
STATUTORY INSTRUMENTS

2010 No. 93

The Agency Workers Regulations 2010

PART 1

General and Interpretation

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Agency Workers Regulations 2010 and shall come into force on 1st October 2011.

(2) These Regulations extend to England and Wales and Scotland only, save as provided for in Schedule 1 (provisions extending to England and Wales, Scotland and Northern Ireland).

Interpretation

2. In these Regulations—

“the 1996 Act” means the Employment Rights Act 1996⁽¹⁾;

“assignment” means a period of time during which an agency worker is supplied by one or more temporary work agencies to a hirer to work temporarily for and under the supervision and direction of the hirer;

“contract of employment” means a contract of service or of apprenticeship, whether express or implied, and (if it is express) whether oral or in writing;

“employee” means an individual who has entered into or works under or, where the employment has ceased, worked under a contract of employment;

“employer”, in relation to an employee or worker, means the person by whom the employee or worker is (or where the employment has ceased, was) employed;

“employment”—

(a) in relation to an employee, means employment under a contract of employment, and

(b) in relation to a worker, means employment under that worker’s contract,

and “employed” shall be construed accordingly;

“hirer” means a person engaged in economic activity, public or private, whether or not operating for profit, to whom individuals are supplied, to work temporarily for and under the supervision and direction of that person; and

“worker” means an individual who is not an agency worker but who has entered into or works under (or where the employment has ceased, worked under)—

(a) a contract of employment, or

(b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or

(1) 1996 c.18.

services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual,

and any reference to a worker's contract shall be construed accordingly.

The meaning of agency worker

- 3.—(1) In these Regulations “agency worker” means an individual who—
- (a) is supplied by a temporary work agency to work temporarily for and under the supervision and direction of a hirer; and
 - (b) has a contract with the temporary work agency which is—
 - (i) a contract of employment with the agency, or
 - (ii) any other contract to perform work and services personally for the agency.
- (2) But an individual is not an agency worker if—
- (a) the contract the individual has with the temporary work agency has the effect that the status of the agency is that of a client or customer of a profession or business undertaking carried on by the individual; or
 - (b) there is a contract, by virtue of which the individual is available to work for the hirer, having the effect that the status of the hirer is that of a client or customer of a profession or business undertaking carried on by the individual.
- (3) For the purposes of paragraph (1)(a) an individual shall be treated as having been supplied by a temporary work agency to work temporarily for and under the supervision and direction of a hirer if—
- (a) the temporary work agency initiates or is involved as an intermediary in the making of the arrangements that lead to the individual being supplied to work temporarily for and under the supervision and direction of the hirer, and
 - (b) the individual is supplied by an intermediary, or one of a number of intermediaries, to work temporarily for and under the supervision and direction of the hirer.
- (4) An individual treated by virtue of paragraph (3) as having been supplied by a temporary work agency, shall be treated, for the purposes of paragraph (1)(b), as having a contract with the temporary work agency.
- (5) An individual is not prevented from being an agency worker—
- (a) because the temporary work agency supplies the individual through one or more intermediaries;
 - (b) because one or more intermediaries supply that individual;
 - (c) because the individual is supplied pursuant to any contract or other arrangement between the temporary work agency, one or more intermediaries and the hirer;
 - (d) because the temporary work agency pays for the services of the individual through one or more intermediaries; or
 - (e) because the individual is employed by or otherwise has a contract with one or more intermediaries.
- (6) Paragraph (5) does not prejudice the generality of paragraphs (1) to (4).

The meaning of temporary work agency

4.—(1) In these Regulations “temporary work agency” means a person engaged in the economic activity, public or private, whether or not operating for profit, and whether or not carrying on such activity in conjunction with others, of—

- (a) supplying individuals to work temporarily for and under the supervision and direction of hirers; or
- (b) paying for, or receiving or forwarding payment for, the services of individuals who are supplied to work temporarily for and under the supervision and direction of hirers.

(2) Notwithstanding paragraph (1)(b) a person is not a temporary work agency if the person is engaged in the economic activity of paying for, or receiving or forwarding payments for, the services of individuals regardless of whether the individuals are supplied to work for hirers.