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# Guidebook for temporary agency work



Ministry of Economic Affairs  
and Employment of Finland



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# Introduction

Temporary agency work is one of the newest forms of work and has been growing throughout the 21st century. The same provisions are basically applied to temporary agency work as to other employment relationships. However, temporary agency work does involve several special features that sometimes make it difficult to apply the provisions.

The purpose of this guidebook is to provide a general picture of the provisions that differ in temporary agency work or those in which practical problems have been observed. A glossary of the most important terms has been collected at the end of the guide.

Some matters are presented in simplified form in the guide. The guide does not take a stand on different collective agreements or individual disputes. In such cases, the parties involved should always seek legal advice from, for example, the Occupational Safety and Health Inspectorates or their own trade or employer organisation.

This guidebook has been compiled in co-operation with labour market organisations and business organisations.

# 1 General information about temporary agency work

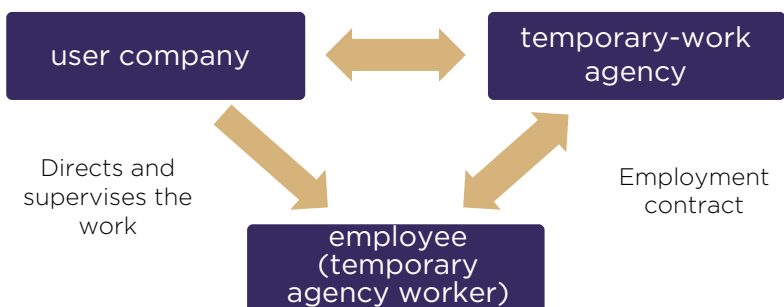
## What does temporary agency work mean?

In temporary agency work a company that needs employees signs a contract with a temporary-work agency concerning the hiring out of workers. The business that needs employees is called a user company. The temporary-work agency hires out its workers to the user company or, on the basis of a commission, looks for a new worker and subsequently leases this person to the user company. The name private employment agency is also used to refer to temporary-work agencies.

## How does temporary agency work differ from other employment relationships?

In temporary agency work the temporary-work agency is the employer, but the work is done for the user company. From the worker's point of view, this means that he or she enters into an employment contract with the temporary-work agency although the work is performed in the user company. The temporary-work agency pays the worker's salary and handles all other employer obligations, but the user company's responsibility is to guide and instruct the worker. The user company also monitors the employee's work.

Agree on the hire out of an employee (so-called customer contract)



## **When can temporary agency work be used?**

Basically, there are no legislative restrictions on user companies' options for using temporary agency workforce. The Act on the Contractor's Obligations and Liability When Work Is Contracted Out places certain obligations on the user company when temporary agency workforce is used for the company's ordinary business. Moreover, in certain industries, collective agreements specify cases when work may be contracted out. If no such restrictions apply to contracting work out, the user company may, should it so wish, employ temporary agency workforce, without needing a specific reason for doing so.

See page 28: the Act on the Contractor's Obligations and Liability When Work Is Contracted Out.

## **Can a commission be charged from a temporary agency worker?**

In temporary agency work, the worker may not be charged any fees nor can any commission be deducted from his or her salary.

More on the recruitment fee, see page 29: What kind of contract should there be between the temporary-work agency and the user company

## **How can a person apply for temporary agency work?**

Many temporary-work agencies have websites that describe the positions that are vacant. You can often fill in and send a job application via the website. Companies in this sector often announce vacant positions on the [www.te-services.fi](http://www.te-services.fi) website and in the job announcements section of newspapers.

# 2 Making an employment contract

## How is an employment contract made?

An employment contract is made between the worker and the temporary-work agency, in other words, the employer. The employment contract includes agreement on the terms under which the work will be performed. An employment contract can be made orally, in writing or electronically.

**In order to avoid confusion, an employment contract should be made in writing.**

**It is also a good idea to save any text messages or e-mails related to making the employment contract.**

## What information does the employer have to provide in writing?

In employment relationships of more than one month, the employer must provide the worker with the essential terms of the employment relationship in writing. A written employment contract usually includes such terms. The terms may be given in one or more documents.

In cases of temporary agency work, such information must also be provided in employment relationships of less than one month if so requested by the temporary agency worker. The information to be provided must include details on the reason for and duration or estimated duration of the user company's order, based on the customer contract forming the basis for the fixed-term contract, and an estimate of other duties, corresponding to those agreed on in the temporary agency worker's employment contract, on offer in the company employing the temporary agency worker.



**The essential terms of an employment relationship include at least the following:**

- the domicile or business location of the employer and the worker;
- the date of commencement of the work;
- the justification for specifying a fixed-term contract and the date of termination of the contract, or its estimated date of termination;
- the trial period;
- the place where work is to be performed or an explanation of the principles according to which the worker will work in various work locations;
- the worker's principle duties;
- the collective agreement applied to the work;
- the grounds for the determination of pay and other remuneration and the pay period;
- regular working hours;
- the manner of determining annual holiday;
- the period of notice or grounds for determining it.

