
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Conduct of Employment Agencies and Employment Businesses Regulations 1976, the Employment Agencies Act 1973 (Charging Fees to Workers) Regulations 1976 and the Employment Agencies Act 1973 (Charging Fees to Au Pairs) Regulations 1981.

These Regulations make provision to secure the proper conduct of employment agencies and employment businesses and to protect the interests of persons using their services.

The references in the footnotes of these Regulations to prospective amendments refer to the fact that these amendments have not yet been commenced. In particular, in relation to amendments of the Employment Agencies Act 1973 by the Employment Relations Act 1999 that have yet to be commenced, it is intended that, save in respect of the amendment to section 13(2) of the 1973 Act which will come into force 3 months later, they will come into force on the same date as the majority of these Regulations.

The main new provisions to be introduced by the 2003 Conduct Regulations will be that: there will be limitations on the terms in contracts between employment businesses and hirers that prevent temporary workers from taking up permanent jobs with the hirer, or a company to which the hirer has introduced them, or being supplied by a different employment business, unless a fee is paid to the first employment business; employment businesses will be prohibited from withholding wages due to a temporary worker purely because the worker cannot produce an authenticated time sheet; agencies and employment businesses will be required to confirm the identity of the work-seekers and that they have the experience, training and qualifications that the hirer expects for that position; there will be an ongoing obligation on agencies and employment businesses to inform the hirer when they receive information about a worker, which indicates that the worker might be unsuitable for the position; agencies and employment businesses will also have to obtain information on any health and safety risks known to the hirer and the steps taken to prevent or control those risks; agencies and employment businesses will have to obtain references on work-seekers who are to work with vulnerable persons; agencies seeking to find work for actors, models and other entertainers will no longer be allowed to charge an up front fee before they find work for those work-seekers; subject to their opting out the scope of the Regulations will be extended to cover work-seekers who contract their services through their own limited company.

It will no longer be a requirement for: agencies and employment businesses to disclose their status on business stationery; agencies and employment businesses to provide the Department with their current terms of business; agencies to ascertain if young persons have received vocational guidance before they find them work; agencies and employment businesses to obtain written statements from the services of a lawyer on the list of the British Consul before supplying or hiring a work-seeker to an overseas employer or to use the services of an overseas agent.

Part I contains general provisions.

Part II sets out general obligations governing both agencies and employment businesses.

Part III contains requirements which agencies and employment businesses are required to satisfy before they supply any work-finding services to a work-seeker, such as notifying the work-seeker of any charges, and obtaining the work-seeker's agreement to basic terms governing the relationship between them. It also sets out details of the terms of agreement that agencies and employment businesses are required to reach with hirers.

Part IV sets out the requirements to be satisfied, and information which has to be obtained and communicated, to both the work-seeker and hirer in relation to positions that a work-seeker may work in, or that a hirer seeks to fill. It provides for additional requirements where professional qualifications are required or where work-seekers may work with vulnerable persons.

Part V deals with special situations where more than one agency or employment business is involved, and sets out extra steps which have to be taken where a work-seeker is required to travel or live away from home.

Part VI sets out the requirements to be satisfied where agencies operate client accounts, and specifies in what situations fees may be charged to work-seekers.

Part VII contains miscellaneous regulations dealing with advertisements, confidentiality and the application of the regulations to incorporated work-seekers. It also sets out what records agencies and employment businesses have to maintain, and makes provision for where requirements contained in the Regulations can be satisfied by electronic or other means.

Schedule 1 contains transitional and saving provisions.

Schedule 2 contains the requirements which must be fulfilled by agencies which operate client accounts.

Schedule 3 lists the occupations in respect of which agencies may charge fees to work-seekers.

Schedules 4, 5 and 6 set out the particulars which must be included in an agency's or an employment business's records.

A Regulatory Impact Assessment of the estimated costs and benefits that these Regulations would have has been placed in the Libraries of both Houses of Parliament. Copies are available to the public from Employment Relations Directorate, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET and on the DTI website at www.dti.gov.uk.