



11 Raven Wharf, Lafone Street, London, SE1 2LR Tel: +44 (0)20 7403 5959 Fax: +44 (0)20 7403 3111
Email: gba@greenback-alan.co.uk Web: www.greenback-alan.co.uk

**Published in The Daily NNA UK
November 2008**

Employment of Temporary and Agency Staff

Recently there has been a significant increase in the number of people available for work in many industries and professions in the UK. The redundancies in the banking and finance sector have added to an increasing number of people who do not have permanent contracts of employment. Some have consciously chosen to remove themselves from the permanent workforce in order to improve their work-life balance and achieve better job satisfaction greater variety and more flexibility in their work. The number of candidates available as temporary workers has never been greater.

From an employer's perspective, a temporary worker can provide a short-term fix for a temporary lack of staff resources or be used to cover a short term contract, with staff being available at all levels. The cost of temporary labour on a straight hourly rate basis is higher than the cost of a permanent employee, but it is also necessary to factor in permanent staff costs such as recruitment fees, pension and other benefits, training and sickness and holiday pay. Temporary workers, therefore, fill a major role in the labour market. In addition, they may be converted into permanent employees if both parties agree, and this can be a more cost-effective way of dealing with a probationary period.

In recent years, the cost of temporary workers has increased as they are now entitled to holiday pay through the staff agency that employs them. Overall this adds approximately 8% to the hourly rate. EU ministers have now reached a common position on the Temporary (Agency) Workers Directive following an agreement in the UK between the CBI and the TUC on the rights of agency workers. This European Directive, when enacted, will further add to the cost of temporary workers.

The Temporary (Agency) Workers Directive sets a framework of minimum requirements. Subject to a member states' ability to adopt a qualifying period (in the UK this will be 12 weeks), these requirements oblige employers to provide agency temporary workers with the same basic employment conditions as comparable permanent workers or 'equal treatment'. 'Equal treatment' is not defined, but is likely to give agency workers the same rights as comparable permanent employees regarding notice of termination, vocational training, 'amenities', the right to be notified about vacancies for permanent work, and grievance procedures. In addition, rights of equal pay, statutory sick pay, rest breaks, holidays and other working time requirements are extended.



11 Raven Wharf, Lafone Street, London, SE1 2LR Tel: +44 (0)20 7403 5959 Fax: +44 (0)20 7403 3111
Email: gba@greenback-alan.co.uk Web: www.greenback-alan.co.uk

**Published in The Daily NNA UK
November 2008**

These rights do not include the right to occupational benefits such as pension or sick pay schemes and the Directive includes restrictions on attempts by employment agencies to prevent poaching of agency workers by end users.

Employers should bear in mind that the definition of basic pay and the qualifying period are being decided at national level and therefore other European countries will not necessarily implement the directive in the same way. There is considerable flexibility. The government is now considering how to implement these regulations in the UK.

Another important recent change was introduced effective 27 October 2008 when the Fixed-Term Employees (Prevention of Less Favourable Treatment) (Amendment) Regulations 2008 came into force. From that date all agency workers became eligible for Statutory Sick Pay (SSP) in the same way as other groups of employees, regardless of the length of their contract. Previously agency workers could not claim SSP if they were employed on fixed term contracts of less than 3 months. The qualifying criteria for SSP purposes for other employees must still be met, such as being an employee for National Insurance contribution purposes and being absent for 3 days or more. This will further add to the cost of employing temporary staff.

From a taxation perspective agency staff are generally employed by the agency, which has to meet the employment rights of the individuals. It is the agency that is obliged to deduct PAYE and National Insurance contributions and provide holiday pay etc. A company hiring temporary staff via an agency does not need to comply with PAYE or NIC legislation with regard to those employees. The costs of any such employees, provided they are employed for the purpose of the business, can be deducted for the purposes of corporation tax or income tax.

Looking forward H. M. Revenue & Customs have also announced that with effect from 1 April 2009 their Staff Hire Concession will be withdrawn. Under this concession many staff agencies have been allowed to charge VAT on their commission only. From 1 April 2009 they will be required to charge VAT on the whole value of the supply so that VAT will also be effectively charged on the temporary workers' wage costs as well as their commission. This will create a significant additional cost for those businesses that are unable to reclaim VAT because of their VAT status. Typically this will have most impact on businesses in the financial, health and charity sectors that are most likely to be exempt or partially exempt for VAT purposes.



11 Raven Wharf, Lafone Street, London, SE1 2LR Tel: +44 (0)20 7403 5959 Fax: +44 (0)20 7403 3111
Email: gba@greenback-alan.co.uk Web: www.greenback-alan.co.uk

**Published in The Daily NNA UK
November 2008**

It will be interesting to see how the costs of temporary staff will compare with those of permanent staff as the more recent legislation comes into force. Despite the flexibility, taking the mark up of the agency into account, temporary employees may no longer be an economic alternative.