

## Agency workers directive still threat to all contractors - EU must decide

### The Double Threat of Agency Workers Legislation

- o National Legislation--[Bill proposed](#) by Labour MP Andrew Miller which would oblige agency workers to have the rights of employees: Miller has promised an [exclusion for high-tech contractors](#), but the Bill is still in Committee (reading expected within the month).
- o European Union Legislation-- the draft [Agency Workers Directive](#) is in the hands of the Council of Europe, currently presided by Slovenia: the draft Directive is still on agenda for the Slovene presidency, which ends in June. Then France will take it over, and probably make it a priority.

### Brussels Could Deny Exclusion for Contractors

The scenario involving [Agency Workers legislation](#) has become quite complex, but the bottom line is that the UK contracting industry still faces a dangerous threat from it.

A spokesperson for the [European Commission Directorate-General of Employment and Social Affairs](#), which is the part of the Commission that is responsible for the directive, affirms that the directive may be passed in its current form under either the Slovene or French presidencies of the Council of Europe--which means between now and the summer, roughly--and that it may not allow for any exclusion for high-tech contractors.

### European Commission Version Will Prevail

"The legislation currently includes no such exclusion. If it is passed in this form, then the Commission will see that it is implemented in this way throughout the Union, and will sanction any national implementations which do not conform to it," the EU spokesperson told ContractorCalculator.

What this means is that, if the Council of Europe passes the directive in its current form, then the legislation must be adopted into national law ("the technical term is "implemented") in every Member State. The legislation gets changed a bit to fit local conditions, but the basic rules aren't subject to alteration at the national level. If they are altered--and at one time or another, every EU nation tries this one on--then the Commission seeks sanctions and changes in the legislation through the High Court in Luxembourg.

“ The legislation currently includes no exclusion for high-tech contractors. If it is passed in this form, then the Commission will see that it is implemented in this way throughout the Union ”

EU Commission Spokesperson

### Cost of 250,000 Jobs for Contractors

The legislation, which if adopted in its current form, without any exclusion for high-tech contractors, would oblige all of us to have employment rights, and, according to research from the London-based [Confederation of British Industry](#), would cost us 250,000 jobs by significantly raising the cost of contracting.

### National Legislation Could Be Irrelevant

What this means in practice is that the national legislation on Agency Workers, proposed by Labour MP Andrew Miller and currently in committee in the House of Commons, could be entirely irrelevant. Miller has proposed, in this bill, to [exempt high-tech contractors](#) from the obligation to have employment rights. But if the EU legislation is passed, the conditions set out in the European law will overrule those of the national law.

### Brown Tries To Make a Deal for Contractors

According to sources in Brussels, prime minister Gordon Brown is currently trying to broker a deal to keep the European legislation from being passed in its current form. A spokesman for the UK Department of [Business, Enterprise and Regulatory Reform](#) states that the UK is trying to negotiate for "flexibility in the application of the directive."

While the attempt is noble, it presents a major challenge as almost all of the other Member States have lined up behind the legislation in its current form. We will be following this process as closely as possible in the coming weeks.

“ The UK is seeking flexibility in the application of the directive ”

BERR Spokesperson

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