

*Changes to legislation: There are currently no known outstanding effects for the Employment Relations Act 1999, SCHEDULE 7. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 7

Section 31.

#### EMPLOYMENT AGENCIES

##### Commencement Information

- II** Sch. 7 partly in force; Sch. 7 not in force at Royal Assent see s. 45; Sch. 7 paras. 1, 2, 6, 8 in force and para. 5 in force for certain purposes (25.10.1999) by S.I. 1999/2830, art. 2(1)(2) (with art. 3)

##### Introduction

- 1 The <sup>M1</sup>Employment Agencies Act 1973 shall be amended as provided in this Schedule.

##### Marginal Citations

- M1** 1973 c. 35.

##### General regulations

- 2 (1) Section 5 (power to make general regulations) shall be amended as follows.
- (2) In subsection (1) there shall be substituted for paragraphs (f) and (g) and the proviso following paragraph (g)—
- “(ea) restricting the services which may be provided by persons carrying on such agencies and businesses;
  - (eb) regulating the way in which and the terms on which services may be provided by persons carrying on such agencies and businesses;
  - (ec) restricting or regulating the charging of fees by persons carrying on such agencies and businesses.”
- (3) After subsection (1) there shall be inserted—
- “(1A) A reference in subsection (1)(ea) to (ec) of this section 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.”

##### Charges

- 3 For section 6(1) (restriction on demand or receipt of fee for finding or seeking to find employment) there shall be substituted—

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- “(1) Except in such cases or classes of case as the Secretary of State 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.”

**Commencement Information**  
**I2** Sch. 7 para. 3 in force at 6.4.2004 by S.I. 2003/3357, art. 3

*Inspection*

- 4 (1) Section 9 (inspection) shall be amended as follows.
- (2) In subsection (1) (power to inspect)—
  - (a) for paragraph (a) there shall be substituted—
    - “(a) enter any relevant business premises;”  
FI
    - ...
  - <sup>FI</sup>(b) .....
- (3) After subsection (1) there shall be inserted—
  - “(1A) If an officer seeks to inspect or acquire, in accordance with subsection (1) (b) or (c), a record or other document or information which is not kept at the premises being inspected, he may require any person on the premises—
    - (a) to inform him where and by whom the record, other document or information is kept, and
    - (b) to make arrangements, if it is reasonably practicable for the person to do so, for the record, other document or information to be inspected by or furnished to the officer at the premises at a time specified by the officer.
  - (1B) In subsection (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,

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- (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
- (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.

(1C) For the purposes of subsection (1)—

- (a) “document” includes information recorded in any form, and
- (b) information is kept at premises if it is accessible from them.”

(4) For subsection (2) (self-incrimination) there shall be substituted—

“(2) Nothing in this section 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 or (in Scotland) the Court of Session.

(2A) Subject to subsection (2B), a statement made by a person in compliance with a requirement under this section may be used in evidence against him in criminal proceedings.

(2B) Except in proceedings for an offence under section 5 of the <sup>M2</sup>Perjury Act 1911 (false statements made 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.”

(5) In subsection (3) (offence)—

- (a) for “or (b)” there shall be substituted “, (b) or (d)”, and
- (b) after the words “paragraph (c) of that subsection” there shall be inserted “or under subsection (1A)”.

(6) In subsection (4)(a) (restriction on disclosure of information) in sub-paragraph (iv) (exception for criminal proceedings pursuant to or arising out of the Act) the words “pursuant to or arising out of this Act” shall be omitted.

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**Textual Amendments**

**F1** Sch. 7 para. 4(2)(b) repealed (6.4.2009) by [Employment Act 2008 \(c. 24\)](#), s. 22(1)(e), [Sch. Pt. 5](#)

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**Commencement Information**

**I3** Sch. 7 para. 4(1)-(5) in force at 6.4.2004 by [S.I. 2003/3357](#), [art. 3](#)

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**Marginal Citations**

**M2** 1911 c. 6.

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### Offences

5 After section 11 there shall be inserted—

#### “11A Offences: extension of time limit.

- (1) For the purposes of subsection (2) of this section a relevant offence is an offence under section 3B, 5(2), 6(2), 9(4)(b) or 10(2) of this Act for which proceedings are instituted by the Secretary of State.
- (2) Notwithstanding section 127(1) of the <sup>M3</sup>Magistrates’ Courts Act 1980 (information to be laid within 6 months of offence) an information relating to a relevant offence which is triable by a magistrates’ court in England and Wales may be so tried if it is laid at any time—
  - (a) within 3 years after the date of the commission of the offence, and
  - (b) within 6 months after the date on which evidence sufficient in the opinion of the Secretary of State to justify the proceedings came to his knowledge.
- (3) Notwithstanding section 136 of the <sup>M4</sup>Criminal Procedure (Scotland) Act 1995 (time limit for prosecuting certain statutory offences) in Scotland proceedings in respect of an offence under section 3B, 5(2), 6(2), 9(4)(b) or 10(2) of this Act may be commenced at any time—
  - (a) within 3 years after the date of the commission of the offence, and
  - (b) within 6 months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify the proceedings came to his knowledge.
- (4) For the purposes of this section a certificate of the Secretary of State or Lord Advocate (as the case may be) as to the date on which evidence came to his knowledge is conclusive evidence.

#### 11B Offences: cost of investigation.

The court in which a person is convicted of an offence under this Act may order him to pay to the Secretary of State a sum which appears to the court not to exceed the costs of the investigation which resulted in the conviction.”

#### Commencement Information

- I4** [Sch. 7 para. 5](#) partly in force; [Sch. 7 para. 5](#) not in force at Royal Assent see [s. 45](#); [Sch. 7 para. 5](#) in force at 25.10.1999 for specified purposes by [S.I. 1999/2830, art. 2\(1\)](#), [Sch. 1 Pt. I](#)
- I5** [Sch. 7 para. 5](#) in force at 6.4.2004 in so far as not already in force by [S.I. 2003/3357, art. 3](#)

#### Marginal Citations

- M3** [1980 c. 43](#).
- M4** [1995 c. 46](#).

### Regulations and orders

6 For section 12(5) (regulations and orders: procedure) there shall be substituted—

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“(5) Regulations under section 5(1) or 6(1) of this Act shall not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.

(6) Regulations under section 13(7)(i) of this Act or an order under section 14(3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

#### *Interpretation*

7 In section 13(2) (definition of employment agency) for “workers” (in each place) there shall be substituted “ persons ”.

#### **Commencement Information**

**I6** Sch. 7 para. 7 in force at 6.7.2004 by S.I. 2003/3357, art. 4

#### *Exemptions*

8 For section 13(7)(i) there shall be substituted—

“(i) any prescribed business or service, or prescribed class of business or service or business or service carried on or provided by prescribed persons or classes of person.”

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