
DRAFT STATUTORY INSTRUMENTS

2003 No.

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

PART III

REQUIREMENTS TO BE SATISFIED BEFORE SERVICES ARE PROVIDED

Notification of charges and the terms of offers

13.—(1) Subject to paragraph (2), on the first occasion that an agency or employment business offers to provide or arrange the provision of a service to a work-seeker, the agency or employment business shall give notice to the work-seeker stating—

- (a) whether that service is a work-finding service for which the Act prohibits the agency or employment business from charging a fee; and
- (b) whether any other services or goods which may be provided by the agency or employment business or any other person are services or goods for which the agency or employment business or other person providing them will or may charge a fee, together with details of any such fee including—
 - (i) the amount or method of calculation of the fee;
 - (ii) the identity of the person to whom the fee is or will be payable;
 - (iii) a description of the services or goods to which the fee relates; and
 - (iv) the circumstances, if any, in which refunds or rebates are payable to the work-seeker, the scale of such refunds or rebates, and if no refunds or rebates are payable, a statement to that effect.

(2) Paragraph (1) shall apply only where one or more services or goods referred to in paragraph (1) (b) for which the work-seeker will or may be charged a fee may be provided to the work-seeker.

(3) An agency or employment business shall give a further notice to a work-seeker stating the matters referred to in paragraph (1)(b) where, subsequent to the first occasion that it offers to provide or arrange the provision of a service to the work-seeker, the agency or employment business or the person providing to the work-seeker any services or goods referred to in paragraph 1(b), introduces or varies any fees in relation to any services or goods referred to in paragraph 1(b).

(4) Where an agency or employment business offers any gift or makes an offer of any benefit to a work-seeker, in order to induce him to engage the agency or employment business to provide him with services, the agency or employment business shall notify the work-seeker of the terms on which the gift or benefit is offered before the offer is open for acceptance by the work-seeker.

Requirement to obtain agreement to terms with work-seekers

14.—(1) Subject to paragraph (7), before first providing any work-finding services to a work-seeker, an agency or employment business shall obtain the agreement of the work-seeker to the

terms which apply or will apply as between the agency or employment business and the work-seeker including—

- (a) whether the agency or employment business will operate as an employment agency or an employment business in relation to the work-seeker;
 - (b) the type of work the agency or employment business will find or seek to find for the work-seeker; and
 - (c) in the case of an employment business, the terms referred to in regulation 15, and in the case of an agency which is to provide any work-finding services mentioned in regulation 16, the terms referred to in that regulation.
- (2) Subject to paragraph (3), an agency or employment business shall ensure that —
- (a) all terms in respect of which the agency or employment business has obtained a work-seeker's agreement are recorded in a single document, or where this is not possible, in more than one document; and
 - (b) copies of all such documents are given at the same time as each other by the agency or employment business to the work-seeker with whom they are agreed before the agency or employment business provides any services to the work-seeker to which the terms contained in such documents relate.

(3) Paragraph (2) shall not apply in the case of an employment business where the work-seeker has been given a written statement of particulars of employment in accordance with Part I of the Employment Rights Act 1996⁽¹⁾.

(4) Neither an agency nor an employment business may vary any terms set out in a document issued in accordance with paragraph (2), unless the work-seeker to whom they relate agrees to the variation.

(5) If the agency or employment business and the work-seeker agree to any variation in the terms set out in the documents referred to in paragraph (2), the agency or employment business shall as soon as possible and in any event no later than the end of the fifth business day following the day on which the agency or employment business and the work-seeker agree to the variation give to the work-seeker a single document containing details of the terms as agreed to be varied and stating the date on or after which it is agreed that the varied terms are to take effect.

(6) Neither an agency nor an employment business may make the continued provision of any services by it to a work-seeker conditional on the agreement by the work-seeker to any such variation.

(7) This regulation shall not apply in the case of an agency where the only service provided by the agency to the work-seeker concerned is the provision of information to him in the form of a publication.

