

# Agency Workers Regulations (AWR)

## A simple overview for The HR Dept clients



These regulations, which come in on October 1st apply to all temporary workers that the Company has hired through an Agency. The temporary worker will have a contract with the Agency who places them to work for a period of time, under the supervision of a Company.

On day 1 the workers have the right to the same facilities as the Company's other permanent employees. Areas such as canteens, childcare and transport arrangements. They must also have information about any job vacancies so that they can apply in the same way as all other employees.

Then after 12 weeks they must be given the same basic employment terms and conditions as staff who are hired directly by the Company.

This covers:

- Pay – including overtime and shift allowances
- Bonuses based on an individual's work performance
- Holidays and holiday pay
- Working hours including length of night work, rest periods and breaks
- All the same protection for pregnant workers including paid time off for ante natal appointments. All employers should carry out a pregnancy risk assessment for pregnant workers. However a pregnant worker would not have the right to return to the job after maternity leave.

The areas that do not have to be the same are:

- Bonuses that are based on Company performance
- Expenses
- Company pension schemes
- Health or Life Insurance
- Share Options schemes
- Company enhanced occupational Maternity/Paternity/Adoption pay
- Redundancy pay both statutory and contractual
- Notice pay

### The 12 week rule

This relates to clocking up 12 continuous weeks on an assignment. It does not make any difference if this is worked on a full or part time basis. To qualify for basic employee rights, the temporary worker must work in the same role for 12 continuous weeks. A break between assignments of at least six calendar weeks or

if the worker takes up a totally different role will allow the Company to start the clock again. As always there are some exceptions to the rule which in effect pause the clock until the worker returns to work:

- A break for any reason that lasts less than 6 weeks
- Annual Leave
- Shut down periods (Christmas shutdown etc.)
- Sickness absence of up to 28 weeks
- Jury service up to 28 weeks
- A break caused by strikes or industrial action

### When the clock keeps ticking

During pregnancy and all maternity/paternity/ adoption related absence instead of the clock pausing it will continue throughout the period of absence and include those weeks as part of the qualifying period to the 12 weeks.

### Exclusions

Genuinely self employed contractors are excluded from the regulations as are fixed term and permanent employees. Those who are employed by an umbrella company may be covered by the so called Swedish Derogation. This is a concession achieved by Sweden where the workers are employed by an umbrella company and are paid between assignments when no other suitable work is found for them. There are a number of additional restrictions such as the amount they have to be paid and the amount of time workers have to have had work before the contract can be terminated.

Top tips:

- Check the agency – are they an umbrella company for your workers and if so, be clear on the terms and conditions
- Check all agency workers can access all your facilities
- Put in place a system for notifying all agency workers of vacancies and how to apply
- Put in a system to record the 12 weeks accurately.

If in doubt or you have any further queries please ring The HR Dept – we are here to prevent people problems!