

Lessons for Employees from the World of Corporate Finance', *The Journal of Industrial Relations*, December 2002.

- 48 Details of these schemes can be obtained from the Department of Employment and Workplace Relations website: <http://www.workplace.gov.au>.
- 49 This is the title of Volume One of George Orwell's collected works. See Sonia Orwell and Ian Angus (editors), *The Collected Essays Journalism and Letters of George Orwell, Volume 1: An Age Like This 1920-1940*, Seeker and Warburg, London, 1968.
- 50 *Hansard*, House of Representatives, 23 May 1996, p. 1298.
- 51 *Royal Commission*, First Report, 5 August 2002.
- 52 George Orwell, *Animal Farm*, Penguin, Melbourne, 1968, p. 114.
- 53 Orwell, *Nineteen Eighty-Four*, pp. 173, 211-5.

The Temporary Agency Work Sector in Australia and Ireland: Modest, Growing and Under-recorded

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Abstract

Over the past two decades temporary agency work has increased in relation to most sectors and countries. This growth reflects the internationalisation of the agency business which, arguably, has come about due to demands for an 'on-call just-in-time' workforce. While temporary agency work possesses several conceptual and empirical challenges for researchers, it also poses challenges for regulators. This paper considers some of those challenges concerning various definitions, classifications and measurement of temporary work while comparing the Australian and Irish experience. It is concluded that while agency work in Australia and Ireland is modest, it is growing, and the conceptual and empirical problems associated with its under-recording pose difficulties for the design and implementation of a regulatory code for this sector.

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Introduction

Over the past two decades temporary agency work has become an integral, growing and more visible part of the workforce in most countries, particularly across the OECD. This growth is closely associated with the temporary placement of workers on contracts who are hired to cover planned and unplanned labour shortages. In addition to providing the traditional services associated with employment agencies, the range of services offered and the sectors and occupations covered are far more extensive than they have been in the past. Consequently, the agency employment sector is now a major international services sector with several large corporations operating across many countries (Peck and Theodore, 2004).

Despite its visibility and apparent growth, the agency sector accounts for a very small workforce share of less than three per cent in most OECD countries (OECD, 1996). However, the peculiarities of agency employment make it difficult to be accommodated within the traditional labour force framework for the recording and measuring of employment and these peculiarities lead to problems in the area of employment regulation.

The Australian and Irish experiences with agency employment highlight many of the key conceptual, measurement and regulatory challenges. For example, although both countries are light regulators of agency employment, there are pressures for this situation to change. In Australia, the characteristics of regulation are its absence and ambiguity. Until recently this was also the case in Ireland though agency employment is now covered by European Union regulations. Nonetheless, these regulations have met with opposition in Ireland (and the UK) primarily from employers who utilise temporary workers to enhance labour flexibility and see the regulations as restricting. Moreover, the regulations themselves contain certain limitations in terms of their application. Through the Australian and Irish examples provided in this paper the peculiarities and regulatory problems associated with agency employment are evaluated.

Temporary Employment and Casual Employment

Before examining agency employment it is appropriate to consider the broad employment category of temporary employment in which agency employment is located. Under the umbrella of temporary work there are a number of distinctive employment arrangements including:

- i. seasonal work,
- ii. fixed-term jobs,
- iii. irregular jobs,
- iv. temporary agency jobs and

v. jobs that do not attract regular benefits or protection. There are distinctive working arrangements that can be regarded as being temporary. For example, a temporary job may be identified, as in Australia (Campbell and Burgess, 2001), by its exclusion from the entitlements associated with regular employment. Depending on national systems of regulation, a temporary worker may be an employee or they could be self-employed. That is, the legal status of employment does not necessarily preclude temporary employment arrangements.

When we compare labour force statistics from Australia and Ireland, there are quite distinctive approaches to the definition and measurement of temporary employment (see Table 1). In Australia, there is a very broad approach that essentially divides the workforce into permanent and temporary workers. Each can be determined through the assumption that if a worker does not receive the benefits associated with permanent work (e.g. holiday pay and sickness benefits), then they must be a temporary worker (the Australian term is casual worker). In Ireland, there appears to be a narrower definitional approach that seeks to identify those workers who have an occasional or seasonal job, in addition to those people who are on fixed-term contracts. Accordingly, there is some similarity between the Australian and Irish definitions, since those workers with seasonal and occasional jobs do not receive the benefits or conditions associated with permanent employment.

