
STATUTORY INSTRUMENTS

2016 No. 510

The Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2016

Amendments to the Conduct of Employment Agencies and Employment Businesses Regulations 2003

2.—(1) The Conduct of Employment Agencies and Employment Businesses Regulations 2003(1) are amended as follows.

(2) Omit regulation 9 (restriction on agencies and employment businesses purporting to act on a different basis).

(3) Omit regulation 11 (entering into a contract on behalf of a client).

(4) In paragraph (1)(b) of regulation 16 (requirement to obtain agreement to terms with work-seekers and content of terms with work-seekers: agencies) omit “(in accordance with regulation 11)”.

(5) Omit regulation 17 (requirement for employment businesses to obtain agreement to terms with hirers).

(6) For paragraph (1) of regulation 23 (situations where more than one agency or employment business is involved) substitute—

“(1) An agency (“A”) acting for a work-seeker whom it is permitted by regulation 26(1) to charge for work-finding services may not enter into any contract or arrangement with another agency (“B”) with a view to B providing or facilitating the provision of such services in relation to the work-seeker unless—

(a) A has ensured that the hirer has been informed that any payment due to the work-seeker must be paid either directly to the work-seeker, or to A, rather than to B; or

(b) A and B have agreed that B may receive any payment due to the work-seeker and the following conditions are met—

(i) they have agreed that B shall pass the monies to A or to the work-seeker within 10 days of receipt by B of the same;

(ii) provided that the applicable law of the agreement between A and B does not prevent it, they have agreed that the work-seeker may enforce the term referred to in sub-paragraph (b)(i) in the event that B fails to pass the monies to A or the work-seeker within the 10 day period; and

(iii) the terms of the agreement reached between A and B in accordance with sub-paragraphs (b)(i) and (ii) are recorded in paper form or by electronic means.”

(7) For regulation 27A substitute—

“Advertising in other EEA states

27A.—(1) An agency or employment business must not publish a relevant recruitment advertisement in an EEA state other than the United Kingdom unless—

- (a) it publishes the advertisement in English in Great Britain at the same time as it publishes the advertisement in the other EEA state; or
- (b) it has published the advertisement in English in Great Britain for all or part of the period of 28 days ending with the day on which it publishes the advertisement in the other EEA state.

(2) Paragraph (1) does not apply if the relevant recruitment advertisement concerns a vacancy for a worker to act solely for, and under the control of, the agency or employment business itself.

(3) It is a defence in any proceedings under—

- (a) section 5(2) of the Act⁽²⁾, or
- (b) regulation 30,

in respect of a contravention of paragraph (1) that the agency or employment business believes, on reasonable grounds, that publishing the relevant recruitment advertisement in English in Great Britain would be disproportionate having regard to the likelihood that doing so would bring the advertisement to the attention of a person with the skills sought by the agency or employment business.

(4) For the purposes of this regulation—

- (a) “publish” means make, or cause to be made, available to the public or a section of the public,
- (b) an advertisement on a website is taken to be published in all places from which the website can be accessed,
- (c) “a relevant recruitment advertisement” means either—
 - (i) an advertisement in respect of a particular vacant position, the duties of which are ordinarily to be performed in Great Britain, or
 - (ii) an advertisement by which an agency or employment business seeks to identify worker-seekers who are looking for a position, the duties of which are ordinarily to be performed in Great Britain.”

(8) In paragraph (1) of regulation 29 (records)—

- (a) insert “and” at the end of sub-paragraph (a);
- (b) omit “and” at the end of sub-paragraph (b);
- (c) omit sub-paragraph (c).

(9) In Schedule 4 (particulars to be included in an agency’s or employment business’s records relating to work-seekers) omit paragraphs 1, 5, and 9.

(10) In Schedule 5 (particulars to be included in an agency’s or employment business’s records relating to hirers) omit paragraphs 1, 2, 6, 7, 8 and 10.

(11) Omit Schedule 6 (particulars to be included in an agency’s or employment business’s records relating to other agencies or employment businesses).

(12) After regulation 33 (electronic and other communications) insert—

(2) Section 5(2) was amended by the Employment Act 2008 (c.24), section 15.

“Review

34.—(1) The Secretary of State must from time to time carry out a review of the provisions listed in paragraph (2).

(2) The listed provisions are—

- (a) Part 2 (general obligations);
- (b) Part 3 (requirements to be satisfied before services are provided);
- (c) Part 5 (special situations); and
- (d) Part 7 (miscellaneous).

(3) The Secretary of State must—

- (a) set out the conclusions of the review carried out in accordance with paragraph (1) in a report; and
- (b) publish the report.

(4) The report must in particular—

- (a) set out the objectives intended to be achieved by the provisions listed in paragraph (2);
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(5) The first report under this regulation must be published before the end of the period of five years beginning with the day on which the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2016 come into force.

(6) Reports under this regulation are afterwards to be published at intervals not exceeding five years.”