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Rights

[www.worksmart.org.uk](http://www.worksmart.org.uk)

*Everyone at work has some basic rights.*

*Thanks to union campaigning, rights for agency workers just got better.*

*This leaflet tells you where you stand.*

# Agency workers have rights too!



December 2011 Edition

TUC



This guidance tells you about the new rights set out in the Agency Workers Regulations 2010 and about other important rights for agency workers.

This information is intended to be a brief introduction to rights for temporary agency workers. It is for guidance only and should not be regarded as an authoritative statement of the law. It is always a good idea to seek advice from your union (or from an advice agency if not a union member) on your specific situation before taking any action.

You have the right to join a trade union and some employers encourage workers to do so. You also have the right to be accompanied at a workplace disciplinary or grievance hearing by either a trade union representative or a colleague.



*When an agency is aware that official industrial action is happening at a workplace, it should not supply you as cover for workers participating in that action or to replace others who themselves are covering.*

# Basic standards that agencies must meet

In the UK the law contains minimum legal standards that agencies must meet when finding temporary assignments for you. The Conduct of Employment Agencies and Employment Businesses Regulations 2003 (the Conduct Regulations) set legal minimum standards that employment agencies must meet.

## Registering with an agency

Before an agency starts finding work for you, the agency must agree certain written terms and conditions with you, including the following:

- whether you are employed under a contract of employment (i.e. as an employee) or under a contract for services (i.e. you are a 'worker' or self-employed)
- the type of work that the agency will try to find for you
- whether the agency is looking for temporary assignments or permanent work for you
- whether the agency is authorised to receive money on your behalf

- the length of any notice period that applies
- information about your pay, including when and how much you will be paid
- holiday entitlement.
- Your agency cannot change these terms without your agreement.

## Information about assignments

Your agency must confirm details of any assignment you are offered in writing within three working days of the offer being made. These details must include:

- who the work is for
- the start date and how long work is likely to last
- the type of work
- the location of the work
- hours
- the rate of pay
- any expenses payable
- health and safety risks and the steps the hirer has taken to control these

- experience, qualifications and training required for the role.

An agency must obtain confirmation from you that you are willing to work on the assignment before it starts.

### Changing terms

Your agency should not change these terms without your agreement.

Where a change to terms is agreed, the agency must confirm the changes and the date they take effect, in writing, within five working days of the change being agreed. Your agency must not pressurise you to agree to changes by threatening to withdraw work-finding services.

### Charges

The Conduct Regulations set out what services agencies can and cannot charge for:

- An agency cannot charge interest on a loan to an agency worker. They must inform you of repayment terms before you agree to a loan.
- Agencies cannot charge you a fee for finding you work.
- They can charge for some other services that they provide, such as providing accommodation, transport services or help in preparing CVs, but cannot require you to sign up for these additional services as a condition of finding work for you and shouldn't put pressure on you to do so.
- The agency must confirm details of any charges in writing.



- You can cancel or withdraw from any service by giving five working days' notice (10 working days' notice to cancel accommodation services).
- You should not be penalised for not accepting any agency services or giving notice to stop using a service.

### Ending assignments and access to other work

- Your agency should not penalise you for ending an assignment.
- They should not prevent you from taking up a permanent job with a hirer that you are temping for. They may be able to charge a fee to the hirer in certain circumstances, but they should not charge you or try to prevent you from taking up a permanent post with the hirer.
- They cannot prevent you from registering with other agencies.

From 1 October 2011 temporary agency workers gain a new right to be informed by the hirer of any relevant vacant posts they have and to have the same opportunity as a comparable directly employed member of staff to find permanent employment with the hirer. These rights apply from the first day in an assignment. (See the section on equal treatment rights below for further details).

### Getting paid

Your agency must pay you for the work you do and must not withhold pay for work that you have done (even if the agency has not been paid by the hirer for this work or if a signed time sheet has not been produced).