## **Can a fixed-term employment contract be made with a temporary agency worker?**

At the employer's initiative, a fixed-term contract can only be made when there is a justified reason to do so under the Employment Contracts Act. In contrast, a fixed-term contract is always possible at the worker's initiative.

**A contract is fixed-term when the duration of the contract is tied to a certain calendar period, a certain duty, or the completion of a duty or to a specific event. It is essential that the duration of the fixed-term contract is defined in a clear manner.**

A fixed-term contract may be entered into at the employer's initiative when there is a justified reason to do so as a result of the nature of the work or the employer's activities. The foundation of the employment contract between a temporary agency worker and a temporary-work agency is often a commercial agreement between the agency and the user company, which agrees on a certain job or work entity. A typical feature of temporary agency contracts is that the contract is made for the duration of the user company's order. However, a fixed-term contract cannot be tied solely to the duration of a customer order valid until further notice, without specifying the duration of the fixed-term contract in an objective manner. If the date of termination of the fixed-term contract cannot be precisely determined, the employer must provide the employee with an estimate of the employment contract's duration.

If there are no legal grounds for a fixed-term contract, the contract shall be considered valid indefinitely. In such cases, the employer must offer the worker duties that correspond to the employment contract – either in its own company or in other user companies – and the worker must accept duties that correspond to the employment contract in other user companies.

If the duties of a temporary agency worker in an employment relationship that is valid indefinitely are not limited to certain types of duties or those offered by a certain user company, a worker's refusal of work is assessed in the same manner as in other employment relationships that are valid indefinitely.

If a temporary agency worker's contract only applies to a specific, separately defined duty and the temporary-work agency does not – in view of its client base and scope of activity – have the capacity to offer work after the completion of the entity agreed in the contract, there are no grounds for an employment relationship that is valid indefinitely. If, on the other hand, the temporary-work agency can offer the worker continuous work opportunities in different user companies, the starting point is that the employment relationship between the temporary-work agency and the worker will be valid indefinitely. The use of consecutive fixed-term contracts is not permitted when the number or combined duration of fixed-term employment contracts, or their entirety, demonstrates that the employer is permanently in need of the requisite labour.

## **How shall information be distributed about vacancies in the user company?**

An employer shall inform of vacancies in line with the practices generally in use in the company or at the workplace, in order to ensure that part-time and fixed-term employees are able to apply for such vacancies on an equal basis to permanent or full-time employees. In compliance with corresponding procedures, the user company must inform any temporary agency workers it has hired about any vacancies.

## **Can a new trial period be agreed on if a temporary agency worker moves to the user company?**

If a user company employs a temporary agency worker that it has earlier used for the same or similar work, the time that the he or she has already worked as a temporary agency worker in the user company is deducted from the maximum length of the trial period. If the temporary agency worker's duties differ essentially from those that he or she performed earlier as a temporary agency worker, a new trial period can be agreed in the normal manner.

## **Do temporary agency workers have the same benefits as user company employees?**

An employee's benefits are determined according to the employment contract and the applicable collective agreement. When different collective agreements are applied to temporary agency workers and user company employees, their terms of employment are usually different.

The minimum terms of employment for a temporary agency worker are determined according to the collective agreement of the temporary-work agency or, if such an agreement does not exist, the collective agreement binding the user company. In the latter case, the same collective agreement applies to temporary agency workers and to user company employees. In practice, this means that the working hours, pay, rest periods, various pay supplements, paid sick leave and other benefits based on the collective agreement are determined in the same manner for both the user company's own employees and for temporary agency workers.

If none of the aforementioned collective agreements apply to the temporary agency worker's employment contract, the terms applicable to the temporary agency worker's pay, working hours and annual holidays shall, at a minimum, comply with the agreements or practices binding on the user company and generally applicable within the company.

Terms of employment other than those defined in the collective agreement are agreed with the employer and they can be different for temporary agency workers than for the user company's employees (for example, lunch/telephone benefit).

## **Should a temporary-work agency apply local agreements made in the user company?**

When a temporary-work agency observes the collective agreement binding the user company, it is also obliged to observe any local agreements based on the collective agreement that have been made in the user company. If a local agreement weakens the worker's benefits, the temporary-work agency is not required to observe the agreement, but can do so within the limits of the employment contract made with the temporary agency worker.

## **Can a temporary agency worker work for several temporary-work agencies?**

A temporary agency worker can work for several employers or temporary-work agencies.

Anyone working for several employers, including a temporary agency worker, has to ensure that he or she can fulfil the obligations of the existing employment relationship with regard to, for example, the agreed working hours. However, simply being on the list of a temporary-work agency does not mean that the worker has an employment relationship.

