
DRAFT STATUTORY INSTRUMENTS

2003 No.

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

PART IV

**REQUIREMENTS TO BE SATISFIED IN RELATION TO THE
INTRODUCTION OR SUPPLY OF A WORK-SEEKER TO A HIRER**

Information to be obtained from a hirer

18. Neither an agency nor an employment business may introduce or supply a work-seeker to a hirer unless the agency or employment business has obtained sufficient information from the hirer to select a suitable work-seeker for the position which the hirer seeks to fill, including the following information—

- (a) the identity of the hirer and, if applicable, the nature of the hirer's business;
- (b) the date on which the hirer requires a work-seeker to commence work and the duration, or likely duration, of the work;
- (c) the position which the hirer seeks to fill, including the type of work a work-seeker in that position would be required to do, the location at which and the hours during which he would be required to work and any risks to health or safety known to the hirer and what steps the hirer has taken to prevent or control such risks;
- (d) the experience, training, qualifications and any authorisation which the hirer considers are necessary, or which are required by law, or by any professional body, for a work-seeker to possess in order to work in the position;
- (e) any expenses payable by or to the work-seeker; and
- (f) in the case of an agency—
 - (i) the minimum rate of remuneration and any other benefits which the hirer would offer to a person in the position which it seeks to fill, and the intervals at which the person would be paid; and
 - (ii) where applicable, the length of notice which a work-seeker in such a position would be required to give, and entitled to receive, to terminate the employment with the hirer.

Confirmation to be obtained about a work-seeker

19. Neither an agency nor an employment business may introduce or supply a work-seeker to a hirer unless it has obtained confirmation—

- (a) of the identity of the work-seeker;
- (b) that the work-seeker has the experience, training, qualifications and any authorisation which the hirer considers are necessary, or which are required by law or by any professional body, to work in the position which the hirer seeks to fill; and

- (c) that the work-seeker is willing to work in the position which the hirer seeks to fill.

Steps to be taken for the protection of the work-seeker and the hirer

20.—(1) Neither an agency nor an employment business may introduce or supply a work-seeker to a hirer unless the agency or employment business has—

- (a) taken all such steps, as are reasonably practicable, to ensure that the work-seeker and the hirer are each aware of any requirements imposed by law, or by any professional body, which must be satisfied by the hirer or the work-seeker to enable the work-seeker to work for the hirer in the position which the hirer seeks to fill; and
- (b) without prejudice to any of its duties under any enactment or rule of law in relation to health and safety at work, made all such enquiries, as are reasonably practicable, to ensure that it would not be detrimental to the interests of the work-seeker or the hirer for the work-seeker to work for the hirer in the position which the hirer seeks to fill.

(2) Where an employment business receives or obtains information, which gives it reasonable grounds to believe that a work-seeker is unsuitable for the position with a hirer for which the work-seeker is being supplied, it shall, without delay—

- (a) inform the hirer of that information; and
- (b) end the supply of that work-seeker to the hirer.

(3) Where an employment business receives or obtains information which indicates that a work-seeker may be unsuitable for the position with a hirer for which the work-seeker is being supplied, but where that information does not give it reasonable grounds to believe that the work-seeker is unsuitable, it shall, without delay—

- (a) inform the hirer of that information; and
- (b) commence making such further enquiries as are reasonably practicable as to the suitability of the work-seeker for the position concerned, and inform the hirer of the enquiries made and any further information it receives or obtains.

(4) Where, as a result of the enquiries made under paragraph (3) an employment business has reasonable grounds to believe that the work-seeker is unsuitable for the position concerned, it shall, without delay—

- (a) inform the hirer of that information; and
- (b) end the supply of that work-seeker to the hirer.

(5) Where an agency, having introduced a work-seeker to a hirer, receives or obtains information, which indicates that the work-seeker is or may be unsuitable for the position in which the work-seeker has been employed with that hirer, it shall inform the hirer of that information without delay.

(6) Paragraph (5) shall apply for a period of 3 months from the date of introduction of a work-seeker by an agency to a hirer.

