



Candidate Guide to AWR

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A Guide to AWR (Agency Workers Regulation)

AWR (Agency Workers Regulation) came in to force on 1st October 2011

The Legislation came in to force to give agency workers entitlement to the same basic employment and working conditions as if they had been recruited directly, if and when they complete a qualifying period of 12 weeks in the same job with the same hirer (client). The Regulation applies only to agency workers who find work through a recruitment agency.

What this means for you:

From Day 1:

From day 1 of your assignment you will be entitled to access certain facilities and amenities that the client offers e.g. car parking, childcare facilities, canteen or break rooms, food and drinks machines etc. You will also have access to information on job vacancies within the organisation you are working for.

From Week 12 onwards – working in the same job at the same company:

Once you have worked in the same client, doing exactly the same job, then equal treatment entitlements come in to play which relate to pay and other **basic** working conditions such as annual leave, holiday entitlement, rest breaks, specific bonus payments etc. There are some entitlements that are excluded from the Regulation such as those payments normally associated with employment status such as occupational sick pay, employee maternity benefits, pensions' payments and redundancy. Note: after the 12 week qualifying period Agency workers will remain agency workers and will **not become employees of the client**

This Table summaries what terms and conditions are included:

Pay or Benefit	Is it included in AWR or not?
Basic Salary	Included
Holiday entitlement in excess of statutory entitlement of 28 days	Included
Overtime	Included
Shift / Unsocial hours allowances, risk payments for hazardous duties	Included
Night work restrictions	Included
Rest Breaks	Included
Vouchers or stamps which have monetary value and are not 'salary sacrifice schemes e.g. luncheon vouchers)	Included
Bonuses or commission payments directly attributable to the amount or quality of work done by an individual i.e. Personal performance bonus	Included
Bonus based upon organisational performance (e.g. company share of profit related schemes)	Not included
Occupational sick pay in excess of statutory entitlement	Not included
Notice periods / redundancy pay	Not included
Occupational maternity/paternity/adoption pay in excess of statutory entitlement	Not included
Occupational Pension Schemes	Not included

As mentioned previously you must have worked in the same role with a client for 12 continuous calendar weeks, but note:

- Certain situations 'pause' the qualifying period, known as 'qualifying clock'
- Continuity will only be broken after a 6 week gap or the start of a new and different role
- If you work part of a week this will count towards qualification.
- The qualifying period can be completed by being supplied by several different agencies to the same client (if you are doing the same job role)

This Table summarises the different situations that can pause or reset the 'qualifying clock':

Situation	Effect on qualifying period
You start a new assignment with a new client	Clock resets
You remain with the same client but are no longer in the same job role	Clock resets
You have a break between assignments of less than 6 weeks	Pauses
You have a break of 6 weeks or more	Resets
You are Sick	Pauses for up to 28 weeks
You are on Holiday	Pauses
The Workplace shut downs (e.g. factory or office closure)	Pauses
You attend Jury service	Pauses for up to 28 weeks
Industrial action	Pauses
Pregnancy and maternity related absence	Clock keeps ticking
Statutory maternity, paternity or adoption leave	Clock keeps ticking

Below is an example of the effect on the qualifying clock of working irregular work patterns - assuming the same client and same assignment:

Week	Hours worked	Effect on qualifying clock
1	Works 6 hours on Monday	Accrue 1 week
2	Does not work	Clock pauses
3	Does not work	Clock pauses
4	Works 4 hours on Monday and Friday	Accrue 2 weeks
5	Works a full weeks at 35 hours	Accrue 3 weeks
6	Works 30 hours	Accrue 4 weeks
7	Works 1 hour on Saturday	Accrue 5 weeks
8	Works a full week at 35 hours	Accrue 6 weeks
9	Works 45 hours	Accrue 7 weeks
10	Does not work	Clock pauses
11	6 hours on Saturday	Accrues 7 weeks
12	Does not work	Clock pauses

How are Holiday Entitlements calculated?

Under the terms of Working Time Directive all workers have a statutory holiday entitlement of 28 days (5.6 weeks) which include bank and public holidays.

Under AWR, after 12 weeks in the same hirer and the same job, an agency worker will be entitled to the same terms and conditions relating to Holidays i.e. annual leave as he or she would have received as a direct employee. Different clients will have differing entitlements to paid holiday leave therefore any **additional** holiday accrual (over and above statutory) could be 'rolled-up' in to your pay rate.

For a full copy of the BIS (Department for Business, Innovation and Skills) Agency Workers Regulations Guidance May 2011 refer to: www.bis.gov.uk.