You have the right to be paid at least the national minimum wage (NMW) and your agency should not make deductions from your pay that take you below the NMW. Since 1 October 2011, the national minimum wage rates have been:

- £6.08 per hour for workers aged 21 or over
- £4.98 for workers aged 18–20
- £3.68 for workers aged 16–17
- £2.60 apprenticeship rate.

The rates are usually updated annually in October.

For more information visit: **[www.direct.gov.uk/en/Employment/Employees/TheNationalMinimumWage/DG\\_10027201](http://www.direct.gov.uk/en/Employment/Employees/TheNationalMinimumWage/DG_10027201)**

Since 1 October 2011, temporary agency workers who work in the same job with the same hirer for 12 weeks are entitled to the same pay that would have applied if they had been recruited directly by the hirer to the same job (see equal treatment on pay section below).

### Advice, information and enforcement of rights under the Conduct Regulations

The Conduct Regulations are enforced by the Employment Agency Standards Inspectorate (EAS).

For information on these and other basic workplace rights and how to enforce them contact the Pay and Work Rights Helpline on **0800 917 2368**. It can provide advice and pass any complaints about breaches of your rights to the EAS or other enforcement agencies. It also covers queries on the national minimum wage (NMW), the 48-hour working time limit, working in agriculture and working through a gangmaster.

The helpline provides a confidential service and is a freephone 0800 number, which is also free from most mobiles. For migrant workers calling the helpline there is translation help for over 100 languages. The helpline is open outside of working hours (8am to 8pm) and on Saturdays (9am to 1pm).

You can also visit the website and complete an on-line enquiry form or a complaint form at:

**<http://payandworkrightscampaign.direct.gov.uk/agencyworkers>**

# Your working time rights

Since 1 October 2011, agency workers have the right to the same working time entitlements as anyone recruited directly by the hirer to do the same job. This right applies only once you have worked in the same job for the same hirer for 12 weeks (see equal treatment rights section below for more information). These rights are:

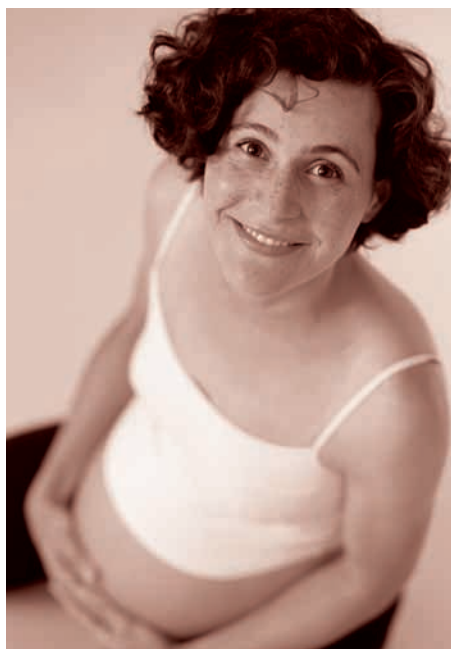
- You cannot be forced to work more than 48 hours per week on average – this is normally averaged over a 17-week period. This means it is legal to work more than 48 hours in some weeks, so long as this is balanced out by weeks in which fewer hours are worked, making an average of not more than 48 hours over the whole 17 weeks.
- There is limit on the hours night workers can be required to work: an average of eight hours' work in any 24 hours. Where the work is mentally or physically draining this is an absolute limit of eight hours work in any 24 hours. Night workers also have the right to a free health assessment.
- You cannot be required to work a longer shift patterns than the hirer's employees.
- You are entitled to the same lunch breaks and breaks between shifts as the hirer's employees.
- You are entitled to the same pay during travel time during working hours; on call pay; and standby payments as the hirer's employees.
- You also have the right to:
  - a rest break of at least 20 minutes during a working day of six hours or more (for workers aged under 18, however, the entitlement is to a 30-minute break after working 4.5 hours)
  - 11 consecutive hours rest per day
  - a full 24-hour rest period each week, or a full 48 hours in a fortnight
  - 5.6 weeks paid holiday per year.

