



Recruitment  
& Employment  
Confederation

# Labour Laws Fit for the Future

#RECLabourLaws





# Introduction

## Agency workers, agencies and the issues with current employment laws

**Agency work is a critical part of the UK labour market and has been for many years. REC data shows that there are close to 1 million workers engaged in this way on any given day.<sup>1</sup>**

The rights of agency workers are protected by specific legislation where the burden of responsibility falls on the recruitment industry. But there are other laws, which impact all workers, that are now past their prime and that struggle to keep up with the changes to the labour market. The recruitment supply chain has become longer and more complex - and there can be many parties operating in that supply chain in 2024 outside of the traditional employment agencies and employment businesses.

<sup>1</sup> [REC, UK Recruitment Industry Status Report 2022/23](#)

The Employment Agencies Act 1973 is now over 50 years old, the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (Conduct Regulations) is over 20 years old. But we've seen a plethora of new employment and pay models enter the market in that time - for example, 'umbrella companies'.

There is very little in society that remains in place unchanged for the length of time these laws have been in place. In the same timespan that the Employment Agencies Act has existed, other aspects of society have come on leaps and bounds. The video game Pong was the first mainstream arcade video game and was released in 1972 - one year before the Employment Agencies Act. In one sector, we have progressed from Pong to PlayStation 5 and next generation ultra-HD graphics - why has our employment legislation not seen the same level of progress and development?

**How have we had five PlayStations since 1993, but it took us 25 years to get any meaningful update to the Working Time Regulations?**

The current suite of employment legislation just isn't reflective of modern working practices, and updating them would provide a crucial boost to the UK labour market:

- ▶ Removing confusing admin and legal complexities would boost UK productivity.
- ▶ Agency workers would be able to work more effectively, safe in the knowledge that their rights are clear and reflective of their status.
- ▶ Employers could focus on what matters, without having to navigate complicated and unnecessary confusion around legislation, amendment regulations and case law.

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# Level up our labour laws

1972

The Pong arcade game is released



1973

Employment Agencies Act

1974

Health & Safety at Work Act

1983

The Nintendo Entertainment System (NES) is released



1992

Social Security (Categorisation of Earners) Regulations and the Social Security Contributions and Benefits Act

1993

Sony releases the first PlayStation



1998

Working Time Regulations

2006

The Nintendo Wii hits the shelves



2003

Conduct of Employment Agencies and Employment Businesses Regulations

2006

Transfer of Undertakings (protection of Employees) Regulations

2017

The Nintendo Switch was officially released



2010

Agency Workers Regulations

2020

Sony releases the PlayStation 5



2025

Labour laws fit for a modern flexible labour market

VR headsets



## What does the current legislation say?

**A recruiter provides staff to a client on either a permanent or temporary basis. Where recruitment agencies are supplying temporary workers, this is often referred to as "agency work". Agency workers are usually engaged by a recruitment business on a contract, with a greater degree of flexibility than permanent employees have. It is also important to note that the majority of these contracts are not standard employment contracts.**

Much of the employment related legislation in the UK is not designed with these more flexible arrangements in mind. The Agency Workers Regulations 2010 and the Conduct Regulations do set out some clear rights for agency workers, however, there are other key pieces of legislation that have been designed with the more traditional, permanent, employment model in mind. Legislation often refers to employees, which agency workers may or may not be, or the self-employed, which agency workers are not. Despite this, these laws are expected to apply to agency workers, whilst not accounting for their specific contractual and working arrangements. Applying these laws to agency workers leads to a lot of square pegs in round holes, with confusion and inefficiency throughout. To ensure agency workers, as well as anyone on any flexible work contract, are treated fairly compared to other staff, changes need to be made to the employment law framework.



## So what legislation needs to change?

**As set out at the start of the document, the legislative framework needs to start by looking at the whole recruitment supply chain and explicitly cover those organisations, such as umbrellas, that are responsible for employing, contracting and/or paying workers, and then hold them accountable for meeting the standards expected of them under modern employment regulations.**

There are also several key areas of employment law that are as outdated as the Employment Agencies Act and Conduct Regulations that need to be modernised to reflect current working practices and clarify a business' obligations to workers. This includes the Health and Safety Act 1974 and its derived regulations, the legislation for Statutory Sick Pay, and the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE Regulations). Each of these pieces of legislation has its own specific issues, but the overall impact is that it is unclear for workers what rights they are entitled to receive and how to enforce them, and for businesses to manage their staff correctly and efficiently.

