

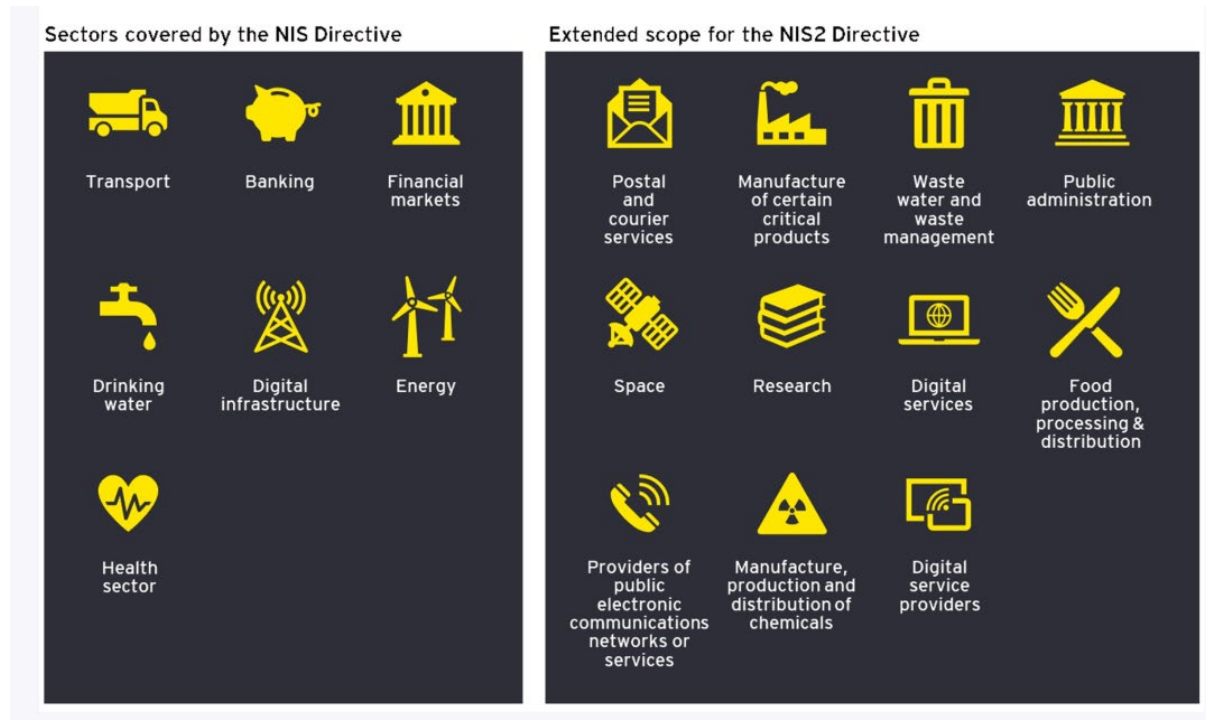
NIS2 and the impact on regular temporary staffing and MSP and RPO services



The Network and Information Security (NIS2) Directive (Directive (EU) 2022/2555) (the “Directive”) is a European Union directive that aims to enhance the cybersecurity of critical infrastructure and essential services across the European Union. It replaces the previous NIS Directive (2016/1148/EU) and introduces several new requirements and obligations for organizations in critical sectors. The Directive entered into force in January 2023 and has a deadline for EU Member States to transpose its measures into national law by 17 October 2024. Currently (Q3 2024), most Member States are still in the process of transposition of the NIS2 Directive. From 18 October 2024, in the absence of any Member States’ timely transposition, the Directive's requirements will start being directly applicable across EU Member States.

In essence, the Directive aims to protect critical organisations and infrastructure within the EU from cyber threats with the goal of achieving a high level of common security across the EU. To fulfil its objective, the Directive focuses on organisations that operate in critical sectors, as they are essential for the proper functioning of society and, for this very reason, are often the primary target of cyber-attacks.

Organizations in scope and key requirements



source: EY: https://www.ey.com/en_ie/are-you-ready-for-nis2-how-will-it-impact-your-organisation-are-you-prepared

- NIS2 applies to organisations in the following essential & important sectors (depending on size, criteria vary by sector):
 - Energy
 - Transport
 - Finance
 - Public administration
 - Health
 - Space
 - Water supply (drinking & wastewater)
 - Digital infrastructure
 - Postal services
 - Waste management
 - Chemicals
 - Research
 - Foods
 - Manufacturing
 - Digital providers

- Organizations in these sectors must comply with the following key requirements:
 - Implement appropriate security measures to protect their networks and information systems;
 - Report security incidents to the competent authorities;
 - Cooperate with the competent authorities in the event of a security incident;

- Maintain a security risk management program.

Why the Directive will, in most cases, not directly impact traditional temporary staffing services

Traditional temporary staffing services are, in most cases, not directly impacted by the Directive.

This is because in general:

1. Temporary staffing is not one of the sectors listed above;
2. Temporary staffing services do not include technology or digital components in the context of the Directive (e.g. online marketplace). Customers using temporary staffing services will instruct the use of Customer's tools, systems and applications for the temporary workers provided;
3. Temporary workers operate under the customer's direct authority. The staffing agency's service merely consists of making available one or more temporary workers to the customer for a defined period of time (temporary staffing service). As such the staffing service provider has no influence over how the temporary workers are using customer technology and hence can not be responsible for NIS2 compliance;
4. When providing this temporary staffing services to the customer, the temporary staffing agency does not have any access to or knowledge of customer tools, systems, and applications. During the assignment, the temporary worker will become part of the day-to-day operations of the customer and, from an operational perspective, there will be no significant difference in the way the temporary worker and the customer's direct employees will be treated.

Why the Directive will, in most cases, not directly impact traditional Recruitment Process Outsourcing and Managed Service Provider – staffing services

Managed Staffing Services a.k.a. Managed Service Provision (MSP) which includes Recruitment Process Outsourcing (RPO) are not directly impacted by the Directive. This is because in general:

1. Managed Staffing services are not one of the sectors listed above;
2. The reasons mentioned above regarding why the Directive will, in most cases, not directly impact traditional temporary staffing services;
3. Technology used (e.g. a Vendor Management System (VMS)) in an MSP or RPO is typically a SaaS-based commercial offering and follows the same cloud-based responsibility model;
4. where the MSP leverages a VMS, the operations of the technology supporting the service, is a byproduct of the managed staffing service. The purpose of the process outsourcing is not

to "operate" the system, but rather to provide a specialized service that may use the system, but is not directly related to the operation of the ICT system.

When the Directive might impact HR-related services

When other types of HR services are provided, then the temporary worker, MSP or RPO services mentioned above, and where instead of human resources operating under the control and supervision of the client also technology impacting critical processes is delivered, the Directive can be applicable. For these kinds of situations, a case-by-case assessment is required, as then the Directive may indirectly impact staffing agencies if their clients are in critical sectors and subject to the requirements of the Directive.