

# Employment agreements and contracts for executive employees

Before you start a new job, it is important to have a written employment agreement or contract of employment. With executive positions, there is often a need to write a personal employment agreement, known as an executive employment contract.

## Who should have an executive employment contract?

Before you begin a new job, it is important that you have some form of employment contract or employment agreement. This applies to everybody. They are usually simple agreements that specify when you will start work, the salary you will receive and that your employment is otherwise covered by the agreement that applies to all salaried employees at the company. With executive positions, there is often a need to write a personal employment agreement, known as an executive employment contract.

This is even more important if you will be working at a company without a collective agreement or if you will not be covered by the existing collective agreement. This is the case for all executive employees, regardless of their position. However, if you are a CEO, you should instead have an individual CEO agreement.

An executive employment contract is an individual document and its content may vary considerably depending on personal requirements and how the company normally manages these issues. It can also vary in scope. If the workplace has a collective agreement, an executive employee may choose to address certain elements in an individual contract and refer to the collective agreement otherwise. If you are covered by a collective agreement, this is always the basis for your employment, but you can agree on other, better conditions, in a personal contract. The terms can never be less favourable than those provided for in the applicable collective agreement.

## When the law does not apply

Executive employees who hold direct managerial positions, or who are members of the employer's family, are not covered by the Employment Protection Act (LAS). If this is the case for you, it is particularly important to cover issues related to the termination of employment in your contract.

## Executive employment contracts – a checklist

### Important points to cover in an employment contract for executive employees

- ✓ [Form of employment and duties](#)
- ✓ [Benefits and remuneration in addition to the fixed monthly salary](#)
- ✓ [Working hours and annual leave](#)
- ✓ [Sick pay](#)
- ✓ [Pension and insurance](#)
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### Form of employment and duties

Employment commonly applies until further notice, with an agreed notice period from both parties as well as an [agreement regarding severance pay](#). If the employment contract lasts for a specific length of time, for example 6 years, it is important to address the conditions for renewing the contract, and what applies if the contract is terminated prematurely. The employment contract should specify the executive employee's areas of responsibility and the main duties. It is also preferable to stipulate what applies if the company changes location or if longer-term work abroad becomes necessary.

### The salary is more important than the benefits

It is common for executive employees above a certain level to receive fringe benefits in addition to a fixed monthly salary. The variable salary component may comprise different forms of performance-related remuneration such as profit sharing and bonuses. However, other forms of remuneration that are not purely fringe benefits are becoming more common, such as convertible shares and options. Remuneration in addition to the fixed monthly salary should be regulated in such a way that no disputes regarding interpretation can arise in the future. It is also important that the value of these remunerations can be estimated, in order to establish a reasonable level for the fixed salary component. If it is difficult to make this estimation, the value of this element as a proportion of the total salary should be limited, so as not to jeopardise income security. Any discussion regarding options and convertibles should be separate to the salary discussion, as these are associated with risks and have limited connection to work performance. It is also important to ensure that all salary components constitute the basis of pension and other social benefits; that is, that the company reports all salary components to the relevant authorities. Moreover, when setting the salary, it is also important to discuss what the employer expects from you in terms of availability. Leisure time and work are not supposed to merge completely and, as a manager, you should not feel that you have to be available around the clock. When it comes to salary increases, there are a few different models to choose from. The simplest is to follow the salary agreements that have been ratified within the industry. Another method of protecting against inflation is to link the salary to the consumer price index or the price base amount.

## **Annual leave**

Executive employees usually have more annual leave than the 25 days that the law prescribes. Otherwise, issues regarding annual leave are regulated sufficiently by law and collective agreements.

## **Sick pay**

Sick pay is regulated to a sufficient extent by law and collective agreements. However, if the salary consists of variable salary components in part or in full, it is recommended that a separate agreement is concluded with the employer concerning the amount of sick pay, since the calculation of sick pay can be quite complicated.

## **Pension and insurance**

The ITP occupational pension plan should be followed. There are alternative pension options for salaried employees at the higher pay grades. Calculate carefully what is most beneficial for you. Agreeing with the employer on a lower pension age than 65, for example, is a possibility within the ITP plan. Make sure that the employer takes out occupational group life insurance and occupational injury insurance equivalent to that provided for in the collective agreement.

## **Company car and other benefits**

A common benefit for more senior salaried employees is a company car; that is, the company covers all expenses related to the car. Other benefits that may be relevant and that should be regulated in the employment contract include rent-free accommodation, company phone, free newspapers and free healthcare. However, the tax consequences of these other benefits should be checked with the local tax authority in order to avoid any unpleasant surprises.

## **Termination of employment and severance pay**

Many of Unionen's executive members work for small-scale companies and organisations. In our experience, when confidence no longer exists between you as an executive employee and the board of directors, the owners or other executives, the best solution is for the collaboration to be terminated as soon as possible. Transfer options tend to be extremely limited in the majority of cases. To allow a reasonable period of time for you to find new employment without losing out financially, the employment contract should contain rules on severance pay. One method is for an agreement to be reached regarding a fixed sum to be paid when the employment is terminated, adjusted annually in line with certain indexes. Another method is for the salary and an average of other benefits to be paid for an agreed length of time after the employment has ceased. One reasonable arrangement is for the severance pay to provide an unchanged income level for 12 months after the employment has ceased.

## **Competition clause in the contract**

It is not unusual for employers to want a competition clause written into the employment contract. Under such a clause, an executive employee agrees, for a certain length of time after the termination of employment, not to accept employment with a competing company or to compete by launching their own business. These competition clauses may differ in their content and vary in scope. When taking up a new employment position, little consideration is often given to what happens after the termination of that employment. We would, however, encourage great caution with regard to signing a competition clause, as this can greatly limit your sources of income after the termination of employment. It is best to call Unionen's Executives Line on 0771-344 344 before the employment contract is signed.

### **Arbitration clause or court**

Employers often want prospective disputes to be resolved through arbitration proceedings instead of through the court, and for this to be regulated in the employment contract. Arbitration proceedings can cost considerably more than a court hearing, because in the former case the parties must also “remunerate” the arbitration tribunal, in addition to covering the usual legal costs. The cost for the employee can amount to several hundred thousand Swedish kronor. Outcomes from the arbitration tribunals also cannot be appealed. The normal practice should therefore be for disputes between employees and employers to be settled by a regular court. If an arbitration clause is accepted, it should be guaranteed that the employer will cover all the costs of the arbitration proceedings, regardless of the outcome.

### **Do you have any questions or want help with reviewing a contract?**

If you have any questions or would like assistance with reviewing your contract, you can contact the ombudsman for executive employees in your region or call Unionen's Executives Line on 0771-344 344