

**The Association of Professional Staffing Companies (Global) Ltd (APSCo): Repeal of Regulation 7 Conduct of Employment Agencies and Employment Businesses Regulations 2003 to enable hiring-agency-staff-to-cover-industrial-action**

**Introduction to APSCo**

The Association of Professional Staffing Companies (Global) Ltd (APSCo) is an international trade body offering global services with local delivery to the international professional recruitment sector and comprises APSCo Asia, APSCo Australia, APSCo Deutschland and APSCo United Kingdom as well as APSCo OutSource, the trade body for recruitment outsourcing providers (APSCo).

With over 1000 corporate members in the UK, APSCo UK and APSCo OutSource help differentiate the professional recruitment market and recruitment outsourcing by raising standards and delivering expert support and market intelligence to members who range from SMEs to the largest global, listed recruiters and outsourcers.

APSCo UK members recruit professionals into permanent and contract roles across STEM, accountancy, legal, finance, marketing, and media in addition to highly regulated sectors such as qualified social work, teaching and clinical healthcare.

APSCo OutSource represents the Recruitment Process Outsourcing and Managed Service Provider sectors. These companies undertake the process of recruitment and staffing management on behalf of employers.

- *Recruitment Process Outsourcers* manage the hiring process for permanent staff from advertising to onboarding, using technology to manage recruitment from national and international talent pools on behalf of employers.
- *Managed Service Providers* manage the recruitment of non-permanent staff, from temps to self-employed contractors, to help deliver workers for contracts and opportunities against a tight deadline and to manage projects.

Should you wish to discuss this response in further detail, please contact Tania Bowers, APSCo's Global Public Policy Director - [tania.bowers@apsco.org](mailto:tania.bowers@apsco.org)

1. Can you provide views and evidence on the effect that regulation 7 has on employment businesses, hirers, and agency workers? If so, please elaborate.

Members providing temporary workers and contractors into the public sector, in particular education and clinical healthcare, have been most aware of strikes across their sectors over the past few years. Given the current prohibition under regulation 7, members need to verify as part of onboarding that a shift is not to replace a striker if they are aware of a strike at the location over the period. This would only be likely to happen in clinical healthcare, as last-minute, short-term shift placements are common. In education for example, it is less likely that a supply teacher with no experience of a particular school would be supplied at short notice, although our members supplying teaching assistants state that often they are placed at short notice

2. What impact do you think the repeal of regulation 7 would have on workers and the wider economy and society?

Many of our largest, global workforce solution providers are concerned by the repeal and how it conflicts with established, commonly agreed international principles on agency work. These are described in the international memorandum of understanding issued by the World Employment Confederation global

members and UNI Global, to which they are signatories, which prohibits the replacement of striking workers with temporary agency employees without prejudice to national laws and practices. Given their adherence to this memorandum, they chose in 2022 to notify the market and their clients that they would not replace striking workers and we understand this will continue to be the case should Government continue with this repeal.

However, some of our SME businesses in regulated sectors agree with the government that both they and their candidates should be free to choose whether to replace strikers, and that regulation 7 is unnecessary.

Members are concerned that their contractors may feel under pressure and discomforted to replace strikers, but feel they have no choice, to retain their relationship with a client. They report to me that some contractors feel concern about replacing strikers when permanent staff at their regular workplace are striking, and fear unequal, unfair treatment after the striking period. We are aware of a few members replacing strikers during the 2022 period of repeal, but it does not appear to have been common for the reasons in this submission and as are described in the Government's own impact assessment.

There is also the added issue that it is not easy to replace staff on strike in most of the professions that are being impacted. The strict compliance checks required, and the often-short notice periods of resourcing needs, makes it increasingly difficult for those willing to fill in for striking workers to do so. Further the client employer may not be aware themselves of the resource they need to cover until it is too late to source a worker.

The resourcing issues in these sectors will not simply be resolved by making strike action difficult. The crux of the issue is the significant skills shortages in the likes of healthcare and other public services such as care which urgently needs addressing as we are seeing more individuals choose to leave these professions for better paid opportunities elsewhere with easier working conditions.

3. What are the sectors where repealing regulation 7 would be most applicable and do you think there are sectors it should not apply to? Please give reasons for your views.

Some members struggle to see why the repeal is necessary in key sectors where the Strikes (Minimum Service Levels) Act 2023 are enacted in regulations. Without giving a view on the appropriateness of the levels of service and the nature of the regulations themselves, they are a potential solution to the Government's concerns that strikes are having an unacceptable impact on users of public services and in some cases public health and safety, e.g. ambulance waiting times, impact on NHS waiting lists. MSLs have been adopted in other countries without the need to repeal the equivalent of Regulation 7.

4. Do you have any views on the methodology used in the Impact Assessment provided alongside this consultation and does it represent all the likely costs and benefits?

We note the Government's focus on lifting a restriction on the freedom of business to decide its own activities. We agree that the repeal will leave our members in the position where they will be free to choose whether to replace striking workers or not. Our SME members are more likely to welcome this freedom.

The impact assessment appears to have taken key points into consideration. We do not have the data ourselves to be able to give a view on the likely costs and benefits.

5. Do you have any other comments not covered by or evidence not provided in your response to the questions above that we should consider?

No further comment.

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