



2015 CHAPTER 1

PART 3

TIME OFF WORK: ANTE-NATAL CARE, ADOPTION APPOINTMENTS

Right not to be subjected to detriment: agency workers

18.—(1) The Employment Rights Order is amended as follows.

(2) In Article 70C (right not to be subjected to detriment for taking leave for family and domestic reasons), after paragraph (3) add—

“(4) An agency worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by the temporary work agency or the hirer done on the ground that—

- (a) being a person entitled to the following time off or remuneration, the agency worker exercised (or proposed to exercise) that right or received (or sought to receive) that remuneration—
 - (i) time off under Article 85ZA, and
 - (ii) remuneration under Article 85ZB in respect of that time off,
- (b) being a person entitled to time off under Article 85ZG, the agency worker exercised (or proposed to exercise) that right,
- (c) being a person entitled to the following time off or remuneration, the agency worker exercised (or proposed to exercise) that right or received (or sought to receive) that remuneration—
 - (i) time off under Article 85ZN, and
 - (ii) remuneration under Article 85ZO in respect of that time off,or

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(d) being a person entitled to time off under Article 85ZP, the agency worker exercised (or proposed to exercise) that right.

(5) Paragraph (4) does not apply where the agency worker is an employee.

(6) In this Article, the following have the same meaning as in the Agency Workers Regulations (Northern Ireland) 2011 (see regulations 2(2), 3 and 4 of the regulations)—

“agency worker”,

“hirer”,

“temporary work agency””””

(3) In Article 71 (complaints to industrial tribunals)—

(a) in paragraph (1) for “70C” substitute “ 70C(1) ”,

(b) after paragraph (1A) insert—

“(1AA) An agency worker may present a complaint to an industrial tribunal that the agency worker has been subjected to a detriment in contravention of Article 70C(4) by the temporary work agency or the hirer.”,

(c) in paragraph (2) for “this Article” substitute “ paragraph (1), (1ZA), (1A) or (1B) ”,

(d) after that paragraph insert—

“(2A) On a complaint under paragraph (1AA) it is for the temporary work agency or (as the case may be) the hirer to show the ground on which any act, or deliberate failure to act, was done.”,

(e) in paragraph (4) after “an employer” insert “ , a temporary work agency or a hirer ”,

(f) after paragraph (5) add—

“(6) In—

(a) this Article, “agency worker”, and

(b) this Article and Article 72, “hirer” and “temporary work agency”,

have the same meaning as in the Agency Workers Regulations (Northern Ireland) 2011.”.

(4) In Article 72 (remedies in the case of complaints to an industrial tribunal)

(a) in paragraph (1) for “Article 71” substitute “ Article 71(1), (1ZA), (1A) or (1B) ”,

(b) after that paragraph insert—

“(1A) Where an industrial tribunal finds a complaint under Article 71(1AA) well-founded, the tribunal—

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- (a) shall make a declaration to that effect, and
- (b) may make an award of compensation to be paid by the temporary work agency or (as the case may be) the hirer to the complainant in respect of the act or failure to act to which the complaint relates.”

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Commencement Information

- I1** S. 18(1) in operation at 15.3.2015 for specified purposes by S.R. 2015/86, **art. 3(1)(o)**
- I2** S. 18(2) in operation at 15.3.2015 for specified purposes by S.R. 2015/86, **art. 3(1)(o)**
- I3** S. 18(2) in operation at 5.4.2015 in so far as not already in operation by S.R. 2015/86, **art. 4(1)(f)**
- I4** S. 18(3)(4) in operation at 15.3.2015 by S.R. 2015/86, **art. 3(1)(o)**

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