The only other restrictions prevent the worker from, during an employment relationship, doing any work or engaging in activities that are clearly damaging to his or her employer.

## **Does pension accrue from temporary agency work?**

Pension accrues from temporary agency work in the same manner as from other employment relationships.

## **May the temporary agency worker use other arrangements and services provided by the user company?**

Temporary agency workers are entitled to the services provided by the user company to its employees, and to common arrangements, on the same terms as employees of the user company, unless different treatment is justified for objective reasons. However, the user company is not obliged to provide financial support with respect to the temporary agency worker's use of services and arrangements.

Arrangements or benefits provided by the user company to its employees, mainly of a more permanent or long-term nature which the employees are entitled to use, should they so wish, in line with the general practices and principles applicable within the company, are regarded as arrangements and services. The possibility to use hobby facilities or corresponding facilities in the workplace typically constitutes such a benefit or arrangement.

# 3 Working hours

## How are a temporary agency worker's working hours determined?

A temporary agency worker's working hours are determined according to the Working Hours Act and the applicable collective agreement in the same way as in other employment relationships. In general, working hours are agreed upon in more detail in the employment contract.

Placement of working hours comes under the direction and supervisory rights of the employer, and the user company is responsible for the placement of shifts and informing the worker of them. The employee's working hours are recorded in the work shift schedule. The temporary-work agency and the user company have to agree on which company is responsible for compiling the work shift schedule given to the worker.

## Who takes care of the working hours register?

The temporary-work agency is responsible for keeping the working hours register. The temporary-work agency is obliged to keep a record of the worker's daily working time, the time the work day begins and the time it ends, and daily rest periods. The working hours register must also separately show additional work and overtime hours. If the user company takes care of compiling the shift lists, it has to provide copies of the lists to the temporary-work agency as the basis for its own working hours register.

## Can an agreed shift be cancelled?

The work shift schedules must be made available to the workers in writing at least one week before the start of the period in question. After this, the work shift schedule can only be changed with the consent of the worker or for compelling reasons related to the arrangement of work. If the applicable collective agreement contains provisions regarding the work shift schedule, these must also be applied to temporary-work agency workers. In practice, it may be impossible to provide the work shift schedule one week in advance in certain situations (less than one week to the start of the shift). In such cases, the work shift schedule must be made available to the workers as soon as possible. After this, only the above-mentioned reasons are acceptable grounds for cancelling a shift.

The user company's right to cancel a shift that has already been ordered depends on the contract between the user company and the temporary-work agency. If the user company cancels a shift, the worker and the temporary agency must be immediately informed of the cancellation. In such cases, the temporary-work agency can offer other work in place of the cancelled shift unless otherwise agreed. The worker must accept other work that corresponds to the employment contract in order to receive pay for the cancelled shift. If no other work is available, the temporary agency worker will be paid for the cancelled shift.

A temporary agency worker may not cancel an agreed shift by unilateral announcement. Cancellation must be separately agreed with the employer.

### **How can overtime be agreed upon?**

Overtime work must be initiated by the user company. A worker may not work overtime without the consent or approval of the user company. The worker also has to agree to work overtime. The temporary agency worker must provide his or her consent to working overtime separately each time. The user company has to inform the temporary-work agency of the overtime hours that the worker works. The temporary-work agency is responsible for paying overtime compensation and monitoring overtime work.

### **How are working hours reported to the temporary-work agency?**

The worker or user company reports the working hours in a manner agreed with the temporary-work agency so that the agency can pay the worker's salary. The working hours can be reported using, for example, a separate form or via the Internet at one- or two-week intervals.

**As a general rule, the user company approves the leased temporary agency worker's recorded working hours before delivering the working hours report to the temporary-work agency.**

# 4 Direction of work

## Who directs the work?

The user company directs and supervises the work performed. The temporary agency worker is responsible for observing the user company's regulations related to the work

**If the user company and temporary-work agency provide conflicting instructions, temporary agency worker should contact both parties.**

## Who decides on trips if the work involves travel?

Because the user company is responsible for issues related to the use of working hours, it also decides on travel matters.

**The contract between the companies should include information regarding the possible costs of travel.**

# 5 Annual holidays

## **Can a temporary agency worker receive paid annual holiday?**

A temporary agency worker accrues annual holiday according to the same provisions as applied in other employment relationships. However, if the employment relationship is very short, the worker is unable to take annual holiday for practical reasons. In such cases, annual holiday is replaced by holiday compensation paid upon termination of the employment relationship.

If, when a worker's fixed-term employment relationship ends, it is known that he or she will start a new employment relationship within a short period of time, the worker and the temporary-work agency can agree in writing that the holiday benefits accrued during the first employment relationship will be given during the following employment relationship.

