no new supplementary regulations in collective agreements put forward, but the partners rather focus on information to their members and influencing the Government's work.

The Swedish Government's approach has been to, within its capacity, take the measures that the Public Health Agency has recommended. The approach means that adjustments have been made currently. With the approval of changes in the Infectious Disease Control Act (*smittskyddslagen (2004:168)*), the Government is given more power to take action in

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<sup>14</sup> Regulation (2020:195) regarding sickness benefits on account of Covid-19. Moreover, Covid-19 has been included among infectious diseases that can count as work injuries.

<sup>15</sup> A parent has the right to stay at home and receive parental leave pay according to the Parental Leave Act section 8 and the Social Security Code chapter 13 section 16.

<sup>16</sup> S2020/03216/SF, the Ministry of Health and Social affair's proposal for temporary parental leave benefits.

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order to combat Covid-19 and we might for that reason see more changes in the near future, depending on how the situation develops<sup>17</sup>. However, I would say that, at the time of writing, the situation for workers with precarious contracts has not been sufficiently addressed. Measures to ensure some sort of basic income and/or subsidised rent have been proposed by some but not led to concrete measures.

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<sup>17</sup> As of the 7<sup>th</sup> of April, the Government has reached an agreement with the Parliament to enable faster decision making regarding more issues connected to Covid-19.