

Information from Competence Agencies of Sweden about legislative changes in the Agency Work Act

Since October 1, 2022, changes has been made to the Agency Work Act in Sweden. The changes entail, among other things, that a client company (definition below) shall offer temporary agency workers (“consultants”) either permanent employment or pay compensation to the consultant when they have been working within the same operating unit for a total of 24 months during a period of 36 months.

The purpose of this document is to clarify the rules and liability that applies to any natural or legal person for whom, and under the supervision and direction of whom, a consultant works temporarily (the “client company”).

Who is comprised by the Agency Work Act?

Section 1 of the Agency Work Act provides that the act is applicable to employees 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.” (“consultants”)

A “temporary-work agency” is “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.”

“User undertaking” means “any natural or legal person for whom, and under the supervision and direction of whom, a temporary agency worker works temporarily.” (“client company”)

Who is not comprised by the Agency Work Act?

For example, the Agency Work Act does not apply:

- If the consultant is self-employed.
- In case of contracting assignments.
- If the assignment is designed so independently that it is not supervised by the client company.

In order to determine whether the provisions of the Agency Work Act are applicable in relation to the consultant and the client company, an assessment is made in each individual case. The assessment is made based on the actual circumstances, regardless of whether the company defines itself as a consulting company or a temporary-work agency or not.

Brief facts regarding the changes in the Agency Work Act

- When a consultant has been working at a client company at the same operating unit for a total of 24 months during a period of 36 months, the client company is obligated to offer the consultant either:
 - permanent employment or
 - compensation equivalent to two months' wages (three months' wages if the client company is covered by a collective agreement covered by the Agreement on work life security, transition, and employment protection in the Swedish labour market)
- The 24 months does not have to be continuous
- The calculation period starts on 1st of October 2022 at the earliest, i.e. no retroactive calculation is made for previous periods at the client company
- The right to receive an offer of employment or compensation is an individual right that follows the consultant, even when changing temporary-work agency
- The client company must offer employment or execute a payment no later than one month after the time limit has been exceeded
- If an offer of employment has been made (and the hired person has rejected the offer) or compensation has been paid out, the consultant may continue being temporarily assigned to the client company
- The responsibility for keeping count of when an offer to the consultant should be made or if it already has been made rests with the client company
- The obligation to offer employment or pay compensation may, at the earliest, be applicable on 1st of October 2024

For more information regarding the changes of the Agency Work Act or the Swedish Employment Protection Act and forthcoming changes as a result of a new Agreement on work life security, transition, and employment protection in the Swedish labour market, please visit www.kompetensforetagen.se