

Agency Workers Regulations (AWR) Overview

The Agency Workers Regulations “AWR” which becomes law in October 2011. This law which will affect all recruitment businesses in the UK and will involve some changes to the way the Industry operates.

At Haul-It we have been working to consider the implications of the AWR for our business and our clients and will be taking measures to ensure that we work together with clients to prepare for October.

What is the AWR?

The AWR comes from a European Directive which the UK is required to bring into force and will become law in October this year.

Its purpose is to give temporary agency workers the same basic pay and employment conditions – known as “equal treatment” - as they would have been entitled to had they been recruited by the hirer directly to the same job. Most of the rights will commence after the agency worker has had 12 weeks service. These 12 weeks do not have to be through the same recruitment business.

What is equal treatment?

This will include the same basic pay, overtime allowances, shift premiums, holidays, and other items such as lunch vouchers and access to staff facilities.

Equal treatment is established by comparing the terms of conditions of someone employed to do the same or similar work.

How does this affect Haul-It?

Haul-It will be liable if a temporary worker does not get equal treatment after 12 weeks. However if Haul-It has taken all reasonable steps to obtain information from the hirer and acted reasonably it will not be liable.

This means that Haul-It will need to put in place measures to ensure that it keeps accurate records of the length of time which a worker is at a client (including work done for the client with other recruitment businesses) and ensure that it gets information from the client about the pay and benefits of similar workers to ensure that the temporary worker is paid the same.

How will this affect you?

We will need to work together with our clients to obtain as much information as possible about comparable employees to ensure that we can give equal treatment.

Is there any way around the AWR?

There are strict fines which apply to recruitment businesses who seek to avoid the AWR, for example by manipulating the time a temporary worker works at a client to avoid the 12 weeks.

What is Haul-It doing about this?

Haul-It is currently working with its clients across all sectors to establish the extent of the variation, if any between temporary workers terms and conditions and employees.

Once we have collected the data we will know more about the extent of the issues and will then discuss the outcome with you.

We are also examining all sectors of our business to establish whether any of them fall outside of the AWR altogether.

Day One Rights.

Agency workers have the right from day one of an assignment to the client's collective facilities including access to **canteen, free, or subsidised parking, free, subsidised transports gym membership and crèche**. In addition agency workers are entitled to information about job opportunities within the client organisation.

Information requirements to comply with 12 week requirements.

the level of **basic pay** (based on the annual salary an agency worker would have received if recruited directly, usually converted into hourly or daily rate, taking into account any pay increments)

- if and when there are **overtime payments** and **shift/unsocial hours** allowances or **risk payments for hazardous duties**
- types of **bonus** schemes they operate (and how individual performance is appraised)
- if they offer **vouchers** which have monetary value
- **annual leave entitlement**

Out of scope

The definition of an agency worker excludes those who are in *business on their own account* where the hirer is a client or customer of the individual (i.e. a genuine business to business relationship).

Simply putting earnings through a limited company would not in itself put individuals beyond the possible scope of the Regulations. Individuals may choose to do this for the sake of flexibility or for tax reasons. However, where the relationship between the individual, TWA and hirer remains, in essence, a tripartite relationship, and a hirer is not a client or customer of such individuals, they are likely to be in scope.