Table 1: Classification and Measurement of Temporary/Casual Employment in Australia and Ireland

Criteria	Australia	Ireland
Descriptive Category	Casual worker	Temporary worker
Coverage	Employees	Workforce
Criteria	Access to standard employment benefits	Occasional or seasonal job
Are fixed term contract workers identified?	No	No
Are temp agency workers identified?	No	Yes
Any other special categories – probationary workers, training contracts?	No	No

Source: Derived from OECD, 1996

In Australia the term 'casual' is an umbrella concept that covers all of the different temporary employment arrangements. It covers both full-time and part-time employment, but is confined to employee status since benefit entitlement is confined only to employees. In Ireland the term temporary covers both employees and the self-employed, and the focus is towards the term of engagement, not the access to employment benefits. In Australia the constituent components of casual employment are not identified whereas in Ireland both seasonal and agency workers are (see Table 1).

As outlined in Table 1 the term 'temporary worker' covers a range of different employment arrangements. In Australia, the term 'casual' is an omnibus term that captures employment arrangements that are characterised by different degrees of insecurity in employment. In Ireland, seasonal and temporary agency workers are identified as different employment categories, although contrary to the situation in Australia, the temporary category includes the self-employed. In both countries agency employment is a component of the temporary/casual omnibus term. Then again, not all agency work is temporary/casual, and the status of agency workers is far from clear.

Comparisons of workforce data between Australia and Ireland are tenuous at best. In the case of Ireland this has been compounded by the lack of systematic records for employment (O'Kelly, 1999). Outside of full-time, ongoing and employee status positions, both Australia and Ireland have generated many jobs over the past decade. Under the umbrella of temporary employment, Australia (with Spain), is distinctive due to the very high numbers and growth in number of temporary employees (OECD, 1996). Given the regulatory foundations of casual employment in Australia it should be remembered that it does not necessarily incorporate fixed-term employment (important in Ireland), nor does it include forms of temporary self-employment or those on fixed-term training contracts. Nevertheless, the growth is remarkable and persistent; it has occurred across all industries and occupations and shows no sign of abatement (Campbell and Burgess, 2001).

Tracking the composition of Irish employment over the last decade is extremely complex since, as mentioned previously, there is an absence of a comprehensive data set. Available evidence suggests that the part-time employment share is around 12% of the workforce in Ireland (less than half of the Australian share) while the share of temporary workers is also around 12% (again less than half the share in Australia). These percentages can be misleading though since the temporary employment sector largely includes those on fixed-term contracts. As such, it may not in-

clude all temporary agency workers and those who have an indeterminate term of engagement (as with many casual employees in Australia).

O'Kelly (1999) reports that non-standard employment arrangements are expanding in Ireland, albeit from a relatively small base when compared to Australia. Based on his European survey of workplaces O'Kelly (1999) reported that for the three years from 1993-1996 part-time employment grew by 28 per cent and temporary employment grew by 38 per cent in Ireland. In common with trends elsewhere in Europe, the European Industrial Relations Observatory (EIRO, 1999a) also reported strong growth in atypical employment arrangements in Ireland although there was insufficient detail reported to distinguish the various employment arrangements. In common with Australia, a temporary worker in Ireland is one who is not engaged on a permanent basis and, as such, receives inferior employment conditions (EIRO, 1999a).

Conceptualising and Measuring Temporary Agency Work

Temporary agency working involves a triangular arrangement in which a temporary work agency (TWA) hires a worker for the purpose of placing him or her at the disposal of a third party, the user enterprise, for a temporary assignment (Bronstein, 1991, p. 292). Storrie (2002) points out that this definition is not, however, fully applicable to all EU member states and that definitions differ according to various systems of employment regulation. This arises from the ambiguous status of the agency worker, especially in terms of establishing who their employer is or, indeed, whether they are employees.

The temporary employment agency sector has expanded rapidly in Australia, Europe and in North America (Campbell, Watson and Buchanan, 2001; de Ruyter, 2004; Hall, 2004; Peck and Theodore, 2004). Labour at call is becoming a recurrent feature across all industries and enterprises within the OECD (OECD, 1996). Employment contracting and short-term labour hire is not a new phenomenon, however, as the practice has been around in certain sectors such as building and construction, agriculture, stevedoring and secretarial services for some time. In this traditional context, the demand for labour was characterised as being seasonal, fixed-term and irregular. In the new context, temp hires are available for all occupations and in all industries from short-term and irregular engagements through to long-term ongoing engagements. User firm demand can range from requirements for unskilled labour through to highly skilled professionals. Agencies are providing labour for both traditional and stra-

tegic reasons that are associated with the matching of labour supply and demand while reducing the establishment of employees attached to the hiring organisation (Burgess and Connell, 2004).