# Other statutory benefits and rights

## Maternity and sick pay entitlements

To qualify for Statutory Maternity Pay (SMP) you must:

- still be pregnant at the 11th week before the week your baby is due
  - have been engaged by the same agency for 26 continuous weeks by the start of the 14th week before the week in which your baby is due (“the qualifying week”) and still be engaged by the agency in the qualifying week. Even if you haven’t worked for the agency in each of the 26 weeks ending with the qualifying week, you can still get SMP if the reason that you didn’t work is that the agency didn’t have any work to offer you, or because you were ill or on paid annual leave.
  - have earned at least, or above, the level of the Lower Earnings Limit, currently £102.00 per week (before tax) in the eight weeks (if weekly paid) or two months (if monthly paid) before the end of the qualifying week
- have notified the agency of your pregnancy and the date on which you expect SMP to start.



The right to SMP starts when you go on leave rather than when you have the baby. For most women this will be just a week or two before their due date. For some it may be earlier. It's also worth noting that if you're off sick with a pregnancy-related illness in the four weeks before your due date, your maternity leave and SMP will be triggered automatically, regardless of whether you want it to or not.

SMP is paid for 39 weeks: at 90 per cent of your average pay for the first six weeks and then at a flat rate for the remaining 33 weeks or 90 per cent of average gross weekly earnings if lower than the flat rate. From April 2011, the flat rate was £128.73 per week.

If you do not qualify for SMP, you may be able to claim Maternity Allowance from your local Benefit Agency office and you should contact them for further details and an application form.

To qualify for Maternity Allowance you must have worked for 26 weeks during the 66 weeks before the week in which your baby is due. You must have earned at least £30 per week on average during this time. Payment of MA is not dependent on National Insurance contributions.

From 1 October 2011, pregnant agency workers and agency workers who are new mothers and who have worked for the same hirer in the same role for a 12-week qualifying period gain two important new rights. These are:

- the right to reasonable paid time off to attend ante-natal appointments when on assignments.
- the right to be offered an alternative assignment for pregnancy-related reasons or to be suspended on full pay where a suitable alternative assignment is not available.

If you are an employee of the agency, you will be entitled to these rights from day one of any assignment.

### **Statutory sick pay**

As an agency worker you will be entitled to statutory sick pay (SSP) where you meet certain conditions:

- Your normal weekly earnings must exceed £102 a week. If your pay varies, your entitlement depends on your average pay over the last eight weeks.
- You must be absent from work due to illness for at least four consecutive days (including weekends, bank holidays and days that you do not normally work).

If you qualify for SSP, it is normally paid in the same way as your wages. It is paid at a flat rate (currently £81.60 a week) and can be paid for up to 28 weeks, if your sickness lasts that long. It is not paid for the first three days that you are on sick leave; these are called 'waiting days'.





## Health and safety

As an agency worker, you have certain rights under health and safety law. You have a right to:

- work in places where all risks to your health and safety are properly controlled
- stop working and leave the area if you think you are in danger
- receive appropriate health and safety training from the hirer
- be issued with any personal protective equipment (PPE) you need free of charge, including clothing, shoes or boots, eye and ear protection, gloves and masks, etc.
- join a trade union.

The agency/hirer must tell you:

- what risks there are to your health and safety from current or proposed working practices
- how to do your job safely
- what has been done to protect your health and safety
- how to get first aid treatment and what to do in an emergency.

## Discrimination

You have the right not to be treated less favourably than other workers, by either the agency or hiring company on the grounds of sex, race, disability, pregnancy, sexual orientation, religious belief or age.