Employees in repeated fixed-term employment relationships in one period or continuing with short interruptions are also entitled to annual holiday. If desired, an employee doing shortened working hours may also receive a period of leave equivalent to annual holiday.

Holiday compensation may not replace annual holiday during an employment relationship nor can holiday compensation be paid in conjunction with every pay period.

## **Who agrees on a temporary agency worker's holidays and who is responsible for ensuring that he or she takes the holidays?**

As the employer, the temporary-work agency is responsible for ensuring that a worker receives and also takes his or her statutory annual holidays. In shorter employment relationships, the temporary agency worker and the temporary-work agency usually agree on the annual holiday. Before determining the timing of the annual holiday, the temporary-work agency must hear the worker concerning the matter.

When a temporary agency worker's employment contract continues after the annual holiday, the temporary-work agency and the user company can agree that the user company decides upon the timing of annual holiday occurring during the working period, and thus also takes responsibility for hearing the worker. In such cases, the user company must notify the temporary-work agency of the temporary agency worker's holiday periods, so that the temporary-work agency can pay the holiday pay for the annual holiday period.



## **Is compensation paid for holiday not taken at the end of an employment relationship?**

Compensation is paid for holiday not taken as in other employment relationships. If, at the end of an employment relationship, a temporary agency worker has holiday earned but not taken, the worker is paid holiday compensation for that holiday. According to the Annual Holidays Act, holiday may not be replaced by holiday compensation during an employment relationship. The temporary-work agency is responsible for payment of holiday compensation to the worker.

## **Is a temporary agency worker entitled to holiday bonus?**

Holiday bonus for a temporary agency worker is determined in the same manner as in other employment relationships. Provisions concerning the holiday bonus or end-of-holiday pay, as it is referred to in some collective agreements, are not included in the Annual Holidays Act but belong to the collective agreements in different sectors.

**As the payment principles for holiday bonus may vary greatly in different collective agreements, the right to holiday bonus should be checked from the applicable collective agreement.**

# 6 Occupational safety and health and occupational health care

## Who is responsible for occupational safety and health?

Because a temporary agency worker works under the direction and supervision of the user company, the user company is responsible for his or her occupational safety and health at the workplace. The temporary-work agency is responsible for general occupational safety and health, such as ensuring the worker's professional competence and acquiring accident insurance.

The temporary-work agency and the user company agree on the need for and purchase of any personal protective devices and work clothing required in the work. The user company generally knows best what kind of protective devices and equipment are needed. Supervision of the use of protective devices is the responsibility of the user company that directs and supervises the work.

## How is introduction handled?

The user company must ensure that the worker receives introduction to the work, the conditions at the workplace and occupational safety and health measures. Even in short employment relationships, the user company must ensure that a temporary agency worker understands the essential issues related to occupational safety.

In longer, uninterrupted temporary agency work situations, the user company also has to, if necessary, familiarise the worker with occupational safety and health co-operation and with the occupational health care arrangements.

**It is recommended that the temporary-work agency and the user company discuss the introduction and its scope when drawing up the contract.**

## How is occupational health care arranged for a temporary agency worker?

The employer, in other words the temporary-work agency, is responsible for arranging occupational health care. Occupational health care for temporary agency workers cannot be essentially different from that of employees working in the agency's office. However, there may be differences in the temporary-work agency's occupational health care that are based on the duration of the employment relationship.

**Occupational health care for a temporary agency worker can be different than that of user company employees, because occupational health care for a temporary agency worker is arranged by the temporary-work agency rather than the user company.**

The user company has certain obligations concerning temporary agency workers, which include informing occupational health care and the occupational safety and health representative at the workplace when temporary agency work begins. Some occupational health care measures are closely related to the workplace and the user company has generally commissioned a workplace investigation at the site. Thus, co-operation between the temporary-work agency and user company is required in order to ensure that the temporary-work agency's occupational health care service provider has the necessary information about working conditions.

**More information about occupational health care is available at [www.tyosuojelu.fi](http://www.tyosuojelu.fi), [www.ttk.fi](http://www.ttk.fi) ja [www.stm.fi](http://www.stm.fi)**

## **Does a temporary-work agency have to arrange co-operation on occupational safety and health?**

Co-operation on occupational safety and health has to be arranged in temporary agency work in the same manner as in other companies. The main principle is that the workers at a workplace that regularly employs at least 10 workers have to select an occupational safety and health representative from their ranks. In addition, the employer has to appoint an occupational safety and health manager.

# 7 Sick leave and pay during illness

## Is a temporary agency worker entitled to sick leave?

A temporary agency worker has the same right to sick leave as other employees. According to the Employment Contracts Act, an employee in an employment relationship lasting at least one month is entitled to full pay during illness for a period of nine days. If an employment relationship has continued for less than one month, workers are correspondingly entitled to 50% of their pay.

