

# Temporary agency work

2002/0072(COD) - 19/11/2008 - Final act

**PURPOSE:** to provide a minimum EU-wide level of protection to temporary agency workers.

**LEGISLATIVE ACT:** Directive 2008/104/EC of the European Parliament and of the Council on temporary agency work.

**CONTENT:** the aim of this Directive is to ensure the protection of temporary agency workers and to improve the quality of temporary agency work by ensuring that the principle of equal treatment, as set out in the text, is applied to temporary agency workers, and by recognising temporary work agencies as employers, while taking into account the need to establish a suitable framework for the use of temporary agency work with a view to contributing effectively to the creation of jobs and to the development of flexible forms of working.

**Scope:** the Directive applies to workers with a contract of employment or employment relationship with a temporary work agency who are assigned to user undertakings to work temporarily under their supervision and direction. It applies to public and private undertakings which are temporary-work agencies or user undertakings engaged in economic activities whether or not they are operating for gain. Member States may, after consulting the social partners, provide that this Directive does not apply to employment contracts or relationships concluded under a specific public or publicly supported vocational training, integration or retraining programme.

**Review of restrictions or prohibitions:** prohibitions or restrictions on the use of temporary agency work must be justified only on grounds of general interest relating in particular to the protection of temporary agency workers, the requirements of health and safety at work or the need to ensure that the labour market functions properly and abuses are prevented. By 5 December 2011, Member States shall, after consulting the social partners in accordance with national legislation, collective agreements and practices, review any restrictions or prohibitions on the use of temporary agency work in order to verify whether they are justified on the grounds mentioned in the text.

**The principle of equal treatment:** the basic working and employment conditions of temporary agency workers shall be, for the duration of their assignment at a user undertaking, at least those that would apply if they had been recruited directly by that undertaking to occupy the same job.

As regards pay, Member States may provide that an exemption be made to the principle of equal treatment where temporary agency workers who have a permanent contract of employment with a temporary-work agency continue to be paid in the time between assignments.

In addition, Member States must specify whether occupational social security schemes, including pension, sick pay or financial participation schemes are included in the basic working and employment conditions. Such arrangements shall also be without prejudice to agreements at national, regional, local or sectoral level that are no less favourable to workers.

The directive sets out provisions on **access to employment, collective facilities and vocational training**, as well as provisions on the representation of temporary agency workers.

**Review by the Commission:** by 05/12/2013, the Commission must review the application of the Directive with a view to proposing, where appropriate, the necessary amendments.

ENTRY INTO FORCE: 05/12/2008.

IMPLEMENTATION: 05/12/2011.