

LAW & POLICY GROUP**GRIST**

UK: AGENCY WORKERS ENTITLED TO PAY PARITY

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From 6 Apr 2020, UK temporary agency workers employed on a “pay between assignments” contract — also known as a “Swedish derogation” contract — will be entitled to pay parity with directly hired employees after 12 continuous calendar weeks in the same role. Currently, these temporary workers receive a certain amount of pay between temporary assignments in exchange for waiving their right to pay parity. The changes — which are expected to affect around 130,000 workers and will impact employers relying on temporary workers — feature in [The Agency Workers \(Amendment\) Regulations 2019](#). The Employment Standards Inspectorate will issue guidance to employment agencies and other stakeholders.

DETAILS OF THE CHANGES

Pay parity is defined as the same basic working and employment conditions as comparable workers who are directly recruited by the same business. The measures follow recommendations in the 2017 Taylor Review, and they will revoke regulations 10 and 11 of the current law that provides for the option to employ temporary workers on a pay-between-assignments contract. This type of contract was introduced when the UK implemented the [EU directive 2008/104/EC on temporary agency work](#).

The amending regulations provide the following:

- Agency workers with existing pay-between-assignments contracts on 6 Apr 2020 must be told in writing by 30 Apr 2020 that they are no longer opted out of their equal pay rights. These workers can bring claims against their employers for not issuing the statement in time.
- “Pay” includes any payment in connection with an agency worker’s employment, including certain bonus payments, overtime payments, shift allowances, premiums paid for unsociable working hours and holiday pay. The regulations exclude bonuses payable for the amount or quality of work done by the worker; company sick pay; maternity, paternity and adoption pay; pension contributions and severance pay.
- Workers will be protected from detriment and unfair dismissal if they try to assert their rights under the regulations.

RELATED RESOURCES

- [The Agency Workers \(Amendment\) Regulations 2019](#) (Legislation.gov.uk)
- [Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on Temporary Agency Work](#) (EurLex, 5 Dec 2008)
- [Taylor Review of Modern Working Practices](#) (11 Jul 2017)

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