The increasing number of multinational TWAs (such as Manpower, Randstat, Kelly and Drake) that are developing a model of labour brokerage within the temporary help sector continues to expand across many Western countries (Storrie, 2002). TWAs are providing a number of labour services that have traditionally been provided within the contracting organisation. For example, TWAs:

- i. supply labour matching services for job seekers and job providers,
- ii. provide labour administration services for employers from payroll administration to staff appraisal systems,
- iii. provide training services

TWAs offer the ultimate form of labour commodification, hiring on a strict 'as needs' basis with no attached obligation or commitment required from the user firm that is provided with extensive numeric, functional and labour cost flexibility with respect to the deployment of labour. In some countries, such as Australia, the temporary work industry has been assisted by the closure of the public employment service and the placement of job brokering and training for the unemployed to tender across the private and not for profit sector (Burgess, 2003).

The rise of the temporary agency sector across many countries can be interpreted as one manifestation of organisations shedding internal labour and internal labour costs and shifting recruitment, training and on-costs to the temporary work agencies and the temporary workers (Storrie, 2002). It can also be regarded as reflecting the restructuring of the internal labour market where organisations retain 'core' employees and use a variety of employment arrangements, including fixed-term and part-time labour, to provide both numeric and functional flexibility to the hiring organisation (Burgess and Connell, 2004).

In terms of these arrangements where does temporary agency work fit into the traditional employment typology? This question is difficult to answer because agency arrangements are not homogenous, and agency arrangements can be ambiguous. First, it is not clear what type of employment relationship workers have with the TWA and the contracting organisation. They could be regarded as an independent contractor selling their services to the agency or to the contracting organisation. They may also be regarded either as an employee of the agency or the contracting organisation. The hours of work may be irregular and inconsistent, with periods of full-time work being interspersed with part-time engagements and/or no offers of employment. The essential characteristic behind such

temporary engagements could lead to a classification as a casual worker, yet if temporary workers are contracted to an agency they may be regarded as having an ongoing employment arrangement with the agency.

Compounding these problems is the fact that agency workers have periods of non-engagement, although their names may be 'on the books' of an agency they will not be included in the labour force count unless they have an engagement at the time of the survey. Indeed, one worker will often appear simultaneously on the books of several agencies. In addition, many hires may be for short-term duration, by the hour (in the case of consultants) to by-the-day (in the case of construction workers) and short periods of full-time work may not generate sufficient hours to be classified as full-time work over the week. Multiple hiring and placement over a month will also not be captured in labour force surveys. This suggests that agency employment relates to high turnover (as expected) but that there are many more agency hires and jobs than are captured by the monthly labour force survey estimates. This uncertainty over status and numbers is further compounded by the estimates that many agency workers are immigrants (legal and illegal) who may be engaged in clandestine employment arrangements (Storrie, 2002). Consequently, Table 2 highlights the problems associated with classifying and estimating the number of agency workers.

Table 2: Suggested Employment Classifications of Temporary Agency Workers

Criteria	Classification	Comment
Status	Ambiguous	Employee of agency; employee of hiring organisation; self-employed contractor, outside labour force, unemployed.
Hours	Ambiguous	Multiple engagements; at call; irregular hours – can be for full-time, but short-term engagements – this may not be sufficient to qualify as a full-time worker.
Number	Understated	Number on the books of agencies will be more than the number of agency jobs at any one time. High turnover and short-duration hires will result in understatement in labour force estimates of agency work. Employment entry point for immigrant workers.
Entitlement	Ambiguous	See status; see hours; continuity or discontinuity of engagement.

As outlined in Table 2, the temporary agency worker is 'on the books' of the temporary employment agency and the contracting organisation hires labour through the agency, who in turn, supplies the labour to that firm. The labour hire decision and payment process flows down from the contracting organisation, while the provision of labour flows up from the individual worker. Instead of employing labour directly, the contracting organisation chooses to go through an intermediary. In comparison with the more traditional employment relationships, this process of intermediation blurs the employment relationship, employment status, the measurement of employment and challenges traditional employment regulations based on a transparent employer-employee relationship.

