

AGENCY WORKERS REGULATIONS 2011



A GUIDE FOR CLIENTS
From First Call Contract Services Limited



AGENCY WORKERS REGULATIONS 2011

INTRODUCTION

As a result of an EU Directive, the Agency Workers Regulations will come into force, in the UK, from 1st October 2011. The purpose of the Regulations is to give temporary agency workers parity in pay and employment conditions as they would be entitled to had they been recruited directly by the hirer to do the same job.

QUALIFYING PERIOD

Across the EU, this entitlement becomes effective from day one of an assignment. In the UK, a worker will need to complete a period of 12 weeks service in the same role, with the same hirer in order to qualify. However, a worker will have a right of access to collective facilities provided by the hirer from day one of an assignment. Collective facilities include canteen, transport services, child care facilities and access to permanent vacancies.

RELEVANT TERMS & CONDITIONS

Upon completion of the 12 week qualifying period the agency worker will have the same rights as permanent workers to terms and conditions relating to: - pay, duration of working time, night work, rest periods, rest breaks and annual leave. Bonuses that are directly attributable to the amount or quality of the work done by the worker will also be included.



AGENCY WORKERS REGULATIONS 2011

EMPLOYMENT STATUS

The employment status of agency workers will not change under the new legislation. They will still not have the rights to claim redundancy pay, maternity leave or unfair dismissal. Agency workers will also not be entitled to the same benefits such as financial participation schemes, company pension schemes, occupational sick pay and bonus payments based on company performance. Therefore agency workers will remain a flexible labour resource for hirers.

LIABILITY FOR ESTABLISHING EQUAL TREATMENT

It is expected that most cases will effectively be dealt with through an agency's grievance procedure. A pre-conciliation service will also be available through ACAS in order to minimize the amount of employment tribunal cases. Liability for any breaches of rights in relation to equal treatment will lie with the recruitment agency. However, if an agency can demonstrate that it took all reasonable steps to obtain the correct information from the hirer, then they will have established a defence. Both the agency and the hirer will need to be totally transparent when sharing the necessary information in order to make sure that the worker is being treated equally.

DEROGATION OPTIONS

There are several available "derogation" options open to employment agencies which vary in their effect. First Call Contract Services are currently reviewing these options and will inform clients of our intentions in due course.



AGENCY WORKERS REGULATIONS 2011

IMPLEMENTATION

At present, it is difficult to provide any definitive information with regards to how the regulations will be implemented, as the BIS Guidance will not be published until April 2011. Once this is available we will be in a position to provide more detailed information which will enable both, First Call Contract Services and our clients to make better informed decisions thus aiding our preparation for implementation on the 1st October 2011.

IMPACT OF THE REGULATIONS

Our aim is to ensure that the implementation of the regulations causes minimal impact to our clients both administratively and financially. It is believed that some clients will not be affected at all, as our workers are already receiving parity in pay and conditions. Those clients that may be affected by the regulations will not witness any financial impact until January 2012 at the earliest, due to the 12 week qualifying period.

Should you have any questions or require further information on the AWR then please email: david.segust@firstcall-headoffice.co.uk

David Segust
Director of Compliance