
STATUTORY RULES OF NORTHERN IRELAND

2011 No. 350

**THE AGENCY WORKERS REGULATIONS
(NORTHERN IRELAND) 2011**

PART 2

Rights

Relevant terms and conditions

6.—(1) In regulation 5(2) and (3) “relevant terms and conditions” means terms and conditions relating to—

- (a) pay;
- (b) the duration of working time;
- (c) night work;
- (d) rest periods;
- (e) rest breaks; and
- (f) annual leave.

(2) For the purposes of paragraph (1)(a), “pay” means any sums payable to a worker of the hirer in connection with the worker’s employment, including any fee, bonus, commission, holiday pay or other emolument referable to the employment, whether payable under contract or otherwise, but excluding any payments or rewards within paragraph (3).

(3) Those payments or rewards are—

- (a) any payment by way of occupational sick pay;
- (b) any payment by way of a pension, allowance or gratuity in connection with the worker’s retirement or as compensation for loss of office;
- (c) any payment in respect of maternity, paternity or adoption leave;
- (d) any payment referable to the worker’s redundancy;
- (e) any payment or reward made pursuant to a financial participation scheme;
- (f) any bonus, incentive payment or reward which is not directly attributable to the amount or quality of the work done by a worker, and which is given to a worker for a reason other than the amount or quality of work done such as to encourage the worker’s loyalty or to reward the worker’s long-term service;
- (g) any payment for time off under Part VII of the 1996 Order⁽¹⁾ (payment for time off for carrying out trade union duties etc);
- (h) a guarantee payment under Article 60 of the 1996 Order;

(1) Article 93 of the 1996 Order was amended by Article 31(1) and (3) of the Employment (Northern Ireland) Order 2003, S.I. 2003/2902 (N.I. 15)

- (i) any payment by way of an advance under an agreement for a loan or by way of an advance of pay (but without prejudice to the application of Article 45 of the 1996 Order to any deduction made from the worker's wages in respect of any such advance);
 - (j) any payment in respect of expenses incurred by the worker in carrying out the employment; and
 - (k) any payment to the worker otherwise than in that person's capacity as a worker.
- (4) For the purposes of paragraphs (2) and (3) any monetary value attaching to any payment or benefit in kind furnished to a worker by the hirer shall not be treated as pay of the worker except any voucher or stamp which is—
- (a) of fixed value expressed in monetary terms, and
 - (b) capable of being exchanged (whether on its own or together with other vouchers, stamps or documents, and whether immediately or only after a time) for money, goods or services (or for any combination of two or more of those things).
- (5) In this regulation—
- “financial participation scheme” means any scheme that offers workers of the hirer—
- (a) a distribution of shares or options, or
 - (b) a share of profits in cash or in shares;
- “night time”, in relation to an individual, means—
- (a) a period—
 - (i) the duration of which is not less than seven hours, and
 - (ii) which includes the period between midnight and 5 a.m.,
 which is determined for the purposes of these Regulations by a working time agreement, or
 - (b) in default of such a determination, the period between 11 p.m. and 6 a.m.;
- “night work” means work during night time;
- “relevant training” means work experience provided pursuant to a training course or programme, training for employment, or both, other than work experience or training—
- (a) the immediate provider of which is an educational institution or a person whose main business is the provision of training, and
 - (b) which is provided on a course run by that institution or person;
- “rest period”, in relation to an individual, means a period which is not working time, other than a rest break or leave to which that individual is entitled either under the [F1Working Time Regulations (Northern Ireland) 2016] or under the contract between that individual and the employer of that individual;
- “working time”, in relation to an individual means—
- (a) any period during which that individual is working, at the disposal of the employer of that individual and carrying out the activity or duties of that individual,
 - (b) any period during which that individual is receiving relevant training, and
 - (c) any additional period which is to be treated as working time for the purposes of the [F1Working Time Regulations (Northern Ireland) 2016] under a working time agreement; and
- “working time agreement”, in relation to an individual, means a workforce agreement within the meaning of regulation 2(2) of the [F1Working Time Regulations (Northern Ireland) 2016], which applies to the individual any provision of—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to THE AGENCY WORKERS REGULATIONS (NORTHERN IRELAND) 2011. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) a collective agreement which forms part of a contract between that individual and the employer of that individual, or
- (b) any other agreement in writing which is legally enforceable as between the individual and the employer of that individual.

F1 Words in [reg. 6\(5\)](#) substituted (28.2.2016) by [The Working Time Regulations \(Northern Ireland\) 2016](#) (S.R. 2016/49), regs. 1, [53\(7\)](#) (with [reg. 22\(1\)](#))

Commencement Information

I1 [Reg. 6](#) in operation at 5.12.2011, see [reg. 1](#)

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Changes and effects yet to be applied to :

- Regulation Modified by [S.R. 2020/251 art. 2](#)

Changes and effects yet to be applied to the whole Rule associated Parts and Chapters:

Whole provisions yet to be inserted into this Rule (including any effects on those provisions):

- Sch.06 Pt.01 words inserted by [S.R. 2022/236 reg. 17\(2\)](#)
- reg. 6(3)(c) words inserted by [S.R. 2022/168 reg. 18\(2\)](#)
- reg. 6(3)(c) words inserted by [S.R. 2022/236 reg. 18\(2\)](#)
- reg. 6(3)(c) words inserted by [S.R. 2023/157 reg. 18\(2\)](#)
- reg. 6(3)(c) words inserted by [S.R. 2023/56 reg. 18\(2\)](#)
- reg. 18(4A) inserted by [S.R. 2020/4 Sch. para. 51](#)
- reg. 18A inserted by [S.R. 2020/4 Sch. para. 52](#)