

SCHEDULES

SCHEDULE 4

Article 16

EMPLOYMENT BUSINESSES: FAILURE TO CHECK

Offences

- 1.—(1) A person (P) who carries on an employment business commits an offence if—
- (a) he supplies an individual (B) to another person in the course of that business,
 - (b) he knows or has reason to believe that the other person will permit B to engage in regulated activity, and
 - (c) he is not appropriately registered in relation to B.
- (2) P is appropriately registered in relation to B if—
- (a) he is registered in relation to B under Article 34,
 - (b) his registration relates to monitoring in relation to the activity, and
 - (c) he has notified the Secretary of State of the address to which communications are to be sent in connection with his registration.
- (3) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- 2.—(1) In such circumstances as are prescribed, a person (P) who carries on an employment business commits an offence if—
- (a) he supplies an individual (B) to another person in the course of that business,
 - (b) he knows or has reason to believe that the other person will permit B to engage in regulated activity, and
 - (c) he fails to obtain a copy of an enhanced criminal record certificate relating to B issued in relation to P during the prescribed period.
- (2) For these purposes “enhanced criminal record certificate” means—
- (a) in relation to regulated activity relating to children, an enhanced criminal record certificate issued under the Police Act 1997 (c. 50) containing suitability information relating to children (within the meaning of section 113BA of that Act);
 - (b) in relation to regulated activity relating to vulnerable adults, an enhanced criminal record certificate issued under that Act containing suitability information relating to vulnerable adults (within the meaning of section 113BB of that Act).
- (3) An enhanced criminal record certificate is issued in relation to P only if —
- (a) he countersigned the application for the certificate as a registered person for the purposes of Part 5 of the Police Act 1997 Act, or
 - (b) the application was countersigned on his behalf by such a person.
- (4) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Status: This is the original version (as it was originally made).

Defences

- 3.—(1) P does not commit an offence under paragraph 1 or 2 if the regulated activity—
- (a) is regulated activity relating to vulnerable adults, and
 - (b) falls within Article 20.
- (2) P does not commit an offence under paragraph 1 or 2 in relation to any period during which B is continuously supplied to another if the period begins before the commencement of this Schedule.
- (3) Sub-paragraph (2) does not apply in relation to a period falling after such date as the Secretary of State specifies by order.

Modified meaning of regulated activity

4. For the purposes of this Schedule, Schedule 2 is modified as follows—
- (a) in paragraph 1, sub-paragraphs (1)(b) and (2)(a) must be disregarded;
 - (b) in paragraph 7(1), the words “if it is carried out frequently by the same person or the period condition is satisfied” must be disregarded;
 - (c) in paragraph 7(4), paragraph (a) must be disregarded.

Power to amend paragraph 2(1)(c)

5. The Secretary of State may by order amend paragraph 2(1)(c) for the purpose of requiring an employment business to carry out such checks in relation to B as may be specified.

Offence: acting for P etc

6. If the commission of an offence under paragraph 1 or 2 is due to the act or reckless default of a person who acts for or appears to act for P—
- (a) that person is guilty of the offence, and
 - (b) he may be proceeded against and punished whether or not proceedings are also taken against P.