
STATUTORY INSTRUMENTS

2010 No. 93

The Agency Workers Regulations 2010

PART 2

Rights

Structure of assignments

9.—(1) Notwithstanding paragraphs (1) and (2) of regulation 7, and regulation 8, if paragraphs (3) and (4) apply an agency worker shall be treated as having completed the qualifying period from the time at which the agency worker would have completed the qualifying period but for the structure of the assignment or assignments mentioned in paragraph (3).

(2) Notwithstanding paragraphs (1) and (2) of regulation 7, and regulation 8, if paragraphs (3) and (4) apply an agency worker who has completed the qualifying period and—

- (a) is no longer entitled to the rights conferred by regulation 5, but
- (b) would be so entitled but for the structure of the assignment or assignments mentioned in paragraph (3),

shall be treated as continuing to be entitled to those rights from the time at which the agency worker completed that period.

(3) This paragraph applies when an agency worker has—

- (a) completed two or more assignments with a hirer (H),
- (b) completed at least one assignment with H and one or more earlier assignments with hirers connected to H, or
- (c) worked in more than two roles during an assignment with H, and on at least two occasions has worked in a role that was not the “same role” as the previous role within the meaning of regulation 7(3).

(4) This paragraph applies where—

- (a) the most likely explanation for the structure of the assignment, or assignments, mentioned in paragraph (3) is that H, or the temporary work agency supplying the agency worker to H, or, where applicable, H and one or more hirers connected to H, intended to prevent the agency worker from being entitled to, or from continuing to be entitled to, the rights conferred by regulation 5; and
- (b) the agency worker would be entitled to, or would continue to be entitled to, the rights conferred by regulation 5 in relation to H, but for that structure.

(5) The following matters in particular shall be taken into account in determining whether the structure of the assignment or assignments mentioned in paragraph (3) shows that the most likely explanation for it is that mentioned in paragraph (4)(a)—

- (a) the length of the assignments;
- (b) the number of assignments with H and, where applicable, hirers connected to H;

- (c) the number of times the agency worker has worked in a new role with H and, where applicable, hirers connected to H, and that new role is not the “same role” within the meaning of regulation 7(3);
 - (d) the number of times the agency worker has returned to work in the same role within the meaning of regulation 7(3) with H and, where applicable, hirers connected to H;
 - (e) the period of any break between assignments with H and, where applicable, hirers connected to H.
- (6) For the purposes of this regulation hirers are connected to a hirer if one hirer (directly or indirectly) has control of the other hirer or a third person (directly or indirectly) has control of both hirers.