# Special rules

## for the entertainment and modelling sectors

Generally employment agencies are prevented from charging agency workers fees for finding them work. However there are limited exceptions to this rule that apply in the entertainment sector. Employment agencies can charge you a fee when looking for entertainment or modelling work where:

- they take commission or fees from earnings from work they have found for you
- they include your details in a publication or on a website when you are seeking work as an actor, background artist, dancer, extra, musician, singer or other performer, but not as a photographic or fashion model.

Agencies can only deduct a fee from earnings from work they found for you if they have set out details of the fee and services in writing previously. They must inform you about your right to a 'cooling-off' period when you enter a contract where upfront fees are charged.

### Cooling-off period

If you do agree to pay a fee for your details to be included in a publication or on a website, under the Conduct Regulations you are given time to reconsider and change your mind:

- The agency must wait 30 days from the date you agreed to pay the fee, before taking any money from you. During this 30-day period you have the right to end the contract.
- You must be shown the information about you that will be included in the publication or website and you have seven days to object to this. You cannot be charged until the seven days have passed, even if the 30-day cooling off period has expired.
- If your agency fails to publish your details and make these available within 60 days of taking payment from you, you are entitled to a refund.
- If your agency offers to provide you with photographic or audio visual services as additional services, you also have a 30-day cooling off period.

# Equal treatment for agency workers

New equal treatment rights for temporary agency workers came into effect on 1 October 2011. These new rights are contained in the Agency Worker Regulations 2010 (AWR).

## New equal treatment rights in summary

From day one of an assignment agency workers will have a right to:

- equal access to collective facilities provided by the hirer
- information and the opportunity to apply for vacancies in the hirer's workplace.

After 12 weeks in the same role with the same hirer agency workers will have the right to:

- equal treatment on pay, holidays and working time
- improved pregnancy rights.



## Am I covered?

You will be covered by the new equal treatment rights if:

- you are placed by an agency on temporary assignments where you work under the direction and supervision of a hirer, and
- you are an employee or worker of the agency (i.e. you have a contract of employment or a contract to perform work or services personally with the agency).



You are not covered by equal treatment rights if you use an agency to find permanent work with a hirer. In this case, once you find permanent work, your contract will be with the hirer.

You are not covered by the new equal treatment rights if you are genuinely self-employed and run your own business (i.e. you have a business to business relationship with the hirer).

For more information on whether you are likely to be an employee, a worker or self-employed, please see the TUC Basic Rights at Work website.

### **Day one rights**

#### **Equal treatment on collective facilities and amenities**

From 1 October 2011, you have the right not to be treated less favourably than a comparable employee in relation to collective facilities and amenities provided by the hirer.

Examples of collective facilities and amenities include:

- canteens and staff rooms, waiting rooms
- food and drink machines
- toilet and shower facilities
- crèches
- transport services (such as local pick-ups and drop offs)
- car parking
- mother and baby rooms
- prayer room
- rest rooms
- accommodation for workers who are required to sleep on site.

Where a popular facility such as a workplace crèche has a waiting list, you have the right to request to use this facility and join the waiting list on the same basis as the hirer's employees.

## Finding a comparator

As an agency worker, you will have the right not to be treated less favourably than a comparable worker in relation to collective facilities and amenities. You can compare your treatment with someone who:

- is an employee or worker of the same hirer
- is doing the same or broadly similar work
- has a similar level of qualifications and skills (where relevant)
- works or is based at the same establishment as you (or at a different establishment owned by the hirer if there are no comparable workers at your site).

## Can a hirer justify unequal treatment?

Hirers may be able to justify treating agency workers less favourably in relation to collective facilities if they can show that:

- the different treatment is to achieve a legitimate objective, such as a genuine business or operational need
- the treatment is necessary to achieve that objective, and is
- a proportionate way to achieve that objective

There are likely to be limited circumstances where hirers can justify not providing equal treatment on collective facilities. The cost of providing a facility to an agency worker is unlikely by itself to be sufficient reason.

Hirers should consider whether there are other less discriminatory ways of trying to achieve the same aim and should also consider whether it is possible to offer partial access to facilities rather than simply exclude agency workers.

