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Agency Staff to Get Equal Treatment

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On 20 May 2008 the UK Government announced its intention to introduce legislation giving agency workers the right to equal treatment in respect of at least the basic working and employment conditions as comparable permanent employees of the client/end-user. The legislation will give agency workers the right to equal pay and the same holiday entitlements as permanent employees, but not to the same sick pay or pension payments. Agency workers will qualify for equal treatment when they have been engaged for 12 or more weeks.

The announcement follows on from an agreement between the Government, the CBI and the TUC. The issue of rights for agency workers has been much debated, both at EU and national level. The EU Temporary Workers' Directive (the 'Directive') was first proposed in March 2002 and provides for the agency worker to be treated no less favourably in respect of remuneration, paid holiday, maternity leave, protection for pregnant or nursing mothers, working hours and overtime than a comparable permanent employee of the client or end-user. It also provides for the agency worker to be informed of any vacant post in the client or end-user's organisation. The Directive contains some limited exceptions: a Member State could provide that the Directive would not apply if the agency worker has been engaged for less than 6 weeks, is on a permanent contract with an agency or is covered by a collective agreement. The Directive has met with considerable resistance from some EU Member States.

In light of the failure to reach agreement on the Directive, attempts have recently been made to introduce legislation in the UK via a private member's Temporary and Agency Workers (Equal Treatment) bill (the 'Bill'). The Bill proposes similar provisions to the Directive but contains no exceptions, although it does provide for a defence of objective justification. The Bill had gone through first and second readings and was at committee stage but following the agreement reached between the Government, the CBI and the TUC the Bill has been withdrawn.

As there are estimated to be about 1.4 million agency workers in the UK the proposed legislation will affect many companies who will have to ensure that their practices are compliant to avoid claims of less favourable treatment by agency workers.