The Temporary Agency Work Sector in Australia and Ireland: Modest, Growing and Under-recorded

Despite the obvious presence of TWAs across every town and city in many OECD countries, the temporary employment sector appears to account for fewer than three per cent of total employment in most countries. Growth in the temporary help sector has been evident in countries with 'tight' labour markets such as Ireland and the USA, and in countries with relatively high unemployment rates such as Spain and Germany. That is, the development of the TWA sector appears to be associated with both labour surplus and labour shortages (Peck and Theodore, 2004).

Consequently, while it is not that significant in the overall context of employment, its growth cannot be ignored. In some countries such as the Netherlands agency employment accounts for around 5 per cent of the workforce and this share has doubled over the past decade (Storrie, 2002). In other countries such as Denmark the growth is modest and the employment share is less than 1 per cent (Rasmussen, Visser and Lind, 2004). Ireland is one of those countries with a modest workforce share (around one per cent) and modest growth (Storrie, 2002). Australia has a workforce share of up to 3 per cent and it has recorded strong growth over the past decade (Hall, 2004). However, all the estimates are characterised by two features: they understate the extent of agency employment and they are tentative, since even where agency employment estimates are recorded (as is Ireland) there is a degree of approximation attached to these estimates.

Temporary Agency Workers and Jobs

It was reported by the NSW Labour Hire Task Force (NSW DIR, 2002, p. 23) that 54 per cent of labour hire workers were female and employed predominantly as 'advanced' clerical workers in the business and property services, and finance and insurance sectors. The average duration of labour hire was said to be six weeks, with a quarter of workers estimated to have been on labour hire contracts for more than two years. Around 6 per cent of labour hire workers have an engagement that is of less than one week's duration, while 69 per cent have an engagement that is longer than 4 months.

In Ireland, O'Kelly (1999) reported a relatively high incidence of temporary jobs among women and younger workers. Irish service sectors, especially retailing, were identified as having a relatively high density of temporary employment (EIRO, 1999a) although this largely applies to fixed-term and seasonal work. The Irish sectoral and demographic distribution of temporary jobs appears to be similar to the distribution of casual jobs in Australia (Campbell and Burgess, 2001). With respect to agency work the characteristics of jobs and workers are, however, very different in Ireland. Storrie (2002, p. 31) reported that 80 per cent of agency workers are found in Ireland's manufacturing and construction sectors, and that the sector is predominantly male. In the context of the EU this is not unusual, with several countries including Italy, Belgium and France having temporary agency employment dominated by male workers in construction and manufacturing. Another notable feature of temporary workers seems to be that they are generally low skilled and not native born (e.g. Germany, France) (Storrie, 2002, p. 31).

There is an interesting contrast in the industry and demographic composition of agency work between Australia and Ireland. In Australia it is service work, younger workers and females that are important for the temporary agency sector. In Ireland it is construction and manufacturing dominated, and these jobs are filled by males. It is not clear how and why these differences have arisen, although one can speculate that skill shortages may be more acute in the construction sector than in other sectors in Ireland. However, given the decade of growth in the Irish economy (Peet, 2004) it is hard to explain why agency arrangements have not advanced in other sectors. It is not that there were barriers to agency employment in Ireland. Instead, it may be the case that (in common with Australia and casual workers) those other forms of temporary work arrangements (fixed-term jobs) were readily available to employers.

In Australia, while the sectoral and demographic characteristics resemble those of many other countries (Storrie, 2002) the peculiarity is

that agency employment has developed in the context of a very high incidence of casual employment (Pocock, Buchanan and Campbell, 2004). Why do employers engage in agency hires when they can directly employ casuals? In the Australian case the incidence of agency workers is around one-eighth of the total casual workforce. It is not clear if there is substitution between casuals and agency workers, or whether there is a more systematic trend away from permanent employment that captures a range of more insecure employment types, including agency work and casuals. The aggregate data supports the growth in casuals and agency workers, and the decline in full-time permanent workers (Pocock, Buchanan and Campbell, 2004), however the exact dynamics and shifts in labour use strategies in Australia remain unclear.

The Regulation of Agency Employment in Australia and Ireland

Regulations can apply at a number of different levels with respect to temporary employment arrangements. The main areas of regulation are:

- i. direct regulation of the agencies,
- ii. regulation of the contract of employment for agency workers and
- iii. regulation of employment conditions associated with agency employment.

