

Agency Worker Regulations (AWR)

Fact sheet

Background to the draft Agency Workers Regulations (AWR)

The Agency Workers Directive (AWD) was adopted on 19 November 2008 and needs to be implemented in the UK by 1 October 2011. The aim of the AWD is to ensure the protection of agency workers by ensuring they have the benefit of the same basic working and employment conditions as if they had been directly employed by the end user.

The Directive was adopted after the UK dropped its opposition to the measure as a result of an agreement between the CBI and the TUC reached in May 2008, which broadly set out the terms on which the Directive would be implemented in the UK. The key feature of the agreement was that the right to equality should apply only once an agency worker has been engaged for 12 weeks “in a given job”.

The draft Regulations specify they will come into force on 1 October 2011. At the moment, there are a number of ‘grey’ areas and an update is awaited from the current coalition government. However, the core concepts underlying the test of equal treatment and parity of pay are unlikely to change.

The draft agency workers regulations (AWR) set out a number of significant changes to employment law

The Regulations are mainly concerned with giving agency workers the right to the same basic employment and working conditions they would have enjoyed had they been directly employed by the end user.

Under the AWR an agency worker is defined as a person who has a contract with a temporary work agency and who is supplied work under the supervision and control of a client or hirer. It will include those employed via umbrella companies. Workers who are genuinely employed on their own account will be excluded (self employed).

Terms and Conditions that have changed due to AWR

The right to equality does not apply to all terms and conditions of employment: only “relevant” terms and conditions. These will include (but not be limited to) such matters as:

- duration of working time
- overtime
- breaks
- rest periods
- night work
- holidays
- public holidays



- pay (including local bonuses which are directly linked to output or quality of work)
- terms and conditions ordinarily included in employee contracts (for example, collective agreements, pay scales, company handbooks)
- other matters of custom and practice in the workplace (for example, access to facilities and permanent employment with the hirer)

What is excluded from AWR?

Some payments are excluded from the definition of pay. These are:

- occupational sick pay
- any sums relating to pension, retirement or compensation for loss of office
- payment in respect of maternity, paternity or adoption leave
- redundancy payments
- payments made under a financial participation scheme
- any payment or reward made by way of a bonus awarded in accordance with a performance appraisal pay system aimed at the long-term management, motivation and retention of

Other matters to consider and factored in are;

- the qualifying period for agency workers
- breaks between assignment and anti-avoidance
- day one rights for agency workers
- liability of agencies and hirers

Want to know more?

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