Content of terms with work-seekers: Employment businesses

15. In the case of an employment business, the terms to be agreed in accordance with regulation 14 shall include—

- (a) whether the work-seeker is or will be employed by the employment business under a contract of service or apprenticeship, or a contract for services, and in either case, the terms and conditions of employment of the work-seeker which apply, or will apply;
- (b) an undertaking that the employment business will pay the work-seeker in respect of work done by him, whether or not it is paid by the hirer in respect of that work;

(1) 1996 c. 18; Part I has been amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2)(a), (b), the Employment Relations Act 1999 (c. 26), section 32(3) and prospectively by the Employment Act 2002 (c. 22), sections 35, 36, 37, 54 and Schedule 8.

- (c) the length of notice of termination which the work-seeker will be required to give the employment business, and which he will be entitled to receive from the employment business, in respect of particular assignments with hirers;
- (d) either—
 - (i) the rate of remuneration payable to the work-seeker; or
 - (ii) the minimum rate of remuneration the employment business reasonably expects to achieve for the work-seeker;
- (e) details of the intervals at which remuneration will be paid; and
- (f) details of any entitlement to annual holidays and to payment in respect of such holidays.

Content of terms with work-seekers: Agencies

16. In the case of an agency which is to provide the work-seeker with work-finding services for which it is permitted by regulation 26(1) to charge a fee, the terms to be agreed in accordance with regulation 14 shall include—

- (a) details of the work-finding services to be provided by the agency;
- (b) details of the agency's authority, if any, to act on behalf of the work-seeker, including whether, and if so, upon what terms it is (in accordance with regulation 11) authorised to enter into contracts with hirers on behalf of the work-seeker;
- (c) a statement as to whether the agency is authorised to receive money on behalf of the work-seeker;
- (d) details of any fee which may be payable by the work-seeker to the agency for work-finding services including—
 - (i) the amount or method of calculation of the fee;
 - (ii) a description of the particular work-finding service to which the fee relates;
 - (iii) the circumstances, if any, in which refunds or rebates are payable to the work-seeker, the scale of such refunds or rebates, and if no refunds or rebates are payable, a statement to that effect; and
 - (iv) the method of payment of the fee and, if the fee is to be deducted from the work-seeker's earnings received by the agency, the circumstances in which it is to be so deducted;
- (e) a statement as to whether the work-seeker is required to give notice to terminate the contract between the work-seeker and the agency and, if so, a statement as to the length of the notice required; and
- (f) a statement as to whether the work-seeker is entitled to receive notice of termination of the contract between the work-seeker and the agency and, if so, a statement of the length of the notice.

Requirement to obtain agreement to terms with hirers

17.—(1) Before first providing services (other than the provision of information in the form of a publication) to a hirer, an agency or employment business shall agree with the hirer the terms which apply or will apply between the agency or employment business and the hirer, including—

- (a) a statement as to whether the agency or employment business will operate as an employment agency or an employment business in relation to the hirer;
- (b) details of any fee which may be payable by the hirer to the agency or employment business including—

- (i) the amount or method of calculation of such fee; and
 - (ii) the circumstances, if any, in which refunds or rebates are payable to the hirer, the scale of such refunds or rebates, and if no refunds or rebates are payable, a statement to that effect;
 - (c) in the case of an employment business, details of the procedure to be followed if a work-seeker introduced or supplied to the hirer proves unsatisfactory; and
 - (d) in the case of an agency, details of the agency's authority, if any, to act for the hirer, including whether, and if so upon what terms, it is (in accordance with regulation 11) authorised to enter into contracts with work-seekers on behalf of the hirer.
- (2) The agency or employment business shall ensure that all of the terms are recorded in a single document and that, unless the hirer has a copy thereof, a copy is sent to the hirer as soon as is reasonably practicable.
- (3) If the agency or employment business and the hirer agree to any variation in the terms set out in the document referred to in paragraph (2), the agency or employment business shall, unless the hirer has a copy thereof, as soon as is reasonably practicable, give to the hirer a document containing details of the variation and stating the date on or after which it is agreed that the varied terms are to take effect.