

**EXPLANATORY MEMORANDUM TO THE
CONDUCT OF EMPLOYMENT AGENCIES AND EMPLOYMENT
BUSINESSES REGULATIONS (NORTHERN IRELAND) 2005**

2005 No. 395

- 1.1 This Explanatory Memorandum has been prepared by the Department for Employment and Learning (“the Department”) and is laid before Parliament by Command of Her Majesty.
- 1.2 This Memorandum contains information for the House of Lords Select Committee on the Merits of Statutory Instruments.

2. Description

- 2.1 The Conduct of Employment Agencies and Employment Businesses Regulations (Northern Ireland) 2005 will consolidate three existing Statutory Rules and establish a new framework of minimum standards that the industry must adhere to and its users, both work-seekers and hirers, are entitled to expect. The existing Regulations require updating as it is recognised that the make up of the industry has dramatically altered in recent times and the legislation no longer meets the needs of all those involved in the industry.
- 2.2 Important features of the new Regulations include: requirements to establish the suitability of work-seekers for vacancies and that terms and conditions be agreed; tightening of controls on client accounts and clarification of requirements to keep records; tighter restrictions and greater clarification relating to charges and fees; and extending the legislation to work-seekers who are companies.

3. Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 During the current period of suspension of the Northern Ireland Assembly this Statutory Rule is required to be laid before Parliament under the negative resolution procedure (see paragraph 7(3) of the Schedule to the Northern Ireland Act 2000 (2000 c.1)).

4. Legislative Background

- 4.1 The Employment (Miscellaneous Provisions) Order (Northern Ireland) 1981 (“the 1981 Order”) and associated regulations replicate, in Northern Ireland (NI), legislation implemented in the early and mid 1970s in Great Britain (GB). The legislation governs the conduct of private employment

agencies and businesses operating from premises in NI and is designed to protect the interests of work-seekers and hirers using their services. It sets standards of conduct for agencies and businesses covering areas such as fees and record keeping.

- 4.2 These updated Regulations are made under Article 6(1), 7(1) and 10(1) of the 1981 Order.
- 4.3 The Regulations repeal and replace with amendments the Conduct of Employment Agencies and Businesses Regulations (Northern Ireland) 1982 (S.R. 1982 No. 253); the Employment Agencies (Charging Fees to Workers) Regulations (Northern Ireland) 1982 (S.R. 1982 No. 254) and the Employment Agencies (Charging Fees to Au Pairs) Regulations (Northern Ireland) 1982 (S.R. 1982 No. 255).
- 4.4 Separate from these Regulations the Department aims, by the end of 2005, to amend the 1981 Order to introduce powers of entry and inspection so as to ensure it can effectively enforce the new Regulations.

5. Extent

- 5.1 The Conduct of Employment Agencies and Employment Businesses Regulations (Northern Ireland) 2005 apply to Northern Ireland only. The corresponding GB Regulations are the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (S.I. 2003/3319).

6. European Convention on Human Rights

- 6.1 Not applicable.

7. Policy Background

- 7.1 The private recruitment industry has changed and expanded greatly since the main NI legislation was made over 20 years ago, and has now diversified into providing workers in most fields of employment. It has been recognised for some time that the legislation has become less effective and relevant in addressing the needs of all those involved in the modern industry, and therefore requires updating.
- 7.2 Mirroring a similar approach in GB, in 1999 and 2004 the Department undertook two public consultations, which sought views from interested parties in NI on new draft Regulations for the sector. The new NI Regulations are largely identical to those in GB, which were introduced in 2004. There were 11 responses to the 2004 consultation, which included discussions with the main industry representative body, the Recruitment Employers Confederation, and those concerned with the interests of

migrants workers. An analysis of the responses to the consultation is available on the Department's web-site. The majority of responses support the introduction of the Regulations, however, a number of these sought either additional protections for work-seekers or a variation in some of the provisions placed on employment agencies/businesses. A key point which emerged from several responses was the need to ensure that migrant work-seekers did not face racial discrimination, however, as this issue is already addressed in other areas of legislation it is considered more appropriate for the Department to signpost these other requirements in the supporting guidance material

8. Impact

- 8.1 A Regulatory Impact Assessment (RIA) is attached at **Annex 1**.
- 8.2 The RIA estimates potential costs to the industry to be in the region of £100k to £200k per annum but considers there will be benefits to the wider economy from increased user confidence in the industry, leading to greater use of its services and better labour market flexibility. It is estimated the legislation will affect around 150-200 employment agencies/businesses and an estimated 10,000 temporary agency workers.
- 8.3 The Department also carried out an Equality Impact Assessment (EQIA). The EQIA concludes that the proposed legislation would not disadvantage any of the groups listed in Section 75 of the Northern Ireland Act 1998 (c.47).

9. Contact

- 9.1 Valerie Reilly at the Department for Employment and Learning – telephone 028 9025 7560 or e-mail valerie.reilly@delni.gov.uk – can answer any queries regarding the Regulations.

GEORGE O'DOHERTY

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