

Live wire



Temporary measures Many electrical companies turn to agency labour to cope with busy periods. But businesses should be aware of new rules giving temps equal rights, says **Catherine McGrath**

Businesses have historically been allowed to treat agency workers less favourably than permanent full-time employees. The Agency Workers Regulations 2010, however, which came into force on 1 October this year, give temporary agency workers greater protection.

The regulations apply to all temporary agency workers supplied to a hirer by an employment agency and who work under the supervision and direction of the hirer, but do not cover the genuinely self-employed or those engaged directly by the hirer.

What rights will they have?

From day one of their assignment with the hirer, agency workers must be given access to collective facilities such as the staff canteen, car park, common room and childcare facilities. Hirers must also provide agency workers with information about permanent job vacancies.

Most significantly, though, if an agency worker has been engaged by the same hirer on the same assignment for 12 weeks or more, irrespective of how many hours are worked each week, he or she will be entitled to the same basic working and employment conditions they would have received had they been engaged by the hirer directly. This includes pay, such as salary, commission and overtime payments, but does not extend to pension contributions or company sick, maternity, paternity or adoption pay.

Breaks of up to six weeks between assignments in the same role for the same hirer will not break the 12-week qualifying period. However, the clock will restart if the worker begins a new assignment in a substantially different role.

What should businesses do now?

As a first step, hirers should undertake an audit of their agency workers' terms and conditions to establish what, if any, adjustments need to be made so as to bring them in line with permanent employees doing the same or similar work.

Appropriate records should be put in place and maintained, so hirers know how many agency workers are on the books and, more importantly, which of those workers have been engaged for more than 12 weeks.

An agency worker who believes that their rights under the regulations may have been breached can request certain information from the agency and hirer concerned. Hirers should therefore implement systems so that any such request can be dealt with in a timely manner.

Good lines of communication should be established between hirers and agencies. Hirers should ensure that details of basic terms and conditions of comparable directly recruited staff are provided to the agency as soon as it is clear an agency worker's assignment may last more than 12 weeks.

Similarly, any changes to those terms and conditions should be notified to the agency by the hirer.

Now may be a good time for hirers to review their terms of business with agencies and, in particular, to ensure that both exchange of information and apportionment of liability are dealt with in any relevant agreement.

Finally, hirers may wish to limit the length of agency workers' assignments to less than 12 weeks. Alternatively, the number of directly recruited fixed-term workers or self-employed contractors may be increased, or greater reliance placed on sourcing labour from in-house staffing banks. **C**



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