

## Your rights as an agency worker

### When you are an agency worker

You're an agency worker if you have a contract with an agency but you work temporarily for a hirer.

You're not an agency worker if you:

- Find work through an agency but work for yourself - you may be self-employed
- Use an agency to find permanent or fixed-term employment - check with the company that hired you
- Take a 'pay between assignments' contract - you're an employee of the agency

### Fees

Recruitment agencies can't charge you a fee for finding or trying to find you work.

They can charge you for certain services, e.g. CV writing, training or transport. You have the right to cancel these if you give notice.

If any agency offers you services, it:

- must give you full written details of the fee and conditions before charging you - including details of your right to cancel and the notice period
- can't make you use these services as a condition for finding you work

### When you want to cancel a service

You can cancel paid services without a penalty. You must give a minimum of:

- 10 working days' written notice to the agency to cancel living accommodation
- 5 working days' notice for all other services, e.g. training courses

**You can complain to ACAS if you think your agency has unfairly charged you or it won't refund you during the notice period.**

### What your agency must give you

Your agency must give you written terms of employment before looking for work for you.

These should include:

- Whether you're employed under a contract for services or a contract of employment
- Your notice periods
- Your pay
- Your holiday entitlement

When you're offered a job, the agency must tell you:

- Your start dates
- How long the contract is likely to last
- The type of work
- About any expenses you may have to pay
- The location
- Your hours
- About any health and safety risks
- About any experience, training or qualifications needed for the role

## EXTRAMAN – Your rights as an agency worker

### **If your agency changes your terms**

An agency can't change your terms and conditions without telling you. If you agree to changes you must be given a new document with the full details of the changes and the date they changed.

An agency can't give information about you to any third parties (including current employers or hirers) without your permission.

### **Equal treatment**

From the day you start work you have a worker's employment rights.

You also have the same rights as your permanent colleagues to use any shared facilities and services provided by your employer, e.g.:

- A canteen or food and drinks machines
- A workplace creche or mother and baby room
- Car parking or transport services, e.g. local pick-up service, transport between sites

### **Worker Employment Rights**

- Workers are entitled to certain employment rights, including:
- Getting the National Minimum Wage / National Living Wage
- Protection against unlawful deductions from wages
- The statutory minimum level of paid holiday
- The statutory minimum length of rest breaks
- To not work more than 48 hours on average per week or to opt out of this right if they choose Protection against unlawful discrimination
- Protection for 'whistleblowing' - reporting wrongdoing in the workplace
- To not be treated less favorably if they work part-time

They may also be entitled to:

- Statutory Sick Pay
- Statutory Maternity Pay
- Statutory Paternity Pay
- Statutory Adoption Pay
- Shared Parental Pay

### **Rights after 12 weeks**

After 12 weeks in the job you qualify for the same rights as someone employed directly. This is known as 'equal treatment'.

#### Your rights include:

- 'Equal pay' - the same pay as a permanent colleague doing the same job
- Automatic pension enrolment
- Paid annual leave (Holiday Pay)

You won't be entitled to equal pay if you're offered a 'pay between assignments' contract (Swedish Derogation Employment Contract)

### **How to count your 12-week period**

Start counting your 12-week qualifying period from your first day at work.

You don't have to be at work for 12 weeks in a row - some types of leave count and there can be breaks.

## EXTRAMAN – Your rights as an agency worker

### **Don't count days on sick leave or a break!**

The qualifying period will pause for sick leave or breaks. Don't count the days when:

- You take a break of 6 weeks or less
- You're on leave due to sickness or injury for up to 28 weeks
- You take annual leave you're entitled to
- The workplace closes, e.g. for Christmas or industrial action
- You're on jury service for up to 28 weeks

### **Count time off for pregnancy, paternity or adoption.**

Your 12-week qualifying period will continue through time off you have for:

- Pregnancy and up to 26 weeks after childbirth
- Adoption leave
- Paternity leave

If your leave is more than 12 weeks, you'll qualify for equal treatment when you return to work.

### **Start from zero for a new job or role**

Your 12 weeks will start again if you:

- Get a new job at a different workplace
- Have a break of more than 6 weeks between jobs at the same workplace
- Stay at your workplace but take a new role that's 'substantively different'

A substantively different role is one that's completely new, different work. It could be a combination of different:

- Skills, or requiring new training
- Pay rate
- Location
- Working hours

### **Pay**

You're entitled to the National Minimum Wage / National Living Wage for all the hours you work, even if you haven't recorded them on a timesheet.

After 12 weeks you can ask to be paid the same as a permanent employee doing the same job.

You're entitled to the National Minimum Wage for all the hours you work, even if you haven't recorded them on a timesheet.

After 12 weeks you can ask to be paid the same as a permanent employee doing the same job.

### **If your agency withholds your pay**

Your agency can delay paying you while they get proof of the hours you worked, but only for a reasonable period.

Your agency can't refuse to pay you because your hirer's unhappy with your work - this is a contractual issue between your agency and the hirer.

You can make a claim to an employment tribunal if your agency is refusing to pay you.

## EXTRAMAN – Your rights as an agency worker

### **‘Pay between assignments’ contracts**

If your agency offers you a ‘pay between assignments’ contract you’ll be an employee of the agency, not an agency worker.

You’ll get paid even when you’re not working. You must get an employment contract.

You’re not entitled to equal pay under a pay between assignments contracts. The rest of your rights will stay the same.

You must get 50% of your previous pay, calculated at the highest rate of pay received during any one week.

The agency must give you a contract stating:

- The type of work
- That you’re giving up the right to equal pay
- Minimum pay rates and how they’re calculated
- Where you’re expected to work (your agency can’t offer you work outside a reasonable travel time unless you agree)
- Minimum and maximum working hours (the minimum must be at least one hour)

The agency can’t ask you to come into its office for an hour to avoid paying you between jobs.

You’ll only get ‘pay between assignments’ for full weeks when you don’t have any work.

If the agency ends the contract:

- It must give you 4 weeks’ pay between assignments
- You may be entitled to certain rights, e.g. notice pay and redundancy pay

### **Maternity rights**

You may be able to get Statutory Maternity Pay, but you can’t get Statutory Maternity Leave.

If you’re on a ‘pay between assignments’ contract you’re an employee of the agency, not an agency worker. You have employee’s pregnancy rights.

It’s illegal to discriminate against you on the grounds that:

- You’re pregnant
- You’ve given birth in the last 6 months
- You’re breastfeeding

Its discrimination if the:

- agency refuses to place you in a job
- hirer refuses to hire you
- job was terminated because you’re pregnant
- agency refuses to keep you on its books
- agency offers you only short jobs and gives longer ones to other agency workers
- hirer won’t let you come back after having leave due to maternity

**Contact ACAS if you believe you’ve been discriminated against.**

**If there's a risk to your health**

Your hirer should make reasonable adjustments so you can do your job. If this isn't possible your agency must find you alternative work or pay you at the same rate for the expected length of your contract.

**Antenatal care**

After 12 weeks in the job you can get paid time off to go to 'antenatal care' if you can't arrange it outside working hours.

Antenatal care includes antenatal classes, appointments and parenting classes if they've been recommended by a doctor or midwife.

You must also be paid for the travel time if it's during working hours.