
STATUTORY INSTRUMENTS

1981 No. 839

The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981

PART II

EMPLOYMENT AGENCIES

Conduct of employment agencies and employment business

General regulations

6.—(1) Subject to paragraph (2), the Department may make regulations to secure the proper conduct of employment agencies and employment businesses and to protect the interests of persons availing themselves of the services of such agencies and businesses, and such regulations may in particular make provision—

- (a) requiring persons carrying on such agencies and businesses to keep records;
- (b) prescribing the form of such records and the entries to be made in them;
- (c) requiring persons carrying on such agencies and businesses to make such returns of information to the Department at such times and in such manner as may be prescribed;
- (d) prescribing qualifications appropriate for persons carrying on such agencies and businesses;
- (e) regulating advertising by persons carrying on such agencies and businesses;
- (f) safeguarding clients' money deposited with or otherwise received by persons carrying on such agencies and businesses;
- [^{F1}(g) restricting the services which may be provided by persons carrying on such agencies and businesses;
- (h) regulating the way in which and the terms on which services may be provided by persons carrying on such agencies and businesses;
- (j) restricting or regulating the charging of fees by persons carrying on such agencies and businesses.]

[^{F2}(1A) A reference in paragraph (1)(g) and (h) to services includes a reference to services in respect of—

- (a) persons seeking employment outside the United Kingdom;
- (b) persons normally resident outside the United Kingdom seeking employment in the United Kingdom.]

Para. (2) rep by 1999 NI 9

(3) Any person who contravenes any regulation made under this Article shall be guilty of an offence and liable

- [^{F3}(a) on conviction on indictment, to a fine;

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(b) on summary conviction, to a fine not exceeding the statutory maximum.]

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| F1 | 1999 NI 9 |
| F2 | 1999 NI 9 |
| F3 | Words in art. 6(3) substituted (3.8.2010) by Employment Act (Northern Ireland) 2010 (c. 12) , ss. 1, 8(2) |

Restriction on charging persons seeking employment

7.—^[F4](1) Except in such cases or classes of case as the Department may prescribe—

- (a) a person carrying on an employment agency shall not request or directly or indirectly receive any fee from any person for providing services (whether by the provision of information or otherwise) for the purpose of finding him employment or seeking to find him employment;
- (b) a person carrying on an employment business shall not request or directly or indirectly receive any fee from an employee for providing services (whether by the provision of information or otherwise) for the purpose of finding or seeking to find another person, with a view to the employee acting for and under the control of that other person;
- (c) a person carrying on an employment business shall not request or directly or indirectly receive any fee from a second person for providing services (whether by the provision of information or otherwise) for the purpose of finding or seeking to find a third person, with a view to the second person becoming employed by the first person and acting for and under the control of the third person.]

(2) Any person who contravenes this Article shall be guilty of an offence and liable

^[F5](a) on conviction on indictment, to a fine;

(b) on summary conviction, to a fine not exceeding the statutory maximum.]

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| F4 | 1999 NI 9 |
| F5 | Words in art. 7(2) substituted (3.8.2010) by Employment Act (Northern Ireland) 2010 (c. 12) , ss. 1, 8(2) |

^[F6]Appointment of officers

7A.—(1) The Department—

- (a) may appoint officers to act for the purposes of this Order; and
- (b) may, instead of or in addition to appointing any such officers, arrange with any Minister of the Crown or public body, that officers of that Minister or body shall act for those purposes.

(2) In paragraph (1) “public body” means—

- (a) a department of the Government of the United Kingdom;
- (b) a Northern Ireland department; or
- (c) a body performing functions on behalf of the Crown.

(3) When acting for the purposes of this Order, an officer shall, if so required, produce written evidence of his authority so to act.

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| F6 | Arts. 7A and 7B inserted (15.1.2006) by The Employment (Miscellaneous Provisions) (Northern Ireland) Order 2005 (S.I. 2005/3424 (N.I. 20)) , art. 2(2) |
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Powers of officers

7B.—(1) An officer acting for the purposes of this Order may at all reasonable times—

- (a) enter and inspect any relevant business premises;
- [^{F7}(b) inspect—
 - (i) any records required to be kept under this Part; and
 - (ii) any financial records not falling within head (i) which he may reasonably require to inspect for the purpose of ascertaining whether the provisions of this Part and of any regulations made under this Part are being complied with or of enabling the Department to exercise its functions under this Part;]
- (c) subject to paragraph (6), require any person on those premises to furnish him with such information as he may reasonably require for the purpose of ascertaining whether the provisions of this Order and of any regulations made thereunder are being complied with or of enabling the Department to exercise its functions under this Order.

(2) If an officer seeks to inspect or acquire, in accordance with paragraph (1)(b) or (c), a record or information which is not kept at the premises being inspected, [^{F8} the officer may by notice in writing require the person carrying on the employment agency or employment business to furnish him with the record or information at such time and place as he may specify.]

[^{F9}(2A) Where a person carrying on an employment agency or employment business fails to comply with paragraph (2) in relation to any record or information and the officer has reasonable cause to believe that the record or information is kept by—

- (a) a person concerned with the carrying on of the employment agency or employment business, or
- (b) a person formerly so concerned,

the officer may by notice in writing require that person to furnish him with the record or information at such time and place as he may specify.

