



# Children and Families Act 2014

## 2014 CHAPTER 6

### PART 8

#### TIME OFF WORK: ANTE-NATAL CARE ETC

#### **129 Right not to be subjected to detriment: agency workers**

(1) In section 47C of the Employment Rights Act 1996 (right not to be subjected to detriment for taking leave for family and domestic reasons), after subsection (4) there is inserted—

“(5) 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—
  - (i) time off under section 57ZA, and
  - (ii) remuneration under section 57ZB in respect of that time off, the agency worker exercised (or proposed to exercise) that right or received (or sought to receive) that remuneration,
- (b) being a person entitled to time off under section 57ZG, the agency worker exercised (or proposed to exercise) that right,
- (c) being a person entitled to—
  - (i) time off under section 57ZN, and
  - (ii) remuneration under section 57ZO in respect of that time off, the agency worker exercised (or proposed to exercise) that right or received (or sought to receive) that remuneration, or
- (d) being a person entitled to time off under section 57ZP, the agency worker exercised (or proposed to exercise) that right.

(6) Subsection (5) does not apply where the agency worker is an employee.

(7) In this section the following have the same meaning as in the Agency Workers Regulations 2010 ([S.I. 2010/93](#))—

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*Status: This is the original version (as it was originally enacted).*

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“agency worker”;  
“hirer”;  
“temporary work agency”.”

- (2) In section 48 of that Act (complaints to employment tribunals)—
- (a) in subsection (1), for “47C” there is substituted “47C(1)”;
  - (b) after subsection (1A) there is inserted—

“(1AA) An agency worker may present a complaint to an employment tribunal that the agency worker has been subjected to a detriment in contravention of section 47C(5) by the temporary work agency or the hirer.”;
  - (c) in subsection (2), for “such a complaint” there is substituted “a complaint under subsection (1), (1ZA), (1A) or (1B)”;
  - (d) after subsection (2) there is inserted—

“(2A) On a complaint under subsection (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 subsection (4), after “an employer” there is inserted “, a temporary work agency or a hirer”;
  - (f) after subsection (5) there is inserted—

“(6) In this section and section 49 the following have the same meaning as in the Agency Workers Regulations 2010 (S.I. 2010/93)—  
“agency worker”;  
“hirer”;  
“temporary work agency”.”
- (3) In section 49 of that Act (remedies in the case of complaints to an employment tribunal)—
- (a) in subsection (1), for “under section 48” there is substituted “under section 48(1), (1ZA), (1A) or (1B)”;
  - (b) after subsection (1), there is inserted—

“(1A) Where an employment tribunal finds a complaint under section 48(1AA) well-founded, the tribunal—

    - (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.”