**However, the provisions concerning pay during illness can be altered by collective agreement. Pay during illness has been extensively agreed in collective agreements and the regulations should always be checked.**

The employer is only obliged to pay remuneration during illness in an employment relationship. A temporary agency worker's fixed-term employment relationship is terminated at the end of the agreed term regardless of sick leave.

## How and to whom does a temporary agency worker report sick leave?

A worker should notify the user company and the temporary-work agency of sickness unless otherwise agreed.

# 8 Family leave (maternity, paternity, parental and temporary child-care leave)

## **Can a temporary agency worker take family leave? Does an employment relationship end when the worker takes family leave?**

A temporary agency worker can take family leave under the same principles as in other employment relationships. However, the use of family leave requires a valid employment relationship.

A fixed-term employment contract that would have otherwise ended before or during family leave ends normally at the end of the fixed period. In contrast, a temporary agency worker's employment relationship cannot be terminated because he or she takes family leave.

According to the Employment Contracts Act, an employer is not obliged to pay remuneration for the period of family leave; instead the employee is entitled to daily allowance paid by Kela.

**The pay during a period of family leave is determined according to the collective agreement. It is always a good idea to check the provisions of the applicable collective agreement concerning paid family leave.**

**If an employer pays full salary for the period of family leave, the employer shall receive compensation equivalent to the daily sickness allowance from Kela.**

## **Can work be terminated if a temporary agency worker stays home to care for a sick child?**

A temporary agency worker's employment relationship cannot be terminated because he or she stays home to care for a sick child (temporary child-care leave). A temporary agency worker is entitled to temporary child-care leave to arrange care for a child under the age of 10 or to care for the child personally under the same principles as those applied in other employment relationships. An employee is entitled to be absent from work to care for a sick child for a maximum of four working days.

**It is always a good idea to check the collective agreement applied in the sector to see what it says about the use of temporary child-care leave and payment for such leave.**

The worker should notify the user company and the temporary-work agency regarding the use of temporary child-care leave unless otherwise agreed.

# 9 Lay-offs

## **Can a temporary agency worker be laid off?**

As the employer of a temporary agency worker, the temporary-work agency is entitled to lay off a worker. A temporary agency worker with a contract that is valid indefinitely can be laid off subject to the same principles as those applied in other employment relationships, in other words, when the temporary-work agency has no work to offer.

A temporary agency worker with a fixed-term contract cannot generally be laid off.

# 10 Termination and expiration of an employment relationship

## **When does a temporary agency worker's employment relationship end?**

An employment relationship that is valid indefinitely is terminated by giving notice after the notice period.

A fixed-term employment contract is terminated without giving notice at the end of the fixed period or upon completion of the agreed work.

If the date of termination of a fixed-term contract is not known when concluding the employment contract, the employer must inform the worker of the termination date without delay as soon as it receives the information. Even when the duration of the employment relationship has been estimated in the employment contract, the employer has to inform the worker of the date of termination as soon as it receives that information.

For an extremely weighty reason, the employer or worker may terminate the employment contract immediately regardless of the period of notice or the duration of the employment contract. An acceptable reason would be if the worker commits such a serious breach against or neglects obligations arising from the employment contract or legislation and essentially affecting the employment relationship that it would be unreasonable to expect the contractual relationship to continue even for the period of notice.

## **How does the termination of a user company's customer contract or commission affect the temporary agency worker's employment relationship?**

When a temporary agency worker has an employment relationship that is valid indefinitely or a fixed-term employment relationship tied to a specific calendar period, the employment relationship and the employer's obligation to pay remuneration continue regardless of the termination of the user company's commission.

If a temporary agency worker's contract is concluded for the duration of a user company's order, a fixed-term contract cannot be tied solely to the duration of a customer order valid until further notice, without specifying the duration of the fixed-term contract in an objective manner. The rights and obligations between the user company and the temporary-work agency are evaluated on the basis of contractual principles, while the position of the temporary agency worker is always assessed in light of labour legislation provisions.



The impact that the termination of a customer contract has on a temporary agency worker's employment relationship is always evaluated case by case. The evaluation is based on the labour legislation. However, a contract between companies can affect the amount of work that the employer can offer.

**The evaluation should take the following matters into consideration:**

- Is the employment contract valid indefinitely or fixed-term, and what has been agreed concerning the duration of the fixed period.
- The agreement between the temporary-work agency and the user company may not decrease the worker's rights based on the imperative legislation. For example, a worker's illness or use of family leave is not grounds for termination of a fixed-term employment contract.
- The fact that a worker is preventing from working for reasons beyond his or her control is not grounds for termination of a fixed-term employment contract.

