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AGENCY WORKERS AND THEIR EMPLOYMENT RIGHTS – THE IMPACT OF THE TEMPORARY WORKER’S RIGHTS DIRECTIVE

Equal treatment of agency workers has been on the EU agenda since the early 1980s. Any attempts to afford equal rights to agency workers were met with strong resistance mainly from the UK governments who sought to protect their country’s highly deregulated labour market. The EU has now, a quarter of a century later, agreed on a Directive regulating temporary work.

The new Directive is aimed at regulating temporary work across Europe and seeks to improve the quality of temporary work by ensuring the application of the principle of nondiscrimination to temporary workers. It seeks to provide safeguards as regards working hours, rest periods, holidays and pay of employees. It provides for action to be taken to combat discrimination on the grounds of sex, race or ethnic origin, religion or beliefs, disabilities, age or sexual orientation.

Exceptions to the principle of non-discrimination may be allowed by Member States in respect of temporary workers who have a permanent contract of employment with a temporary agency and who continue to be paid in the time between postings. Temporary workers should also be informed of any vacant posts in the user undertaking in order that they may have the same opportunity as other workers within the undertaking. The Directive also promotes access to training in temporary agencies in order to enhance employees’ career development and employability.

An “opt out” facility allowing the normal upper limit of a 48 hour working week to be waived by agreement with an employee was a key element in the overall compromise, however, Ireland has not sought an “opt-out” facility. The draft Directives must now go before the European Parliament as part of the co-decision process. Once finally adopted the Directive must be transposed by Member States within two years.