
STATUTORY INSTRUMENTS

2010 No. 93

The Agency Workers Regulations 2010

PART 3

Liability, Protections and Remedies

Liability of temporary work agency and hirer

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

(2) Subject to paragraph (3), the hirer shall be liable for any breach of regulation 5, to the extent that it is responsible for that 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 about the basic working and employment conditions in force in the hirer;
- (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 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 the temporary work agency or hirer seeks to rely on regulation 5(3), relevant information in paragraph (3)(a) includes information that—

- (a) explains the basis on which it is considered that an individual is a comparable employee; and
- (b) describes the relevant terms and conditions which apply to that employee.

(5) 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 employment 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.

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

(7) 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.