

SCHEDULE

Licence Conditions

PART 2

Conditions

Restriction on charges to labour users

12.—(1) Any term of a contract between a licence holder and a labour user which is contingent on a worker taking up employment with the labour user or working for the labour user pursuant to being supplied by another licence holder is unenforceable by the licence holder in relation to that worker, unless the contract provides that instead of a transfer fee the labour user may by notice to the licence holder elect for a hire period of such length as is specified in the contract during which the worker will be supplied to the labour user—

- (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 labour user than those which applied immediately before the licence holder received the notice.

(2) In sub-paragraph (1), “transfer fee” means any payment in connection with the worker taking up employment with the labour user or in connection with the worker working for the labour user pursuant to being supplied by another licence holder.

(3) Any term as mentioned in sub-paragraph (1) is unenforceable where the licence holder does not supply the worker to the labour user, in accordance with the contract, for the duration of the hire period referred to in sub-paragraph (1) unless the licence holder is in no way at fault.

(4) Any term of a contract between a licence holder and a labour user which is contingent on a worker—

- (a) taking up employment with the labour user or any other person to whom the labour user has introduced the worker, or
- (b) working for the labour user pursuant to being supplied by another licence holder,

is unenforceable by the licence holder in relation to the event concerned where the worker takes up such employment or begins working pursuant to being supplied by another licence holder (as the case may be) after the end of the relevant period.

(5) In sub-paragraph (4), “the relevant period” means the period of—

- (a) eight weeks starting on the day after the day on which the worker last worked for the labour user pursuant to being supplied by the licence holder, or
- (b) 14 weeks starting on the first day on which the worker worked for the labour user pursuant to the supply of that worker to that labour user by the licence holder,

whichever period ends later.

(6) In determining the “first day” for the purposes of sub-paragraph (5)(b), no account is taken of any supply that occurred prior to a period of more than 42 days during which that worker did not work for that labour user pursuant to being supplied by that licence holder.

(7) A licence holder must not—

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