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Agency Worker Regulations

Agency/Hirer Due Diligence Checklist

INTRODUCTION

The Agency Workers Regulations 2010 come into force on 1 October 2011. The main aim of the legislation is to provide the same rights for agency workers as permanent workers in terms of basic working and employment conditions.

The Regulations can be downloaded from www.legislation.gov.uk/ukxi/2010/93/contents/made.

The Department for Business, Innovation, and Skills (BIS) has published their guidance notes for the legislation, which was written following consultation with the ALP and various other industry bodies and large suppliers and users of agency workers. The BIS Guidance can be downloaded from www.bis.gov.uk/policies/employment-matters/strategies/awd

The ALP is supporting its members to navigate their way through this new piece of legislation, working together in partnership with their clients.

It is essential that the labour provider and the hirer work closely together to ensure compliance.

The labour provider must receive full details regarding the hirer's payment structure, terms and conditions and custom and practice relating to working conditions in order to ensure that the equivalent terms may be provided to relevant agency workers.

The attached Agency/Hirer Due Diligence Checklist has been produced to help ALP members to formulate the questions that they need to ask during this information gathering process.

Please note that this document is not exhaustive on the subject, and is not intended to be used as a substitute for legal advice.

Decisions made by both users and providers with regard to the Regulations are likely to be risk-based, and, therefore, depending on the nature of your business you may well find it advisable to take independent legal advice before the implementation date.

Dates and locations of the nationally run ALP one day workshops – “The Agency Workers Regulations 2010 - Labour Providers and Labour Users Working In Partnership” - can be found at www.labourproviders.org.uk/the_agency_workers_regulations.aspx or by contacting the Association directly.

Agency Worker Regulations Hirer Due Diligence - Assessment Form

Hirer/Temporary Work Agency Details

Hirer Name	
Temporary Work Agency Name	
Date	
Hirer Representative Name and Signature	
Temporary Work Agency Representative Name and Signature	

General Information Required

Which legal entity is the Hirer that agency workers will be supplied to work for?	
Is there a Group structure/other sites? Are they the same or separate legal entities?	
Is there a recognised Trade Union for collective bargaining purposes? If Yes, who?	
If no, how are pay and terms and conditions set?	
When, annually are new pay and terms and conditions applied?	
How will the agency be informed of any changes to relevant terms and conditions before they take effect?	
Please supply, for relevant roles: A copy of the employment contract	
Please supply, for relevant roles: A copy of the Staff Handbook or similar	
Please supply, for relevant roles: A copy of any Collective Agreements	
Please supply, for relevant roles: A copy of any other relevant documents, notices, emails etc. that detail terms and conditions	
Please supply, for relevant roles: A copy of the Induction Programme	
Please supply, for relevant roles: A copy of the Job description and Person Specification	
Please supply, for relevant roles: Details of any custom and practice not previously included	
Which supermarkets does the hirer supply to from the site?	

Day 1 Rights - Access to Facilities and Amenities
Day 1 rights are in the control of the hirer and responsibility/ liability is with the hirer. The Hirer is to decide what it regards as a Collective Facility and Amenity.

Are these Facilities and Amenities provided to directly employed workers?
 How will they be provided to agency workers or what is the objective justification if not?

Transport to work	
Transport between sites	
Car Parking	
Site entry and exit	
Access to Lockers	
Locker Keys	
Toilets / Shower Rooms	
Canteen	
Vending machines	
Rest areas	
First Aid	
Occupational Health	
Crèche/ child care	
Smoking facilities	
Prayer Room	
Any other collective facilities	

Day 1 Rights - Vacancy Notification

How will relevant vacancies be notified to agency workers?

Pay

What basic pay rates are applicable to the role(s) to be supplied?	
What shift premium / allowances are applicable to the role(s) to be supplied?	
What are the rules that apply to shift premium / allowances?	
What overtime allowances are applicable to the role(s) to be supplied?	
What are the rules that apply to overtime working?	
What are the rules that apply to working at any other particular times: e.g. nights, weekends?	
What bonuses are paid to directly employed workers which are directly related to the amount or quality of the work done by the worker?	
What are the rules that apply to any relevant bonus that will be paid to agency workers?	
What bonuses are paid to directly employed workers which are NOT directly related to the amount or quality of the work done by the worker?	

What are the rules that apply to any bonus that will not be paid to agency workers?	
Detail any vouchers with a monetary value which can be redeemed for money goods or services given out to relevant directly employed workers?	
Detail any other fees, commissions, emoluments or pay elements paid to directly employed workers.	
Which of these other fees, commissions, emoluments or pay elements should/should not be paid to agency workers?	
Is there an established appraisal system, which affects annual pay awards or the payment of performance-related bonuses?	
How is holiday pay calculated for relevant directly employed workers?	
How is holiday pay calculated for bank/public holidays?	

Working Time and Leave

Are there any current differences in the duration of working time between agency workers and directly employed workers?	
If applicable, how will these differences be addressed?	
Are there any current differences in the length, payment and any other terms & conditions for shift rest breaks between agency workers and directly employed workers?	
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Are there any current differences in the length, payment and any other terms & conditions for shift rest breaks between agency workers and directly employed workers?	
If applicable, how will these differences be addressed?	
Are there any current differences in the terms & conditions for daily rest periods between shifts between agency workers and directly employed workers?	
If applicable, how will these differences be addressed?	
Are there any current differences in the terms & conditions for weekly rest days between agency workers and directly employed workers?	
If applicable, how will these differences be addressed?	
Are there any current differences in the length, payment and any other terms & conditions for night working between agency workers and directly employed workers?	
If applicable, how will these differences be addressed?	
What paid annual leave entitlement are relevant directly employed workers entitled to on commencing employment?	
What additional paid annual leave entitlement is given with length of service?	

What terms & conditions apply to relevant directly employed workers for public / bank holidays?	
What terms & conditions apply to relevant directly employed workers for the booking and taking of paid annual leave?	
Are there site/department shutdowns when directly employed workers must take paid or unpaid leave?	
Are workers allowed to carry forward any entitlement into the following leave year? (Yes / No)	
What terms & conditions apply to relevant directly employed workers for the booking and taking of unpaid leave?	
Are there any other terms and conditions relating to working time, rest periods or annual leave not otherwise detailed above?	

Pregnancy and Maternity

Please confirm arrangements for paid time off for ante natal care?	
Please confirm arrangements for risk assessment for pregnant workers and new mothers.	
Please confirm arrangements for provision of suitable alternative work for pregnant workers.	