**The temporary-work agency and the user company can prepare for termination of a contract by agreeing on period of notice or compensation in the customer contract.**

## **Can a user company terminate a temporary agency worker's employment relationship?**

A user company may not terminate a temporary agency worker's employment contract. Only the employer, in other words, the temporary-work agency, can terminate an employment relationship.

## **Can a fixed-term employment contract be terminated by giving a notice?**

An employer may not terminate a fixed-term employment contract; instead a fixed-term contract continues until the end of the term or the completion of the agreed work. A temporary agency worker is also bound to a fixed-term employment contract and may not terminate the employment relationship.

When separate agreement concerning the right of termination is included in a fixed-term employment contract, the employee or the employer can terminate the employment relationship by giving notice.

### **Who issues a warning concerning, for example, neglect of work or absence without permission?**

The purpose of a warning is to give the employee the opportunity to correct his or her conduct under threat that repetition of behaviour in breach of the employment contract can lead to termination of the employment relationship. The temporary-work agency issues a warning to the worker if he or she breaches the obligations of the employment relationship. If the breach of obligations has occurred at the user company and the user company notifies the temporary-work agency of this, the temporary-work agency shall evaluate whether the breach of obligations was deserving of a warning.

The temporary-work agency is responsible for hearing the worker before any possible termination of the employment relationship.

### **Who provides a certificate of employment and evaluates work performance?**

At the worker's request, the temporary-work agency shall provide the temporary agency worker with a certificate of employment regarding the duration of the employment and the nature of the work duties. If the temporary agency worker also requests an evaluation of work skills and conduct in the certificate of employment, the user company is required to give the temporary-work agency the information needed for this evaluation.

**In practice, writing a certificate of employment involves co-operation between the user company and the temporary-work agency. Such co-operation should be agreed upon in advance in the contract between the companies.**

# II Act on Co-operation within Undertakings (Act on Co-operation)

## **A user company is considering the use of temporary agency workforce. Does the matter have to be addressed in co-operation procedure?**

If at least 20 employees regularly work at the user company, it has to apply the Act on Co-operation. Only the company's own employees are taken into consideration when calculating the number of employees. Temporary agency workers are not included in the number of employees at the user company.

The user company has to address the general principles concerning the use of temporary agency workers in co-operation procedure. This means that a company must address the situations and extent to which it intends to use temporary agency workers in its co-operation procedure in advance.

The user company has to provide notification of its intent to utilise temporary agency workers contracts to the representatives of the personnel groups in which work would be affected by temporary agency workers. If necessary, the matter should be negotiated.

## **Does a temporary-work agency have to observe the Act on Co-operation?**

If at least 20 employees regularly work at the temporary-work agency, it has to apply the Act on Co-operation. Temporary agency workers have an employment relationship with the temporary-work agency, and they are taken into consideration when calculating the application limit for the Act on Co-operation.

The number of employees includes those employment relationships that are valid indefinitely and fixed-term. The Act on Co-operation does not include a specific provision regarding calculation of the number of personnel as a certain average. The obligation to apply the Act is resolved at the moment when an employer considers a measure that, according to the Act, must be addressed in co-operation procedure.

If the number of personnel varies continuously on both sides of the application limit, the Act should be applied in order to avoid problems for the temporary-work agency.

More information about the Act on Co-operation is available at [www.tem.fi](http://www.tem.fi).

# 12 Act on the Contractor's Obligations and Liability when Work is Contracted Out

## **What information shall the user company require from the temporary-work agency?**

The Act on the Contractor's Obligations and Liability when Work is Contracted Out is also applied to companies that utilise temporary agency workers. Before a user company and a temporary-work agency make an agreement concerning the use of a temporary agency worker, the user company, according to the Act, shall require from the temporary-work agency and it shall provide the following: an extract from the Trade Register, a certificate of tax payment, a certificate of pension insurance taken out or an account of outstanding pension premium payments, an account of the collective agreement applicable to the work, and an account of whether the enterprise is entered in the Prepayment Register, the Employer Register and is registered as VAT-liable in the Value Added Tax Register. In addition, accident insurance coverage must be established in construction activities.

If workers are hired from a foreign company, the contractor must find out, before the start of the work, how social security is determined for a temporary agency worker (posted worker).

Furthermore, the user company shall, if requested, notify the personnel representative of any contract made concerning temporary agency workforce. The personnel representative must also be informed of the reason for using temporary agency workforce, the number of workers engaged, the identifying details of the enterprise concerned, the duration of the contract and the applicable collective agreement or, in the absence of such an agreement, the principle terms of employment.

**However, the user company does not need to request the accounts referred to above if it has good reason to trust that the contracting party will fulfill its statutory obligations. The accounts do not have to be requested on grounds that:**

- The contracting partner is a public sector actor such as a state, municipality, a Joint Municipal Authority, a parish, a parish union, a public limited company as referred to in the Companies Act or a state enterprise.
- The operations of the contracting partner are established. The operations are considered established when the company has genuinely practiced business for at least three years. (Not applicable in construction activities.)
- The contractual relationship between the contractor and the contracting party can be considered established, which in practice means a contractual relationship of at least two years. (Not applicable in construction activities.)