## Vacancies with the hirer

From 1 October 2011, you will have the right to be informed about vacancies with the hirer while on assignment with them. The aim is to give you the same opportunity as a comparable worker to find a permanent job with the hirer.

A comparable worker is someone who is employed by the hirer to do the same or similar work as you in the same workplace and who has a similar level of skills and qualifications. You cannot compare your treatment with that of a former employee.

The hirer can choose how to inform staff about the vacancies. This may be through e-mail, internet or intranet or through a company newsletter or displaying details on a notice board. But you should have the same access to this source of information as the hirer's employees.

You should be allowed to apply for relevant vacancies. The only exception will be in a redundancy situation where an employer ring-fences posts for redeployment opportunities for staff at risk of redundancy. Hirers can still require certain qualifications, skills or experience when advertising posts.

## Equal treatment rights after the 12-week qualifying period

### Equal treatment on pay

After 12 weeks in the same role with the same hirer, you will have the right to the same pay, as if you had been recruited directly by the hirer to do the same job.

Pay includes:

- basic pay that the agency worker would have received if they had been directly recruited by the hirer, based on an hourly, daily or weekly rate of pay, piece rates or the annual salary (usually converted into an hourly or daily rate).
- holiday pay
- Unsocial hours payments including enhanced pay for working on bank holidays or public holidays
- overtime pay (N.B. if the hirer's employees are required to work a specified number of hours, e.g. more than 35 hours a week, to qualify for overtime, the same rule can apply to agency workers)
- bonuses based on your individual performance, including sales commissions and performance related pay
- discretionary bonuses which are paid on such a regular basis that they form part of custom and practice for that workplace



- vouchers or stamps, such as luncheon vouchers or childcare vouchers, that have a monetary value and can be exchanged for good or services.

Pay does not include:

- contractual sick pay
- occupational pensions
- maternity, paternity or adoption pay
- bonuses which are not connected to an individual's performance and which reward loyalty or length of service
- redundancy pay
- advances in pay or loans
- expenses
- payments linked to financial participation schemes such as share ownership schemes
- benefits in kind.

The regulations do not affect your existing entitlements to statutory sick pay, statutory maternity, paternity or adoption pay. Agency workers will also have pension entitlements under the new automatic pension enrolment. The Department for Work and Pensions (DWP) and National Employment Savings Trust (NEST) have prepared a handout explaining the new pension arrangements: [www.dwp.gov.uk/docs/auto-enrol-and-wpr-the-facts.pdf](http://www.dwp.gov.uk/docs/auto-enrol-and-wpr-the-facts.pdf) If you are unsure, seek advice from your union or from an advice agency.

### Agency workers on pay between assignment contracts

The Agency Worker Regulations provide one exemption from the right to equal pay. If you are an employee of an agency and have a right to be paid between assignments where the agency is unable to find work for you, you will not be entitled to equal pay, even where you have worked for more than 12 weeks in the same role for the same hirer.

In order for this exemption to apply:

- You must have a contract of employment with the agency; and
- You must not be employed on a fixed term contract; and
- You must have a contract which includes terms on the following: the minimum pay rates you will receive; the location(s) where you will be expected to work; your expected hours of work during any assignment; the maximum hours you will be expected to work on an assignment; the minimum hours the agency will

guarantee you while on assignment (which must be at least one hour); and the type of work you will be expected to undertake; and

- You must be paid by the agency between assignments. This must be at least 50 per cent of the pay you received on your last assignment or the national minimum wage rate for the hours you worked on the last assignment, whichever is the greater.
- The agency must also try to find and offer suitable assignments to you when you are between assignments and not working. Your contract cannot be terminated until there has been an aggregate of at least four calendar weeks between assignments when you were not working but were paid by the agency.

This exemption from equal treatment only applies to pay. You will be entitled to all other equal treatment rights.

