

Agency Workers Regulation (AWR) Policy



On 1 October 2011 new regulations came into force to give Agency Workers entitlement to the same (or no less favourable) treatment as comparable workers employed directly by the Hirer/Client.

For the purpose of the Regulations, in this Policy, an Agency Worker will include any individual, supplied through 24-7 Staffing Ltd to a Client on a temporary basis where that individual works under the supervision and direction of a Hirer Client.

For the purpose of this policy, the following definitions apply:

“The Agency Worker” means the individual working for 24-7 Staffing Ltd “The Hirer” means the company the Agency Worker is assigned to

“The Agency” means 24-7 Staffing

Implications of the Regulations

Day 1 Rights

The regulations state that all Hirers must provide all Agency Workers with:

- Information regarding relevant vacancies available at the Hiring company;
- Access to collective facilities and amenities which may include onsite crèche and childcare facilities, car parking facilities, access to a staff canteen and/or transport services.

The above is only relevant to the extent that these facilities and / or vacancy information is available.

Also, the Agency Workers right to these facilities and / or information will be limited to the same as that which a comparable directly engaged member or staff at the Hirer would have access to. This means that the Agency Worker may not have access to all facilities if they are limited to those carrying out a specific role which the Agency Worker does not carry out.

This is because the Regulations do not entitle the Agency Worker to have preferential treatment or to automatically gain access to these facilities, but rather entitle them to apply for such facilities/vacancies in the same manner as an equivalent directly engaged member of staff.

Week 12 Rights

Week 12 rights relate to the “*basic working and employment conditions*” that the Agency Worker would be entitled to if they were engaged direct by the Hirer for 12 consecutive weeks in the same role for the same Hirer, (as long there is a comparator or set evidence, such as pay scales).

These basic working and employment conditions are:

- Pay
- The duration of working time
- Night work
- Rest periods
- Rest breaks
- Annual leave

For example, if the Agency Worker is paid less than they would be if they had been engaged by the Hirer direct (i.e. not through 24-7 Staffing), then after 12 weeks of continuous working on an assignment at that Hirer, the Agency Worker may be entitled to receive more pay.

For the purpose of this Policy, it is important to understand what pay constitutes. Pay **does include** the following:

- Hourly rate
- Commission
- Overtime
- Shift allowances
- Unsocial hour premiums
- Payment for difficult or dangerous duties
- Vouchers or stamps which have monetary value and are not “salary sacrifice schemes” e.g. luncheon vouchers, child care vouchers.
- Bonuses which are directly attributable to the quality of work done by the worker (not long term company-wide bonuses or share schemes)

Pay **excludes** the following:

- Redundancy pay
- Enhanced maternity pay
- Company/occupational sick pay
- Company pensions schemes
- Financial participation schemes (i.e. Share save)
- Bonus payments (aimed at long term management and retention of staff)
- Unfair dismissal (unless on a contract of employment with the agency)
- Private medical
- Life assurance
- Notice Pay (statutory and contractual linked to loss of employment) Payment for time off for Trade Union duties
- Advances in pay or loans e.g. season tickets
- Expenses such as accommodation and travel expenses
- Overtime or similar payments where the agency worker has not fulfilled qualifying conditions required of someone directly recruited
- Any discretionary, non-contractual bonuses
- Guarantee payments as they apply to directly recruited staff if laid off

There are **certain circumstances where an absence or break in the 12 week qualifying period would effectively pause or reset the clock.**

The table below summarises the effect of different types of absence:

TYPE OF ABSENCE THAT AFFECTS THE 12 WEEK QUALIFYING PERIOD	EFFECT ON 12 WEEK QUALIFYING PERIOD
Agency worker remains with same hirer but is no longer in the same role	Clock Resets
Break between assignments of 6 weeks or more (which is not one which ‘pauses’ the clock or during which it continues to tick)	Clock Resets
Any reason where the break is less than six weeks	Pauses the Clock
Sickness absence	Pauses the Clock for up to 28 weeks

Annual Leave	Pauses the Clock
Shut Down e.g. factory closure, school holidays	Pauses the Clock
Jury Service	Pauses the Clock for up to 28 weeks
Industrial Action	Pauses the Clock
Pregnancy and Maternity related absence	Clock keeps ticking*
Statutory Maternity, Paternity or Adoption Leave	Clock keeps ticking**

* The protected period for a pregnant agency worker begins at the start of the pregnancy and ends 26 weeks after childbirth (or earlier if she returns to work)

** Where an agency worker has a contract of employment with an agency or their umbrella company and is entitled on this type of leave.

What to Do if You Feel Your Rights Have Not Been Met

If an Agency Worker feels that they have not been given the rights they are entitled to as per this policy, the Agency Worker must put their concerns in writing to the Agency. The Agency then has 30 days to investigate and respond to the concerns.

24-7 Staffing Ltd believes that all the information contained within this document was correct at the time of publication. This document is non-contractual and is for guidance purposes only and does not replace the need to obtain professional advice in relation to the Agency Workers Regulations. 24-7 Staffing cannot accept liability for any errors or omissions in the information or loss suffered directly or indirectly by any reader as a result of action taken or not taken as a result of reading of this publication.