Storrie (2002, p.7) catalogues the regulation of TWAs across the EU. Regulation can cover official authorisation or registration, the posting of financial guarantees to protect employment benefits, the involvement of social partners and annual reporting obligations and limitations on the scope of activities. Within the EU the range and extent of regulation varies from the extreme case of prohibition, as in Greece, to the lightly regulated as in the case of the UK (Stanworth and Druker, 2004).

EIRO (1999a) reported that temporary agency work in Ireland remains largely unregulated with no provisions limiting the length of the contract, restricting the application of agency work or providing for parity with permanent workers. Contracts could be renewed repeatedly and regulations govern the operation of employment agencies but not the conditions of employment through such agencies (EIRO, 1999b). However, both fixed-term and agency work arrangements in Ireland will increasingly be incorporated into a more extensive and protective framework as Irish labour law is updated in order to comply with the EU provisions that are outlined below (EIRO, 1999b).

The EU has issued the directive European Union on Working Conditions for Temporary Workers (2002). Specifically, this directive intends

that, "a temporary worker may not be treated worse, in terms of basic working conditions, than a comparable worker who is defined as a worker in the user undertaking in an identical or similar job" (p. 12). While this appears to be straightforward, there are problems in establishing comparability and actually enforcing the provisions (de Ruyter, 2004). Along with the UK, Ireland has held out against ratification of the EU convention, arguing that the qualifying period for equal treatment should be at least 12 months (see Ruyter, 2004). Although Ireland has indicated that it will implement the EU directive for fixed-term contract workers and part-time workers, progress has been slow with respect to the directive for agency workers (de Ruyter, 2004; EIRO, 2004).

In Australia there is no national regulation of TWAs. Those regulations that do exist are confined to the State jurisdiction. Employment agents must be licensed in all states and territories except Victoria, Northern Territory and Tasmania. Licensing involves making an application — that is, filling in a form and paying a licence application fee. Without the caveats and limitations on operations found in much of the EU, the Australian non-regulation of temporary work agencies is an extreme example of the almost absence of regulations over the operations of agencies, the employment contract and the conditions of employment.

Recently the New South Wales Task Force on labour hire highlighted the problems present within the industry, including problems with occupational health and safety regulation, under-payment in terms of base conditions and long hire temps (Hall, 2004). While the Task Force suggested regulation across several areas of the industry and of the contract of employment, the regulatory response has been very slow in emerging. Hall (2004) indicates that it is through the courts that many of the regulatory gaps are being addressed in terms of unpaid wages and entitlements, workers compensation and under-award payments. The Labour Council of NSW has launched a secure employment test case before the state industrial relations commission that, among other claims, seeks to regulate labour hire arrangements in the following areas (NSW Office of Industrial Relations, 2004):

- Permanency be offered to agency workers who have hires of longer than 6 months;
- Wages and conditions of agency workers be not less than those offered to direct employees of the hiring organisation;
- Agency workers be provided with relevant OH&S training and appropriate equipment and clothing by the hiring organisation.

The situation in Australia remains fragmented, piecemeal and lightly regulated. The NSW Labour Hire Taskforce highlighted the challenges for regulators; however progress towards more comprehensive state-based regulations remains very slow.

Conclusions

The continued expansion and globalisation of the temporary help industry will see greater use of agency workers in both Australia and Ireland. This particular employment arrangement is characterised by ambiguity in terms of employment status and in terms of employer responsibilities. For a variety of reasons it is difficult to obtain reliable estimates of the extent of agency employment. Given that the temporary agency sector is largely unregulated in Australia and lightly regulated in Ireland, this places pressure on employment security and on the employment conditions of permanent workers (Burgess and Connell, 2004).

Agency employment has expanded in both countries, from a low base. Agency employment growth has been associated with buoyant economic conditions and overall employment growth in both countries although the profile of workers and industries differs between those countries. The implications of continued agency employment growth remain unclear, though the NSW Taskforce on Labour Hire highlighted the risks posed by unregulated agency employment expansion (Hall, 2004).

In Ireland the EU directives on agency work and fixed-term work offer a framework for more extensive regulation of the sector and contracts of employment. Nonetheless, progress towards implementing the objective has been extremely slow. In Australia there is no national approach to regulation, instead the responsibility is located with state governments. To date, there has been resistance to regulation and a reluctance to regulate the sector and the employment contract. Hence, the ambiguity, confusion and absence of regulations surrounding the temporary agency work sector are likely to continue into the future leading to the continuance of a sector that is growing and under-recorded.

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