### Holiday rights before qualifying for equal treatment

You have a legal right to 5.6 weeks of paid holiday a year entitlement which can include bank or public holidays. These rights are contained in the Working Time Regulations. If you work five days a week over a full year, this works out as 28 days' paid leave a year ( $5.6 \times 5 = 28$ ). If you work two days a week, you will have a right to 11.2 days' paid leave a year ( $5.6 \times 2 = 11.2$ ).

For more information on your statutory holiday entitlements please see the TUC Basic Rights @ Work website.

### **After you qualify for equal treatment**

After 12 weeks in the same job for the same hirer, you will have the right to the same holiday entitlement as if you had been recruited directly by the hirer to do the same job.

For example, if the hirer's employees are entitled to 35 days' holiday a year, you will also be entitled to 35 days' leave a year.

If you work part-time, your leave entitlement can be calculated on a pro rata basis.

After qualifying for equal treatment you should be treated the same as the hirer's employees when requesting and being permitted to take holidays.

For example, where a hirer requires their employees to give notice before being able to take leave, you can be required to give the same period of notice.

A hirer/agency should not refuse you time off during the summer season when the hirer's employees are permitted to take leave.

### **Holiday pay**

You should be paid during your holiday period. You should not receive 'rolled-up' holiday pay or pay in lieu of holiday. The only situations in which you should receive pay in lieu of holidays are where:

- Your assignment with a hirer has come to an end and you were unable to use all your holiday entitlement.
- The hirer's employees are entitled to buy out some of their holiday entitlement above the statutory minimum (N.B. it is unlawful for a hirer or an agency to buy out your statutory holiday entitlement).

### **Bank holidays and public holidays**

After completing the 12-week qualifying period you will be entitled to equal treatment on:

- enhanced pay for working on bank holidays or public holidays
- the right to time off on bank holidays or public holidays.

### **Equal treatment on working time entitlements**

After 12 weeks in the same job for the same hirer, you will have the right to the same working time entitlements as if you had been recruited directly by the hirer to do the same job (See above).



# Establishing equal treatment

The approach taken to equal treatment in the Agency Worker Regulations is different to that used for other equal treatment rights.

The key question is:

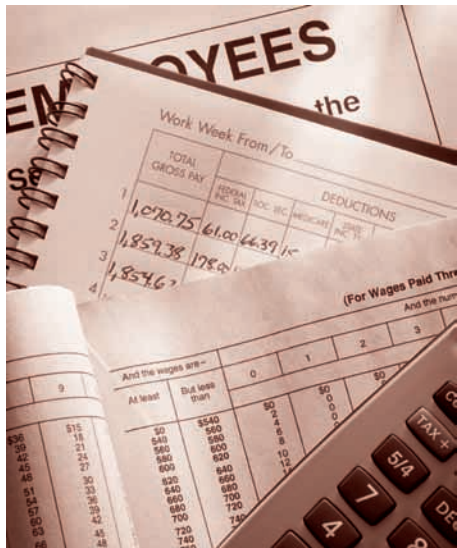
**‘What would I have been entitled to if I had been directly recruited by the hirer to do the same job?’**

You will also only have the right to equal treatment on pay and conditions ordinarily contained in the contracts of the hirers' employees or workers.

In most workplaces it will be easy to assess whether you are receiving equal treatment by comparing your pay and conditions with those contained in collective agreements, staff handbooks, pay scales or standard contracts of the hirers' employees or workers.

But where a hirer employs staff on genuinely individualised pay rates, you may not be covered by equal treatment rights.

It is also important to be aware that a hirer or agency can defend a claim for unequal treatment if they can identify a comparable employee on the same pay and conditions as you.



For this defence to work, the comparator must be a current employee of the hirer and must do the same or similar work as you. Where relevant they should have a similar level of skills and qualification. They should also work in the same workplace as you. However if there are no comparable employees in your workplace, the hirer and agency can use a comparator who works in another workplace owned by the hirer.

