

Contractors welcome U-turn that delays implementation of the Agency Workers Directive

Contractors will welcome the news that Business Secretary Lord Mandelson is expected to announce later today that the implementation of the [Agency Workers Directive \(AWD\)](#) will be delayed until 2011. This is part of a series of wider measures designed to help businesses emerge from the recession.

When implemented, the AWD will provide agency workers with the same pay, conditions and employment rights as permanent employees after 12 weeks working on a continuous assignment for the same client. But many fear that highly paid contractors, who few would class as 'vulnerable workers', may be swept into the AWD's catch-all approach, particularly if it is rushed into law without all the consequences being thought through.

Avoiding harm to the UK's economy and contractors

Dave Chaplin, CEO of ContractorCalculator and a former IT contractor himself, is relieved at the delay. "Whilst the AWD is generally a thoughtful and positive approach to the protection of vulnerable workers throughout Europe, its implementation needs to be carefully introduced," he explains. "By rushing it through, as the Government seemed intent on doing, it could have damaged the UK economy and the livelihoods of people it was never intended to cover, like contractors."

The expected decision to delay implementation will contradict remarks made by Gordon Brown almost exactly one month ago in his speech to the [Trades Union Congress](#). At that time, the Prime Minister stated: "...when Parliament returns, our new legislative programme will include equal treatment for agency workers and ... in the coming few months, the law will be on the statute book."

Tory shadow business front-bencher [Jonathan Djanogly](#) told ContractorCalculator in an [exclusive interview in June](#) that a Conservative government would delay the AWD, saying: "We are concerned that, at a time when unemployment is soaring and business is screaming for less regulation, it is an inappropriate time to be increasing regulation."

Business pleads for delay

In response to the consultation held by the Department of Business, Innovation and Skills ([BIS](#)), industry bodies including contractor organisations, like ContractorCalculator, have called for the implementation process to be delayed. This would allow for a sufficient period for analysis of the likely impact of the complex new legislation on the UK labour market, and specifically the contracting sector.

"Early implementation and a rushed consultation process could very well result in a situation similar to when [IR35](#) was launched," says Chaplin. "That would have left us with a law that was poorly thought through, inconsistent, ambiguous and unworkable."

"And there has been no need for this rush" he continues, "because according to European law, the AWD legislation does not actually have to be implemented until December 2011."

Mixed impact on UK contractors

Until BIS releases the draft legislation for consultation, the exact impact on contractors is unclear. However, a close reading of the BIS consultation document suggests that the effect of the new laws on contractors is likely to be mixed.

Limited company contractors are thought to be excluded by the AWD, as they fall outside the definitions of 'workers' used by BIS in its consultation. Umbrella contractors, however, would almost certainly fall inside any new laws and qualify for equal treatment.

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Jonathan Djanogly, Shadow
Minister for Corporate
Governance



Dave Chaplin
CEO
ContractorCalculator

Dave Chaplin is a former IT contractor in the City of London, and is founder and CEO of ContractorCalculator, and author of the Contractors' Handbook.

Started in 1999, ContractorCalculator (this site) is the leading independent website for the UK contracting industry – most of whom are highly skilled knowledge workers. [Read Full Profile...](#)

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