More information about the Act on the Contractor's Obligations and Liability when Work is Contracted Out is available [www.tyosuojelu.fi](http://www.tyosuojelu.fi) ja [www.tem.fi](http://www.tem.fi)

# 13 The contract between the temporary-work agency and the user company

## What kind of contract should there be between the temporary-work agency and the user company?

A written contract concerning the temporary agency workforce should be drawn up between the temporary-work agency and the user company. The contract should include agreement on at least the duration of the contract, more detailed work duties and related special characteristics, the location of the work, the qualities required of the worker, period of notice and price. It is also good practice to agree on a contact person that the other party can contact later regarding matters related to the contract. It is recommended that the general terms and conditions for the sector (TWA GTC 2006) are included in the contract as an appendix.

If the user company wants to hire the temporary agency worker directly, it is usually agreed that the user company pays a recruiting fee to the temporary-work agency.

## Can the user company select the temporary agency worker?

The temporary-work agency and the user company often agree on the procedures for finding a temporary agency worker. The procedures vary depending on the nature of the work duties and the duration of the assignment. Sometimes the temporary-work agency selects the workers independently according to the instructions provided by the user company and the requirements of the work duties, while at other times the user company is presented with several candidates from which it selects the most suitable worker.

**As the employer, a temporary-work agency is responsible for ensuring that selection of employees observes equal selection criteria. The temporary-work agency must also note that it cannot fulfil the user company's criteria if they are discriminating.**

# 14 Foreign temporary agency workers

## What is the procedure when a temporary agency worker comes from outside Finland?

The Act on the Contractor's Obligations and Liability when Work is Contracted Out is applied in the use of temporary agency workforce regardless of whether the employees come from Finland or abroad. With regard to a foreign temporary-work agency, the same accounts must be obtained as with a Finnish agency if such accounts are available from the home country of the foreign temporary-work agency.

The Act on Posting Workers shall apply to temporary agency workers posted to Finland, in accordance with which their minimum terms of employment shall be determined in the same way as for Finnish temporary agency workers. The Finnish contractor (user company) is responsible for ensuring in the contract, or by other means at its disposal, that a foreign temporary-work agency appoints a representative if necessary and submits a notification about the posting of workers. In addition, the user company must provide the employer of the posted worker with information on the terms of employment applied, among other issues.

The [www.te-services.fi](http://www.te-services.fi) website [http://www.te-services.fi/te/en/jobseekers/work\\_finland/index.html](http://www.te-services.fi/te/en/jobseekers/work_finland/index.html) includes information about permits for foreign workers, registration and taxation in English. Citizens of countries outside the EEA area need an employee's residence permit in order to work in Finland. The Aliens Act contains more detailed information on the duties, sectors and positions in which it is possible work without an employee's residence permit.

See also page 28: the Act on the Contractor's Obligations and Liabilities when Work is Contracted Out.

# 15 Special questions

## **Who represents a temporary agency worker? Who can a temporary agency worker contact in cases of dispute?**

The personnel representative selected in the temporary-work agency (for example, a shop steward or occupational safety and health representative) represents the temporary-work agency's workers. Correspondingly, the personnel representative at the user company represents its employees. However, a temporary agency worker can contact the occupational safety and health representative at the user company concerning occupational safety and health matters.

A temporary agency worker can authorise the personnel representative at the user company to investigate disputes related to pay or the employment relationship. In such cases, the temporary-work agency shall provide the user company's personnel representative with the necessary information to resolve a dispute concerning the application of the laws or contracts related to the worker's pay or employment relationship.

## **Does the confidentiality obligation apply to a temporary agency worker?**

During the term of employment, an employee may neither utilise nor divulge to third parties the employer's – the temporary-work agency's – trade or business secrets. If the employee has obtained such information without permission, the prohibition continues after termination of the employment relationship.

The above provision applies only to relationships between a temporary-work agency and a temporary agency worker. Correspondingly, protection of trade and business secrets can be separately agreed between the user company and the temporary agency worker.

## **Can a temporary agency worker's employment relationship include a ban on competition effective after termination of the employment relationship?**

A general ban on competition provision applicable in all employment relationships is part of the relationship between a temporary agency worker and the temporary-work agency. According to this provision, the employee's right to conclude a new employment contract after termination of the employment relationship can only be restricted by agreement for very weighty reasons related to the employer's operations or to the employment relationship. The restriction can apply to a contract with a company that engages in operations competing with



the previous employer and also to the employee's right to engage in such operations on his or her account.