# 1. Working time

The Working Time Regulations 1998 (WTR) is one example where changes have already been made, and government needs to follow the approach it has taken here with other legislation.

The WTR cover several aspects of working time, including calculations for holiday leave and pay. Several changes that simplify and clarify the application of the WTR were made early in 2024. Prior to this, the WTR had been impacted by case law, changing the scope and application of the regulations to agency workers.

These changes have now, in many cases, been included in the legislation, with new regulations introduced to allow rolled-up holiday pay and address the accrual of holiday pay for workers with non-standard working hours. This shows recognition for the role of agency workers in the labour market, and ensures that this class of worker, and the businesses they work for, are better placed to receive their entitlement when it comes to holiday.



# 2. Stable working

The Workers (Predictable Terms and Conditions) Act 2023 is an example of where agency workers have been included in legislation, but government hasn't got it right.

This Act introduces a right for workers, including agency workers, to request a stable working pattern after being in a role for a set period of time. This makes sense for employers with no set hours, many of whom are engaged on one-sided contracts, but the Act overlooks the complex tripartite relationship in agency work as it proposes allowing agency workers to request contracts directly from the end hirer.

This is impractical, confuses the existing contractual relationships that exist in agency work, and undermines the flexibility that defines agency work.

To address this, future regulations should limit the application of the Act to ensure agency workers can make requests to agencies only, preserving existing relationships and managing requests effectively.



### 3. Health and safety

The main piece of health and safety legislation in the UK is the Health and Safety at Work Act 1974. This has subsequently been supplemented by a raft of secondary legislation concerning specific areas of health and safety, such as the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR) and the Health and Safety (Display Screen Equipment) Regulations 1992 (DSE Regulations).

These various pieces of legislation have clear provisions for employees and the self-employed. For the purposes of this legislation, agency workers are treated as self-employed, however in terms of the actual day-to-day work these workers do, they are more akin to employees. This once again leaves agency workers and their agencies in a situation that doesn't really make sense. Adapting subsidiary health and safety legislation will help to guarantee the safety of agency workers.

### 4. Sick pay

Statutory Sick Pay (SSP) is legislated in the catchily named Social Security (Categorisation of Earners) Regulations and the Social Security Contributions and Benefits Act 1992. When SSP was first introduced it was a state benefit, so the legislative framework is not designed for employers or recruitment businesses to pay their own workers.

Over time, the responsibility for paying SSP has transferred fully to businesses. An already complex framework for qualifying for SSP has been further complicated by case law regarding how, when and why an agency worker would be deemed an employee for the purposes of receiving SSP. Introducing clearer rules around who qualifies for SSP and when would make this a more efficient process for businesses and workers.



## 5. TUPE transfers

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE Regulations) govern the transfer of employees from one business to another. Historically the TUPE Regulations only applied to transfers of actual employees on contracts of employment.

But a recent employment tribunal case expanded the scope of the regulations to include agency workers on other contracts. This employment tribunal decision was not appealed, so it is not a binding decision, but it has thrown ambiguity onto how TUPE is applied. Introducing a law to revert to the status quo of not applying TUPE to agency workers would address this.



## What next?

**With a general election looming, now is an ideal time for a commitment to be made to reviewing and updating employment laws where needed – and to reflect on what isn't working.**

The UK labour market is continuing to evolve, and flexible working practices (including agency work) will continue to grow in popularity. We need to make sure the UK's employment law framework is fit for purpose so workers and businesses can work as productively and safely as possible.

This document is not designed to be an exhaustive examination of the areas of legislation that need to be modernised. This is a broad overview of core issues and why they need to be addressed.

The REC will be sharing these proposals with relevant stakeholders across parliament, the civil service, and other bodies to support the adoption of these recommendations into law. We encourage our members to use these documents in their own conversations with their local MPs or other civil servants to help drive the messaging around the need for change in these areas.

To see more detailed analysis about the labour laws mentioned and how they can be changed, head to [www.rec.uk.com/labour-laws-future](http://www.rec.uk.com/labour-laws-future) to read the full legal analysis.

For more information on this document, please contact:

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Recruitment  
& Employment  
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The Recruitment & Employment Confederation is the voice of the recruitment industry, speaking up for great recruiters. We drive standards and empower UK recruitment businesses to build better futures for their candidates and themselves. We are champions of an industry which is fundamental to the strength of the UK economy.

Find out more about the REC at [www.rec.uk.com](http://www.rec.uk.com)

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