
The Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2022

House of Lords, 18 July 2022

About the BMA

The BMA is a professional association and trade union representing and negotiating on behalf of all doctors and medical students in the UK. It is a leading voice advocating for outstanding health care and a healthy population. It is an association providing members with excellent individual services and support throughout their lives.

The Government's proposal

The Government is seeking to overturn existing legislation that bans employers from hiring agency staff during strike action in England, Wales, and Scotland. This would be achieved by removing Regulation 7 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (the 'Conduct Regulations').

The same proposal was put forward by the Government in 2015 and abandoned¹. Amongst the many critics², the Government's own regulation watchdog (the Regulatory Policy Committee) concluded that the proposal was 'not fit for purpose' – in particular, highlighting serious flaws with the Government's associated impact assessment.³

BMA view

It is deeply disappointing that the Government's response to rising concerns in the workforce is an attempt to clamp down on legitimate trade union activities and the rights of NHS workers. Instead of looking to engage with the concerns of staff across the NHS, their attempt to repeal Regulation 7 of the Conduct Regulations devalues highly trained clinical staff embedded within the systems and cultures of their workplace.

- **We strongly oppose the Government's proposal to enable employers to use agency workers during strike action. It is a heavy-handed tactic that attempts to weaken the legitimate rights of staff to take action when the Government and employers refuse to acknowledge and act on workplace concerns.**
- **For doctors, industrial action is always a last resort – and it is only ever taken within a strict legal framework and with safeguards in place. Furthermore, whilst bringing in agency workers may plug gaps on the surface, ultimately it will not serve the best interest of patients as those staff are likely to be unfamiliar with the hospital (or other setting) into which they have been brought.**
- **The Government is required to consult before making regulations such as these⁴ – a consultation from seven years ago (in 2015), after which the proposal was abandoned, does not suffice.**

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¹ www.gov.uk/government/consultations/hiring-agency-staff-during-strike-action-reforming-regulation

² www.tuc.org.uk/research-analysis/reports/about-trade-union-bill

³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/454856/RPC15-BIS-2403_3009_-_Hiring_agency_staff_during_strike_action_-_IA_c_-_opinion.pdf

⁴ See footnote (1) at www.legislation.gov.uk/ukdsi/2022/9780348236675/introduction