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STATUTORY INSTRUMENTS

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**2011 No. 1941**

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The Agency Workers (Amendment) Regulations 2011**

*Made* - - - - - *24th July 2011*  
*Laid before Parliament* *3rd August 2011*  
*Coming into force* - - - *1st September 2011*

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(1) in relation to employment rights and duties(2).

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

**Citation and commencement**

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

**Amendments to the Agency Workers Regulations 2010**

2.—(1) The Agency Workers Regulations 2010(3) are amended as follows.

(2) In regulation 3 (the meaning of agency worker), for paragraph (1)(b)(ii) substitute—

“(ii) any other contract with the agency to perform work or services personally.”.

(3) In regulation 10 (permanent contracts providing for pay between assignments), in paragraph (1)(c) after “during any period under the contract” insert “after the end of the first assignment under that contract”.

(4) In regulation 14 (liability of temporary work agency and hirer)—

(a) in paragraph (1) at the beginning insert “Subject to paragraph (3),”;

(b) in paragraph (2) omit the words “Subject to paragraph (3),”;

(c) in paragraph (3), for sub-paragraph (a) substitute—

“(a) obtained, or has taken reasonable steps to obtain, relevant information from the hirer—

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(1) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by the Schedule to the European Union (Amendment) Act 2008 (c.7).

(2) S.I. 2000/738.

(3) S.I. 2010/93.

- (i) about the basic working and employment conditions in force in the hirer;
- (ii) if needed to assess compliance with regulation 5, about the relevant terms and conditions under which an employee of the hirer is working where—
  - (aa) that employee is considered to be a comparable employee in relation to that agency worker for the purposes of regulation 5(4), and
  - (bb) those terms and conditions are ordinarily included in the contract of such a comparable employee;
- and
- (iii) which explains the basis on which it is considered that the employee referred to in sub-paragraph (ii)(aa) is a comparable employee;”;
- and
- (d) omit paragraph (4).
- (5) In Schedule 2 (consequential amendments), in paragraph 16—
  - (a) for “paragraph (o)” substitute “paragraph (p)”;
  - (b) for “after paragraph (p)” substitute “after paragraph (q)”;
  - (c) in the words inserted as paragraph (q), for “(q)” substitute “(r)”.

24th July 2011

*Edward Davey*  
Minister for Employment Relations, Consumer  
and Postal Affairs  
Department for Business, Innovation and Skills

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, issued free of charge, amend the Agency Workers Regulations 2010 (“the Principal Regulations”) to correct drafting errors in regulations 3, 10 and 14 and Schedule 2. The errors in the regulations concern the meaning of agency worker and the provisions concerning permanent contracts providing for pay between assignments and the liability of the temporary work agency and hirer. The error in the Schedule is a numbering error.

An impact assessment has not been prepared for these Regulations since they have the same effect on the costs to business and the voluntary sector as the Principal Regulations. A copy of the impact assessment for the Principal Regulations is available from the BIS website ([www.bis.gov.uk](http://www.bis.gov.uk)) and is published with the Explanatory Memorandum alongside the Principal Regulations on [www.legislation.gov.uk](http://www.legislation.gov.uk).