

WHAT IS THE SWEDISH DEROGATION AND HOW COULD IT AFFECT ME AS A SUPPLY TEACHER?

Supply teachers have a vital role in raising and maintaining high educational standards in schools. Campaigning to secure professional entitlements for supply teachers is a key priority of the NASUWT, together with securing decent pay and working conditions for all supply teachers.

The **Agency Workers Regulations (AWR)** entitle supply teachers working for an agency to get the same basic pay and conditions as comparable employees after a 12-week qualifying period. The aim of the AWR is to improve pay and conditions for agency workers, including supply teachers.

THE SWEDISH DEROGATION

The 'Swedish derogation' is so called because it was introduced at the request of the Swedish Government. It specifically refers to an exemption under **Regulation 10** of the **Agency Workers Regulations 2010** which means that the worker is **exempt** from the right to **equal pay** (but not from the right to equal treatment on holidays and working time) for arrangements that meet certain qualifying requirements.

Put basically, the Swedish derogation allows an agency to provide an exemption from the right for a supply teacher to receive the same pay for the same work.

In order for this to happen, the agency that the supply teacher works for must offer them a permanent contract of employment that involves paying them between assignments. The rules surrounding this can appear quite complex, but the key points can be summarised as follows:

- the agency hiring you must provide you with an employment contract before the 'beginning of the first assignment under that contract';
- it must be made clear to you that you are entering into a contract which is not fixed-term and which means you are giving up the entitlement to equal pay;
- the contract must include terms governing minimum pay rates, location, hours, maximum hours expected on an assignment, minimum guaranteed hours (which must be at least one hour) and type of work;

- the agency must agree to pay the teacher between assignments. This must be at least 50% of the pay the teacher received on their last assignment or the National Minimum Wage (for those aged under 24) or National Living Wage (for those aged over 25) calculated on the basis of the hours worked on the teacher's last assignment, whichever is the greater;
- the agency must try to find suitable assignments when you are between assignments;
- the contract cannot be terminated until there has been an aggregate of at least four calendar weeks between assignments when you were not working but you were being paid by the agency.

There are a number of key exemptions to be aware of:

- the Swedish derogation does not affect the teacher's entitlements to other provisions under the AWR such as annual leave after 12 weeks, 'day-one' rights and rest breaks;
- the Swedish derogation does not apply to a teacher employed on a 'zero-hours' contract.

The Swedish derogation is only allowed because of the pay that is received by a worker between assignments. If employers or agencies take measures to deprive workers of this pay, it could put them at risk of a legal challenge.

It is important that you are aware of what you are signing up to and the potential implications this may have for you regarding the work you do. Always make sure you are fully aware of the terms and conditions of the agency and enquire as to whether or not they employ agency/supply teachers on this basis.

If you require further advice and guidance, please contact the NASUWT. Our specialist advisors can help with information and advice regarding any concerns or queries you may have about the terms and conditions being offered to you.

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