## Calculating the 12-week qualifying period

You will qualify for equal treatment on pay, holidays and working time entitlements after working for 12 calendar weeks in the same role for the same hirer on one or more assignments.

Every week in which you do any work for a hirer will count as a calendar week, even if you only work a few hours or a couple of days. A calendar week is likely to comprise a period of seven days, starting with the first day of your assignment.

It does not matter if you are supplied by more than one agency during your qualifying period. It is also possible to accrue qualifying periods with more than one hirer at the same time.

## The qualifying period as a 'stopwatch'

One way of explaining the qualifying period is to think of it as a stopwatch. Certain breaks during or between assignments or changes in your role for a hirer will cause the stopwatch to be reset to zero and your qualifying period will start again. Certain breaks during or between assignments will cause the stopwatch to pause. It will then continue to tick if you return to the same role with the hirer. In some situations the stopwatch will continue to tick even though you are absent from work.

## Reasons that reset the stopwatch to zero

Your stopwatch will be reset to zero and your qualifying period will start again:

- if you have a break of more than six calendar weeks during or between an assignment (and the reason for the break does not pause the stopwatch or mean it continues to tick – see p19)
- where you remain with the same hirer but start a new role involving 'substantively different' work or duties with the hirer – in order to have started a substantively different role, there should be a genuine and significant difference to the role, involving different job functions or tasks; requiring use of different skills and/or a significantly different pay rate. (It is not enough that your line manager has changed or you are working in a different department but doing essentially the same job for the same hirer.) Also, your stopwatch will only be reset to zero if the agency has written to you informing you in writing of the type of work you will be required to do in the new role
- if you finish an assignment with a hirer and go to work for another hirer unless you return to work for the original hirer in the same role in less than six weeks.

If you have a break of more than six calendar weeks during or between assignments with a hirer your stopwatch will normally be reset to zero. If the reason for the break is one of those listed below your stopwatch will either pause or continue to tick.



### Breaks that cause the stopwatch to pause

These are:

- a break for any reason of six calendar weeks or less
- you are unable to work because of sickness or injury
- you are taking time off or leave to which you have a contractual or statutory right (e.g. annual leave or time off for trade union duties)
- jury service for up to 28 weeks
- where the hirer temporarily does not require any workers to be present, for example due to a customary factory shut downs or summer vacations
- due to strikes or industrial action in the hirer's workplace.

### Breaks where the stopwatch continues to 'tick'

- any period of sick leave for pregnancy-related reason
- any leave for maternity related reasons for up to 26 weeks after childbirth (N.B. this applies even if the agency worker does not have a statutory or contractual right to maternity leave)
- any period of contractual or statutory maternity, paternity or adoption leave.

NB: If you are absent for family-related reasons, your stopwatch will only continue to tick for the period that your assignment would have or was expected to last. During any period where your last assignment would have ended, your stopwatch will be paused.

*For the purposes of the 12-week qualifying period it is possible that different absences can count as not breaking continuity. For example, an agency worker is on sick leave for the last two weeks of an assignment in a packing factory. The assignment then ends and there is a break of five weeks. The agency worker then starts a new assignment in the same role in the packing factory but he will not have to start a new qualifying period. Although altogether he has had a break of more than six weeks, the stopwatch was paused during the period of sick leave and therefore the stopwatch is not reset to zero.*

### **Anti-avoidance measures**

The Agency Worker Regulations include provisions which seek to prevent hirers and agencies from hiring you on a succession of assignments or from rotating you within an organisation in order to prevent you from qualifying for equal treatment rights.

The anti-avoidance provisions apply:

- if you have been moved to more than two substantively different roles with the hirer (or within a company associated with the hirer) or you had been hired on a succession of more than two assignments with a hirer, and

- the most likely reason why you were rotated or hired on the succession of assignments was because the agency or hirer (or associated company) intended to prevent you from qualifying for equal treatment and
- you would have qualified for equal treatment if you had not been moved or hired on a succession of assignments.

