



Article: Temporary Seasonal Employees and Agency Workers have rights too!

‘Companies, supermarkets and other retailers will soon be running their pre-Christmas recruitment drives to find temporary staff for the Christmas and New Year sales period and hoping for a boost in productivity to improve their turnover and profits for the year’ says Gill Brown, Head of the Employment Law Team at Phillips Solicitors. ‘Engaging seasonal personnel is of benefit to students looking for holiday work, the unemployed and of course employers who need a temporary seasonal influx of staff. However, temporary employees and agency workers should be aware that they do have rights and those businesses which employ them need to be aware of those rights and obligations to ensure they protect themselves from potential claims and do not get caught out by the Agency Workers Regulations 2010.

What are those rights? Don't forget the Agency Workers Regulations!

If you are an employer you must be mindful of the rights which short term casual employees have. There has been much in the press recently to advertise the fact that employees now have to be employed for 2 years before they can bring a claim for unfair dismissal. However, if you regularly employ staff on short, fixed term contracts of employment you must bear in mind the legal requirements under the Agency Workers Regulations (AWR's) which give temporary and agency workers many of the same rights as full time staff. Under the regulations employers have a legal responsibility to ensure their temps and agency workers are getting access to all the facilities from their very first day at work, such as staff canteens, childcare and transport. Temps also have a right to know about permanent positions on offer!

Most significantly, the regulations state that after 12 weeks of employment temporary and agency workers should be treated as if they had been recruited directly which means the same pay and overtime rates as your permanent workforce, as well as paid holiday. Agency workers are at all times entitled to paid time off to attend ante-natal appointments during their working hours.

In addition to the Agency Workers Regulations, businesses must remember that short term casual workers also have the right not to be discriminated against on the grounds of ethnicity, race, sex, age, sexual orientation, gender reassignment, disability, religion, philosophical belief or marital status. Both part-time and fixed term employees have the specific right not to be discriminated against in comparison to permanent or full-time employees in equivalent roles in respect of their pay, benefits and treatment. So, please remember to circulate your equality and diversity policy to **all** employees and don't forget to include your temps in your invitations to the Christmas party!



Basic rules to remember....

In addition to treating employees with dignity and respect and complying with the Agency Workers Regulations there are also the usual rules to be observed relating to:

- the National Minimum Wage
- working time limits, including rest breaks, holiday and limits on night work
- limits and consents relating to employment of minors
- special rules in respect of Sunday working in the retail trade
- protection against unauthorized deductions from pay
- maternity, paternity and adoption pay (but not leave)
- Statutory Sick Pay
- protection against less favourable treatment if, for example, when making a disclosure in the public interest (often called 'whistle blowing')
- health and safety at work
- unlawful discrimination

'Temporary seasonal employees and agency workers are an extremely useful resource for crucial periods of business such as during the festive season' concludes Gill, 'but they do have many employment rights which should not be overlooked by their employers if they want to avoid costly Employment Tribunal Claims'.

**Whether you are an employer or an employee you can call Gill and her team on 01256 854605 for advice or email Gill on gbrown@phillips-law.co.uk
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