

EARL STREET RECRUITMENT

AWR (Agency Workers Regulations), candidate frequently asked questions.

1. What are the Agency Workers Regulations?

A set of regulations which provide all agency workers with a right to equal treatment with their directly recruited equivalents employed within a hirer's organisation after 12 weeks in a given job. This is known as "the equal treatment principle".

- The regulations come into effect on 1st October 2011. There is a 12 week qualifying period that commences from this date.
- Some equal treatment rights will apply from day one of an assignment.
- All agency workers including those employed via umbrella companies or other intermediaries are included (workers genuinely self employed are excluded)

2. What are the "day one rights"?

This means equal treatment applies to agency workers before the 12 week qualifying period, from day 1 of the worker's assignment. It gives agency workers the same access to certain facilities and information provided by the hirer. Including:

- Access to information on job vacancies with the hirer (except where the hirer is re-structuring or re-organising their business)
- Access to collective facilities (i.e. canteen, crèche, etc).

3. What does equal treatment cover?

This applies to the basic working and employment conditions of the agency worker such as:

- Duration of working time
- Overtime
- Breaks
- Rest periods
- Night work
- Holidays
- Public holidays
- Terms and conditions included in employee contracts (such as collective agreements, pay scales, company handbooks)
- Custom & practice in the workplace concerned (see day one rights)
- **Pay (refer to question 5)**

4. What does equal treatment in relation to "pay" mean?

Basic pay, plus other contractual entitlements directly linked to the work undertaken by the agency worker whilst on assignment including:

- Overtime pay
- Shift allowances
- Unsocial hour premiums
- Basic pay
- Payment for annual leave
- Bonuses or commission payments that are directly linked to the quality or quantity of work done by an agency worker.
- Vouchers or stamps with a monetary value such as luncheon or transport vouchers. Childcare vouchers are included (unless they are funded on a salary sacrifice basis).

The following aspects of pay are excluded from the regulations (these are normally provided to employees in recognition of the long term relationship between the employer and the employee)

- Profit sharing schemes
- Occupational pension contributions

EARL STREET RECRUITMENT

AWR (Agency Workers Regulations), candidate frequently asked questions.

- Occupational sick pay
- Redundancy pay.
- Occupational maternity, paternity or adoption pay.
- Payment for time off for trade union duties
- Notice pay
- Advances in pay or loans
- Expenses
- The majority of benefits in kind
- Any payments that require an eligibility period of employment/service,

5. How is the 12-week qualifying period calculated?

It is 12 calendar weeks regardless of working pattern (full-time or part-time). A new qualifying period will begin under the following circumstances:

- A new assignment with a new employer commences.
- A new assignment with the same employer is substantively different.
- There is a break of more than 6 weeks between assignments in the same role.

The qualifying clock will pause under the following circumstances:

- Any reason where there is a break in the assignment for less than 6 weeks.
- Sickness absence pauses the clock for up to 28 weeks.
- annual leave
- Shutdowns (e.g., school holidays)
- Jury service pauses the clock for up to 28 weeks.
- Industrial action

The qualifying clock “keeps ticking” during a period of pregnancy and maternity related absence.

6. How will I know if a role is substantively different from a previous one so that the qualifying period begins again.

For this to be the case, the work or duties which make up the whole or main part of a role must be substantively different. Earl Street Employment Consultants and the hirer should consider a combination of factors such as:

- are the skills and competencies required for the role different?
- is there a change in reporting lines?
- is the location of the assignment different?
- are the working hours different?
- is the pay rate different?
- does the role require extra training – and/or a specific qualification that wasn't needed before?
- is different equipment involved?

If a new role is substantively different Earl Street Employment Consultants will provide workers with a written description of the new work, they will be required to undertake in a new role. The description of the new role will be provided before the new assignment starts.

7. Would my assignments with other agencies with the same hirer count towards the 12-week qualifying period?

Yes – as per usual practice Earl Street Employment Consultants will ask the worker about their recent employment history to ascertain whether the worker is nearing the qualifying period for equal treatment.