Where an employment tribunal decides that a hirer or agency has breached these anti-avoidance provisions, they can award you up to £5,000.

### **Rights for pregnant agency workers and new mothers**

The Agency Worker Regulations extend two existing rights for pregnant employees to agency workers once they have completed the 12 week qualifying period. These are:

- The right to reasonable paid time off to attend ante-natal appointments when on assignments.
- The right to be offered an alternative assignment for pregnancy related reasons or to be suspended on full pay where a suitable alternative assignment is not available.

These rights apply from day one to agency workers who are employees of an agency.

For more information on these rights please go to:

**[www.direct.gov.uk/en/Employment/Understandingyourworkstatus/](http://www.direct.gov.uk/en/Employment/Understandingyourworkstatus/)**

# Enforcing your rights



If you are not receiving your rights to equal treatment you may be able to take a claim to an employment tribunal. You should always seek advice from your union or the Acas Helpline before making a claim to an employment tribunal.

As with most statutory rights there is a three-month time limit for submitting claims.

Where an employment tribunal finds that your rights under the Agency Worker Regulations have not been complied with they will make a declaration and award a minimum of two weeks' pay to the agency worker. Where an agency worker successfully demonstrates that the anti-avoidance measures have been breached the tribunal will be able to award up to £5,000 compensation in addition to any other compensation awarded.

# Sources of further information and advice

## Gangmasters Licensing Authority (GLA)

Report any problems with your employer to the GLA if you work in one of the sectors covered – agriculture, forestry, horticulture, shellfish gathering and food processing and packaging.

**Telephone 0845 602 5020**

**<http://gla.defra.gov.uk>**

## Directgov

Directgov is the UK government's digital service for people in England and Wales. It delivers information and practical advice about public services, bringing them all together in one place.

**[www.direct.gov.uk](http://www.direct.gov.uk)**

## Pay and Work Rights Helpline

If you have a question or want to make a complaint about an employment agency, you should contact the Pay and Work Rights Helpline on **0800 917 2368**.

**[www.bis.gov.uk/policies/employment-matters/eas](http://www.bis.gov.uk/policies/employment-matters/eas)**

## National minimum wage

For NMW enquiries and complaints and help and advice on the rules of the NMW ring the Pay and Work Rights Helpline on **0800 917 2368**.

**[www.hmrc.gov.uk](http://www.hmrc.gov.uk)**

## Acas

The Acas Helpline is the place to go for both employers and employees who are involved in an employment dispute or are seeking information on employment rights and rules.

**Telephone 08457 47 47 47**

**[www.acas.org.uk](http://www.acas.org.uk)**

## TUC sources of information

**[www.worksmart.org.uk](http://www.worksmart.org.uk)**

**BasicRights@Work**

**[www.tuc.org.uk/workplace/](http://www.tuc.org.uk/workplace/)**

**[tuc-19833-f0.cfm](http://tuc-19833-f0.cfm)**



# Unions today – your friend at work

The rights described in this booklet, along with many others such as the minimum wage, have been won by union campaigning.

Every day unions help thousands of people at work. For example, when things get difficult and you have to make a claim against your employer, unions can help you make your case. Unions win on average over £300m compensation a year for their members through legal action.

Unions also negotiate better pay and conditions than the legal minima, whether you work in the private or public sector, in secure or precarious employment.

[www.worksmart.org.uk](http://www.worksmart.org.uk) is the TUC's website for everyone at work, whether they are a union member or not. It provides a range of information about working life and rights at work. The full text of this leaflet plus a whole range of information about other employment rights is on the site, which also gives help in finding an appropriate union to join if you are not already a member.



**Trades Union Congress**

Congress House, Great Russell Street, London WC1B 3LS  
Telephone: 020 7636 4030 email: [info@tuc.org.uk](mailto:info@tuc.org.uk)  
[www.tuc.org.uk](http://www.tuc.org.uk)