Factors that are taken into consideration when evaluating whether an agreement on non-competition can be made include the nature of the employer's operations and need for protection as well as the employee's position and duties. An employee's activities after termination of an employment relationship can be restricted only to the extent that is absolutely necessary to safeguard trade and business secrets that are protected by law.

The provision applies to the relationship between a worker and a temporary-work agency. Agreements on non-competition are quite rare considering the special features of temporary-work agency employment relationships. These special features are also taken into account when evaluating the legitimacy of the agreements.

### **How are a temporary agency worker's copyrights and employee inventions determined?**

Intellectual property rights (copyright, registered design, utility model and patent) essentially belong to the creator of the work, in other words, the employee. There are certain exceptions to this main provision in which the right to an invention made at work or utilising know-how obtained at work can be transferred to the employer.

The only difference between temporary agency work and other employment relationships is that inventions in temporary agency employment relationship are generally made when working at the user company, but the rights can be transferred – subject to the above conditions – to the employer, which in this case is the temporary-work agency.

# 16 Glossary

## **Customer contract**

See commission contract.

## **Customer company**

The name customer company is also used to refer to the user company. See user company.

## **Private employment agency**

The term private employment agency is also used to refer to a temporary-work agency, especially when it offers recruiting and other personnel services in addition to providing temporary agency workforce.

## **User company**

The company where the temporary agency worker works. See temporary agency work.

## **End-of-holiday pay**

The term end-of-holiday pay is also used to refer to holiday bonus. See holiday bonus.

## **Holiday bonus**

The term holiday bonus refers to the money paid in addition to the annual holiday pay, the sum of which is generally 50% of the annual holiday pay. Legislation does not include provisions on holiday bonus; instead they are agreed in the collective agreements. This is why holiday bonus is not paid in every sector.

## **Fixed-term employment contract**

In a fixed-term employment contract the duration of the contract is tied to a certain calendar period, the completion of a certain job or task or to some other specific event.

## **Contractor**

The name contractor is also used to refer to the user company. See user company.

## **Commission contract**

A contract between the user company and the temporary-work agency concerning the provision of temporary agency workforce is often called a commission contract or a customer contract.

## **Employment contract that is valid indefinitely**

An employment contract can be valid indefinitely (permanent, open-ended) or fixed-term. An employment contract that is valid indefinitely is terminated after the period of notice. The employer may only terminate the contract for a proper and weighty reason.

## **Working hours register**

A register of the employee's daily work and rest periods and additional or overtime working hours that is kept by the employer.

## **Assignment**

An assignment often means a short, for example, one-day long, period of work in a specific location. In temporary agency work, a job and an employment relationship are the same thing when the worker is not in a permanent employment relationship. Sometimes a job is also called a commission.

### **Employment contract**

An employment contract is made regarding the performance of work. An employment contract is made between the worker and the employer, in other words, the temporary-work agency. An employment contract can be valid indefinitely (permanent) or fixed-term. See temporary-work agency.

### **Work shift schedule**

A schedule of the timing of work shifts given to the worker for information purposes at least one week before the start of the work shifts concerned.

### **Collective agreement**

A collective agreement is an agreement between an employee organisation and the employer or the employer's organisation regarding sector-specific terms and conditions of work, such as pay (including overtime compensation), working hours, holidays and other benefits, and which is observed in the sector's scope of application. Collective agreements specify the minimum terms of employment.

### **Temporary agency work**

In temporary agency work a company that needs employees makes a contract with a temporary-work agency concerning temporary agency work. The company that needs the employees is referred to as the user company, customer company or contractor. The temporary-work agency provides its workers to the user company or, on the basis of a commission, looks for a new worker and subsequently leases this person to the user company. A temporary-work agency is also referred to as a private employment agency.

### **Temporary-work agency**

A temporary-work agency is the employer of the temporary agency worker. See temporary agency work.

# 17 For more information

## Employment legislation

[www.tem.fi](http://www.tem.fi) > responsibilities > working life > labour legislation

[www.tyosuojelu.fi](http://www.tyosuojelu.fi) > employment relationship

[www.ttk.fi](http://www.ttk.fi)

[www.stm.fi](http://www.stm.fi) > working life > occupational safety and health

## Foreign workers, posted workers

[www.te-services.fi](http://www.te-services.fi)

## Legislation

[www.finlex.fi](http://www.finlex.fi)

The Employment Contracts Act (55/2001)

The Working Hours Act (605/1996)

The Annual Holidays Act (162/2005)

Act on Co-operation within Undertakings (337/2007, Act on Co-operation)

Act on the Contractor's Obligations and Liabilities when Work is Contracted Out (1233/2006)

Act on posted workers (447/2016)

## Case law

Supreme Court (KKO: 2012:10) Employment contract – Fixed-term employment contract –

Temporary agency work (in finnish)



Ministry of Economic Affairs  
and Employment of Finland