
DRAFT STATUTORY INSTRUMENTS

2003 No.

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

PART II

GENERAL OBLIGATIONS

Restriction on charges to hirers

10.—(1) Any term of a contract between an employment business and a hirer which is contingent on a work-seeker taking up employment with the hirer or working for the hirer pursuant to being supplied by another employment business is unenforceable by the employment business in relation to that work-seeker unless the contract provides that instead of a transfer fee the hirer may by notice to the employment business elect for a hire period of such length as is specified in the contract during which the work-seeker will be supplied to the hirer—

- (a) in a case where there has been no supply, on the terms specified in the contract; or
- (b) in any other case, on terms no less favourable to the hirer than those which applied immediately before the employment business received the notice.

(2) In paragraph (1), “transfer fee” means any payment in connection with the work-seeker taking up employment with the hirer or in connection with the work-seeker working for the hirer pursuant to being supplied by another employment business.

(3) Any term as mentioned in paragraph (1) is unenforceable where the employment business does not supply the work-seeker to the hirer, in accordance with the contract, for the duration of the hire period referred to in paragraph (1) unless the employment business is in no way at fault.

(4) Any term of a contract between an employment business and a hirer which is contingent on any of the following events, namely a work-seeker—

- (a) taking up employment with the hirer;
- (b) taking up employment with any person (other than the hirer) to whom the hirer has introduced him; or
- (c) working for the hirer pursuant to being supplied by another employment business,

is unenforceable by the employment business in relation to the event concerned where the work-seeker begins such employment or begins working for the hirer pursuant to being supplied by another employment business, as the case may be, after the end of the relevant period.

(5) In paragraph (4), “the relevant period” means whichever of the following periods ends later, namely—

- (a) the period of 8 weeks commencing on the day after the day on which the work-seeker last worked for the hirer pursuant to being supplied by the employment business; or
- (b) subject to paragraph (6), the period of 14 weeks commencing on the first day on which the work-seeker worked for the hirer pursuant to the supply of that work-seeker to that hirer by the employment business.

(6) In determining for the purposes of paragraph (5)(b) the first day on which the work-seeker worked for the hirer pursuant to the supply of that work-seeker to that hirer by the employment business, no account shall be taken of any supply that occurred prior to a period of more than 42 days during which that work-seeker did not work for that hirer pursuant to being supplied by that employment business.

(7) An employment business shall not—

- (a) seek to enforce against the hirer, or otherwise seek to give effect to, any term of a contract which is unenforceable by virtue of paragraph (1), (3) or (4); or
- (b) otherwise directly or indirectly request a payment to which by virtue of this regulation the employment business is not entitled.