



AWR

Agency Workers Regulations

For clients

AGENCY WORKERS REGULATIONS

The Agency Workers Regulations (AWR) came into force on 1 October 2011.

This is our guide to show the key entitlements our temporary workers may have under the AWR's and to provide some practical suggestions to help you consider what actions you should take.

Reducing the effect of the AWR on your business

We have introduced new documentation and procedures to support the application of the AWR, and we can help your understanding of how the AWR will affect your business. We believe collecting and sharing relevant information early on is necessary to establish best practice and to ensure that the temporary workers that we supply receive their entitlements under the AWR.

Whom do the AWR apply to?

The AWR apply to the temporary workers we supply to work on assignments for you.

What “rights” do temporary workers have?

From day one on an assignment, a temporary worker we have supplied to you will have a right to use your facilities and amenities; e.g., canteen, drinks vending machine, car park, gym, crèche and “similar facilities” (AWR regulation 12).

Action point - Review which of your on-site facilities are available to your staff and consider whether these should be available to temporary workers we supply. Consider whether you can objectively justify why these facilities and amenities are not available to temporary workers.

From day one on an assignment, a temporary worker we have supplied to you will have a right to be informed of relevant vacancies and to have the same opportunities as your other comparable employees to and permanent employment within your business (AWR regulation 13).

Action point - Assess how you currently inform your staff about vacancies within your business and consider how you will ensure temporary workers we supply to you will be notified of these details.

After 12 weeks on the same or a similar assignment, a temporary worker we have supplied to you will have the right to basic working and employment conditions as if the worker had been directly recruited by you. These basic conditions are:

- Annual leave;

Please note that this AWR quick guide for clients is not a comprehensive summary of the law and is not intended to be legal advice. Copyright © Westlakes Recruit Ltd

- Rest periods, rest breaks, night work and the duration of working time;
- Pay (see table)

Action point - Determine the roles you regularly fill with temporary workers. Establish whether there is a “comparable employee” doing that role or a broadly similar role within your business and determine which of that employee’s basic working and employment conditions will apply to the temporary worker. If there is no comparator, consider if there are any basic working and employment conditions ordinarily included in your standard contracts with your staff or in any company handbook or similar and consider how you will apply these to temporary workers.

How do I determine what counts as pay?

What Counts?	What doesn't?
Basic salary	Pension payments/retirement gratuity
Overtime	Notice periods/redundancy
Fees	Maternity, paternity or adoption payments
Commission	Compensation for loss of office
Personal element of bonus	Company element of bonus
Vouchers having a monetary value	Vouchers requiring salary sacrifice
Holiday pay	Financial participation schemes offering shares/options
Statutory sick pay	Contractual (company) sick pay
	Loans, expenses, time off for trade union duties
	Private health care/death in service benefits

Action point - Review your bonus scheme and determine if any element is attributable to personal performance. Assess the rules applied to personal performance and determine if these can be applied to temporary workers we have supplied to you. In determining entitlement to a personal performance bonus, you are entitled to apply the same considerations that you apply to your other employees. If your bonus scheme includes any element of company performance, if your scheme encourages loyalty or if your scheme rewards long service, these elements can be excluded.

How is the 12-week qualifying period calculated?

The 12-week qualifying period is triggered after a temporary worker we have supplied has worked for you for 12 continuous calendar weeks on assignment. Calendar weeks accrue regardless of hours a temporary worker works during a week. Tracking the 12 week qualifying period is not easy.

Please note that this AWR quick guide for clients is not a comprehensive summary of the law and is not intended to be legal advice. Copyright © Westlakes Recruit Ltd

Type of absence affecting qualifying period	Effect on qualifying period
Agency worker begins a new assignment with you.	Clock starts at zero/resets to zero
Agency worker remains with you but not in the same role.	Clock resets to zero
Agency worker has a break of more than six weeks	Clock resets to zero
Agency worker has a break of less than six weeks	Pauses the clock
Sickness absence	Pauses the clock up to 28 weeks
Annual leave	Pauses the clock
Shut downs e.g. factory closure, school holidays	Pauses the clock
Jury service/industrial action	Pauses the clock up to 28 weeks
Pregnancy/maternity/paternity/adoption absence and leave	Clock keeps ticking