
STATUTORY INSTRUMENTS

2003 No. 3319

**The Conduct of Employment Agencies and
Employment Businesses Regulations 2003**

PART V

SPECIAL SITUATIONS

Situations where more than one agency or employment business is involved

23.—(1) Neither an agency nor an employment business (“A”) may enter into any contract or arrangement with another agency or employment business (“B”) with a view to B providing or facilitating the provision to a work-seeker or a hirer of any services of an agency or an employment business unless—

- (a) A has made enquiries to ascertain that B is suitable to act as an agency or employment business and received satisfactory answers to those enquiries;
- (b) A and B have agreed in what capacity each of them will act, namely whether as an agency or an employment business;
- (c) where A is acting as an agency in relation to a work-seeker whom it is permitted by regulation 26(1) to charge for work-finding services,—
 - (i) 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
 - (ii) where A and B have agreed that B may receive any payment due to the work-seeker—
 - (aa) 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; and
 - (bb) 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 (c)(ii)(aa) in the event that B fails to pass the monies to A or the work-seeker within the 10 day period referred to therein; and
- (d) the terms of the agreement reached between A and B in accordance with sub-paragraphs (b) and (c)(ii) are recorded in paper form or by electronic means.

(2) Neither an agency nor an employment business (“A”) may assign or sub-contract any of its obligations under any contract or arrangement with a work-seeker or hirer to another agency or employment business (“B”) unless—

- (a) A has obtained the prior consent of the work-seeker or hirer for whom it acts to B performing those obligations in place of A;
- (b) the terms upon which those obligations are assigned or sub-contracted are recorded in a single document; and
- (c) A has given the work-seeker or hirer, for whom it acts, a copy of that document.

Situations where work-seekers are provided with travel or required to live away from home

24.—(1) Neither an agency nor an employment business may arrange for an au pair to take up a position where the au pair is to be required to repay the hirer or the agency or employment business the fare for the journey from the au pair's home to the place of work, or from the place of work to the au pair's home, out of money payable to the au pair by the hirer or the agency or employment business.

(2) Neither an agency nor an employment business may arrange for a work-seeker to take up a position other than as the hirer's employee (within the meaning of section 230(1) of the Employment Rights Act 1996⁽¹⁾) if in order to take up that position the work-seeker must occupy accommodation other than his home, unless the conditions in paragraph (3) are satisfied.

(3) The conditions referred to in paragraph (2) are that the agency or employment business has taken all reasonably practicable steps to ensure that—

- (a) suitable accommodation will be available for the work-seeker before he starts work;
- (b) the work-seeker has been provided with details of the accommodation referred to in subparagraph (a), including the terms on which it is offered and any cost to the work-seeker; and
- (c) suitable arrangements have been made for the work-seeker to travel to such accommodation.

(4) Where a work-seeker is—

- (a) to be introduced or supplied to a hirer other than as the hirer's employee (within the meaning of section 230(1) of the Employment Rights Act 1996), or is under the age of eighteen; and
- (b) the agency, employment business or hirer has arranged free travel or payment of fares for the work-seeker's journey to the place of work,

the agency or employment business shall, if the work does not start or upon it ending, either arrange free travel for the work-seeker's return journey or pay his return fare, or obtain an undertaking from the hirer that he will arrange free travel or pay the return fare. The agency or employment business shall give notice to the work-seeker setting out the details of the free travel or payment of fares including any conditions on which the same are offered.

(5) If a hirer does not comply with his undertaking referred to in paragraph (4), the agency or employment business shall either arrange free travel for the return journey of the work-seeker or pay his fare.

(6) Where a work-seeker is seeking employment in domestic service in a private household, or to be an au pair, an agency or employment business, providing work-finding services to him with a view to his obtaining a position in either of those occupations, shall ensure that the work-seeker is provided with such information as the work-seeker may reasonably request in order to decide whether or not to take up any particular position.

(7) In the case of a work-seeker who is under the age of eighteen, neither an agency nor an employment business may introduce or supply him to any hirer with a view to him taking up a position which will require him to live away from home unless the condition in paragraph (8) is satisfied.

(8) The condition referred to in paragraph (7) is that the consent to the work-seeker taking up the position, in respect of which the agency or employment business seeks to introduce or supply him to the hirer, has previously been given by, and obtained by the agency or employment business directly from, a parent or guardian of the work-seeker.

(1) 1996 c. 18; section 230(6) was inserted by the Public Interest Disclosure Act 1998 (c. 23), section 15(1).

(9) Neither an agency nor an employment business may arrange for a work-seeker to take up a position with a hirer on the basis that the work-seeker is to be loaned money, by either the hirer or the agency or employment business, to meet his travel or other expenses in order to take up that position, on terms that the work-seeker is to be required to repay the lender a sum greater than the sum loaned.

(10) Where an agency, employment business or hirer is to lend money to a work-seeker to meet his travel or other expenses to be incurred in order to take up a position with a hirer, the agency or employment business shall give to the work-seeker a document setting out details of the amount to be loaned and details of the terms for repayment save, in the case of a loan from the hirer, to the extent that the agency or employment business is not aware of any such details.

(11) Paragraph (7) does not apply in relation to a person under the age of eighteen to whom section 25 of the Children and Young Persons Act 1933(2) or section 42 of the Children and Young Persons Act 1963(3) applies.

(12) In this regulation, “au pair” means a person who is received or is to be received into a private household under an arrangement whereby that person is to assist in the domestic work of the household in consideration for receiving hospitality and pocket money or hospitality only.

(2) 1933 c. 12; section 25 was amended by the Children and Young Persons Act 1963 (c. 37), section 64(1), (3), Schedule 3, paragraph 7 and Schedule 5, the Children Act 1989 (c. 41), Schedule 13, paragraph 3, the Employment Act 1989 (c. 38), section 10 and Schedule 3, Part III, paragraphs 6 and 10 and the Children (Protection at Work) Regulations 1998 (S.I.1998/276), regulation 5. Functions of the Secretary of State under section 25, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1.

(3) 1963 c. 37; section 42 was amended by the Employment Act 1989 (c. 38), section 29(3) and Schedule 6, paragraph 8 and the Children (Protection at Work) Regulations 1998 (S.I. 1998/276), regulation 16(2) and (3).