



Bulletin 128

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AGENCY STAFF TO RECEIVE COMPARABLE RIGHTS TO THEIR PERMANENT COUNTERPARTS

You will no doubt be aware that ministers and unions agreed new proposals on 20 May 2008 to ensure agency workers are to receive the same employment rights as those enjoyed by permanent staff after 12 weeks service. Ministers and Unions believe *"this is the right deal for Britain"* as in principle it provides flexibility for British employers and fairness for workers. However, the proposals have raised significant concern in the business community generally, concerns which are made more pertinent by the current economic slowdown.

The agreement defines equal treatment as 'at least the basic working and employment conditions that would apply to the workers concerned if they had been recruited directly by that undertaking to occupy the same job'. In practice, it is proposed that temporary workers (an estimated 1.4 million in the UK) will be given equal pay and holiday entitlements after 12 weeks in a job, however, this will not extend to cover sick pay or pension payments. Further, temporary staff will have to work the same length of time as full-time workers to enjoy paid maternity leave.

These proposals now hinge on a Europe-wide agreement on temporary workers' rights. While the UK had previously blocked attempts for the EU law to apply in the UK, the government has stated its commitment to agreeing the exact terms of the Directive with members of the European Union. In this respect a number of key issues remain undecided, including mechanisms for resolving disputes and anti-avoidance measures to deal with workers on repeated short-term contracts. Members of the European Council met in Brussels on 9 June 2008 to attempt to reach a political agreement on the agency workers directive. At the time of writing, the outcome of this meeting has not been reported; however, rest assured that we will inform you of any developments as and when they are released.

Only when Brussels passes a directive will the UK government be able to put forward "implementing" legislation of its own. It therefore remains to be seen where the balance between 'flexibility for employers' and 'protection for temporary workers' lies. The critical issue for the recruitment industry and business generally will be ensuring there is a clear and limited definition of basic working and employment conditions to which equal treatment will apply.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Employment Law issues, please contact a member of the Employment Team on 0151 600 3000. If you no longer wish to receive the bulletin please let us know by return email.

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