



Agency Worker Regulation Manager Guidelines

AGENCY WORKER REGULATIONS 2011 (AWR)

These regulations came into force on 1 October 2011 and mean that agency workers receive “equal treatment” compared to permanent staff after being employed for 12 weeks. The following guide will help you to understand these regulations and what it means us.

Critical to complying with these regulations and controlling agency staffing costs is the management of agency staff within the qualifying period.

What it means for employers?

In summary, the regulations mean that from 1 October 2011, agency workers in the UK receive “equal treatment” compared to permanent staff after being employed for 12 weeks.

This guide is divided into a number of sections:

[The regulations](#)

Types of break that will cause the qualifying clock to 'pause'

A break for any reason where the break is no more than six calendar weeks.

A break of up to 28 weeks because the agency worker is incapable of work because of sickness or injury.

Any break which is for the purpose of taking leave to which the agency worker is entitled, including annual leave.

A break up to 28 calendar weeks to allow the agency worker to perform jury service.

A break caused by a regular and planned shutdown of the workplace by the hirer (for example at Christmas).

A break caused by a strike, lock out or other industrial action .

Breaks where the clock continues to 'tick'

Breaks due to pregnancy, childbirth or maternity which take place during pregnancy and up to 26 weeks after childbirth.

Any breaks due to the worker taking maternity leave, adoption leave or paternity leave.

(In each of these cases the clock will continue to tick for the originally intended duration of the assignment, or the likely duration of the assignment (whichever is longer).

Meaning of the same role

If a change in position is to require an agency worker to re-qualify for equal treatment, the whole or main part of the new role must be 'substantively different' from the previous role.

A further requirement is that the agency must have notified the worker in writing of the type of work they will be required to carry out in the new role.

Breaks between assignments

The general rule under the Regulations is that any break between assignments of six weeks or less, in the same role, shall not break 'continuity' for qualification purposes.

Working for multiple hirers

Any agency worker might work for more than one hirer during a week. They may therefore have more than one qualifying period running at any one time.

Working through multiple agencies

An agency worker might work for a hirer for 6 weeks with one agency and is placed with the same hirer three weeks later by another for a further eight weeks. As there has not been a six week break between the assignments, the agency worker will be entitled to equal treatment after 6 weeks on the second assignment.

Equal treatment – what does it mean?

Importantly, unlike the regulations concerning the rights of part-time workers and fixed term employees, the right to equal treatment under the Agency Workers Regulations is not a general right not to be treated less favourably on the grounds that an individual is an agency worker; instead, the principle of equal treatment will apply only to certain terms and conditions relating to working time, holiday entitlement and pay.

- [what an individual is paid](#)

daily rate

What is excluded?

- Occupational sick pay - the regulations do not affect an agency worker's entitlement to **statutory** sick pay. If an agency worker has a contract of employment with the agency, and depending on qualifying service, they may be entitled to such payments from the agency
- Occupational pensions
- Occupational maternity, paternity or adoption pay
- Redundancy pay (statutory and contractual)
- Notice pay (statutory and contractual)
- Expenses
- Overtime or similar payments – where the agency worker has not fulfilled qualifying conditions that a permanent member of staff would have to fulfil.

Holiday entitlements

After 12 weeks an agency worker will be entitled to the same treatment in relation to the duration of working time, night work, rest periods and rest breaks as he or she would have received if recruited directly by the hirer to the same job.

Frequently Asked Questions

1. What is the purpose of the Agency Workers Directive?

Its purpose is to give agency workers entitlement to equal treatment with respect to basic employment and working conditions if and when they complete a qualifying period of 12 weeks on a particular job. In other words, their basic terms and conditions of employment must be no less favourable than the terms they would have been entitled to had they been recruited directly by the university.

2. When do the new regulations come into force?

1 October 2011

3. What about agency workers already on assignment with us on 1 October 2011?

The Regulations are not retrospective and if you have agency staff already working for you on 1 October, their 12 week qualifying period, access to on-site facilities and job vacancies will start from that date.

4. Who do these regulations apply to?

The Regulations apply to individuals who have a contract with a temporary work agency and who are supplied by that agency to work temporarily under the supervision and direction of a 'hirer' – the client.

5. When do agency workers qualify for equal treatment?

From the first day of employment, the following entitlements apply:

- a. Access to facilities; such as the staff canteen, transport facilities, car parking and child-care facilities
- b. Access to vacancies; the right to be notified of any job vacancies within the hirer

6. Do the new regulations include car parking?

Yes access to equal treatment regarding car parking is included.

7. Where we have a vacancy that is restricted to internal applicants' only would we have to include agency workers within the definition of internal applicant?

Yes, all advertised vacancies with the University must be easily accessible to qualifying agency workers.

This obligation relates only to the information about vacancies and does not significantly constrain employers' freedom regarding how they treat applications, experience requirements etc.

This right will not apply in the context of a genuine 'headcount freeze' where organisational restructuring is in place to avoid redundancies. The right extends only to vacancies in this context.

After 12 weeks in the same role, these additional new equal treatment entitlements

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Any agency worker might work for more than one hirer during a week. They may therefore have more than one qualifying period running at any one time.