

Fabric INSIGHT

1) What are the Agency Worker Regulations (AWR)?

They are an EU law, which aims to ensure that agency workers are given the same treatment regarding pay and working conditions as an employee recruited directly by the employer. They cover two areas, Day One rights and the Right to Equal Treatment relating to pay and working conditions after a qualifying period of 12 weeks is reached.

2) Which workers are covered by these regulations?

Any PAYE employee taken on by the employer via a 3rd party. Candidates who are genuinely self-employed are out of scope of these regulations, as are those taken on by a client on a fixed-term contract basis.

3) What are the Day One rights?

These are rights to which the agency worker is immediately entitled from day one of an assignment:

- The right to access onsite facilities that are available to directly recruited employees i.e.: canteens, childcare facilities, transport services etc.
- The right to be informed of any vacancies, although there is no obligation on the hirer to employ the agency worker.

4) What is the qualifying period for equal treatment?

Except for the Day One rights, the agency worker will be entitled to equal treatment once they have worked in the same role and at the same hirer for a period of 12 weeks (any week during which the agency worker works is counted). This qualifying period will start over only if there is a new role with the same employer, which is substantively different (not merely a change in job title), or if there has been a break of more than six weeks between assignments in the same role.



AWR Factsheet

Fabric INSIGHT

The qualifying period will be paused rather than stopped if the agency worker:

- Takes a break of six weeks or less
- Is on certified sick leave of no longer than 28 weeks
- Is on statutory/contractual maternity, adoption or paternity leave
- Takes time off for public duty (incl. Jury service)

5) What does equal treatment cover?

The regulations define the relevant terms and conditions as:

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

6) How is 'Pay' defined?

Pay includes:

- Basic pay and overtime
- Bonuses directly attributable to the amount or quality of the work performed by the agency worker
- Commission payments
- Holiday pay
- Vouchers with a fixed monetary value, e.g.: luncheon vouchers

Pay excludes:

- Pension
- Occupational sick pay
- Maternity, paternity and adoption pay
- Redundancy payment
- Financial participation schemes
- Life insurance, private medical insurance
- Health club memberships
- Bonuses which are based on organisation performance or discretionary, e.g.: one off payment to celebrate a particular event



Fabric INSIGHT

7) How is annual leave defined?

Agency workers are already entitled to the statutory leave entitlement of 28 days pro rata. Agency workers who complete the qualifying period will be entitled to any additional holiday entitlement an employer gives to directly recruited employees.

8) How will AWR be enforced?

They will be enforced through employment tribunals.

9) Where does liability sit for breaches of the AWR?

Liability will be determined by the employment tribunal, which will apportion any financial sanctions accordingly.

- The employer bears sole responsibility for breach of Day One rights
- Recruitment agencies are bound by the regulations to obtain the relevant information regarding equal treatment (salaries and working conditions) from employers. Employers must give the recruitment agency the correct information as requested in order to ensure that agency workers reaching the qualifying period receive the relevant entitlements, hereby ensuring AWR compliance