(2B) Where a person carrying on an employment agency or employment business fails to comply with paragraph (2) in relation to any financial record which is kept by a bank, an authorised officer may by notice in writing require the bank to furnish the record or other document to him at such time and place as he may specify.

(2C) In paragraph (2B)—

- (a) “authorised officer”, in relation to a notice, means an officer who is authorised in relation to that notice by a senior officer of the Department (within the meaning given by Article 2(3) of the Departments (Northern Ireland) Order 1999 (NI 1));
- (b) “bank” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 (c. 8) to accept deposits.

(2D) An officer may take copies of any record inspected by or furnished to him under this Article.

(2E) An officer may, for the purposes of paragraph (2D), remove a record from the premises where it is inspected by or furnished to him; but he must return it as soon as reasonably practicable.]

(3) In paragraph (1) “relevant business premises” means premises—

- (a) which are used, have been used or are to be used for or in connection with the carrying on of an employment agency or employment business,
- (b) which the officer has reasonable cause to believe are used or have been used for or in connection with the carrying on of an employment agency or employment business, or

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- (c) which the officer has reasonable cause to believe are used for the carrying on of a business by a person who also carries on or has carried on an employment agency or employment business, if the officer also has reasonable cause to believe that records or other documents which relate to the employment agency or employment business are kept there.
- (4) For the purposes of this Article—
- (a) “record” includes information recorded in any form, and
 - (b) information is kept at premises if it is accessible from them.
- (5) The powers conferred by paragraph (1) include, in relation to records which are kept by means of a computer—
- (a) power to require the records to be produced in a form in which they are legible and can be taken away; and
 - (b) power to require access to, and to check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.
- (6) Nothing in this Article shall require a person to produce, provide access to or make arrangements for the production of anything which he could not be compelled to produce in civil proceedings before the High Court.
- (7) Subject to paragraph (8), a statement made by a person in compliance with a requirement under this Article may be used in evidence against him in criminal proceedings.
- (8) Except in proceedings for an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (NI 19) (false statements otherwise than on oath), no evidence relating to the statement may be adduced, and no question relating to it may be asked, by or on behalf of the prosecution unless—
- (a) evidence relating to it is adduced, or
 - (b) a question relating to it is asked,
- by or on behalf of the person who made the statement.
- (9) Any person who—
- (a) obstructs an officer in the exercise of his powers under [F10]paragraph (1)(a) or (b), (2D) or (2E)]; or
 - (b) without reasonable excuse, fails to comply with a requirement under [F11]paragraph (1)(c), (2), (2A) or (2B)],
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) No information obtained in the course of exercising the powers conferred by this Article [F12](or pursuant to section 15(5B) of the National Minimum Wage Act 1998)] shall be disclosed except—
- (a) with the consent of the person by whom the information was furnished or, where the information was furnished on behalf of another person, with the consent of that other person or with the consent of the person carrying on or proposing to carry on the employment agency or employment business concerned; or
 - (b) to the Department, or an officer appointed by, or person exercising functions on behalf of, the Department for the purposes of the exercise of functions under this Order, or
 - (c) by the Department, or an officer appointed by, or person exercising functions on behalf of, the Department to the person carrying on or proposing to carry on the employment agency or employment business concerned, to any person in his employment or, in the case of information relating to a person availing himself of the services of such an agency or business, to that person; or

- (d) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings pursuant to or arising out of this Order or for the purposes of any proceedings under Article 5A or 5C,^[F13] or
- (e) to an officer acting for the purposes of the National Minimum Wage Act 1998 for any purpose relating to that Act.]
- (11) Any person who contravenes paragraph (10) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

- F6** Arts. 7A and 7B inserted (15.1.2006) by The Employment (Miscellaneous Provisions) (Northern Ireland) Order 2005 (S.I. 2005/3424 (N.I. 20)), **art. 2(2)**
- F7** Art. 7B(1)(b) substituted (3.8.2010) by Employment Act (Northern Ireland) 2010 (c. 12), **ss. 2(2)**, 8(2)
- F8** Words in art. 7B(2) substituted (3.8.2010) by Employment Act (Northern Ireland) 2010 (c. 12), **ss. 2(3)**, 8(2)
- F9** Art. 7B(2A)-(2E) inserted (3.8.2010) by Employment Act (Northern Ireland) 2010 (c. 12), **ss. 2(4)**, 8(2)
- F10** Words in art. 7B(9) substituted (3.8.2010) by Employment Act (Northern Ireland) 2010 (c. 12), **ss. 2(5)(a)**, 8(2)
- F11** Words in art. 7B(9) substituted (3.8.2010) by Employment Act (Northern Ireland) 2010 (c. 12), **ss. 2(5)(b)**, 8(2)
- F12** Words in art. 7B(10) inserted (3.8.2010) by Employment Act (Northern Ireland) 2010 (c. 12), **ss. 5(2)(a)**, 8(2)
- F13** Art. 7B(10)(e) and word inserted (3.8.2010) by Employment Act (Northern Ireland) 2010 (c. 12), **ss. 5(2)(b)**, 8(2)

Art. 8 rep. by 1994 c. 40

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