

Analysis

Employment status in regulated sectors: key takeaways from *PGMOL*

Speed read

The FTT ruling in *PGMOL* offers practical guidance on employment status litigation for contingent-worker arrangements in regulated sectors. The case illustrates that satisfying mutuality and control does not end the employment-status inquiry. Under stage three of *RMC*, tribunals must weigh the whole regulatory and economic context. The existence of narrow, optional engagements, regulatory rather than managerial control, limited integration and weak economic dependence all point away from employment.



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The First-tier Tribunal (FTT) judgment in *Professional Game Match Officials Ltd v HMRC* [2026] UKFTT 654 (TC) is the latest decision in the employment status litigation concerning football referees. It is also the first FTT decision to scrutinise stage three of the *Ready Mixed Concrete (South East) Ltd v Minister of Pensions and National Insurance* [1968] 2 QB 497 (*RMC*) test since the Supreme Court's ruling in *PGMOL v HMRC* [2024] UKSC 29. Here, the Supreme Court found that where stage one (mutuality of obligations) and stage two (control) are met, the tribunal must assess the overall picture at stage three (all contractual terms and relevant surrounding circumstances) to determine the nature of the contract.

Helpful pointers

The FTT found that the individual match appointments were *not* contracts of employment. Suffice it to say, the FTT's analysis, and its ultimate decision, is highly fact-specific and firmly rooted in the original factual findings. However, the judgment contains helpful pointers for those engaging contingent workers in regulated sectors.

- Even where stage one is met, where the mutual obligations are 'narrow, short-lived and suffused with choice', the nature and quality of those obligations may point away from employment. As such, the freedom to accept or reject work remains a strong factor that is not indicative of employment.
- Obligations driven by external regulation that are simply administered by the engager say little about mutuality of obligations and do not, in and of themselves, amount to managerial discretion or employer authority, i.e. employer-type control. Put simply, if the engager is merely passing on the regulator's rules, this will not equate to managerial or supervisory control akin to employment.

- If the regulator (not the engager) polices and disciplines performance, this may mean that the engager does not possess the 'ultimate authority' to constitute control necessary for employment.
- Where the engager exercises control that is facilitative or quality-assuring rather than supervisory or directive, then the nature of the control may be insufficient for employment. This is on the basis that the controls are operated to maintain regulatory standards rather than to direct the 'what/how/when' of the work to be performed. Much of what looks like 'control' may simply be compliance architecture.
- Operational involvement and organisational integration are not the same. Employment requires an individual to be part of the engager's organisational structure, not an independent participant in a wider framework. Integration is particularly difficult to show where professional status and authority are derived from the regulator instead of the engager, who is merely administrative or coordinative.
- The absence of alternative engagers may be reflective of the regulatory structure of an industry rather than any constraints imposed by the engager. In these circumstances, dependence on a single paymaster may not be material.

Stage three of *RMC* is where the real action now lies: it is not safe to assume that the existence of mutuality and a framework of control is sufficient for employment

- In a regulated environment, where equipment is provided to ensure neutrality, consistency and uniformity across multiple engagements, the provision of equipment may not be a material factor.
- Where the longevity of an engagement reflects an individual's professional development and capability within a regulated structure, rather than a result of ongoing obligations for engagement, this may not be indicative of employment.

Where does this leave us?

Stepping back, the FTT emphasised that no single factor is determinative. The case was decided on the cumulative effect of narrow, highly optional mutuality; regulatory rather than managerial control; lack of organisational integration; and the absence of economic dependence. Given this overall picture, the engagements were contracts for services.

The decision emphasises that stage three of *RMC* is where the real action now lies; it is not safe to assume that the existence of mutuality and a framework of control is sufficient for employment. Tribunals will be expected to probe the nature, quality and weight of each relevant factor in its regulatory and economic context, and only then stand back to form a view. Businesses engaging contingent workers in regulated environments will need a detailed grasp of the contractual framework, the role of any regulator and how engagements operate in practice if they are to manage income tax and NICs risk with confidence. ■

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