(7) In this regulation, “without delay” means on the same day, or where that is not reasonably practicable, on the next business day.

Provision of information to work-seekers and hirers

21.—(1) Subject to paragraph (3), an agency or employment business shall ensure that at the same time as—

- (a) it proposes a particular work-seeker to a hirer—
 - (i) it gives to the hirer (whether orally or otherwise) all information it has been provided with about the matters referred to in regulation 19; and

- (ii) in the case of an employment business, the information it gives to the hirer (whether orally or otherwise) includes whether the work-seeker to be supplied will be employed by it under a contract of service or apprenticeship or a contract for services;
- (b) it offers a work-seeker a position with a hirer—
 - (i) it gives to the work-seeker (whether orally or otherwise) all information it has been provided with about the matters referred to in paragraphs (a) to (e) and, where applicable, paragraph (f) of regulation 18; and
 - (ii) in the case of an employment business that has not agreed a rate of remuneration in accordance with regulation 15(d)(i), it informs the work-seeker (whether orally or otherwise) of the rate of remuneration it will pay him to work in that position.

(2) Where any of the information referred to in paragraph (1) is not given to the work-seeker or hirer, as the case may be, in paper form or by electronic means at the time referred to in paragraph (1), the agency or employment business shall confirm such information in paper form or by electronic means to the work-seeker or hirer, as the case may be, as soon as possible and in any event no later than the end of the third business day following the day on which it was given to the work-seeker or hirer in accordance with paragraph (1).

(3) Paragraph (1) shall not apply where—

- (a) an agency or employment business intends to introduce or supply a work-seeker to a hirer to work in the same position with that hirer as he has worked within the previous five business days; and
- (b) the information which that agency or employment business would be required to give the work-seeker and hirer by virtue of this regulation (other than that required by regulation 18(b)), would be the same as the information which the work-seeker and hirer have already received,

unless the work-seeker or hirer requests otherwise.

Additional requirements where professional qualifications are required or where work-seekers are to work with vulnerable persons

22.—(1) Where the work-seeker is—

- (a) required by law, or any professional body, to have any qualifications or authorisation to work in a position for which he is to be supplied or introduced to a hirer;
- (b) to be supplied or introduced to a hirer with a view to taking up a position which involves working with or caring for or attending any one or more persons under the age of eighteen; or
- (c) to be supplied or introduced to a hirer with a view to taking up a position which involves caring for or attending any person who by reason of age, infirmity, or any other circumstances is in need of care or attention,

neither an agency nor an employment business may introduce or supply him to a hirer unless, in addition to the requirements in regulations 18 to 21, the requirements in paragraph (2) are satisfied.

(2) The requirements referred to in paragraph (1) are that the agency or employment business has—

- (a) subject to paragraph (3) obtained copies of any relevant qualifications or authorisations of the work-seeker, and offered to provide copies thereof to the hirer;
- (b) subject to paragraph (3), obtained two references from persons who are not relatives of the work-seeker and who have agreed that the reference they provide may be disclosed to the hirer, and offered to provide copies thereof to the hirer; and

- (c) in a case falling within paragraph (1)(b) or (c), taken all other reasonably practicable steps to confirm that the work-seeker is not unsuitable for the position concerned.
- (3) Where the agency or employment business has taken all reasonably practicable steps to comply with the requirements in paragraph (2)(b) and has been unable to do so fully, it may instead—
 - (a) comply with those requirements to the extent that it is able to do so;
 - (b) inform the hirer that it has taken all reasonably practicable steps to comply fully with those requirements and has been unable to do so; and
 - (c) inform the hirer of the details of the steps that it has taken in order to try and comply fully with those requirements.
- (4) In this regulation “relative” has the same meaning as it is given in section 63 of the Family Law Act 1996⁽¹⁾.

(1) 1996 c. 27; section 63 was prospectively amended by the Adoption and Children Act 2002 (c. 38), Schedule 3, paragraphs 85, 88(a) and (b).