
STATUTORY INSTRUMENTS

2019 No. 724

The Agency Workers (Amendment) Regulations 2019

Unfair dismissal and the right not to be subjected to detriment

5.—(1) An agency worker who is an employee and is dismissed shall be regarded as unfairly dismissed for the purposes of Part 10 of the 1996 Act if the reason (or, if more than one, the principal reason) for the dismissal is a reason specified in paragraph (3).

(2) An agency worker has the right not to be subjected to any detriment by, or as a result of, any act, or deliberate failure to act, of the temporary work agency which is the employer of the agency worker, done on a ground specified in paragraph (3).

(3) The reasons or, as the case may be, grounds are—

(a) that the agency worker—

(i) brought proceedings under these Regulations;

(ii) gave evidence or information in connection with such proceedings brought by any agency worker;

(iii) otherwise did anything under these Regulations in relation to a temporary work agency or other person;

(iv) alleged that the temporary work agency which is the employer of the agency worker has breached these Regulations;

(v) refused (or proposed to refuse) to forgo a right conferred by these Regulations; or

(b) that the temporary work agency believes or suspects that the agency worker has done or intends to do any of the things mentioned in sub-paragraph (a).

(4) Where the reason or principal reason for subjection to any act or deliberate failure to act is that mentioned in paragraph (3)(a)(iv), or paragraph (3)(b) so far as it relates to paragraph (3)(a)(iv), neither paragraph (1) nor paragraph (2) applies if the allegation made by the agency worker is false and not made in good faith.

(5) Paragraph (2) does not apply where the detriment in question amounts to a dismissal of an employee within the meaning of Part 10 of the 1996 Act.

(6) Subject to paragraph (5), an agency worker may present a complaint to an employment tribunal that a temporary work agency has infringed a right conferred on the agency worker by this regulation.

(7) Paragraphs (4)(a), (4A), (5), (6), (7), (8), (10), (11), (12), (13), (16), (17) and (18) of regulation 18 and regulations 18A, 19 and 20 of the 2010 Regulations apply to a complaint under paragraph (6) in the same way as to a complaint under regulation 18(2) of the 2010 Regulations, but with the modification that references to rights conferred by regulation 17(2) of the 2010 Regulations are to be treated as references to rights conferred by this regulation.