

AGENCY WORKERS RIGHTS



The Agency Workers Directive (AWD) was implemented on 1 October 2011. The purpose of the Directive is to provide temporary agency workers with equal treatment in terms of basic working and employment conditions, as if they had been employed directly to do the same job. The Directive does not affect the employment status of temporary workers.

The Directive will not cover occupational schemes, including sick pay, pensions or financial participation schemes.

The new regulations give agency workers certain new employment rights. When on an assignment you get some of these rights from day one and some after 12 weeks in the same job.

Who is an agency worker?

The rights apply to individuals who work as temporary agency workers - often referred to as temps.

What the regulations mean for me?

You will have access from day one to facilities and information about job vacancies where you are working temporarily.

After 12 weeks in the same job with the same hirer you are entitled to equal treatment in relation to elements of:

- pay
- holidays
- night work
- rest periods/breaks
- duration of working time

After completing the 12 week qualifying period, pregnant agency workers are allowed paid time off for antenatal appointments during an assignment.

Are you covered by the new rights?

You are covered by the new rights if you have a contract with a temporary work agency.

The hirer can be in the public or private sector, a charity or social enterprise. You are not prevented from being covered by these rights simply because you have a contract with a company and then find work through an agency.

While working for the hirer you are under their supervision and direction. The hirer will tell you what job you are doing, how to do it and provide any necessary training to do the job.

You are likely to be covered by the new rights if:

- you often work on a variety of different assignments with different hirers – but can be on one long assignment
- your time sheets are sent to the agency to process
- you are paid by the agency based on time sheets
- your sick leave is paid by the agency if you are eligible
- the agency pays you when you are on annual leave

You are unlikely to be covered by the new rights if:

- your agency finds you a permanent job and you are employed and paid by your new employer
- you find work through an agency but have your own business and the hirer is your client or customer
- you are offered a permanent contract of employment which includes pay between assignments i.e. during the periods when you are not working when there are no available suitable arrangements. This means that after 12 weeks in a given job, you will not be entitled to the same pay as if you had been recruited directly like a permanent worker.

You are also unlikely to be covered if you work for any agency:

- that provides a specific service to a client
- where someone from the agency supervises and directs you on a day to day basis
- that provides any necessary training and determines how and when you work just having someone from the agency on site who helps with queries would not exclude you from the new rights. You cannot opt out of these rights if you are covered by them.

Source: directgov website

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Education and Equal Opportunities