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STATUTORY RULES OF NORTHERN IRELAND

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**2011 No. 350**

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

**PART 3**

**Liability, Protections and Remedies**

**Liability of temporary work agency and hirer**

**14.**—(1) Subject to paragraph (3) a temporary work agency shall be liable for any breach of regulation 5, to the extent that it is responsible for the breach.

(2) The hirer shall be liable for any breach of regulation 5, to the extent that it is responsible for the breach.

(3) A temporary work agency shall not be liable for a breach of regulation 5 where it is established that the temporary work agency—

- (a) obtained, or has taken reasonable steps to obtain, relevant information from the hirer —
  - (i) about the basic working and employment conditions in force in the hirer;
  - (ii) if needed to assess compliance with regulation 5, about the relevant terms and conditions under which an employee of the hirer is working where—
    - (aa) that employee is considered to be a comparable employee in relation to that agency worker for the purposes of regulation 5(4), and
    - (bb) those terms and conditions are ordinarily included in the contract of such a comparable employee; and
  - (iii) which explains the basis on which it is considered that the employee referred to in sub-paragraph (ii)(aa) is a comparable employee;
- (b) where it has received such information, has acted reasonably in determining what the agency worker's basic working and employment conditions should be at the end of the qualifying period and during the period after that until, in accordance with regulation 8, the agency worker ceases to be entitled to the rights conferred by regulation 5; and
- (c) ensured that where it has responsibility for applying those basic working and employment conditions to the agency worker, that the agency worker has been treated in accordance with the determination described in sub-paragraph (b),

and to the extent that the temporary work agency is not liable under this provision, the hirer shall be liable.

(4) Where more than one temporary work agency is a party to the proceedings, when deciding whether or not each temporary work agency is responsible in full or in part the industrial tribunal shall have regard to the extent to which each agency was responsible for the determination, or application, of any of the agency worker's basic working and employment conditions.

(5) The hirer shall be liable for any breach of regulation 12 or 13.

- (6) In relation to the rights conferred by regulation 17—
  - (a) a temporary work agency shall be liable for any act, or any deliberate failure to act, of that temporary work agency; and
  - (b) the hirer shall be liable for any act, or any deliberate failure to act, of the hirer.